

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

MARTHA GRANT,)	Administrative Cause
Petitioners,)	Number: 24-035W
)	
vs.)	
)	[PL-24949-0]
DEPARTMENT OF NATURAL RESOURCES,)	
and BEACHWOOD PARK LANE AND LAKE)	
BREEZE PROPERTY OWNERS)	
ASSOCIATION.)	
Respondent.)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH NONFINAL ORDER
GRANTING SUMMARY JUDGMENT IN FAVOR OF THE DEPARTMENT OF
NATURAL RESOURCES.**

Procedural Background and Jurisdiction

1. On May 13, 2024, Martha Grant (hereinafter Grant) filed a “letter of protest for the proposed boat ramp on Hoffman Lake” with the Natural Resources Commission (hereinafter Commission).
2. The Commission sent Grant a Notice of Deficient Filing on May 17, 2024. A copy of the Notice was also sent to the Department of Natural Resources (Department) with a copy of Grant’s letter. In response, Grant filed additional correspondence (hereinafter Petition) requesting administrative review of permit number PL-24949-0 issued by the Department, authorizing Beachwood Park Lane and Lake Breeze Property Owners Associations, by Steve Carnes, (collectively referred to as Beachwood Park) to construct a boat ramp that will extend into Hoffman Lake.
3. By filing the Petition, Grant initiated an administrative review governed procedurally by I.C. 4-21.5-3.
4. Grant alleged the permit was improperly granted because: 1) the boat ramp will decrease her home value; 2) there are above-ground well pipes in the area of the ramp that will pose a hazard to ramp users; 3) there will be increased congestion on the street which will hinder

mail delivery and emergency services and will prevent her from leaving her home; 4) those using the ramp will be noisy; 5) the users will litter the ramp; and 6) the presence of the ramp will disturb life on the street. See Petition.

5. Rebecca McClain entered an appearance on behalf of the Department on June 20, 2024. Stephen Snyder entered an appearance on behalf of Grant on July 9, 2024.
6. A Telephonic Prehearing Conference was held as scheduled on July 16, 2024 after notice to Grant, the Department, and Beachwood Park. Grant appeared at the conference by counsel, Stephen Snyder, the Department appeared by counsel, Rebecca McClain, and Beachwood Park appeared by representative Danielle Drubert. During the prehearing conference, Beachwood Park was added as a respondent on a motion by the Department. Jack Birch entered an appearance on behalf of Beachwood Park on August 15, 2024.
7. A Telephonic Status Conference was held as scheduled on August 20, 2024. At the request of the Department, a deadline of October 25, 2024 was established for filing and responding to dispositive motions.
8. Due to an issue with the distribution of the order from the August 20, 2024 status conference, the deadline for filing dispositive motions was extended to December 2, 2024.
9. The Department filed a Motion for Summary Judgment (Department's Motion) on December 2, 2024. Grant filed a Response to the Motion (Grant's Response) on December 31, 2024. The Department filed a reply (Department's Reply) on January 16, 2025. Beachwood Park did not file a response.
10. Hoffman Lake is a public freshwater lake. See, Information Bulletin 61, *Listing of Public Freshwater Lakes, Ninth Amendment*, published at 20231206-IR-312230765NRA and is subject to the Lake Preservation Act (LPA). Under the LPA, the State of Indiana, through the Department, holds full power and control of the public freshwater lakes in Indiana and holds them in trust for use of all of Indiana citizens. Ind. Code 14-26-2-5.
11. The Commission is the ultimate authority of the Department in this matter and has jurisdiction over the subject and persons of this administrative appeal. See Ind. Code 14-10-2.

Summary Judgment Standard

12. A party may move for summary judgment at any time after a proceeding is assigned to an administrative law judge. I.C. § 4-21.5-3-23.
13. Except with respect to service of process, governed by I.C. § 4-21.5-3-1, and the final disposition of an administrative proceeding, governed by I.C. § 4-21.5-3-28 and 29, Trial Rule 56 of the Indiana Rules of Trial Procedure controls the consideration of a motion for summary judgment. I.C. § 4-21.5-3-23.
14. The ALJ will consider a summary judgment “as would a court that is considering a motion for summary judgment filed under Trial Rule 56 of the Indiana Rules of Trial Procedure.” I.C. § 4-21.5-3-23. Summary judgment shall be granted “if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Ind. Trial rule 56(c); *Frendeway & Bartuska v. Brase*, 15 CADDNAR 121, 122 (2020).
15. The party moving for summary judgment bears the burden of establishing the party is entitled to summary judgment regardless of whether the party would have the burden of proof in an evidentiary hearing. *Mueller-Brown v. Caracci*, 13 CADDNAR 156, 157 (2013).
16. The burden of establishing there are no material factual issues is on the party moving for summary judgment. *Morris v. Crain*, 969 N.E.2d 119, 123 (Ind. Ct. App. 2012). Once the movant has met this burden, the opposing party must present sufficient evidence to show the existence of a genuine triable issue. *Id.*
17. “A party opposing the motion shall designate . . . each material issue of fact which that party asserts precludes entry of summary judgment and the evidence relevant thereto.” Ind. Trial Rule 56(C).
18. Summary judgment shall be granted “if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Id.*
19. Affidavits supporting or opposing a motion for summary judgment “shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall

