

Pigeon Creek Watershed Development (PCWDC)
Minutes
March 25, 2025, at 10:00 am
Vanderburgh County Civic Center, Room 301, Evansville, IN

Attendees:

Commissioners Karan Barnhill, Cheryl Musgrave, Kristi Johnson, and Craig Emig, legal counsel. Absent: Commissioner Linda Freeman. See attached list for guests.

Treasurer's Report

Commissioner Musgrave reported that Chair Linda Freeman joined her to open the banking account at German American Bank. An initial \$10,000 was deposited. These funds were borrowed from the Vanderburgh County Board of Commissioners per agreement. The funds will be repaid with revenues from the fee generated by parcels within the PCWDC in 2025. In addition, banking regulations required incorporating with the Indiana Secretary of State. The PIGEON CREEK WATERSHED DEVELOPMENT COMMISSION, INC. is registered as a non-profit.

Action Items:

1. Approval of February 24, 2025, Minutes

The motion to approve was made by Commissioner Johnson
Seconded by Commissioner Musgrave
Adopted unanimously

2. Insurance and Bonds for PCWDC and Board Members: Attorney Emig reported our application was submitted and waiting for quotes.
3. Advisory Board: Commissioner Johnson proposes forming an advisory board. Commissioner Johnson will create a list including SWCD and other potential regional partners and stakeholders. It is probable the advisory board meetings will be electronic in format to reduce costs and increase potential participation. Further information will be presented at the next meeting.
4. Grants: Commissioner Johnson reported the 205j IDEM Grant (Indiana Department of Environmental Management, federally funded) and LARE grant (Lake and River Enhancement) with DNR (Department of Natural Resources) have been filed. Now that a banking account has been established, the Board will work on setting up the required vendor numbers for those grants. She spoke with Sara Peel, the current watershed coordinator for the current 319 implementation grant. Peel mentioned that Vanderburgh County SWCD (Soil and Water Conservation District) will plan on applying for another 319 implementations grant so the PCWDC will not move forward on that. The PCWDC is willing to provide a letter of support to Vanderburgh County SWCD for the grant application. The WDC will not move forward on potential MRBI/NWQI (Mississippi River Basin Healthy Watersheds Initiative/National Water Quality Initiative) funding

since it seems like we would not qualify. Commissioner Johnson recommended working with Vanderburgh County SWCD on getting the Lower Pigeon Creek WMP approved by NRCS (Natural Resources Conservation Service) so it can be eligible for NWQI funds in the future.

Commissioner Musgrave reported action was not taken to apply for the Wright Foundation for Sustainability and Innovation opportunities. The Foundation requires a not-for-profit fiscal partner. While the Vanderburgh County Health Department was willing to partner, simultaneous staff changes and office location changes occurred making partnership difficult at this time. Two other not-for-profit entities declined, citing reasons of workload and compatibility with their mission statements. Commissioner Musgrave reported that creating a not-for-profit status for the PCWDC is in our best interest going forward. Attorney Emig will research the process and requirements and will report at a future meeting.

5. Request For Qualifications: The Flood Damage Reduction and Drainage Work Plan RFQ was presented to the Commission for approval. The Work Plan is a statutory requirement and emphasized by the Indiana Natural Resources Commission when Watershed was approved. To ensure transparency and fairness, attorney Emig emphasized that communication with Commission members is prohibited; administrative questions can be directed to attorney Emig. The RFQ legal ad will run on March 28, 2025. Proposals are due April 28 at 10 am. A bidder's meeting is scheduled on April 14, 2025, to address bidder questions in an electronic meeting. The PCWDC reserves the right to have follow up meetings with potential vendors after proposal submission.

The motion to approve was made by Commissioner Johnson
Seconded by Commissioner Musgrave
Adopted unanimously

discussed. A review of statutory requirements shows that the PCWDC is unable to contract with the Surveyor's office for services and is required to hire staff of its own. Commissioner Johnson will resend job descriptions of similar positions to members for review. Commissioner Musgrave state the process will take weeks if not months due to funding, office space, and benefit tasks to be completed. Attorney Emig will draft agreements with the appropriate city/county entities to allow use of Civic Center resources and will report on these requirements at a future meeting.

7. Letter from Warrick County Surveyor Dennis Wilzbacher Concerning a Logjam at the Warrick/Vanderburgh Line.

A copy of the letter is attached to these minutes.

Attorney Emig asked Warrick County Surveyor Wilzbacher if he wanted to address the board on the log jam letter sent to the PCWDC on March 11, 2025. After initially declining to speak, Surveyor Wilzbacher made comments, saying the log jam was an emergency due to Indiana bat regulations and citing the need to clear trees prior to April

1. Surveyor Wilzbacher questioned the lack of PCWDC response to the letter and action on clearing the log jam. Surveyor Wilzbacher stated he needed a response by March 21st. Attorney Emig referred to a proposed response letter to be delivered soon. Attorney Emig cited PCWDC meeting schedules, the Indiana open door law, budget constraints, among other issues for the timing of the response letter.

