

NATURAL RESOURCES COMMISSION

Fort Benjamin Harrison - The Garrison
6002 North Post Road, Indianapolis, Indiana

Minutes of January 22, 2008

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Robert Carter, Jr., Secretary
Richard Mangus
Mark Ahearn
Brian Blackford
Doug Grant
Robert Wright
Thomas Easterly
Patrick Early

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Jennifer Kane
Debra Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Philip Marshall	Entomology and Plant Pathology
Megan Abraham	Entomology and Plant Pathology
Phil Bloom	Communications
Glen Salmon	Fish and Wildlife
Bill James	Fish and Wildlife
Tom Flatt	Fish and Wildlife
Dylan Sickles	Fish and Wildlife
Tom Lyons	Forestry
Amanda Ricketts	Human Resources
Cheryl Hampton	Human Resources
Felix Hensley	Law Enforcement
Mark Farmer	Law Enforcement
Lee Casebere	Nature Preserves
Steve Morris	Outdoor Recreation
Dan Bortner	State Parks and Recreation
Terri Price	Water

GUESTS PRESENT

Michael Novac	Wendy Ponader
Jeremy Kolaks	Richard Green
Sandy Clark-Kolaks	Lyn Crighton
Dick Mercier	David Swart
Cale Bradford	

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 11:06 a.m., EST, on January 22, 2008 at The Garrison, Fort Benjamin Harrison, 6002 North Post Road, Indianapolis, Indiana. With the presence of ten members, the Chair observed a quorum.

Jane Ann Stautz moved to approve the minutes of September 18, 2007 without amendment. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

Election of Officers

The Chair deferred to Stephen Lucas to explain the protocol for the election of Officers. Lucas explained that each year the Commission needs to elect its Chair, Vice-Chair and Secretary. "As a convention or tradition, the Commission has typically elected the DNR Director as the Secretary". Lucas explained that sometimes a member of the Commission has moved and identified a slate for all three positions.

Patrick Early nominated Bryan Poynter as Chair, Jane Ann Stautz as Vice Chair, and Robert Carter as Secretary. No other nominations were offered. Mark Ahearn seconded the motion. Upon a voice vote, these officers were elected unanimously.

Reports of the Director and Deputies Director

Director Carter recognized Steve Morris, a 13-year DNR employee, as the new Director of the Division of Outdoor Recreation. He said Morris previously held the position of Trails Specialist. The Director added "We're happy to have Steve here."

The Director reported that the purchase of the remainder of the Pennsylvania Railroad was successful "with the help of our friends" at the Indiana Department of Transportation. "We look forward to be able to put a lot of trails on the ground this coming year and donate a lot of land back to locals to start that process."

Director Carter also reported that the Division of State Parks and Reservoirs "had a very good year" with "record setting revenues".

The Director reported that the Division of Fish and Wildlife “also had a great year” toward the end of the hunting season. License sales improved again in 2007. “So, this is progression in the last three years. That’s contrary to the national trend, so we’re real happy with that.”

Director Carter reported that DNR’s Conservation Officers recently assisted flood victims in northern Indiana. Our Officers “rescued over 100 people from their homes and vehicles. They did a great job.”

He announced that the Division of Water’s engineers are currently assessing northern Indiana dams. “There’s still a lot of work to be done up there with helping the flood victims.”

The Director reported on legislative activities, noting that several bills were filed that affect the Department. “A lot of the bills we’re watching and supportive of have passed, so very happy with that, especially the apprentice hunting license.”

Director Carter recognized Phil Bloom, Director of the Division of Communications. “Phil is a gift that keeps on giving. We’re happy to have him in the Communications Division. What a great move we made to get Phil on board with the DNR.” He said Bloom is currently working on marketing a wildlife diversity section and income tax check off. He added that the program is funded solely by public donations, with a federal match.

The Chair asked the Director for his analysis with regard to the increase of license sales. Carter said “successful marketing” has helped with the increase of the sale of fish and wildlife license. “We’ve also diversified the portfolio of offering more opportunities for sportsmen to get out.” The rifle rule is “a big hit during deer season. We saw a big spike during deer season because of the rule that you folks passed.”

