

**MINUTES OF THE KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN
DEVELOPMENT COMMISSION
HELD FRIDAY JULY 31, 2020
2:30 P.M. CST/3:30 P.M. EST**

**CONDUCTED ELECTRONICALLY UNDER EXECUTIVE ORDER 20-09
AT <https://global.gotomeeting.com/join/909250109>**

John McNamara, Chair, called the meeting to order at 2:49 p.m. CST following technical difficulties.

Mike Novotney, Secretary, called the roll.

Members Present at Roll Call

Rob Churchill	Bill Crase	Craig Cultice
Bill Emerson	John McNamara	Ryan Mueller
Mike Novotney	James Walstra	Andrew Wheeler (IL)

Staff Present

Scott Pelath

Election of Officers for Indiana State Fiscal Year 2021

Craig Cultice moved that all current officers be retained by acclamation for another one-year term. Rob Churchill seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Approval of minutes from May 29 meeting

Bill Emerson moved that the minutes be adopted. Bill Crase seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Finance Report

Mr. Pelath presented a financial report along with a list of claims that either were paid or needed to be paid since the previous meeting. A written financial report was distributed in advance of the meeting [contained in the Executive Director's Report ATTACHMENT 1].

Ryan Mueller moved that the Commission approve the listed claims and accept the financial report. Mr. Cultice seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

OLD BUSINESS

Jasper County FEMA Project

Jim Walstra reported on the Jasper County FEMA project. He said everything looks great at the initial project location in the vicinity of US 231, and already is preventing sediment from entering the channel. Mr. Walstra also indicated that Jasper County has selected a contractor for the next phase beginning at the Jasper-Newton county line.

Mr. Novotney asked Mr. Walstra which contractor was selected from the next project phase. Mr. Walstra reported that the work was awarded to Jerry Gutwein, whose bid was significantly lower than the other proposers.

Review of design proposals for Phase I of Yellow River project

Mr. Pelath reviewed the Commission's previous decision to narrow the list of five proposers to a list of two proposers and conduct in-person interviews at its discretion. The Commission would then make a final decision after the beginning of the new fiscal year.

Mr. Crase moved that the Commission select Cardno and Christopher Burke Engineering as the two finalists. Mr. Emerson seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Thayer Farm Technical Advisory Recommendation

Mr. Pelath presented Technical Advisory Recommendation 2-2020 regarding the Thayer Farm, which would allow the Commission and the Department of Natural Resources to move ahead jointly on the property's transition.

Mr. Emerson moved that the Commission adopt the recommendation. Mr. Walstra seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Previously approved sediment trap maintenance at Range Road

Mr. Pelath explained that the sediment trap was previously approved, but that the dollars were temporarily reallocated to a bank repair. However, he stated that Mr. Crase had succeed in lowering the estimated cost, and that sufficient funds remained available.

Mr. Crase asked that the Commission reinstate funding for the sediment trap maintenance.

Mr. Novotney asked for clarification of the expected cost. Mr. Pelath reviewed the documentation and reported that it would be done for \$42,190.

Mr. Emerson asked where the sediment would be placed. Mr. Crase answered that it would be transported to an upland location outside of the flood plain.

Mr. Crase moved that \$42,190 be approved for the sediment trap maintenance. Mr. Emerson seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Fishing structures on easement

Mr. Pelath reported on his communications with Mr. Mueller regarding Jim Long's request to place a moveable fishing shelter within the Commission's easement. He believed that most of the issues – especially the movability of the structure and the impermissibility of permanent utilities – had been substantially resolved to the Commission and the DNR's satisfaction.

Mr. Pelath hope this case will provide the precedent and benchmark for future, similar situations.

Mr. Novotney moved that the easement be granted for the temporary fishing structure contingent on the DNR's approval and compliance with all other federal, state, and local requirements. Mr. Crase seconded the motion.

The chair stated that in the future, a note from the DNR would ensure that we continue to support the Department's guidelines.

MOTION ADOPTED BY VOICE VOTE.