Surveyor Wilzbacher declared he has the obligation and statutory authority to remove the blockage even though it is located outside of Warrick County. Attorney Emig refuted this claim of legal authority. In addition, attorney Craig pointed to the lack of evidence/justification of why it is an emergency, and the lack of proper bidding or planning.

Surveyor Wilzbacher responded that crops may not be planted, power lines might fall, but season comes now, corn season comes now. He admitted that the logjam is in Vanderburgh County, but it is backing water up in Warrick County. Surveyor Wilzbacher claimed said he has 6 days to take action and proposed using explosives to clear the log jam.

Commissioner Barnhill responded that a log jam removal plan is needed, that the PCWDC would have to do due diligence and that currently no funds and no plan are available. Commissioner Barnhill discussed the harm to wildlife that explosives would cause.

A response from staff inquiries to the Army Corp of Engineers shows that a permit and certain procedures for removing log jams is required. A copy of this email string is attached to these minutes.

Surveyor Wilzbacher stated IC 36-9-27-46 gives him authority to perform work outside of Warrick County. Attorney Emig emphasized that Surveyor Wilzbacher has authority only in Warrick County and further stated the cited statute does not apply to Pigeon Creek. The cited statute applies to regulated drains. Pigeon Creek in Vanderburgh County is not a Regulated Drain.

Commissioner Barnhill explained the Commission is in formation stages and not in a position to address the log jam. Commissioner Barnhill added that no property owners have contacted the Vanderburgh County Surveyor or the PCWDC and urged Warrick County to take the steps to join the PCWDC. Commissioner Barnhill noted the PCWDC could not meet the self-imposed deadlines set by Surveyor Wilzbacher because the PCWDC cannot legally respond to those requests without having a public meeting. Commissioner Barnhill stated the PCWDC did not ignore the letter but waited to have a meeting to send a response. The letter's deadline was prior to the meeting date.

Returning to the subject of a response to the letter, attorney Emig noted that the PCWDC Commissioners are unable to respond unless in a meeting, and that meeting is taking place and that Surveyor Wilzbacher was invited to speak at the podium. Mr. Emig noted the risk inherent in an uncontrolled release of debris to property owners downstream and

the power line towers. Mr. Emig noted that “You cannot just go out there and wing it” and referred to the email from the Army Corps of Engineers.

Surveyor Wilzbacher stated he needs the letter from us to cover him as to why he has not acted. Commissioner Musgrave asked Surveyor Wilzbacher to state that he would not take action to remove the Vanderburgh County log jam, using explosives or other equipment. Surveyor Wilzbacher declined to make this statement saying a decision was dependent upon the Warrick County Drainage board meeting today at 2:30. Attorney Emig and Commissioner Barnhill indicated they would attend the meeting.

Surveyor Wilzbacher discussed the projected cost of \$200,000 for a contractor to use heavy equipment to clear the log jam. In addition, Surveyor Wilzbacher stated he is a blasting expert, and the plan would be to put small tier explosives in the log jam to make holes. This cost was estimated at \$10,000. Attorney Emig asked to see these proposals in a written format and Surveyor Wilzbacher declined to provide documentation. The failure of Surveyor Wilzbacher to provide quotes from contractors to the PCWDC was noted by the Vice-Chair, Commissioner Barnhill as important omissions.

The matter was tabled to a future meeting.

The following is a summation of the discussion at the Warrick County Drainage Board meeting on March 25, 2025 as written by Commissioner Barnhill:

1. Attorney Emig and I made clear to the Drainage Board and Surveyor of Warrick County that the County Surveyor had no jurisdiction in Vanderburgh County and that their jurisdiction stops at the County Line.
2. We stated on the record that permits were required for any work within the Waters of the US. However, their attorney, Maurie Doll argued that fact and stated that he was under the opinion that since that section of Pigeon Creek was not considered “Navigable” that the Corps of Engineers did not have jurisdiction.
3. Attorney Emig and I made it clear that the property owner had not reached out to the Commission, the Surveyor’s office had not received any information from the property owner and that the Commission would not be doing anything until we were established and had a plan of action and funds to cover the cost.
4. The question was asked by another farmer (Tim Mosbey) can the property owner do the work themselves. Both Attorney Emig and Attorney Doll agreed that the property owner could do the work.
5. It was made clear that the Commission nor the County Surveyors could perform the work without permits.
6. Warrick County Surveyor Wilzbacher stated that the explosives and the method were both approved by the DNR and that he has done this prior.

