

ADVISORY COUNCIL
August 11, 2021 Meeting Minutes

ADVISORY COUNCIL MEMBERS PRESENT

Patrick Early, Chair
Bill Freeman
R. Ross Williams

NRC, DIVISION OF HEARINGS STAFF PRESENT

Sandra Jensen
Dawn Wilson
Billie Franklin
Scott Allen

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Dan Bortner	Executive Office
Chris Smith	Executive Office
Ryan Mueller	Executive Office
Mike Smith	Executive Office
Joe Caudell	Fish & Wildlife
Moriah Boggess	Fish & Wildlife
Scott Johnson	Fish & Wildlife
Mark Basch	Water

GUESTS PRESENT

Herb Higgins

Call to Order

Patrick Early, Chair, called the meeting to order at 10:01 a.m., ET, at the Fort Harrison State Park Inn, 5830 North Post Road, Roosevelt Room, Indianapolis, Indiana. With the presence of three members, the Chair observed a quorum.

Reports of Deputies Director

Chris Smith, Deputy Director of the Land Management Bureau, provided his report. He reported an additional \$6 million in grants were awarded for the Next Level Trails Program and noted total grants awarded for the program is \$55 million, representing 35 different projects, 112 miles of trails, with projects spread over 28 counties. C. Smith noted The Next Level Trails Grant Round Three will have a total of \$35 million available and approximately 120 participants attended an applicant workshop webinar on August 5, 2021.

C. Smith said there are \$25 million identified for conservation in the Department of Natural Resources (Department) budget. He said there are ongoing discussions with the Division of Land

Acquisition and property staff regarding the best use of funds, and there will be additional information forthcoming in the future.

C. Smith stated the most visible projects from the deferred maintenance funds include the 54-room renovation at the Abe Martin Lodge Annex and that over 60 vault toilets and comfort stations will be replaced with newer models at Department properties. C. Smith noted the second round of budgeted funds will include \$50 million to be used for American with Disabilities Act (ADA) accessible playground equipment, inns rehabilitation, more restrooms and showers, trails rehabilitation, fish hatchery improvements, campground upgrades, and underground storage tank removals at several Department properties.

C. Smith noted the Department properties continue to see record revenue, but there is a shortage on staff and volunteers to do the work. C. Smith said in July 2021 the Division of Fish and Wildlife hosted Director Bortner and staff from the Governor's Office to discuss invasive carp. He said the Division of Fish and Wildlife are currently accepting "Got INput" submissions from the public on fishing, hunting, trapping, and other fish and wildlife related ideas.

C. Smith stated the Department staff are working at the Natural Resource Building at the Indiana State Fair that offers exhibits and demonstrations for the public to enjoy as well as a fishing pond for children to fish in.

C. Smith noted the Clark Cabin on the George Rogers Clark home site was destroyed by fire in May 2021 and the Department, Falls of the Ohio Foundation, and other partners are discussing what the interpretation of that area will look like in the future.

C. Smith said the Department is continuing to track the songbird mortality issue and have rescinded the recommendation to not feed the birds in 72 Indiana counties.

C. Smith stated the Division of Fish and Wildlife is establishing their own brown trout program at the Curtis Creek Trout Rearing Station and will stock ten thousand brown trout every year. He said the Division of Forestry's Community Urban Forestry Program provides guidance and grants to communities for the development and caretaking of urban forests and is currently accepting applications.

C. Smith said the Division of Nature Preserves staff identified a population of Tiger Spiketail Dragonfly in Ripley County. He noted the Division of Forestry has four-hundred thousand trees planted of a project that will plant one million trees in five years. C. Smith noted the online campground reservation system has been updated. He stated the fourth black bear siting in Indiana in the last six years was in Dubois County.

Mike Smith, Chief of Staff, provided the report for the Regulatory Bureau. He stated that Director Bortner went on a coal mining tour of Sunrise Coal LLC on August 10, 2021, he noted the Division of Entomology and Plant Pathology are managing the spotted lanternfly population in Switzerland County that damages vineyards and orchards. M. Smith stated the Division of Water attended the Indiana Water Summit to participate in discussions about water availability, quality, and demand in central Indiana.

Dan Bortner, Director of the Department of Natural Resources, provided his report. He said that David Bausman was promoted from the Legislative Director to Chief Legal Counsel for the Department and Mike Smith is the Chief of Staff for the Department.

The Chair asked if the Department properties were still at capacity.