show affirmatively that the affiant is competent to testify to the matters stated therein.” Trial Rule 56(E).

Undisputed Material Facts

20. The Department issued a Certificate of Approval under application number PL-24949-0 to Beachwood Park on April 26, 2024. The project approved by the permit is described as “[a] 16’ wide stone aggregate boat ramp (hereinafter referred to as the “shoreline ramp”) will be constructed on the shoreline of Hoffman Lake. The ramp will extend approximately 28’ feet from Forest Avenue to the water’s edge (hereinafter referred to as the “landward ramp”).” See Department’s Motion, Exhibit 1.
21. The Department issued an amended permit under application number PL-24949-1 which amended project-specific conditions listed in the original permit. See Department’s Motion, Exhibit 2.

Summary of the Arguments

22. The Department argues the permit was properly granted under Ind. Code 14-26-2-23-(c)(5) and 312 Ind. Admin. Code 11-3-4. According to the Department, its review of the project is limited to the impact the shoreline ramp will have on the lake. Grant’s complaint, however, is limited to the impact the boat ramp will have on property lakeward of the shoreline, which is not within the Department’s authority to review. See Department’s Motion.
23. Grant argues the Department may consider *any factor*, including the impact the boat ramp will have on private property interests, when reviewing the permit. Grant asserts that because the shoreline ramp cannot be used without the landward ramp, the Department may consider the impact the landward ramp will have on Grant’s property interests. See Grant’s Response. Grant argues that the Department’s jurisdiction extends landward of the lake’s shoreline; therefore, the Department may consider the impact the landward ramp will have on Grant’s property.

Conclusions of Law:

24. The Department's regulatory authority is limited to that conferred on the Department by the Indiana General Assembly. *Indiana Office of Utility Consumer Counselor v. Lincoln Utilities, Inc.*, 834 N.E.2d 137, 142 (Ind. Ct. App. 2005), *trans. denied*.
25. The Department's regulatory authority over Indiana's public freshwater lakes is found in the Lake Preservation Act. Ind. Code 14-26-2.
26. Ind. Code 14-26-2-5 grants the Department power and control over the state's public freshwater lakes:
- (d) The state:
 - (1) has full power and control of all of the public freshwater lakes in Indiana both meandered and unmeandered; and
 - (2) holds and controls all public freshwater lakes in trust for the use of all of the citizens of Indiana for recreational purposes.
27. Certain activities over, along, or lakeward of shoreline of a public freshwater lake may be conducted only if a permit is obtained from the Department:
- (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:
 - (1) Over, along, or lakeward of the shoreline or water line of a public freshwater lake:
 - (A) excavate;
 - (B) place fill; or
 - (C) place, modify, or repair a temporary or permanent structure.
 - (2) Construct a wall whose lowest point would be:
 - (A) below the elevation of the shoreline or waterline; and
 - (B) within ten (10) feet landward of the shoreline or water line, as measured perpendicularly from the shoreline or water line; of a public freshwater lake.
 - (3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or water line.
- I.C. 14-26-2-23(a).
28. The Department may issue a permit under I.C. 14-26-2-23 after investigating the merits of the application:
- (c) The department may issue a permit after investigating the merits of the application. In determining the merit of the application, the department may consider any factor, including cumulative effects on the proposed activity upon the following:

- (1) The shoreline, water line, or bed of the public freshwater lake.
- (2) The fish, wildlife, or botanical resources.
- (3) The public rights described in section 5 of this chapter.
- (4) The management of watercraft operations under IC 14-15.
- (5) The interests of the landowner having property rights abutting the public freshwater lakes or rights to access the public freshwater lake.