The Chair asked Glen Salmon, Director of the Division of Fish and Wildlife, for comments concerning the increase in hunting license sales. Salmon responded, “I think it’s a combination of things. I think I would challenge any other state in the country to look at all we’ve done with the new youth seasons and opportunities and marketing. We have retention and recruitment programs at each and every fish and wildlife area. We have the new turkey season and deer youth season. We try very hard to make hunting a lot more accessible for people, and we’ll continue to do that.” He noted that the Apprentice Hunting License bill, if enacted by the General Assembly, would allow young people “to go hunting with a mentor who has had hunter education classes.”

The Chair reflected, “I couldn’t be more thrilled with that, because I know how difficult that has been, and I know the initiatives that the division has taken.” He asked Salmon if he could provide a “breakdown” of the license sales at the next Commission meeting. Salmon responded that he would provide 2007 totals. “We are about 14th in the country as to number of license sales, number of licensed hunters, and about 20th in the country for fishermen. So, you look at 50 states, we’re hanging right in there.”

John Davis, Deputy Director for the Bureau of Lands, Recreation, and Cultural Resources, provided a legislative update. “We are in the midst of seeing what people are filing and the reactions to those things. I think it will really be timely to providing and cluing you all in during the next meeting.”

Davis reported that the Department has been cooperating with the State of Kentucky on Ohio River jurisdiction regarding paddle fish. “We had some people this fall go down and appear before the Kentucky Natural Resources Commission. We have a good relationship with them, and we’re all cooperating to try to continue to have a reasonable set of rules for Kentucky fishing, and particularly paddlefish.”

Davis also reported that the DNR was busy working on off-season improvements on the DNR properties and trying to get things ready for the next recreational season. He said the agency had “another successful deer reduction season.”

Ron McAhrn, Deputy Director, Bureau of Resource Regulation, reported that Division of Oil and Gas business “continues to be brisk by Indiana standards.” In 2007, the division brought in over \$1 million in production tax revenues, an all-time high. The revenue was used for plugging approximately 400 wells in 2007. He said the revenue also allowed the division to consolidate and scan oil and gas well log records for the division and for the Indiana Geological Survey, facilitating their inclusion on the Web.

McAhrn provided that the following five Bills, relating to the Department of Natural Resources, moved out of the Indiana State Senate to the House of Representatives:

- (1) SB 45 - The Great Lakes Water Resources Management Compact; an eight-state effort at managing the Great Lakes Water Resource.
- (2) SB 39: Responsibility for implementing natural resources doctrine. Requires the department of natural resources (DNR) to implement the public trust doctrine with respect to public freshwater lakes. Requires the natural resources commission to adopt rules identifying at least one division in DNR to implement the public trust doctrine with respect to public freshwater lakes. Adds “wildlife” to the definition of “natural resources”.
- (3) SB 41- Public freshwater lakes. Defines “acquiescence” and “lake” for purposes of certain lake preservation laws. Establishes evidence that indicates the acquiescence of a riparian owner to allow the public use of a lake. Makes conforming changes. Requires the department of natural resources to prepare a list of public freshwater lakes. Allows the owners of a body of water to petition to have the body of water declared a public freshwater lake.
- (4) SB 88 - Lake Management Work Group. Changes the expiration date for the lake management work group from July 1, 2008, to July 1, 2010. Allows the work group to hold four meetings per year. Makes conforming changes.
- (5) SB 40 - Permits for shoreline activities. Allows the natural resources commission to grant certain permits with an expiration period of more than two years. Allows a determination or judgment of a dispute

among persons with competing riparian interests to be enforced in a civil proceeding. Provides that if: (1) a temporary structure has been placed in a public freshwater lake under a permit or an exemption pursuant to riparian rights arising from the ownership of real property; and (2) the ownership in fee simple of the real property is transferred; the person to whom the ownership of the real property is transferred, to maintain the temporary structure in its location, must obtain a permit or meet the requirements for an exemption according to the permit requirements or exemption requirements in effect when ownership of the real property is transferred to the person. If a temporary structure is in a public freshwater lake and there is a sale of the real property, the owner must disclose that the temporary structure may need to be modified by the purchaser to meet current department of natural resources specifications for the temporary structure.

Reports of Chair, Vice Chair, and Chair of Advisory Council

The Chair encouraged the Commission members to review the revised Natural Resources Commission website. “They are substantive and I have found them to be user friendly, and a much more valuable resource.” The Chair thanked Jennifer Kane for her efforts on updating the website.