NEW BUSINESS

Grand Marsh Park Streambank Restoration in Lake County

Mr. Pelath presented Technical Advisory Recommendation 3-2020 [ATTACHMENT 3] regarding support of the Grand Marsh Park Streambank Restoration in Lake County. He also noted that the park is a valuable flood storage asset, and fits within the Commission's existing work plan. According the Mr.

Pelath, the Lake County Drainage Board has put the project out for bid to assist with the cost estimates. He asked that the Commission approve the plan and consider funding amounts at a future meeting.

Mr. Emerson added that access is challenging there, and voiced his support of the project.

Mr. Crase moved that the Commission adopted Technical Advisory Recommendation 3-2020. Mr. Cultice seconded the motion.

Mr. Novotney asked when the bid opening would be. Mr. Emerson responded that it would be August 19.

MOTION ADOPTED BY VOICE VOTE.

Commission responsibility for bridge logjams

Mr. Pelath presented Resolution 2020-03 [ATTACHMENT 4] regarding Commission leadership in the removal of logjams at bridges.

Mr. Emerson moved that the Commission adopt the resolution. Mr. Churchill seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Access to property adjacent to River's Edge Farm

Mr. Pelath sought guidance regarding its willingness to grant easements on its properties, and the River's Edge Farm in particular. There is one property that can only be accessed by crossing our property, and Mr. Jim Deardorff had requested that a permanent easement be granted beyond simply reducing permission to writing.

The chair said he was in favor of negotiation for written permission, but would be hesitant to grant a permanent, recorded easement.

Mr. Novotney asked if stipulations like time limits or revocations have been discussed. Mr. Pelath expressed his sense that the desire was for permanence.

Mr. Crase said he was in favor of written permission but not a permanent easement. The chair suggested it could be year-to-year permission. Mr. Pelath said he would have further discussion with the affected parties.

Other county project requests

Mr. Crase asked for permission to maintain a small, previously permitted sediment trap on the upper Kankakee River. The estimated price is \$11,500. Mr. Crase said the price is lower than the last time it was cleaned six years ago.

Tony Hendricks said the trap is valuable for collecting sediment from LaPorte and preventing buildup in the vicinity of the Robbins Ditch.

Mr. Cultice moved that the trap be cleaned for \$11,500. Mr. Emerson seconded the motion.

MOTION ADOPTED BY VOICE VOTE.

Emergency contracting

Mr. Pelath reported the current policies limit the director's capacity to make formal agreements during emergency situations. He said he might suggest a narrow policy for emergencies in the future.

The chair said that as a county surveyor, he has certain powers during an emergency that are needed by the director. He said he would be willing to give the director such powers during an emergency as long as a Commission member is contacted and is in agreement.

Mr. Crase added that his office has emergency contracting power.

The chair said he would develop a policy to consider at a future meeting.

Travis Lovett of the Attorney General's Office said he would be happy to help develop a policy.

EXECUTIVE DIRECTOR'S REPORT

A written report [ATTACHMENT 1] was distributed prior to the meeting.

PUBLIC COMMENT

Mr. Hendricks thanked Andy Wheeler and the State of Illinois for their work to acquire a \$7 million Illinois state appropriation.

The group in attendance applauded loudly in appreciation.

Mr. Wheeler expressed his appreciation for everyone's kind words.

NEXT MEETING

The next meeting date, location, and format was to be determined.

ADJOURNMENT

The meeting adjourned at 3:46 p.m. CST.

ATTACHMENT 1

EXECUTIVE DIRECTOR'S REPORT

To: KRB-YRBDC Members
From: Scott D. Pelath, Executive Director
Date: July 29, 2020

We have not met for nearly two months, so I intend to include as much information as possible in advance of our meeting. As I reported earlier, our fiscal savings plan includes eliminating at least two meetings over the course of the year, so they will have to be spaced accordingly.

The good news is that a significant amount of work is underway.

Finance Report

State Budget Agency. I had a conference call with the State Budget Agency last week to discuss our administrative appropriation in the next state budget and the use of funds in the current fiscal year.

I am going to make a case for an increase in our state administrative dollars. They did not discourage the request. The simple fact is that we will have river investments to oversee, and with future assessment dollars being limited to capital expenses, we still need the accounting infrastructure to promptly put those dollars to work for people. More resources mean more accountability.