I.C. 14-26-2-23(c).

29. "Shoreline or water line" is defined in I.C. 14-26-2-4 as follows:

- (1) if the water level has been legally established, the line formed on the bank or shore by the water surface at the legally established average normal water level; or
- (2) if the water level has not been legally established, the line formed by the water surface at the average level as determined by:
 - (A) existing water level records; or
 - (B) if the water level records are not available, the action of the water that has marked upon the soil of the bed of the lake a character distinct from that of the bank with respect to vegetation as well as the nature of the soil.

30. 312 IAC 11-3-3 provides in relevant part:

(a) Except as provided in section 1 of this rule and subsection (c), a structure placed within the shoreline or water line of a public freshwater lake requires a written license issued by the department under IC 14-26-2 and this rule.

(b) Except as provided in 312 IAC 11-4-7, a structure that is located on a public freshwater lake:

- (1) more than one hundred fifty (150) feet; and
- (2) less than two hundred (200) feet;

from the shoreline requires a written license under IC 14-26-2, this rule, IC 14-15-7-3, and 312 IAC 5-4. The department may provide that the multiple licensing requirements of this subsection be satisfied with a single written license.

(c) Except as provided in 312 IAC 11-4-7, a structure that is located:

- (1) on a public freshwater lake; and
- (2) not less than two hundred (200) feet from the shoreline or water line;

does not require a license under IC 14-26-2 and this rule, but the structure does require a license under IC 14-16-7-3 and 312 IAC 5-4.

(d) The director or a delegate shall not issue a license under this rule except upon a written determination that shows the following:

(1) The license, including conditions attached to the license, conforms to IC 14-26-2 and this rule. In making the determination, there shall be a determination that issuance of the permit would not result in significant environmental harm to the public freshwater lake.

(2) The applicant has demonstrated that an owner of each parcel of real estate, reasonably known to be adjacent to the real estate described in subsection (e)(2), has

been notified under IC 14-11-3 and 312 IAC 2-3.

31. The permit requirement in I.C. 14-26-2-23(c) is limited to activity over, along, or lakeward of the shoreline or water line of public freshwater lake. This is consistent with I.C. 14-26-2-5, which grants the State of Indiana, through the Department, control over the state's public freshwater lakes.
32. The Department may not extend its jurisdiction landward of a public freshwater lake without specific authority granted it by the Indiana General Assembly.
33. Grant argues the inclusion of the words "over and along" in I.C. 14-26-2-23(a)(1) demonstrates that the Indiana General Assembly did not intend to limit the Department's jurisdiction to the shoreline of the lake.
34. I.C. 14-26-2-23 (a)(1) must be read in conjunction with I.C. 14-25-2-5, which limits the Department's jurisdiction to the public freshwater lake. Absent specific statutory authority to extend control beyond the public freshwater lake, the Department may not exercise control of property landward of the shoreline.
35. Requiring the Department to review the impact of the landward ramp would improperly extend the Department's regulatory authority beyond that granted to it by the General Assembly.
36. Grant also argues that the language of I.C. 14-26-2-23(a)(2) indicates legislative intent to extend the Department's authority beyond the limits of the shoreline.
37. Under I.C. 14-26-2-23(a)(2), a permit is required for the construction of wall whose lowest point would be below the elevation of the shoreline or waterline and within ten (10) feet landward of the shoreline or water line. This provision applies *only* to the construction of a wall and is not applicable to the construction of a boat ramp.
38. Grant's objections to the ramp are limited to the impact the landward portion of the ramp would have on her property. Extending the Department's ability to review the landward impact of the ramp would be an improper extension of the Department's regulatory authority beyond that which has been granted to the Department by the General Assembly.
39. The Commission's authority in reviewing the permit is likewise limited to a review of the lakeward impact of the project. The Commission is without authority to consider Grant's

argument that the permit should not have been granted because of the landward impact of the lakeward ramp.

40. Grant's recourse, if any, is limited to relief provided by a civil court of competent jurisdiction in the county in which the construction is to occur.

41. The Department is entitled to summary judgment as a matter of law. This resolves all issues in the matter.

Nonfinal Order:

42. The Department's Motion for Summary Judgment is GRANTED.

Dated: February 7, 2025



Elizabeth Gamboa, Chief Administrative Law Judge
Natural Resources Commission
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, Indiana 46204-2200
(317) 232-4699

DISTRIBUTION

The foregoing is distributed to the parties as follows on February 10, 2025.