The Chair reported the Commission will be looking at the Division of Fish and Wildlife rules “with a whiteboard” and setting a time-table for reviewing the rules and potentially revising all the rules that have come before the Commission over the last several years. “The comments that we have received is they’re confusing; they’re too convoluted; they’re not efficient. I never subscribe to the idea they’re all bad because they’re not. They’re very well done, for the most part; meaningful for the consumer that utilizes Division of Fish and Wildlife resources.” But it’s “prudent for the Commission to be proactive.” The Chair said the schedule for reviewing the rules would start in 2008 with some appointments of people to help “lay that skeleton” by our next meeting in March.

The Chair said the Commission’s plan was to have the rules reviewed and completed “potentially by the end of 2009.” He said the process of reviewing and revising the rules would be a two-year project and one that would “hopefully be helpful to both Division of Law Enforcement and Division of Fish and Wildlife. And, ultimately, I hope it helps the consumer. I believe it’s the job of this Commission to make sure that we’re doing the best job that we can for them.”

Jane Ann Stautz, Vice Chair, as well as Chair of the AOPA Committee, announced that the Committee met on December 19 and was “scheduled to meet again at 1:00 p.m. today.” She said the AOPA Committee had been very engaged, particularly with the consideration of riparian rights disputes and timber grower disputes.

Patrick Early, Chair of the Natural Resources Advisory Council, reported that the Advisory Council did not meet in December, but was scheduled to meet on February 13.

Consideration and identification of any topic appropriate for referral to the Advisory Council

No new topics were presented for referral to the Advisory Council.

PERSONNEL ACTIONS

Permanent Appointment of Laura Rissler as Assistant Property Manager at Starve Hollow State Recreation Area, Vallonia

Tom Lyons, Assistant Director of the Division of Forestry, presented this item. Lyons announced that Laura Rissler was appointed as Assistant Property at Starve Hollow State Recreation Area, at the January 2007. He said Rissler has now completed her first year of employment and probation period. “She’s done an excellent job and has really proven herself to be valuable part of our management team.”

Lyons said the Division of Forestry recommended Laura Rissler for permanent appointment as Assistant Property Manager at Starve Hollow State Recreation Area.

Richard Mangus recommended the permanent appointment of Laura Rissler as Assistant Property Manger for Starve Hollow State Recreation Area. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Personnel Interview for the Position of Assistant Property Manager for Prophetstown State Park, West Lafayette

Dan Bortner, Director of State Parks and Recreation, presented this item. Bortner said that Skyler Hill was selected for the position of Assistant Property Manager for Prophetstown State Park. He informed that Hill is currently the Wastewater Operator at Lieber State Recreation Area. “We interviewed six candidates, and Skyler seems to have the background that we are looking for.” Bortner informed that Skyler graduated from Monterey College in North Carolina. He earned a Bachelor’s degree in environmental studies in December 2005. He has worked for the Department since September of 2006. “One of the things that was attractive to us about Skyler is his expertise and experience in dealing with irrigation systems. Skyler brings some unique qualifications to us for that position.”

Richard Mangus moved to approve the appointment of Skyler Hill as Assistant Property Manager for Prophetstown State Park. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Personnel Interview of Jeremy Kolaks for Assistant Property Manager Position at Yellowwood Forest State Forest (Nashville) and Morgan-Monroe State Forest

Tom Lyons, Assistant Director for the Division of Forestry, presented this item. Lyons said that the Division of Forestry recommended Jeremy Kolaks for the position of Assistant Property Manager at Yellowwood State Forest and Morgan-Monroe State Forest. "It's kind of a unique position in that a few years ago we consolidated the management of Morgan-Monroe and Yellowwood into a single management unit under a single property manager. It counts for about 50,000 acres of our 150,000-acre state forest system, so it's a very unique arrangement and position." Several candidates were interviewed, and "Jeremy was by far the most qualified." Lyons said Kolaks has a Master's degree and a Bachelor's degree in forestry, and he has experience with the U.S. Forest Service in the Missouri Department of Conservation, "so we certainly recommend Jeremy for that position."

The Chair addressed Kolaks. "I've heard very glowing things about your background, and I'm so thrilled that we took you out of Missouri, and we brought you to the Hoosier State. We can use your talents. Tell us about what you're going to be doing."

Kolaks responded that he would be mostly responsible for facilities management with regard to recreation, but he would also assist with resource management.