I also informed them that under current circumstances, some of our logjam management dollars may have to be reallocated to repairs and bank stabilization needs. They were untroubled by any changes in short-term priorities provided we meet our reserve requirements.

Recent claims. Major claims are starting to arrive. That is a good thing, because it means that work is being executed.

The largest claim is a partial one for emergency bank repair in Newton County. We also ordered materials directly from U.S. Aggregates, and had to rent some private land for staging. For the latter, I was grateful to the DNR for helping me benchmark an appropriate amount.

We budgeted \$300,000 for the work, but I expect to run over the amount due the need to purchase some culverts and repair another imminent breach identified during the work

We also required an emergency bank repair at Shady Shores in Lake County, which placed a residential area at risk. Bill Emerson, Tom Larson, and I consulted on-site, and I was grateful that Lake County took the lead on coordinating the repair.

The bat population surveys are substantially complete, but that means payment will soon have to be complete as well. The first invoice has arrived.

I present the following claims to the Commission. The ones in blue have already been paid under the advance payment policy.

CLAIMS TO BE APPROVED AT 7/31/20 MEETING

PO #	DATE	TO	DESCRIPTION	AMOUNT	Check #
62-20	4/27/2020	EFTPS	Tax Deposit- withholding & Medicare	\$3,077.03	ACH 62-20
63-20	6/15/2020	INPRS	INPRS Contribution 1/2020-6/15/2020	\$1,581.36	ACH 63-20
64-20	6/30/2020	INPRS	June 30 PR Contribution	\$143.76	ACH 6 30 20
65-20	7/13/2020	Scott Pelath	June 8-July 12 Mileage	\$469.63	1497
66-20	7/13/2020	INPRS	July 15 PR Contribution	\$143.76	ACH 7 15 20
67-20	4/13/2020	American Express Blue Business Cash	May CC	\$464.27	ACH 4 13 20
68-20	6/12/2020	American Express Blue Business Cash	June CC	\$181.59	ACH 6 15 20
69-20	6/15/2020	Scott Pelath	June 1-15 Payroll	\$3,872.81	ACH 69-20
70-20	6/30/2020	Scott Pelath	June 16-30 Payroll	\$3,872.81	ACH 6 30 20
71-20	6/26/2020	Intuit	Purchase Check stock	\$184.98	ACH 6 26 20
72-20	7/14/2020	Orbis Environmental Consulting	Bat Survey INV 1936	\$10,881.50	1498
73-20	7/15/2020	US Aggregates	Inv 22013874 Stone & rip rap	\$17,443.33	1499
74-20	7/16/2020	Rob Churchill	May & April Meeting per diem	\$70.00	1502
75-20	7/16/2020	Bill Crase	May & April Meeting per diem	\$70.00	1503
76-20	7/16/2020	John Coulter	May & April Meeting per diem	\$70.00	1504
77-20	7/16/2020	Bill Emerson	May & April Meeting per diem	\$70.00	1505
78-20	7/16/2020	John McNamara	May & April Meeting per diem	\$70.00	1506
79-20	7/16/2020	Mike Novotney	May & April Meeting per diem	\$70.00	1507
80-20	7/16/2020	American Express Blue Business Cash	Accounting software & Toto Cafe	\$210.31	ACH 7/11/20
81-20	7/15/2020	Scott Pelath	July 1-15 Payroll	\$3,872.81	ACH 7/15/20
82-20	7/15/2020	Scott Pelath	Insurance Reimbursement	\$1,748.12	1497
83-20	7/15/2020	Bill Walstra	Land Rent	\$3,000.00	1508
84-20	7/24/2020	US Aggregates	INV 22014446 Riprap	\$1,935.29	1499
85-20	7/24/2020	Delta III Inc	Inv 11144 Shady Shores Bank Repair	\$13,019.32	1500
86-20	7/15/2020	Craig Cultice	May & April Meeting per diem	\$70.00	1509
87-20	7/15/2020	James Walstra	May & April Meeting per diem	\$70.00	1510
88-20	7/28/2020	Scott Pelath	Mileage for 7/14-7/23	\$217.32	1497
89-20	7/28/2020	Dirt Works Excavating	Invoice for emergency dike break repair Newton County	\$135,000.00	1511
90-20	7/14/2020	Indiana Dept of Rev	County & State Taxes for June 2020	\$357.48	ACH 90-20
				\$202,237.48	
		Blue means paid in advance of meeting			

Revenue. There is only good news on the revenue side. All eight counties have now paid their CY2020 administrative contribution. Furthermore, I picked up a \$24,400 rent payment from Kevin Misch, and NIPSCO just reimbursed us \$30,126 for river gages.