Stephen Snyder, Counsel for Petitioner
SNYDER MORGAN AND KUCHMAY LLP
By email at srs@smk.law

Rebecca McClain, Department of Natural
Resources, Office of Legal Counsel
By email at rmcclain@dnr.in.gov
dnrlegal@dnr.in.gov

Jack C. Birch, Counsel for Beachwood Park
Lake and Lake Breeze Property Owners
Association
BIRCH KAUFMAN, LLC
By email at jcb@birchkaufman.com

A copy of the foregoing will also be distributed to the following in accordance with IC 4-21.5-3 or IC 5-14-3. *The parties need not serve pleadings, motions or other filings upon these persons.*

Donna Ridner, Division of Water

By: Scott Allen, Legal Analyst, Natural Resources Commission

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v.)	[PL-24949-0]
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ASSOCIATION, INC.,)	
Respondents.)	

NOTICE OF OBJECTIONS OF MARTHA GRANT

The Honorable Elizabeth Gamboa issued her Non-Final Order in this matter on February 10, 2025. Petitioner objects to the Non-Final Order and would show the Commission: paragraphs 32, 34, 35, 38, 39, and 40 improperly state the law in regard to the jurisdiction of the Department of Natural Resources landward from the shoreline of a public lake. In particular, I.C. 14-26-2-23(c) grants to the Department of Natural Resources jurisdiction to regulate activity “over, along, or lakeward of the shoreline or waterline of a public freshwater lake.” Had the legislature intended to limit the Department’s jurisdiction to areas lakeward of the shoreline, it would not have included the words “over” or “along”, those being different descriptors of area. Of necessity, a boat ramp must provide some form of access to the lake from a public or private way or its usefulness would not exist. In furtherance of this understanding, the Certificate of Approval issued by the Department April 26, 2024 required the applicant to comply with certain activities landward of the shoreline. In particular, condition number three under Permit Conditions required that all excavated material be properly spread in an upland area landward of the shoreline. That section also required sediment control measures be installed, and a silt fence logically can only be installed landward of the shoreline. Condition six required the installation of measures designed for controlling erosion and erosion only occurs on the land landward of the shoreline. Finally,

condition seven required the applicant to re-vegetate all bare and disturbed areas landward of the shoreline. If the Department had no jurisdiction over anything that occurred landward of the shoreline, the Petitioner could choose to ignore those conditions since they would have been beyond the jurisdictional authority of the Department.

The exact language of I.C. 14-26-2-23(c) specifically authorizes the Department to consider “any factor” when conducting its investigation and issuing a permit. The Department is directed to investigate cumulative effects of the proposed activity on the public rights described in I.C. 14-26-2-5. Those enumerated public rights include “any other purpose for which lakes are ordinarily used and adapted” and “the use of public freshwater lakes for recreational purposes.” Boating is a recreational purpose and as stated before, cannot occur on a public lake unless the public has access to that lake.

As another example of DNR jurisdiction landward of the shoreline, I.C. 14-26-2-7 prohibits activities in a ditch, dam or other project that will affect the water level of a public lake. Certainly those activities would occur landward of the shoreline of the affected lake, such as modification of a ditch a significant distance from the shoreline which would result in water being drained from the lake. Furthermore, consideration of “any factor” as mandated by I.C. 14-26-2-23(c) includes the ability of this Commission to determine the scope of a lake access easement to the extent necessary to carry out the permitting process. *Kranz v. Meyers Subdivision Property Owners Association Inc.*, 969 N.E.2d 1068 (Ind. App. 2012), *Bowman v. Walls*, 14 CADDNAR 85 (2016).

The effect of the Non-Final Order in this matter, as written, would unduly limit the DNR’s jurisdiction and this Commission’s jurisdiction to consider factors affecting the public interest when processing permit applications.

CONCLUSION

The above-mentioned conclusions of law are unduly restrictive of the jurisdiction of DNR and this Commission, and do not properly describe the authority granted the DNR in the permitting process. Paragraphs 31-41 should be eliminated and replaced with a paragraph 31 and paragraph 32 reading as follows:

31. The Department of Natural Resources has jurisdiction “over, along, or lakeward of the shoreline” pursuant of I.C. 14-26-2-3(a)(1) which on its face clearly extends the jurisdiction landward from the shoreline.

32. The Departments Motion for Summary Judgement is denied.

Therefore, Petitioner requests modification of the Non-Final Order as described herein.

