

BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA

IN THE MATTER OF:

SPRINGFIELD FEN NATURE PRESERVE,)
AMENDMENTS TO:) Administrative Cause
ARTICLES OF DEDICATION) 24-NP-004

REPORT OF HEARING OFFICER
WITH RECOMMENDATIONS TO NATURAL RESOURCES COMMISSION

1. Introduction, Authority and Appointment of Hearing Officer

The Springfield Fen Nature Preserve (Springfield Fen) was originally dedicated by the Natural Resources Commission (Commission) in December, 1987. The Division of Nature Preserves requests an amendment to the Articles of Dedication of the Springfield Fen Nature Preserve (AD) correcting the legal description in the AD. Ronald Hellmich (Hellmich), Director of the Department of Natural Resources Division of Nature Preserves, requested assistance in preparing for and conducting a public hearing associated with a proposed amendment to the AD.

According to Hellmich’s request, amendment to the AD is necessary because :

[t]he legal description in the Articles of Dedication does not match the legal description in the acquisition warranty deed. A clause was left out of the AD making it appear that land the DNR does not own was dedicated. In Parcel #3 of the Warranty Deed, a description defines the acquisition area as “West of the County Road which runs North and South through the Southwest Quarter” and this clause was omitted in the AD.

Amendment to the Articles of Dedication is governed by Ind. Code 14-31-1-13:

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 Commission adopted a nonrule policy document, Information Bulletin #72, "Nature Preserve Articles of Dedication Amendments," published in the Indiana Register at <http://iac.iga.in.gov/iac/20140129-IR-312140022NRA.xml.pdf> (IB #72) to assist in the implementation of IC 14-31-1-13. IB #72, Sec. 3 provides, in relevant part:

(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.

(B) The division director shall cause public notice to be published at least one time in a newspaper printed in the English language with a general circulation in each county in which the nature preserve is located. In compliance with IC 14-31-1-16(b), the notice shall (1) set forth the substance of the proposed action; (2) describe the nature preserved affected; and (3) specify the time and place for a public hearing on the proposed action. . . .

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

After the public hearing and the comment period, the hearing officer must prepare a written report of the public hearing that includes:

- (1) A transcript or summary of public comments made during the public hearing.
- (2) Written comments received during the announced public comment period.
- (3) The purposes of any amendments to the articles of dedication, and a recommended finding to the commission which complies with IC 14-31-1-13 with respect to the proposed amendments.
- (4) Any other matter the hearing officer believes would assist the commission in making a full and fair determination under the Nature Preserves Chapter.

During a public meeting, the commission may consider any matter set forth in the Hearing Officer's report of public hearing, any additional information presented by the department, and, at the discretion of the commission chair, any comments received by the public at the public hearing. The commission must approve a finding that the amendments will not permit an impairment, a disturbance, a use, or a development of the area that is inconsistent with the

purposes of the nature preserve. If approved by the commission, the amended articles of dedication shall be submitted to the governor with any supporting documents. IB # 72, Sec. 4.

Upon Hellmich's request of March 27, 2024, Elizabeth Gamboa, Director of the Commission's Division of Hearings, was appointed as the hearing officer to assist the Department.

2. Amendment to Articles of Dedication for the Springfield Fen Nature Preserve:

The 1987 AD contains the following legal description:

That part of the Southwest Quarter (SW 1/4) of Section One (1), Township thirty-seven (37) North, Range Three (3) West, LaPorte County, Indiana, lying North of U.S. #20.

Excepting therefrom a strip of land Fifty (50) feet wide lying North of and adjacent to the existing right-of-way for #20.

Also excepting therefrom a strip of land Twenty-five (25) feet wide lying West of and adjacent to the existing right-of-way for Wilhelm Road.

The Warranty Deed from which the Department obtained the property describes the property as follows, in relevant part:

That part of the Southwest Quarter (SW 1/4) of Section One (1), Township thirty-seven (37) North, Range Three (3) West, LaPorte County, Indiana, lying North of U.S. #20 **and West of the County Road which runs North and South through the Southwest Quarter (SW 1/4), containing Forty-five (45) acres, more or less.**

The Department requests the phrase "and West of the County Road which runs North and South through the Southwest Quarter (SW 1/4), containing Forty-five (45) acres, more less" be added to the first paragraph of the legal description contained in the AD.

3. Publication, Public Hearing and Public Comment:

The notice and hearing requirements for amendments to the articles of dedication are set out in I.C. 14-31-1-16(b) and (c):

(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 June 6, 2024 in the *LaPorte County Herald*, a daily newspaper of general circulation in LaPorte County, Indiana, to consider the amendment to the Articles of Dedication for the Springfield Fen Nature Preserve pursuant to IC 14-31-1-13. The published notice included the substance of the action, the nature preserve affected, the date, time and place for the public meeting, and instructions on how to provide written comments. Contact information for Elizabeth Gamboa was also provided in the notice.