The Chair continued, "From what I understand, that's a third of our inventory. That's a pretty substantial responsibility." The Chair asked if he would be the sole assistant manager. Kolaks provided that he would be the only Assistant Property Manager for the facilities. "There are several other resource stewards that take care of the majority of the resource management. I believe I'll be supervising three to four laborers in trying to meet objectives there." The Chair concluded, "We look forward to having you down there at Yellowwood and Morgan-Monroe."

Richard Mangus moved to approve the appointment of Jeremy Kolaks as Assistant Property Manager for Yellowwood State Forest and Morgan-Monroe State Forest. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Personnel Interview for the Position of Property Manager at East Fork Fish Hatchery, Montgomery

Bill James, Chief of Fisheries with the Division of Fish and Wildlife, presented this item. He said the East Fork Fish Hatchery in Montgomery is the newest and largest warm-water fish hatchery in the Division's system. "Since the retirement of the previous property manager in 2005, it has been difficult refilling the position. Our hatchery manager jobs have come to be very specialized; it's a blend of art and science. It's difficult to find the skill sets that are needed for that type of position, particularly at a nearly \$3 million dollar fish hatchery."

James said the Division of Fish and Wildlife recommended Dylan Sickles for the position of Property Manager at East Fork Fish Hatchery. He said Sickles is currently the statewide fish hatchery supervisor. "He stepped up and split his time between his current

job and the property manager's position." James said Sickles earned his agriculture and fishery degrees from University of New York in 1995, worked in a private Massachusetts company for nearly six years producing hybrid striped bass food fish, and was hired by the DNR in January 2002. In 2007, Sickles was recognized as the Program Manager of the Year. "He's done an outstanding job, and, again, was doing two jobs almost full time. We'll be losing a great fish hatchery supervisor, but we'll be gaining stability at East Fork after a period of real instability. We're very enthused to present for you today, Dylan Sickles, as our candidate for East Fork Fish Hatchery Property Manager."

The Chair asked James his thoughts on replacing the statewide fish hatchery supervisor position. James replied, "We advertise and shake the bushes. Thus far, there has not been a lot of internal interest. Our hatchery staff is extremely experienced. We have managers that average close to 30 years on the job, assistant managers close to 20 years. Quite candidly, the financial incentive is not much help for transfers." James said most of the outside candidates the Division of Fish and Wildlife has received are not qualified. "The candidates who were qualified were interviewed, and there were two job offers made, both of which were turned down due to the salary. We'll advertise nationally, as well as through the state job bank, for the state-wide hatchery supervisor position."

Sickles addressed the Commission and said he "was excited to have this opportunity." He said he was "looking forward to working with the property. It's a really fantastic crew. We produce a great product. I'm excited to be part of that picture. I'm excited to get back to getting my hands on the fish a little bit more, back to what I was doing for school and all. So, I'm pretty excited about that opportunity."

Richard Mangus moved to approve the appointment of Dylan Sickles as Property Manager for East Fork Fish Hatchery. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF FISH AND WILDLIFE

Consideration of Citizen Petition to Establish Lake Tippecanoe-Lake James Ecozone Rule and Consideration of Proposed New Rule (312 IAC 5-6-9.5); Administrative Cause No. 07-175D

Tom Flatt, Aquatic Habitat Coordinator with the Division of Fish and Wildlife, presented this item. He said the Director appointed him as Chair of a DNR Committee to review the Lake Tippecanoe Property Owner's petition for creation of the special watercraft zone between Lake Tippecanoe-Lake James, in Kosciusko County. "We use the term 'ecozone' to describe special watercraft rules that are implemented primarily for resource management reasons." Flatt referenced four maps illustrating the locations of the proposed zones. The petition states concerns about water quality, and particularly increases of noxious weeds and algae, as being the primary reasons for establishing special restricted boating zones. The zones would protect existing wetland vegetation

and provide opportunity for revegetation of shallow areas. Specifically, the petition requests the following:

- 1) James Lake – 200 foot idle zone along the Ball Wetlands from the perceived shoreline.
- 2) Creation of true idle zones for the channel between Lake Tippecanoe and James Lake and for Grassy Creek from Lake Tippecanoe to the Barbee dam.
- 3) Flats area – 500 foot zone from the perceived shoreline to create a non-motorized traffic area with the exception of trolling motors.
- 4) Non-motorized zone in front of Between the Lakes as proposed from study's Alternative 1.
- 5) A sunset clause of 5 years.