Bortner replied that Department properties are still at capacity and the trend is nationwide with more people wanting to spend time outdoors. He noted the Department is very busy and the challenge is the inability to hire with 400 open positions statewide and approximately 160 of those available positions are within the Division of State Parks.

Ryan Mueller, Deputy Director of the Regulatory Bureau, thanked Mark Basch and Ken Smith for their presentations at the Indiana Water Summit.

Approval of minutes of meetings held on January 12, 2021

The chair called for a vote to approve the minutes of the meeting, held on January 12, 2021, as presented.

Bill Freeman moved to approve the minutes of the meeting held on January 12, 2021, as presented. R. Ross Williams seconded the motion. Upon a voice vote, the motion carried.

Consideration of Brookville Lake Water Supply Contract with Brookville Enhancement Partners; Administrative Cause No. 21-WA-031

Mark Basch, Division of Water, presented this item. Basch explained that a contract for the sale of water under IC 14-25-2 to sell water on a unit pricing basis for water supply purposes or low-flow augmentation from the water supply storage in reservoir impoundments, or portions of the impoundments that are financed by the State.

Basch stated contract request is a renewal of the existing water supply contract BL-11-001, which expired on April 26, 2021, between the State of Indiana and Brookville Enhancement Partners (BEP) for water withdrawal from Brookville Lake for the purpose of irrigating the golf course. Basch said BEP would like a new water contract with no changes to the requested withdraw amounts of 35 million gallons annually and they are requesting a ten-year term. Basch said Indiana has right to the water supply storage, estimated to be 89,300-acre feet, for the purposes of water supply and low-flow regulation and the yield from this volume of water supply storage is estimated to be 82 million gallons (MG) per day. Basch stated the two golf courses that currently draw water from Brookville Lake is less than one percent of the estimated available water supply volume.

Basch said the Division of Water conducted two public meetings on April 27, 2021, in Liberty and the other in Brookville, Indiana. Kent Reineking, partner of BEP attended one meeting, no other people attended, and no comments were received.

Basch said the Division of Water staff believe the volume of water available from Brookville Lake is adequate to satisfy the annual withdrawal limit of 35 MG for the ten-year term of the contract as this volume represents only a small fraction of the 82 MG per day yield available in Brookville Lake. Basch stated the Division of Water requests the approval of the contract and that the Advisory Council recommends the contract between BEP and the State of Indiana to the Natural Resources Commission (Commission).

The Chair asked if the price of \$33.00 per MG of water is established by state statute.

Basch confirmed that the price of \$33.00 per MG of water as established under IC 14-25-2. Mueller added the statute says the state must charge “at least” \$33.00 per MG of water, but the Department has always chosen the least instead of charging more.

Freeman asked if there was infrastructure that the state is required to provide for the water withdraw facility, such as electricity, pumps, and pipes. He also asked whose decision it would be to ask for a price of more than \$33.00 per MG of water.

Basch replied that there is no infrastructure the state is supplying. He also stated the per MG used to be more and said, “in the mid-eighties there was statutory change that set it at a minimum [\$33.00 per MG of water]”.

C. Smith stated going above or staying at \$33.00 per MG of water is part of the contract negotiations and if there is a huge demand for the resource then a higher price might be discussed. He noted that currently on Brookville Lake, of the 82 MG per day that is available less than one percent of the estimated available water is being used.

Freeman asked if there is a way to monitor the water runoff from the golf courses and if the water runoff promotes algae growth.

Basch replied that the Department does not monitor water runoff. C. Smith added that the Indiana Department of Environmental Management (IDEM) tests the water at reservoirs for algae.

R. Ross William moved to approve the Hearing Officer’s Report, as the Advisory Council’s report to the Commission under 312 IAC 6.3, and that the Advisory Council recommend that the Commission approve the Water Sale Contract Application of Brookville Enhancement Partners under IC 14-25-2 and 312 IAC 6.3. Bill Freeman seconded the motion. Upon a voice vote, the motion carried.

The Chair asked Jensen if the Advisory Council (Council) was authorized to have seven members. Jensen replied “yes, it is”.

The Chair noted that presently the Council, which should have seven members, has only has four members appointed. He stated that he had previously discussed the role of the Council with Director Bortner. The Chair observed that, in the past, the Council provided an initial opportunity to consider and receive public input about rules being considered by the Department. The Chair recognized Bortner's stated interest in utilizing the Council in this way again and in seeking to have the three vacant member positions filled.

Jensen replied there are currently four Council members and technically their terms have all expired. She added the issue of expired terms also exist with the Commission's members and that C. Smith has been in contact with the Governor's Office to get the issue of appointments resolved.