Yellow River project

Without recommendation, I submitted the price, technical, and qualification scores for the design proposals to you in a separate message.

My hope is that we can narrow our short-list down to two firms, conduct some interviews, and make a final decision in the coming weeks. We have much more work ahead, so there will also be value in getting to have in-depth discussions with those we are likely to engage in the future.

Logjam Management

We remain in bat roosting season, so work is limited. However, Craig Cultice is continuing to address in-channel logjams in Marshall County, and Mike Novotney is making preparations for upcoming work in Porter County.

The Corps of Engineers has received our written response to the public comment on our long-term, logjam management permit. A timetable for final determination or modification is not yet certain.

Bat Population Surveys

As I mentioned previously, the endangered bat population surveys conducted along two, 2.5-mile stretches of the Kankakee are complete. At our next meeting, I expect that our expert surveyor, Jeremy Sheets, will be available to make a full presentation of his findings.

The preliminary results indicate that while endangered bats may be present in LaPorte and Starke Counties, they do not appear to be present in Porter County. The results will be submitted to the U.S. Fish and Wildlife Service for review.

Use of the Easement

As you might recall, Jim Long requested to build a temporary fishing shelter within our easement in LaPorte County.

I have communicated closely with DNR on this matter, and learned there was a great deal more statewide policy significance to that matter than I first understood. However, I believe that Mr. Long will ensure that the structure is fully movable and not permanently connected to any utilities. If the outcome meets the Department's concern, it is possible we may have a precedent for what we would allow in the future for use of these easement in this regard. I can attest that all parties have worked together in very good faith.

Thayer Farm

The Technical Advisory Committee recommended regardless of any property modifications the Commission may make in the future, that DNR be allowed to move forward with installing water control devices on the bank.

Zack DeYoung at the LaSalle Fish and Wildlife Area have discussed design needs, and he has suggested – and I agree – that we should develop a document that explains both the Department’s habit goals and the Commission’s flood control goals. I likely will ask for a formal blessing of that process at the Commission meeting.

Emergency Bank Repairs

Newton County. The emergency bank repair in Newton County is substantially complete. The breach has been filled, the bank has been rescued from certain major damage, and the immediate threat to two significant ditches has been removed. Overall, I believe that the adjacent property owners are pleased with the action and outcome. We were lucky that low water levels have allowed for safe work.

Since this section was already in our work plan, I already have had direct conversations with the property owner about installing planned breaches on property for high-water events. I am gratified by some of the river partnerships that have emerged from the dilemma.

Chris Knochel, Tom Larson, Dan Gumz, Tony Hendricks, and others were of great assistance in the situation. I especially want to thank our Treasurer, Bill Crase, who volunteered multiple on-site visits and a significant amount of his time to the matter.

Shady Shores. Property owners in Shady Shores in Lake County identified a small yet imminent bank failure. With residential properties at stake, repairs were done promptly under Lake County’s management.

Technical Assistance Grant

With our partnership and financial support, the LaPorte County Soil and Water Conservation District has received a Technical Assistance grant of \$60,000. Our area was targeted for such assistance, which among other things, will help the Commission identify upstream conservation opportunities and promote NRCS programs to retain water.

I expect that the direct stakeholders will meet soon to identify a technical assistant to fulfill the grant.

Bridges

At our request, Norfolk Southern cleared their railroad bridge between Lake and Newton Counties of a major logjam. The railroad was helpful and cooperative, and I truly appreciated Congressman Visclosky’s office for their assistance.

Keeping the bridges free of logjams has a secondary but noticeable impact on gage levels. To promote speed and efficiency, I drafted a policy for consideration that would simply have the Commission take primary responsibility for keeping bridges clear. I drafted it carefully to not interfere with standing agreements that already exist for maintenance. My thought is simply where there are not such agreements, we can set up procedures to ensure they are monitored and cleared at regular intervals.