Informational:

1. Receipt of PCWDC TIN/EIN from IRS, filing incorporation with Secretary of State of Indiana

2. Receipt of Vendor Number with the Vanderburgh County Auditor's Office
3. Billing Parcels Submitted for PCWDC with the Auditor's Office
4. Working Towards Web Presence
5. At next meeting Attorney Emig will report on getting IRS tax exempt status.

Informational:

Old Business

1. Old Business – updates on the following:
 - a) Electronic Meetings Policy has been adopted
 - b) Legal Agreement for Counsel for PCWDC is in place
 - c) Checking Account – Bank Selection and account creation has taken place
 - d) Submit Claim for Funds to Establish Bank Account has been accomplished in the amount of \$10,000 borrowed from the Vanderburgh County Board of Commissioners
 - e) Permission to Send Letter of Intent for Wright Foundation for Sustainability and Innovation (WFSI) – Tree Canopy Improvement Grant. This process has not moved forward.
 - f) Permission to Finish the 205j Water Quality Planning Program Grant and Submit. Action was taken at a prior meeting to move this forward.

New Business

1. Bob Barr IU research scientist: Commissioner Johnson will contact Mr. Barr for a presentation at a later meeting. Mr. Barr is an expert on erosion hazards and logjam management.
2. Public Comment: none
3. Adjournment

The motion to approve was made by Commissioner Johnson
Seconded by Commissioner Musgrave
Adopted unanimously

The next meeting is on April 28, 2025, at 10:00 a.m. in Room 301 of the Civic Center, 1 NW MLK, Jr. Blvd, Evansville, Indiana

PIGEON CREEK WATERSHED DEVELOPMENT COMMISSION

March 24, 2025 - Sign In Sheet ~ PLEASE PRINT NEATLY

	NAME	PHONE	ADDRESS & E-Mail Address
1	Bella Foster	—	isfoster@dnr.in.gov
2	Meg Ritterskamp		mritterskamp@isda.in.gov
3	Kenneth Smith		ksmith@DNR.in.gov
4	Bradon Downing		bdowning@bfscnjr.com
5	DENNIS WILZBACHER		WARREN COUNTY
6	Eldon MASHLEY		
-			



WARRICK COUNTY SURVEYOR

107 West Locust Street, Courthouse, Room 205, Boonville, Indiana 47601
Telephone: (812) 897-6170 Fax: (812) 897-6171

Warrick County Drainage Board

107 West Locust Street Boonville, Indiana 47601

Ms. Linda Freeman, Chairperson

Pigeon Creek Watershed Development Commission

305 Administration Building, Civic Center Complex

NW Martin Luther King Blvd

Evansville, Indiana 47708

March 11, 2025

Dear Linda:

As you are aware, a significant log jam exists within the Pigeon Creek channel just inside the Vanderburgh County line downstream from Warrick County. Said logjam was reported to me by Steve and Charles Wagner who co-own the land on both the left and right descending banks where the log jam obstructs Pigeon Creek for a significant reach in Vanderburgh County. This obstruction continues to slow stream flow velocity out of Warrick County, causing a significant reduction of stream flow capacity and output, causing a backup of several feet of water in the upstream creek channel for an estimated 6 miles east and north into Warrick County during the present non-flooding stage of the creek.

I am the duly elected public official serving as Warrick County Surveyor. By State Statute, it has been one of my primary sworn duties since I was inaugurated on January 01, 2025, to maintain and manage county drainage, to make the decisions and plans, and to take the necessary actions that I believe will minimize damage to our county and its people from flooding. I sit on and am the technical advisor to the Warrick County Drainage Board to discharge said duties.

On Sunday February 09, 2025, I accompanied the landowners who utilized their ATV to get us to the remote site of the logjam. We walked the log jam from the top of the creek bank and continued the inspection both up and downstream. It should be noted that

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while on the downstream walk we also observed that the steel tower structure of a major, active 138,000-volt CenterPoint electrical transmission line was partially washed out, with the creek continuing to erode the foundation beneath it. This tower is also in Vanderburgh County.

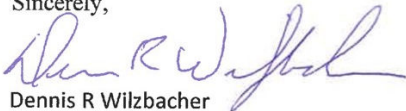
The next morning on Monday February 10, 2025, I notified you, as Chairperson of the Pigeon Creek Watershed Development Commission, and also as the Vanderburgh County Surveyor, of the logjam. I also notified Mr. Chris Leslie of CenterPoint Energy concerning the transmission tower situation. Mr. Terry Phillippe, Warrick County Commissioner and President of the Warrick County Drainage Board became involved by notifying Mr. Mike Goebel, Vanderburgh County Commissioner, of both the logjam and the transmission tower situations.