C. Smith said the Department sent a document to the Governor's Office relating to the status of appointments and vacancies of the Commission and Council to be addressed.

The Chair said he has some suggestions of people who have a passion for natural resource related issues to fill open Council positions when the time comes.

Bortner added that it is important that the public be given the opportunity to have input and items get vetted in a Council meeting prior to the matter going in front of the Commission for preliminary adoption.

Presentation of Deer Regulation Simplification

Moriah Boggess, Deer Biologist, Division of Fish and Wildlife gave a power point presentation on proposed deer regulation changes. He noted the first two proposed changes as establishing a statewide antlerless bag limit and converting county bonus antlerless quotas to county antlerless bag limits. Boggess presented four changes that included making archery, firearms, and muzzleloader licenses antlered only, making bonus antlerless deer license to a comprehensive antlerless license, changing the deer license bundle bag limit to one antlered and two antlerless deer, and bundling crossbows into deer archery license. The last two items that Boggess spoke about was changing the "CheckIN" deadline to 24 hours from harvest and removing minimum caliber restrictions on muzzleloaders.

Freeman ask why special hunts would not be included in a hunters bag limit.

Boggess replied that the special hunts intention is to reduce the deer population in a particular area, hunters apply and are selected, and the incentive for hunters to be included is that they are allowed to take additional deer. He added that they communicate with both the hunting and non-hunting community to inform them why the focused effort where there are deer issues in a particular area.

The Chair asked if changing the bonus antlerless deer license changes the structure of one deer per antlerless license.

Boggess replied that the structure of one deer per antlerless license would stay the same and the change is in the name by removing “bonus” and making the antlerless deer license a comprehensive antlerless license.

The Chair asked if under the proposed changes a hunter buys a deer license bundle it allows the hunter to harvest one buck and two does with archery equipment, gun, or a muzzleloader.

Boggess confirmed that a hunter who purchases a deer license bundle would be able to hunt with different types of weapons within their respective seasons.

Freeman asked if a hunter buys additional licenses is the Department receiving matching Pittman-Robertson Act (PR) funds based on the number of licenses or is it the amount of money received from the license.

Boggess replied “its actually both” and explained the Department receives more PR money from every license sold.

Caudell added that if a hunter purchases one license, they are a certified hunter, and the amount of money is based on each certified hunter. He said the extra revenue from additional license sales is used to match the existing PR allocation and the Department needs both the certified hunters and the additional license sales.

Boggess added the deer license bundle brings in more funds for the Department, so as more hunters switch over to the deer license bundle it is more money that can be provided to match PR funds.

The Chair noted the incentive for hunters to pay a little more for a bundle that give the hunter more options with what they can choose to hunt with over multiple seasons. He gave an example that a hunter could buy an archery license and later need to buy a firearm license, they will end up spending more money.

Boggess stated that survey data says hunters will buy the bundle to give them the opportunity of harvesting a buck through multiple seasons.

Freeman asked if there are any pushback from the public expected on any of the simplification changes.

Boggess said negative comments may be expected is the bundling of crossbows into the deer archery licenses.

The Chair asked if there were still deer check-in stations or if deer check-in was done strictly on-line or by phone.

Boggess said there are some participating businesses that will check-in deer for hunters, but they go on-line to do that, there are no physical check-in stations run by the Department, and check-in

is either by phone or on-line. Boggess added the proposed change would change the amount of time from a 48-hour check-in after harvest to a 24-hour check-in deadline.

The Chair asked if it would be feasible to set a minimum caliber where anything less than the minimum would not be practical to hunt with and so the Department is not completely doing away with a minimum caliber standard.

Boggess said the Department did discuss changing the rule to include the new firearm caliber, but over time there will be newer technology and better firearms development, so it seemed reasonable to take away the restriction completely as some other states have.

Caudell added there is not a caliber cutoff from scientific perspective to be able to regulate the caliber consistently.

The Chair recognized Herb Higgins.

Higgins, stated he represented the Indiana Bowhunters Association (IBA), who oppose the combining the use of crossbow into the archery antler license. He said IBA classifies archery equipment to be handheld, hand drawn, and hand released. Higgins said the Department had previously created a separate crossbow license where crossbow hunters had their own season. He said the IBA supports distinguishing the difference between what is archery equipment and what is a crossbow. Higgins said today's herd stabilization management style will turn to a desire for herd growth causing a reduction in hunting time and the IBA would like to ensure the Department is clearly able to differentiate the difference in weapons when determining which seasons to shorten. Higgins cited Ohio's 2020 archery harvest, that included crossbows, and the archery harvest exceeded the firearms harvest.