Flatt also provided four primary reasons for the creation of the Lake Tippecanoe-Lake James Ecozone.

- 1) To protect the Ball Wetlands vegetation from further decline. Map #1 illustrated a historical decline based on aerial photographs since 1938.
- 2) For public safety, particularly between the heavily boating area between the lakes and shallow areas around the wetlands.
- 3) To create clearly enforceable restricted zones. The current 200-foot idle zone is based on the legal shoreline. Map #2 shows the approximately legal shoreline within the Ball Wetlands.
- 4) To create an opportunity to re-vegetate the shallow areas around the Ball Wetlands either naturally or through restoration projects.

Flatt said that there is “fairly strong” public opposition to the petition for a restriction on high-speed boating. Even so, the DNR Committee “determined that the petition has merit and recommends that the Commission preliminarily adopt the draft rule creating the ezozones.”

The Chair indicated several citizens had requested an opportunity to speak to the petition. He said the first to speak would be David Swart.

David Swart addressed the Commission and indicated he was a property owner on Lake Tippecanoe. He said he represented the Lake Tippecanoe Property Owners Association (“LTPO”). He said the LTPO has been at “the forefront” of water safety and water quality and lake enhancements since 1944. “By being a proactive organization, we believe that this precious natural resource will be enjoyed not only by us, but future generations.”

Swart said the LTPO partnered with the Department of Natural Resources to investigate perceived water quality problems, using both public and private experts, and then implementing what they believed to be “appropriate solutions.” He said the LTPO was fortunate in being able to financially partner with the Lake and River Enhancement

("LARE") Program. "LTPO is encouraged by the staff recommendations and believe the ecozones should become a reality for water safety and water quality on these public freshwater lakes." He commented that "critics of the proposal failed to understand or have been misinformed as to the consequences and benefits of the ecozones", which would provide water safety and water quality. Swart said with regard to the concern of restricted boating, the area in question would be less than 2% of "Big Tippy and Little Tippy", commonly referred to as "Lake James".

Swart said that LTPO has instituted many programs over the years to enhance lakes, with not all being successful. He said that the creation of ecozones is "only part of the solution" and that public freshwater lakes continue to be stressed by humans, whether by chemicals or waste, or nature, such as invasive species, or by the increased public usage. Swart said that LTPO will continue to focus on providing "proper, proven programs" that will enhance lake safety and water quality. "All we want to do is preserve that area to absorb these nutrients".

Lynn Crighton addressed the Commission. She said she currently lives in Indianapolis, but hopes to move to the Lake Tippecanoe area soon. She said growing up around the lake led her to a Master's degree in environmental science and a nine-year career with the Department of Natural Resources as the Director of the Hoosier River Watch Program, where she educated "thousands of Hoosier citizens" concerning water quality in lakes and rivers. She recently became the Director of the Tippecanoe Lake and Watershed Foundation. She added that her "love for the lakes, the wetlands and the resources" are "taking her back home" to apply her skills and experience with improving and protecting the water quality. "That's why I really wanted to come here today and ask you to help us protect these treasures, these wetlands that help protect our water quality of our lakes, and give these wetlands at least the same shoreline protection that the rest of the shorelines around the lake have." Crighton said the rest of the shorelines around the lake have "at least" a 200-foot idle zone protected area. "Please join us in supporting this ecozone."

Wendy Ponader addressed the Commission and expressed opposition to establishment of the ecozone. She said she is an Indianapolis resident and property owner at Lake Tippecanoe "almost directly across from the Ball Wetlands. I'm addressing concerns as opposed to absolute opposition. Certainly, it is well understood that motorboating adversely affects aquatic vegetation. We are all folks who recognize there are tradeoffs in making any sort of proposal to address this. And, my sense is, without further scientific detail and evidence, that the proposal, as it currently exists, may swing the pendulum too far toward the direction of unnecessary burdening lake recreation." She did not dispute that "a 200-foot ecozone from the perceived shoreline, as has been proposed at Lake James in the revised petition, makes infinite good sense." Also, she believed that "boaters sometimes approached the shoreline too aggressively in The Flats, and that area should be marked, whether it be 500 feet from the perceived shoreline or 200 feet from the perceived shoreline."

