

been sought, counsel for La Porte County sought oral argument and an opportunity to file a surreply brief, as a decision on stay had been issued recently. Counsel for Respondent/Permittee and IDEM noted that the dispositive motion schedule had been in place since March 24, 2006, that the final hearing schedule had been in place since June 30, 2006, that the stay order issuance was not relevant to the dispositive motion schedule, and opposed La Porte County's request, asking that briefing be closed. The parties discussed the final hearing schedule: La Porte County, Respondent/Permittee and IDEM supported maintaining the existing schedule, while the remaining parties sought an extension of the final hearing dates pending for resolution of the dispositive motions.

The Court's June 30, 2006 Order set the September 12, 2006 Final Hearing schedule to begin at 9:00 AM, EDT. Counsel for the Town of Pines and Town of Beverly Shores ("Towns") noted that due to a time zone difference, counsel from northwest Indiana would be required to leave at 5 or 6 AM in the morning to attend the setting as scheduled, and indicated that they were not available, but could be available by 10:30 AM, EDT on September 12, 2006. No such starting time issue was raised concerning the September 13, 2006 setting.

The parties discussed final hearing preparation, and indicated that they had or would exchange document exchange. The parties further indicated that they noted no discrepancy in exhibit identification number/letter, as had occurred at the Stay Hearing setting. The parties agreed to stipulate as to the foundation of documents, but not as to further elements of the admissibility or weight to be accorded each exhibit. The parties further requested that the testimony presented at the Stay Hearing be deemed part of the record in the Final Hearing.

Counsel for the Towns stated an indication of the possibility that he might proffer evidence on new or additional issues at a Final Hearing setting. Counsel for IDEM and for Respondent/Permittee objected, citing to authority stated in Ind. Code § 4-21-.5-3, et seq. As the issues were not specified, the Court advised the parties to confer among themselves on further stipulations, and as to what issues each party intended to offer at hearing. The Court further advised that the presiding judge would be available for a telephone conference on September 8, 2006 if the parties so needed, and requested that if the parties agreed upon a time in advance, to please notify the judge.

The Court informed the parties of the below schedule at the conclusion of the final prehearing conference.

AND THE COURT, being duly advised, **FINDS** and **ORDERS** the following Case Management Order:

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| September 11, 2006 | Parties to file any additional briefing on dispositive motions, to be served via email and via U.S. Mail. |
| September 12, 2006, 10:30 AM, EDT | Oral Argument on dispositive motions, to be conducted at the Office of Environmental Adjudication, Indiana Government Center North, 100 North Senate Avenue, Room N1049, Indianapolis, IN 46204. |
| | Testimony to be presented as follows, Movants may reserve time for rebuttal; Petitioners and Intervenor may reallocate time among the three parties if they elect: |
| | Movant Respondent/Permittee: 30 minutes |

Movant IDEM: 30 minutes
Petitioner Towns: 20 minutes
Petitioner Porter County: 20 minutes
Intervenor La Porte County: 20 minutes

September 12, 2006, 1:00 PM, EDT: Proposed Findings of Fact, Conclusion of Law and Order on dispositive motions to be received via email, to be served by U.S. mail as well

September 12, 2006, 4:00 PM, EDT: Court anticipates issuing Order on dispositive motions.

September 13, 9:00 AM, EDT Final Hearing, first choice, to be conducted at the Office of Environmental Adjudication, Indiana Government Center North, 100 North Senate Avenue, Room N1049, Indianapolis, IN 46204

OEA's decisions from prior contested cases are available on OEA's website. OEA's website address is: <http://www.in.gov/oea>. The website includes a link to OEA's contested decisions on the DECISIONS page (from 2002 to present, with earlier years being added), and the LINKS page has connections to IDEM, the Indiana Administrative Code, and the Indiana Code.

Information concerning hearing schedules and procedures may be obtained by calling the Office of Environmental Adjudication at (317) 233-0850.

IT IS SO ORDERED this 8th day of September, 2006 in Indianapolis, IN.

Hon. Mary L. Davidsen
Chief Environmental Law Judge

DISTRIBUTION, and as a courtesy, via email

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