SNYDER MORGAN & KUCHIMAY LLP

By: 

Stephen R. Snyder, #413-43
200 West Main Street
Syracuse, Indiana 46567
Telephone: 574/457-3300
srs@smk.law
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served electronically upon the following on February 21, 2025:

Rebecca McClain, Esq.
rmcclain@dnr.in.gov

Jack C. Birch, Esq.
jcb@birchkaufman.com



Stephen R. Snyder

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MARTHA GRANT,)	ADMINISTRATIVE CAUSE
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BREEZE PROPERTY OWNERS)	
ASSOCIATION, Inc.,)	
Respondents.)	

DNR’S AOPA COMMITTEE BRIEF

Respondent, Indiana Department of Natural Resources (DNR), by counsel, submits its brief to uphold the Administrative Law Judge’s (ALJ) Order granting summary judgment in favor of DNR. DNR requests the Committee uphold summary judgment because the permit complies with Indiana law and Petitioner’s request for relief related to landward property rights is outside the NRC’s jurisdiction.

ARGUMENT

Petitioner stated in its objection that Paragraphs 32, 34, 35, 38, 39 and 40 make improper conclusions of law, however, Petitioner’s arguments in support provide no reasonable basis to overturn the ALJ’s conclusions of law. *See* Petitioner’s Objections to Nonfinal Order. Petitioner makes several additional arguments that were not made on summary judgment and do not change the ALJ’s findings and conclusions.

I. The permit was granted in compliance with clear and unambiguous statutes and rules.

The plain meaning of Indiana statutes and rules shows DNR governs construction on the

shoreline and lake – not landward property. Ind. Code § 14-26-2-23(a)(1); 312 Ind. Admin. Code 11-3-3. Clear and unambiguous administrative rule provisions are also not open to statutory construction. *Faulk v. DNR*, 11 CADDNAR 272, 277 (2008)(citing *Indiana Alcoholic Beverage Comm’n v. Osco Drug, Inc.*, 431 N.E.2d 823 (Ind. Ct. App. 1982)).

Specifically, “over, along, or lakeward” is qualified by the “shoreline or waterline” i.e. not landward. Indiana law is clear and unambiguous in defining the “shoreline” as the “line formed on the bank or shore by the water surface at the legally established average normal level” or the “line formed by the water surface at the average level.” I.C. §§ 14-26-2-4, -23(a)(1); *see also* Findings of Fact and Conclusions of Law with Nonfinal Order Granting Summary Judgment in Favor Of DNR (Nonfinal Order), ¶ 29. In addition, “over” and “along” explicitly apply to the shoreline under Indiana Code section 14-26-2-23(a)(1) and not to property landward of the shoreline. Meaning that “over” and “along” apply to the shoreline only, not Petitioner’s private property. Nonfinal Order, ¶¶ 31-34.¹ The permanent structure license requirement in 312 Indiana Administrative Code 11-3-3 also states “within the shoreline or water line” and not landward.

Therefore, the shoreline is the determining factor for DNR’s jurisdiction under Indiana Code section 14-26-2-23 and 312 Indiana Administrative Code 11-3-3 for the permit in this case. Due to the plain meaning of the statutes and rules, DNR requests the Nonfinal Order be upheld.

II. The conditions do not confer additional jurisdiction over landward private property.

Petitioner argues for the first time that the conditions apply to landward property rights. Petitioner cites to Condition 3 of the permit as evidence of jurisdiction over Petitioner’s private property, but Condition 3 only applies to limit dumping the excavated material back into the

¹ DNR requests that Para. 34 be amended to read “I.C. 14-26-2-5” rather than “I.C. 14-25-2-5” consistent with Para. 31 as it appears to be a typo.

lake, again a lakeward activity. *See* DNR Motion for Summary Judgment, Exhibit 1, Certificate of Approval. Furthermore, the fencing and excavation would all occur “along” the “shoreline” i.e. not on Petitioner’s private property. I.C. §§ 14-26-2-4, -23(a)(1). Petitioner then raises the argument that Condition 6 also applies to Petitioner’s private property rights. DNR Motion, Ex. 1. Again, preventing erosion “along” the “shoreline” where the construction and excavation activities will take place is the goal of this condition. I.C. §§ 14-26-2-4, -23(a)(1). Thus, Condition 6 applies to the shoreline activities only, not Petitioner’s private property. The same logic applies to Condition 7. DNR Motion, Ex. 1.

These conditions only apply to the construction activities along the shoreline of the public freshwater lake, and not to Petitioner’s private property.