Ponader identified an area of particular concern. The revision in the summary report, suggesting a "sunset clause" of five years, was not reflected on Exhibit B. She urged

that the easement be modified so it encroaches less on the use of the lake, and “for the first time, enforce restrictions in a way so that we can meaningfully measure whether they would adequately address the problems that exists, in terms of further erosion of the lake, without overburdening the recreational use of the lake, particularly for the residents that live on the southern half.”

Commission Member, Richard Mangus, asked from whom the petition originated. Major Felix Hensley responded that he believed the petition was initiated by “Mr. Enis from the Tippecanoe Lake Property Owners Association.”

Major Felix Hensley, Indiana State Boating Law Administrator, then addressed the Commission. He said the majority of the petition was directed to biological issues, and his comments would not address these. “As far as the navigational issue, I think Mr. Flatt did a very good job of explaining that.” Hensley said the establishment or extension of the ecozone “would merely extend an idle zone already established between Lake Tippecanoe and Lake James. Where the ecozone was extended, the idle zone will extend to the edge of the proposed ecozone change, from a navigational safety issue standpoint.”

Tom Flatt said it was his “intent to include the five-year ‘sunset clause’ in the proposal.”

Jane Ann Stautz observed the concept was in the summary part of the report, but as pointed out by Wendy Ponader, was not included in the rule language of Exhibit B. Stautz added that other revisions were needed to the rule language in order to comprehensively reflect the proposal as outlined in the summary.

Commission Member, Doug Grant reflected, “These are issues that are going to be coming before us more and more in the future, particularly in the northern lakes.” He directed the Commission to the study by M. M. Beachler and D.F. Hill, *Stirring up Trouble? Re-suspension of Bottom Sediments by Recreational Watercraft: Lake and Reservoir Management*. He said the core findings of the study involved “the down-thrust of boats and the damage to the bottoms of lakes, the spoiling of the native vegetation, and effect on fish and plants. I found that very informative. Water levels of 1.8 meters (five or six feet) are when the scouring and damage of the lake bottom begin. And, of course, a lot of that depends on what the bottom is. If it’s sand then it has one sort of density, and it falls out and resettles differently, which is probably different than a lot of the lakes up there where we have a lot of sediment. That’s probably a pretty good study for us to go to work on.” Grant added that the International Water-Ski Association recommended more than five feet of depth for water-skiing. He said the United States Coast Guard has cited a Metropolitan Life Insurance study which recommends five to six feet of depth for water-skiing.

Jane Ann Stautz asked for clarification on how the decision was made for a 500-foot easement in The Flats “versus any other distance”.

Tom Flatt responded, “The Lake and River Enhancement Program commissioned a study to determine what the ecozone should look like, or the possibility of an ecozone. And,

that originally proposed a 945 foot zone in that area.” Public comments were received, and a public meeting held, which resulted in a 500-foot proposal. Flatt said the LARE Program determined the study provided “very good information”. Half of the 500-foot zone that was proposed is in water less than five feet deep. The “Ball Wetlands” is what DNR’s Division of Nature Preserves refers to as “a floating mat wetland” because of the dramatic wave impact. “So, you can also talk about where you might add additional distance from that wetland to reduce the power of the waves.” Flatt said the 500-foot zone was proposed by the petitioners. He added that the petitioner’s proposal was submitted after the completion of the LARE Program study.

Stautz asked if the 200-foot zones were “just common knowledge” or whether the zones were marked with buoys. “In this case, if we go with the 500-foot from the perceived shoreline, would that be marked?”

Flatt replied, “It will have to be buoyed, yes.” He said that the 200-foot idle zone that applies to the whole lake is not generally marked, except sometimes by property owners.

Thomas Easterly expressed concern about the rule not being very clear. “We have all these things in this proposal in Exhibit B that says GPS coordinates, but it doesn’t say what they are. Wouldn’t we have to know that before we actually move forward with this as a rule?”

The Chair reiterated Doug Grant’s earlier comment and stated, “This is not the first time this issue is going to be brought up and we want to make sure we can make all the decisions in an appropriate fashion.” After further discussion concerning the sunset clause, buoy GPS coordinates, and idle zone areas, the proposed rule was tabled for further review and editing, to be brought back to the March 18, 2008 Commission meeting. The Chair asked that Tom Flatt’s committee forward the needed data to the NRC’s Division of Hearings, and for the Division of Hearings to prepare a formatted rule proposal for the Commission’s later consideration. If these steps were accomplished promptly, the item could be returned to the Commission’s March 18, 2008 agenda.