A public hearing was conducted as scheduled on July 9, 2024 at the Department Law Enforcement District 10 Headquarters, 100 W. Water Street, Michigan City, IN at 2:00 p.m. ET. Ronald Hellmich and Derek Nimetz appeared on behalf of the Department. No other member of the public was present. The comment period ended July 10, 2024. The hearing officer did not receive any comments from the public during the comment period.

4. Recommendation:

The requested AD amendments are limited to correcting the legal description of Springfield Fen Nature Preserve. All persons have been provided a reasonable opportunity to be heard and the amendments do not permit an impairment, a disturbance, a use, or a development of the area inconsistent with the purposes of this chapter. As the fee simple interest in the property is held by the state, consent of a third party to the amendment is not required. The hearing officer therefore recommends the Natural Resources Commission approve the proposed amendment of the AD to correct the legal description as indicated in the Amended Articles of Dedication, a copy of which is attached hereto, for Springfield Fen Nature Preserve.

Dated: September 4, 2024



Elizabeth Gamboa
Hearing Officer
Natural Resources Commission

**AMENDED ARTICLES OF DEDICATION FOR
SPRINGFIELD FEN NATURE PRESERVE**

Pursuant to the provisions of IC 14-31-1, and solely for the uses and purposes set forth in such Chapter, the Indiana Department of Natural Resources, by these Amended Articles of Dedication for the Springfield Fen Nature Preserve (*Amended Articles of Dedication*) makes the following amendment to the original Articles of Dedication of the Springfield Fen Nature Preserve, accepted by the Natural Resources Commission as a nature preserve on December 21, 1987, by correcting the legal description of the Nature Preserve and agrees to hold in trust for the people of the State of Indiana, the following described real estate (herein called "Nature Preserve") located in Beech Creek Township in LaPorte County, Indiana, to-wit:

That part of the Southwest Quarter (SW1/4) of Section One (1), Township Thirty-seven (37) North, Range Three (3) West, LaPorte County, Indiana, lying North of US #20 and west of the County Road which runs North and South through the Southwest Quarter (SW1/4).

Excepting therefrom a strip of land fifty (50) feet wide lying North of and adjacent to the existing right-of-way for US #20.

Also excepting therefrom a strip of land Twenty-five (25) feet wide lying West of and adjacent to the existing right-of-way for Wilhelm Road.

Containing in all forty-five (45) acres, more or less.

Cross Reference

Warranty Deed from S. Easmon Ford and Sally A. Ford, husband and wife, as tenants by the entireties, of LaPorte County, an undivided one-half interest, and Bartholomew T. Bernacchi and Marian J. Bernacchi, husband and wife, as tenants by the entireties, of LaPorte County, an undivided one-half interest, to the State of Indiana, Department of Natural Resources, dated August 29, 1986, and recorded in the Office of the Recorder of LaPorte County, Indiana as Record 86-14289 on November 17, 1986.

The Nature Preserve shall be used, administered, managed, and protected as set forth in the Master Plan for Springfield Fen Nature Preserve, a copy of which is attached and made a part of these Articles of Dedication. The Nature Preserve shall be further controlled by the Natural Resources Commission rules under 312 IAC, together with subsequent amendments to the Master Plan or Regulations not inconsistent with the provisions of IC 14-31-1 or these Articles of Dedication. The Department of Natural Resources shall not grant nor encumber any estate, interest or right in the Nature Preserve except upon compliance with IC 14-31-1.

DATED: _____

STATE OF INDIANA
NATURAL RESOURCES COMMISSION

ATTEST:

Daniel W. Bortner
Director, Department of Natural Resources

Bryan W. Poynter, Chairman

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FISH AND WILDLIFE

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF NATURE PRESERVES

Amanda Wuestefeld, Director

Ronald P. Hellmich, Director

STATE OF INDIANA)
)
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared the _____ day of _____, 2024, Bryan W. Poynter, Chairman, Natural Resources Commission, Daniel W. Bortner, Director, Department of Natural Resources, Ronald P. Hellmich, Director, Division of Nature Preserves, Department of Natural Resources, and Amanda Wuestefeld, Director, Division of Fish and Wildlife, Department of Natural Resources, each known by me to be an officer of his respective agency as stated and acknowledged their execution of the foregoing instrument to be their free and voluntary acts and deeds as such officers.

IN WITNESS THEREOF, I have hereunto set my hand and seal.

Notary Public

My Commission Expires:

(Print or Type Name)

County of Residence:

Commission Number: _____

APPROVED AS TO FORM AND LEGALITY

APPROVED AND ACCEPTED

Dated: _____

Dated: _____

Todd Rokita
Attorney General, State of Indiana

Eric J. Holcomb
Governor, State of Indiana

Indiana State Land Office Use:

THIS DOCUMENT PREPARED BY:

Ronald P. Hellmich, Attorney at Law, Department of Natural Resources, 402 West Washington Street, Room 267, Indianapolis, IN, 46204

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW:

Ronald P. Hellmich, Attorney at Law, Department of Natural Resources, 402 West Washington Street, Room 267, Indianapolis, IN, 46204

RETURN RECORDED INSTRUMENT TO:

Department of Natural Resources
Nature Preserves Division
402 West Washington Street, Room W267
Indianapolis, IN 46204