Sediment Traps

In November, the Commission approved maintenance of the Ridge Road sediment trap on the Yellow River. Recently, Bill Crase recommended that we reallocate those dollars for an emergency bank repair lingering from the 2018 flood.

In retrospect, while noble in the intent of fiscal caution, I think it may have been unnecessary. Bill negotiated a better price with a different contractor, and if the Commission resumes the work, we can manage the cost.

Bill also identified a smaller trap on the Kankakee that could be maintained for a much more modest expense. It will be up to the Commission whether to wrap it in with the other, or have Technical Advisory look at it separately first. My own thought is that the short-term reduction of sediment has value as long as we remain committed to the long-term sediment mitigation.

Grand Marsh Park Bank Reconstruction and Stabilization

Lake County has designed a bank reconstruction at Grand Marsh Park. The project has value to the Commission, because it preserves access and bank integrity for a larger potential flood storage area with planned breaches and setback protection within our work plan.

The Technical Advisory Committee already recommended the project at its most recent meeting. The Lake County Drainage Board is putting the project out for bid to assist the Commission with cost assessment. My view is that we should anticipate this cost with optimism.

Easement at River's Edge Farm

Our neighbor in Porter County, Jim Deardorff, has requested an easement for his cousin Ed to cross our property to access the adjacent parcel. Apparently, Jody Melton verbally made such assurances, but nothing was reduced to writing.

I have discussed with Kevin Misch as the leaseholder, and Kevin was only concerned about the commencement of hunting season. I have no problem putting permission in writing, but the grant of a permanent, recorded easement is a matter for the Commission. I have the issue on the agenda for discussion and input.

Governance

It is time to elect officers again. Ordinarily, we would do this at the June meeting, but since we met very late in May, we did not convene.

While this is purely a Commission function, I have suggested that everyone remain where they are for at least another year. In my opinion, for a new organization, the officers' selfless performance has been outstanding, and the Commission would benefit from an extended period of precedent establishment.

As always, should you have any questions please email me at sdpelath@gmail.com or (219) 861-7999, and I will always benefit from hearing from you. In order to maintain focus and brevity during our electronic meeting, I very much welcome any issues I can resolve in advance.

ATTACHMENT 2
RECOMMENDATION 2-2020

To: Kankakee River Basin and Yellow River Basin Development Commission
From: Technical Advisory Committee
Subject: Thayer Farm Transition
Date: June 25, 2020

DESCRIPTION: In 2019, the Commission made the policy decision to transition its Thayer Farm from agricultural production to floodwater storage. The Committee and the Commission have evaluated possible changes to the property's physical structure in order to 1) maximize possible flood storage volumes; 2) ensure that the property management is coordinated with natural resource restoration at the adjacent Gus Ellicott property; and 3) protect the road at the southern boundary of the parcel.

Likewise, the Commission already has decided to allow the Indiana Department of Natural Resources (DNR) to control the flow of water in and out of the Thayer Farm under its management.

The costs of further structural changes to the Thayer Farm against the additional floodwater storage benefits are ambiguous. The property as currently comprised is already a floodwater storage asset, and its ability to hold water irrespective of additional physical alterations is of value to the Commission and its mission.

LOCATION: Thayer, Newton County, Indiana

ISSUE: The Committee and the Commission have discussed possible physical improvements to the Thayer Farm such as 1) improving the berm along West 1200 North in Newton County; 2) scrapes; 3) bank relocation; 4) plantings; and 5) ditch maintenance. It is not yet clear if any of these solutions will provide a tangible or significant additional flood control benefit in return for the expected costs.

The Committee does agree that 1) placing the property under DNR management; and 2) allowing the Department to install water control structures to permit the orderly ingress of water at high river levels is of benefit to the entire basin.

RECOMMENDATION: The Committee recommends that the Commission permit and encourage the DNR to move forward with the installation of water control structures on the bank. It also particularly recommends that such structures allow the Thayer Farm to maximize the water it can safely and effectively retain during flood events and high river gage levels. Finally, it recommends that the Department be allowed to move forward with such plans regardless of any further permitted

investments that the Commission may make in the berm or other flood control characteristics of the property.