DIVISION OF ENTOMOLOGY AND PLANT PATHOLOGY

Consideration for Preliminary Adoption of Amendments to 312 IAC 18-3-18 governing the Regulation of the Emerald Ash Borer (*Agrilus planipennis*), as a Pest or Pathogen, to Provide Standards for Quarantine; Administrative Cause No. 06-014E

Philip Marshall, Division of Entomology and Plant Pathology, presented this item. He requested the preliminary adoption of amendments 312 IAC 18-3-18 regulating the emerald ash borer for Indiana. Marshall said three new townships in northeastern Indiana were recently determined to be infested with emerald ash borer (*Agrilus planipennis*). The townships most recently to be added are Lake and St. Joseph Townships in Allen County and Union Township in Whitley County.

Thomas Easterly moved to approve the preliminary adoption of amendments to 312 IAC 18-3-18, which regulates the emerald ash borer (*Agrilus planipennis*) as a pest or pathogen, as provided in the Commission's packet and as supplemented immediately before the meeting. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

NRC, DIVISION OF HEARINGS

Consideration of Recommended Report of the Natural Resources Commission with Respect to the Petition for Creation of the Knapp Lake Area Conservancy District (Noble Circuit Court Cause No. 57C01-0707-MI-000042); Administrative Cause No. 07-198C

Jennifer Kane, Hearing Officer, presented this item. She explained that the sole purpose for the proposed Knapp Lake Area Conservancy District in Noble County is providing for the collection, treatment, and disposal of sewage and other liquid waste.

Kane said the proposed district's boundaries encompass three existing residential developments bordering portions of Knapp Lake, Harper Lake, Bause Lake and connecting waterways. There are approximately 203 existing single family residential dwellings within the proposed district and a campground located on Harper Lake. There is overwhelming evidence of residential septic system failure throughout the area within the proposed district boundaries. "Testimony indicates the only alternative to collecting and treating effluent produced in the proposed district boundaries is a central sewage treatment system."

Kane relayed that the proposed treatment system would provide municipal quality services for the community within the proposed conservancy district. A central sewage collection system would also improve the drinking water quality in the private wells. She said that the establishment of the conservancy district for a centralized wastewater treatment system would serve the public health immediately and would serve a proper area for this purpose.

Kane said that affirmative findings have been found for the five conditions required in Ind. Code § 14-33-2-17.

Kane recommended that this report, as drafted, be forwarded to the Noble Circuit Court. Doug Grant moved to approve the recommended report with respect to the petition for creation of the Knapp Lake Area Conservancy District. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing and Recommendation for Final Adoption of Rule Amendments to 312 IAC 11-5-2 Regarding Common Use of Facilities on Public Freshwater Lakes; LSA Document #07-467(F); Administrative Cause No. 06-060W

Stephen Lucas, Hearing Officer, presented this item. He said for consideration was final adoption of amendments requiring the common use of piers and similar structures on a public freshwater lake, if needed, to accommodate the interest of landowners who have property rights abutting the lake or rights to access the lake. He said that the rule would allow the Department at the licensure stage, or the Commission at the adjudicatory stage, to say “you must share the facility or you won’t be allowed to place a facility on the lake.” He said the rule adoption was targeted by 2006 amendments to the Lakes Preservation Act, and if implemented, the amendments would clarify existing practices.

Thomas Early moved to approve the hearing officer’s report of public hearing, and recommendation for final adoption of amendments to 312 IAC 11-5-2 as contained in the report, regarding the common use of facilities on public freshwater lakes. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing and Comments, and Recommendation for Final Adoption of Rule Amendments to 312 IAC 8-2-3 Governing Hunting on Dedicated Nature Preserves; LSA Document #07-449(F); Administrative Cause No. 06-137N

Jennifer Kane, Hearing Officer, presented this item. Kane said that the proposal would allow hunting on a dedicated nature preserve, under written authorization by the Director of the DNR’s Division of Nature Preserves, upon a determination by a biologist that a preserve is being adversely affected by the targeted species. Currently, each controlled hunt within a dedicated nature preserve is implemented through a temporary rule from the Department Director.

Kane said whether hunting would be authorized by archery equipment, by firearms, or by both would depend on the circumstances at a particular property. In some circumstances, hunting might be limited to bow and arrows. Adjacent landowners and the media would be notified of any scheduled hunts. Signage would be posted at the particular nature preserve, and to the extent practicable, notices would be published in hunting and fishing guides. Kane said no citizen comments were received, and rule proposal did not appear to be controversial. She recommended that the proposed amendments, as published in the Indiana REGISTER and attached to her report, be given final adoption.