III. The additional statutes support upholding the permit and the Nonfinal Order.

Petitioner raises additional arguments regarding the cumulative effects under Indiana Code section 14-26-2-23(c) and effects to the legal lake level under Indiana Code section 14-26-2-7. However, neither of these statutes require overturning the permit at issue in this case.

DNR *may* consider the cumulative effects under Indiana Code section 14-26-2-23(c)(5), which is specific to “the interests of a landowner having property rights abutting the public freshwater lake or rights to access the public freshwater lake.” Furthermore, “[a] person owning land bordering a public freshwater lake does not have the exclusive right to the use of the waters of the lake or any part of the lake.” I.C. 14-26-2-5(e). Here, Petitioner claims property damage, trespass, or nuisance near Petitioner’s home, but the property does not abut or border the lake and Petitioner does not have any vested right to access the lake. *See* Nonfinal Order, ¶ 38. On the other hand, the cumulative effects weigh in DNR’s favor. For example, recreational activities on the lake such as boating are promoted by the construction of the boat ramp. I.C. §§ 14-26-2-5, -

23(c)(3). Petitioner has raised no argument related to her boating activities on the lake that would be impacted. Instead, Petitioner solely focuses on increased traffic along the road near her private property. *See generally* Petition and Response. Petitioner’s private property rights are better addressed in civil court. *See* Nonfinal Order, ¶ 40.

Petitioner’s other argument under Indiana Code section 14-26-2-7² that dams and ditches are landward also fails. The activity regulated under Indiana Code section 14-26-2-7 is an effect “to the water level” of a public freshwater lake. Furthermore, a dam or ditch is typically adjacent to the lake or a contiguous waterbody that would connect to the lake. Petitioner is not claiming the permitted activity is a dam or ditch affecting the water level. For this reason, the statute is clear that “[t]his section applies to a public freshwater lake” and not land outside the lake.

Therefore, Petitioner fails to show the Nonfinal Order is contrary to the applicable Indiana law.

IV. The NRC has no jurisdiction over landward property issues.

Finally, citation to outdated case law due to statutory change is unpersuasive. Since *Bowman v. Walls*, 14 CADDNAR 85 (2016) and *Kranz v. Meyers Subdivision Prop. Owners Ass’n, Inc.*, 969 N.E.2d 1068 (Ind. Ct. App. 2012)(decision clarified on reh’g, 973 N.E.2d 615 (Ind. Ct. App. 2012)), the NRC Division of Hearings’ jurisdiction regarding riparian boundary

² **IC 14-26-2-7 Construction of ditches or dams so as to lower water level prohibited**

Sec. 7. (a) This section applies to a public freshwater lake, regulated or otherwise, that covers an area of at least ten (10) acres.

(b) A person may not order or recommend the:

- (1) construction;
- (2) reconstruction;
- (3) recleaning; or
- (4) repair;

of a ditch, dam, or other project that will affect or is likely to affect a lowering of the water level of the public freshwater lake.

[Pre-1995 Recodification Citation: 13-2-11.1-3(b).]

As added by P.L.1-1995, SEC.19. Amended by P.L.6-2008, SEC.5.

disputes has been removed under Indiana Section 14-26-2-1 *et seq.*³ Due to the statute change, NRC rulings on property boundaries in past cases has no bearing on the permitted activity in the current case.

CONCLUSION

Other than disagreeing with the plain meaning of the statutes and rules regarding public freshwater lakes, Petitioner provides no alternative basis to overturn the Nonfinal Order. Therefore, the Nonfinal Order must be upheld and Petitioner's request denied. For this reason, Paragraphs 31-41 should remain and Petitioner's proposed paragraphs disregarded. Para. 34 should be corrected due to clerical error.

Respectfully submitted:

/s/ Rebecca McClain
Rebecca McClain
Attorney for DNR
402 W. Washington St. Room W 261
Indianapolis, IN 46204
(317) 232-4137
rmcclain@dnr.in.gov

³ Effective July 1, 2023, the Indiana General Assembly under Senate Enrolled Act 412 removed riparian boundary disputes from the NRC Division of Hearings' jurisdiction.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email on April 23, 2025, on the following:

Stephen Snyder
Attorney for Petitioner
srs@smk.law

Jack Birch
Attorney for Respondent
jcb@birchkaufman.com

/s/ Rebecca McClain
Rebecca McClain
Attorney for DNR
402 W. Washington St. Room W 261
Indianapolis, IN 46204
(317) 232-4137
rmcclain@dnr.in.gov