

**NATURAL RESOURCES COMMISSION**

Park Office Training Room, Fort Harrison State Park  
5753 Glenn Road  
Indianapolis, Indiana

Minutes of July 19, 2005

**MEMBERS PRESENT**

Michael J. Kiley, Chairman  
Rick Cockrum, Vice Chairman  
Kyle Hupfer, Secretary  
Jane Ann Stautz  
Matthew T. Klein  
Damian Schmelz  
Raymond McCormick, II  
Bryan Poynter

**NATURAL RESOURCES COMMISSION STAFF PRESENT**

Stephen Lucas  
Debra Michaels

**DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT**

John Davis	Executive Office
Ron McAhron	Executive Office
Todd Tande	Executive Office
Jessica Marks	Executive Office
Burgess Brown	Executive Office
Robert Waltz	Entomology and Plant Pathology
Linnea Petercheff	Fish and Wildlife
Samuel Purvis	Law Enforcement
Mike Crider	Law Enforcement
Mike Reeder	Legal
Jim AmRhein	Oil and Gas
Tod Stockwell	Museums and Historic Sites
Brock Mayes	Reclamation
Dan Bortner	State Parks and Reservoirs

**GUESTS PRESENT**

Gary Doxtater	Stacy Riggs
J. Nathan Noland	Larry Buckel
Dick Mercier	

Michael J. Kiley, Chair, called to order the regular meeting of the Natural Resources Commission at 10:05 a.m., EST, on July 19, 2005, at the Parks Office Training Room, Fort Harrison State Park, Indianapolis, Indiana. With the presence of eight members, the Chair observed a quorum.

Damian Schmelz moved to approve the minutes of May 17, 2005. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Director Kyle Hupfer recognized the services of Lester M. Ponder who died recently. He said Ponder was the Chairman of the Advisory Council for Lands and Cultural Resources, a Commission Member, and for many years a member of the Advisory Council. He extended the Department's and the Commission's sympathies to the family and his appreciation for Lester Ponder's selfless dedication to the agency and to the State of Indiana.

Director Hupfer introduced new Commission Member, Bryan Poynter. He re-introduced Matthew Klein, the proxy for the Commissioner of the Indiana Department of Environmental Management.

The Director announced the DNR successfully obtained a "small piece of supplemental capital" from previously reverted funds in the amount of \$6.1 million. He said the DNR has access to \$1.5 million for revitalization of the O'Bannon Woods State Park swimming pool. Hupfer said the agency has challenged the local citizens "to come up with another \$1.5 million to install a completely new pool." He said there was \$1.5 million dollars to begin rehabilitation on the comfort station, which should provide one-half of the needs to finish the rehabilitation. \$1.5 million would go toward the Shakamack Group Camp. Another \$1 million would be used for playgrounds statewide. \$½ million would be applied to state fish hatcheries. Additional funding was also available for defibrillators at each DNR pool location.

Hupfer informed the Commission that "the Goose Pond project is moving along." He said appraisals obtained for the site were supportive of the acquisition.

The Director said the DNR is in the process of reviewing fees throughout the agency, but the primary focus was on the State Park system. He said a fee proposal would likely be brought before the Commission during the September or November 2005 meeting. Any fee adjustments need to be made effective by January 1, 2006.

The Director introduced Dan Bortner, the new Director for the Division of State Parks and Reservoirs. He said that since the last Commission meeting, James Davis was promoted from Assistant Park Manager to Park Manger at Mounds State Park. Hupfer said that the promotion was a result of the former Park Manager's retirement.

The Director reported that there has been an ongoing class action against the Department that dealt with salaries. He said a settlement was achieved just before the end of the fiscal year, and it "was a very favorable result" for the agency.

John Davis provided the report of the Deputy Director for the Bureau of Lands and Cultural Resources. He said "a couple of DNR folks took part with the Department of Agriculture as the lead agency and signed the CREP agreement with the federal officials." Davis said that program would be a "great boon" to the waterways in Indiana and the agriculture concerns of landowners up along the waterways that it affects." Davis reported that camping activity has experienced some increase. Income and camping attendance have improved over the past year. "We think that's a good sign for activities close to home."

Davis also said the DNR was preparing for the opening of the State Fair. “We’re looking forward to another successful year and hope everybody can get out to the DNR building.”

Davis reported the DNR continues to work with southern Indiana governmental officials, the U.S. Army Corps of Engineers, and the Reuse Authority at Charlestown concerning the water wells in the area. He said Jack Seifert was appointed as State Forester for the Department. “Jack is a longtime forest specialist for Purdue and is in the seat of State Forester and making lots of progress.”