ADOPTED BY COMMITTEE 6/25/2020.

ATTACHMENT 3

RECOMMENDATION 3-2020

To: Kankakee River Basin and Yellow River Basin Development Commission

From: Technical Advisory Committee

Subject: Bank Stabilization at Grand Marsh Park in Lake County

Date: June 25, 2020

DESCRIPTION: Lake County has developed plans to stabilize the bank at Grand Marsh Park. Aside from the need to clear and repair a failing bank, the project would preserve access and bank integrity for the purpose of the area holding additional floodwaters in the future.

The project scope and location are contained in the attached plans and specifications prepared for the Lake County Drainage Board.

LOCATION: Lake County, Indiana

ISSUE: The Committee reviewed the project to determine if it had significant value within the Commission's mission and work plan.

RECOMMENDATION: The Committee recommends that the Commission consider funding the project. Its goal of streambank stabilization is fully consistent with the Commission's work plan and long-range efforts. Furthermore, the project, if completed, will preserve further future opportunities to create flood storage and enhance setback flood protection in the vicinity.

ADOPTED BY COMMITTEE 6/25/2020.

ATTACHMENT 4

RESOLUTION 2020-03

A RESOLUTION DECLARING THAT THE KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT COMMISSION (“the Commission”) WILL ACT AS THE PRIMARY COORDINATOR FOR CLEARING KANKAKEE RIVER LOGJAMS AT BRIDGES AND OTHER LINEAR BARRIERS

WHEREAS, the Commission is a body corporate and politic in the STATE OF INDIANA;

WHEREAS, the Commission has primary responsibility for Kankakee River and Yellow River flood control under IC 14-13-9;

WHEREAS, logjams and accumulate debris at human-made, linear barriers regularly impede the natural flow of water;

WHEREAS, as many as twenty-five bridges traverse the Commission’s exclusive easements;

WHEREAS, some bridges no longer serve either rail or wheeled vehicles;

WHEREAS, six (6) of eight (8) counties served by the Commission share a stretch of Kankakee River bank with another county;

NOW THEREFORE, BE IT ORDAINED that in cases where a bridge directly serves (2) two member counties, the Commission authorizes the Executive Director (“the Director”) to ensure the removal of logjams and obstructions at bridges under the following procedures:

1. The Director will first determine if a railroad, county highway department, or state highway department previously removed logjams and debris;
2. If there are existing agreements to remove logjams and debris from a bridge, the Commission will request that the entity remove the logjam;
3. If the entity declines to remove the logjam or fails to do so in a timely manner, the Director will notify the Commission to determine appropriate action, which may include further communications with the entity, additional coordination, or removal by the Commission;
4. If there is no previous agreement or the bridge is abandoned or no longer in service, the Director shall initiate the removal of the logjam or accumulated debris;

5. If removal of material is necessary, the Director shall notify the Country Surveyor in each county directly served by the bridge and request assistance as necessary;
6. For removals expected to exceed \$50,000, the Director shall solicit bids for the work;
7. For removals expected to be less than \$50,000, the Director may assemble a list of qualified contractors who are available to remove a logjam;
8. For non-emergency removals, the Director shall ensure that the Commission first authorizes funds necessary for the removal;
9. If the situation is an emergency, the Director shall notify both the Chair and the Treasurer, or in one of their absences, at least one other Commission officer before committing funds;
10. The Director may include logjam monitoring over a specified period in work that is assigned to a qualified contractor;
11. Logjams and debris shall be removed with the least possible disturbance to surrounding river banks and infrastructure;
12. If access to a bridge does not exist, the Director shall notify the Commission.
13. Bridges located entirely within the boundaries of a single county shall continue to be cleared under that county's existing procedures; however, the county may request Commission funds for part or all of the removal costs; and
14. A county removing a logjam or debris from a bridge shall notify the Director.

Adopted this 31st day of July, 2020

By:

_____	_____, Chair	John R. McNamara
Signature	Title	Printed Name

On Behalf of the Kankakee River Basin and Yellow River Basin Development Commission