Robert Wright moved to approve the hearing officer’s report of hearing, and recommendation for final adoption of rule amendments to 312 IAC 8-2-3 as contained in the report, governing hunting on dedicated nature preserves. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Consideration of Rule Processing, Report of Public Hearing and Comments, and Recommendation for Final Adoption of Rule Amendments to 312 IAC 6.5-1-5 Assisting in the Registration of Off-Road Vehicles and Snowmobiles; LSA Document #07-542 (F); Administrative Cause No. 07-031T

Jennifer Kane, Hearing Officer, presented this item. She said the DNR, through its Division of Outdoor Recreation, administers the off-road vehicles (ORVs) and snowmobile registration program. The proposed amendment to 312 IAC 6.5-1-5 would codify a \$15 application fee, which the Department currently assesses without explicit rule authority, for a duplicate certificate of registration for a snowmobile or off-road-vehicle. Kane said the amendments meet a public need, and she recommended them for final adoption.

Thomas Easterly moved to approve the hearing officer's report of public hearing, and recommendation for final adoption of rule amendments to 312 IAC 6.5-1-5 as contained in the report, assisting in the registration of off-road vehicles and snowmobiles. Jane Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Rule Processing, Report of Public Hearing and Comments, and Recommendation for Final Adoption of Rule Amendments to 312 IAC to make Technical Corrections, Including Changing the Address of the Division of Hearings, Natural Resources Commission; LSA Document #07-486(F); Administrative Cause No. 07-107A

Jennifer Kane, Hearing Officer, also presented this item. Kane said that the proposed amendments would make technical corrections and updates to various rules adopted by the Commission under 312 IAC. She said there was "one thing to note: The recommendation on page four of your report lists our room number as 'N501-A'. The letter 'A' is to be deleted." She said in 312 IAC 3-1-3, 312 IAC 3-1-18, 312 IAC 5-1-2 and 312 IAC 14-2-7 the room will be listed as "N501". With this minor change, Kane recommended the rule amendments for final adoption.

Robert Wright moved to approve the hearing officer's report, and recommendation for final adoption to 312 IAC making technical corrections, as contained in the report, with the exception that the room number for the Commission's Division of Hearings would be listed as "N501" rather than "N501-A". Douglas Grant seconded the motion. Upon a voice vote, the motion carried.

Consideration of Amendments to Nonrule Policy Document Regarding "Petitions for Rule Change and for Nonrule Policy Document Change" to address "Small Lake" Petitions and to Update Address of the Division of Hearings; Administrative Cause No. 07-232A

Steve Lucas presented this item. He said for consideration is the modification to the non-rule policy document governing citizen petitions for rule change or nonrule policy document change. One housekeeping measure in the modification was changing reference to the address of the Commission's Division of Hearings to reflect its move to the Indiana Government Center North.

Lucas said a more notable change addressed how the agency would process a citizen petition to authorize high-speed boating on a "small lake" or a petition to repeal or amend an existing high-speed boating petition on a "small lake". For a lake smaller than 300 acres, a ten-mile-per hour speed limit generally applies, but if the lake contains at least 70 acres, the Commission may adopt a rule exempting the lake from the speed limit at certain periods. An exemption must be initiated by a petition from property owners who adjoin the lake. "The majority of the citizens can seek to have their lake exempted" to allow for high-speed boating during certain times as well as the ability to reverse the exemption once in place. "We have three or four lakes where inquiries from citizens suggest the issue is boiling rapidly. We want to have this supplement to the nonrule policy document in place so we can address a petition if they come forward with a concrete proposal." Lucas presented the recommended amendments to the nonrule policy document for consideration and possible approval.

Patrick Early moved to approve the amendments to the nonrule policy document regarding "petitions for rule change and for nonrule policy document change" to address "small lake" petitions and to update the address of the Division of Hearings. Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

ADJOURNMENT

The meeting was adjourned at approximately 12:30 p.m., EST.

NEXT MEETING DATE

The next meeting of the Natural Resources Commission is scheduled for March 18, 2008 at 10:00 a.m., EDT (9:00 a.m., CDT) in The Garrison, Fort Harrison State Park