Linda, I don't think it is necessary to remind you that one of the main goals of establishing the Pigeon Creek Watershed Development Commission last year was to create legal authority to access Pigeon Creek to complete log jam removal and clear channel obstructions on said creek in Vanderburgh County. As I pointed out to you and your Board at the last meeting on February 24, 2025, the Commission has been formed and is functioning, Vanderburgh County is now a member, Pigeon Creek is obstructed by a log jam within Vanderburgh County that is and will continue to adversely affect Warrick County, you have been aware of the jam for over a month, but the Commission tells me that they will not be making any effort to remove the jam.

I am left with no choice but to take emergency action on behalf of Warrick County to get the channel open and flowing to capacity prior to the next flooding rain, or before the beginning of the Indiana bat gestation period starting April 01, whichever comes first. Warrick County will invoice the Commission for the expenses we incur in performing the obstruction removal for the Commission.

The professional courtesy of an official response to this letter is expected by Friday March 21st 2025.

Sincerely,



Dennis R Wilzbacher

Warrick County Surveyor

surveyor@warrickcounty.gov

dwilzbacher@warrickcounty.gov



Cheryl Musgrave <cwmusgrave@gmail.com>

FW: Log jam in Pigeon Creek

1 message

Dickson, Justin <jdickson@vanderburghsurveyor.com> Fri, Mar 21, 2025 at 2:28 PM
To: "Craig R. Emig" <cemig@kddk.com>, "Cheryl Musgrave (Contact)" <cwmusgrave@gmail.com>, "Barnhill, Karan S." <kbarnhill@evansville.in.gov>, Kristi M Johnson <KristJohnson@dnr.in.gov>
Cc: "Freeman, Linda" <LFREEMAN@vanderburghsurveyor.com>

From: Werner, Sam E CIV USARMY CELRL (USA) <Sam.E.Werner@usace.army.mil>
Sent: Tuesday, March 18, 2025 11:24 AM
To: Ward, Michael S <msward@vanderburghsurveyor.com>
Cc: Freeman, Linda <LFREEMAN@vanderburghsurveyor.com>; Dickson, Justin <jdickson@vanderburghsurveyor.com>
Subject: RE: Log jam in Pigeon Creek

Michael,

Thank you for your inquiry. The short answer is it depends. If there is a discharge of dredged or fill material into Pigeon Creek (TNW), or abutting wetlands it would necessitate a Department of the Army (DA) Permit to do so. If you utilize the one step removal to remove the debris and place it in an upland area, you not need a DA permit.

Changes in our regulations, effective July 9, 1998, allow for the removal of sediment and other obstructions, involving only the incidental fallback of dredged material without DA authorization provided a one-step removal method is used.

One step removal requires that the sediment and debris must be removed and immediately placed landward sufficiently enough to prevent the runoff water from the dredged material from re-entering the stream and that no additional dredged and/or fill material is placed below the ordinary high water mark of the stream or in wetlands. We recommend, however, that good management and conservation practices be used. For example:

a. The dredged (excavated) material should be placed sufficiently landward in a contained manner and immediately stabilized by spreading and seeding;

b. Straw or hay bale barriers or other approved berming methods for controlling and containing sediment should be used if the dredged material is discharged within close proximity to any "waters of the United States;"

c. The removal of vegetation should be limited to the removal of snags, loose debris and live vegetation which obviously obstructs stream flow;

d. All work, including the removal of vegetation, should be performed from one side of the channel leaving one side undisturbed; and

e. The side casting of dredged material **into wetlands** adjacent to the stream **is not allowed** under one step removal and would require authorization before the work is done.

Implementing best management practices will help to ensure that those one step removal activities being performed in "waters of the United States" that does not require authorization will not contribute to any significant degradation to the aquatic environment.

If these conditions cannot be met you will need a DA Permit to complete the debris removal. The important thing to remember is that you will want to remove the debris. To simply dislodge it and attempt to let it move downstream will only compound the situation elsewhere in Vanderburgh County. Any bankwork below the Ordinary High Water (OHW) elevation of Pigeon Creek that would result in the discharge of dredged or fill material would also require DA authorization. If you develop a plan to move forward and would like me to confirm if your plan would require DA authorization, I'd be happy to review it for you. Please let me know if you have any other questions.

V/r,

Sam Werner

Chief, MCE Branch

Regulatory Division

Louisville District

U.S. Army Corps of Engineers

[6855 State Road 66](#)

[Newburgh, IN 47630](#)

(812) 842-2768

Please comment on our service: Customer Service Survey ([army.mil](#))

From: Ward, Michael S <msward@vanderburghsurveyor.com>

Sent: Tuesday, March 18, 2025 10:17 AM

To: Werner, Sam E CIV USARMY CELRL (USA) <Sam.E.Werner@usace.army.mil>

Cc: Freeman, Linda <LFREEMAN@vanderburghsurveyor.com>; Dickson, Justin <jdickson@vanderburghsurveyor.com>