The Chair said historically when the crossbows were differentiated from archery equipment there was discussion about making the crossbow season shorter than the archery season. He added that crossbows are becoming more long-range weapons than the previous technology allowed. He noted the role of the Council is to make recommendations to the Commission and the concerns of distinguishing crossbow hunting season from the archery season will be noted and passed on to the Commission.

Freeman commented that he recalls when the crossbow rule was adopted there was debate if the crossbow should be allowed to hunt with. Freeman asked if it would matter to the Department if the crossbow license and the archery license were differentiated between the two. He asked if the crossbow season was during the same time as the archery season.

Boggess replied "yes" that the crossbow hunting season and the archery hunting season coincide.

C. Smith stated there is a small population of crossbow hunters and the Department was looking at the simplification. He said the Department would be happy to continue the conversation on the crossbow and archery season to see what the options are.

Bill Freeman moved that the Advisory Council recommend the deer regulation simplification changes to the Commission with a notation of further discussions in having a crossbow hunting season separate from the archery hunting season. R. Ross William seconded the motion. Upon a voice vote, the motion carried.

Higgins complemented the Department on their work and the thought that went into simplifying the hunting rules.

Department of Natural Resources Fees Package

Chris Smith presented this item. Smith said the fee schedule is designed to have a fee range that is on a similar consistent process where there would be a set minimum and maximum fee where the Department in cooperation with the Governor's Office can use those fees over several years. He noted that a fee range would allow the Department to adjust to the market and reduce the frequency of requesting approval for the Commission.

C. Smith stated that the fee package in front of the Council include Division of Entomology and Plant Pathology, Division of Fish and Wildlife, Division of Forestry, Division of State Parks, and Division of Water. C. Smith noted that each division's fees were assessed to see where they were presently, the last time their fees were reviewed, and the Department looked at what other states are charging.

Amanda Wuestefeld, Division of Fish and Wildlife had pre-recorded a statement about the fee package and was available by phone to answer questions. Wuestefeld noted the commercial license fees, except for a couple, have never been adjusted since they were established. She said that the Department checked with other states with similar commercial licenses to see what they were charging before making reasonable adjustments to the Department's commercial license fees.

Wuestefeld stated the last time the fishing, hunting, and trapping fees and stamp fees were adjusted were 2006 and division staff used historic data and new data modeling to project revenue based on various price points. Wuestefeld said the division took a different approach with some of the key licenses for hunting, fishing, and trapping where the resident annual fishing license is three dollars more than for hunting and trapping because of the demands. She noted the trout stamp was not adjusted however the Department may make future changes to the fishing license that could eliminate the trout stamp. She said the Department is requesting an increase in the gamebird and waterfowl stamps because the money spent helps to support those programs.

Wuestefeld said there was a larger increase for the non-resident deer hunting bundle than the resident deer hunting bundle because in the last increase Indiana hunters complained the values of the non-resident deer hunter and the resident deer hunter were too similar.

Wuestefeld stated the Division of Fish and Wildlife funds are also used to fund the Division of Law Enforcement with 60 percent used to fund law enforcement and 40 percent of the funds are used for fish and wildlife. Wuestefeld noted in the last several years funding has become more

difficult to capture the federal match dollars that should be coming back to the Division of Fish and Wildlife and the increase in fees would help ensure the Department is capturing all the available funds.

Freeman asked about the fee ranges for campsites and if there would still be different charges for different type campsites.

C. Smith stated that there would be different charges for the different type of campsite and not all sites are equal depending on what they offer.

The Chair noted the Department fees are significantly lower than other options, but the intent is that the Department has a more inclusive price range.

C. Smith asked if there were questions related other Department fees and noted letters of support for the Division Fish and Wildlife fees from The Izaak Walton League of America, National Wild Turkey Federation, and Ducks Unlimited.

R. Ross Williams commented that he was surprised that some of the fees had not been changed sooner.

Bill Freeman moved that the Advisory Council recommend the comprehensive fees list to the Commission. R. Ross William seconded the motion. Upon a voice vote, the motion carried.

Higgins asked for clarification in the new entry use fees.

C. Smith said the entry use fee is to collect revenue from users who do not traditionally use Department properties. He explained that the parks have a gate fee and there are hunting, fishing, and trapping licenses, but the entry or use fee captures revenue from people who might use property but not need a license or pay a gate fee.

Adjournment

The meeting adjourned at 11:59 a.m., ET.