

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

IN THE MATTER OF:

SECTION SIX FLATWOODS NATURE PRESERVE:)	
AMENDMENTS TO:)	Administrative Cause
MASTER PLAN)	Number 21-NP-033

**REPORT OF HEARING OFFICER
WITH RECOMMENDATIONS TO NATURAL RESOURCES COMMISSION**

1. Introduction, Authority and Appointment of Hearing Officer

The Section Six Flatwoods Nature Preserve (SSFNP) was originally dedicated by the Natural Resources Commission (Commission) in July of 2003. The Division of Nature Preserves requested an amendment to the dedication to correct an inaccurate reference in the Master Plan by removing the reference to Bone Bank Flatwoods Nature Preserve and replacing it with Section Six Flatwoods Nature Preserve. Ron Hellmich (Hellmich), Director of the Department of Natural Resources (Department), Division of Nature Preserves, requested assistance in preparing for and conducting a public hearing associated with a proposed amendment to the Master Plan.

The Natural Resources Commission (Commission) adopted a nonrule policy document, Information Bulletin #72 (*IB #72*), "Nature Preserve Articles of Dedication Amendments", posted in the Indiana Register at <http://iac.iga.in.gov/iac//irdin.pdf?din=20140129-IR-312140022NRA>. IB #72, at Section 3(A) provides:

(A) If the director of the department's division of nature preserves determines articles of dedication should be amended for a nature preserve, under the Nature Preserves Chapter, the division director shall use this information bulletin for guidance. Without further action by the Commission, the division director may elect to seek assistance from the commission's division of hearings in the conduct of or preparation for the hearing process.

...

(C) The division director may conduct the public hearing or may appoint another person to conduct the public hearing....

Upon Hellmich's request, on August 9, 2021, Sandra Jensen, Director of the Commission's Division of Hearings, appointed Billie Franklin as the hearing officer to provide assistance to the Department.

2. Amendment to Articles of Dedication and the Master Plan Notice through Publication

As applicable to SSFNP, the Nature Preserves Chapter provides standards for amendments to articles of dedication in IC 14-31-1-13 as follows:

Sec. 13. With the approval of the governor and upon the terms and conditions that the department determines, the department may, after the giving of notice and the holding of a public hearing under section 16 of this chapter, enter into amendments of articles of dedication upon a finding by the commission that the amendments will not permit:

- (1) an impairment;
- (2) a disturbance;
- (3) a use; or
- (4) a development;

of the area inconsistent with the purposes of this chapter. However, if the fee simple interest in an area is not held by the state under this chapter, an amendment may not be made without the written consent of the owner of the other interests in the area.

The notice and hearing requirements of IC 14-31-1-16 are set forth in subsection (b) and subsection (c) of the section, as follows:

...

(b) The notice must be published at least one (1) time in a newspaper printed in the English language with a general circulation in each county in which the nature preserve is located. The notice must do the following:

- (1) Set forth the substance of the proposed action.
- (2) Describe, with or without legal description, the nature preserve affected.
- (3) Specify a place and time not less than thirty (30) days after the publication for a public hearing before the commission on the proposed action.

(c) All persons desiring to be heard shall be given a reasonable opportunity to be heard before action by the commission on the proposal.

The Division of Hearings caused notice of a public hearing to be published on September 7, 2021, in *The Posey County News*, a daily newspaper of general circulation in Posey County, Indiana, to consider the amendment to the Master Plan for the SSFNP pursuant to IC 14-31-1-13. Contact information for Franklin was provided in the notice.

3. Public Hearing and Comment

The public hearing was conducted as scheduled on October 13, 2021, in the Natural Resources Commission, Division of Hearings conference room in Indianapolis, Indiana. On behalf of the Department, Hellmich appeared. No other member of the public was in attendance.

The comment period ended on October 13, 2021. The hearing officer did not receive any comments during the comment period.

4. Recommendation

All persons have been provided a reasonable opportunity to be heard. Nothing in the proposed amendments would be inconsistent with the purposes of the Nature Preserves Chapter.

The hearing officer recommends the Natural Resources Commission approve the proposed amendments to correct the name in the Master Plan by removing the reference to Bone Bank Flatwoods Nature Preserve and replacing it with Section Six Flatwoods Nature Preserve

Dated: October 14, 2021


Billie Franklin
Hearing Officer
Natural Resources Commission