Raymond McCormick, Chairman of the Advisory Council for Water and Resource Regulation, provided his report. He said his Advisory Council has not met in the 2005. “It has been six months. We’re hoping we can get those appointments made” for Council vacancies, “and get things rolling with the Advisory Councils.”

Director Kyle Hupfer responded. “I don’t know that we are going to have appointments made to the Councils. I think it’s fairly far down the list of priorities right now. We’re also, just so the Commission knows, taking it to [a legislative] Summer Study.” Hupfer said he would propose “the elimination of the two Advisory Councils and a proposal that says that we will just add two members to the Commission.”

Ron McAhrn, Deputy Director of Bureau of Resource Regulation, provided his report. He said that DNR received a \$2.5 million grant from FEMA for floodplain mapping. The Division of Water will be coordinating distribution of the grant in 14 Central Indiana counties. “It’s a real big project for us.”

McAhrn said the Division of Water is involved in an initiative known as the Annex 2001 Implementing Agreements. He said Annex 2001 is important mainly in the northern part of the state. “It’s an initiative of the Council of the Great Lakes Governors, dealing with water management, diversions, and consumptive use in the Great Lakes Basin. We’ve scheduled a series of public meetings across the northern part of the state, commencing with one in Indianapolis, three more in Portage, Gary and Fort Wayne the first part of August.” He added that the comment period ends August 30, 2005. “It’s a fairly restrictive document for future use of water in the Great Lakes, so it’s very important to Indiana, and we’re looking forward to a lot of public input.”

### **Division of Entomology and Plant Pathology**

#### **Consideration of Preliminary Adoption of Rule Amendment to 312 IAC 18-3-12 which Governs Standards for the Control of Pine Shoot Beetles, Adding Dearborn County to the Quarantine Area; Administrative Cause No. 05-081G**

Robert Waltz, Ph.D., State Entomologist, presented this item. Waltz told the Commission that the proposed rule amendment was to add Dearborn County to the quarantine area. He said a total of 66 Indiana counties are known to be infested with the pine shoot beetle. “This action is taken in compliance with a federal requirement for states within a certain number of days of finding a beetle in the state or in a new county. The state has to adopt parallel rules to match the federal quarantine; or else the federal government will quarantine the entire state of Indiana.”

Damian Schmelz asked Waltz how many years the Pine Shoot Beetle has been in Indiana and questioned how rapidly it was spreading throughout the state. Waltz replied that the beetle first

appeared in Indiana in approximately 1989, and it has typically spread to two to three additional counties per year.

Rick Cockrum moved to approve the preliminary adoption of rule amendment 312 IAC 18-3-12, which governs standards for the control of pine shoot beetle, adding Dearborn County to the quarantine area. Matthew Klein seconded the motion. Upon a voice vote, the motion carried.

### **Division of Oil and Gas**

#### **Consideration for Preliminary Adoption of Amendments to 312 IAC 16-5-4 and 312 IAC 16-5-5 Governing Protection of Coal Resources in Oil and Gas Drilling and Production (Administrative Cause Number 05-081G)**

Brock Mayes, Project Coordinator for the Division of Reclamation, presented this item. He said this revision to 312 IAC 16-5-4 is a result of the passage of Senate Bill 442, which became effective in April 2005. Currently, if an oil and gas well is proposed to be drilled on lands underlain by an inactive underground mine, or on lands within the permit boundaries of an active underground mine, the owner or operator must run an intermediate string of casing. The intermediate string of casing must extend from the surface to a point at least 50-feet below the base of the commercially mineable coal resource or the mine floor. The requirement applies whether the well is drilled through a pillar or not. Mayes said that the proposed change brings the rule in line with the recent statutory revision. Upon written application to the Director of the Division of Oil and Gas, he may grant an exception to the intermediate mine string requirements.

Mayes said the proposed rule outlines the provisions necessary to qualify for the exception. If an exception is granted, the well must be completed in a manner that maintains structural integrity and is protective to the environment. The provision only applies to situations where a well is proposed on lands underlain by inactive underground mine or on land within the permit boundaries of an active underground mine. It would require the written consent of the coal operator. He said the Division of Oil and Gas has consulted with the Indiana Coal Council and with the Indiana Oil and Gas Association, and both were agreeable to the revisions. He indicated the Division of Oil and Gas intends to communicate with the Indiana Coal Council and the Indiana Oil and Gas Association throughout the rule-making process. Mayes requested the preliminary adoption of amendments to 312 IAC 16-5-4 and 312 IAC 16-5-5 governing protection of coal resources in oil and gas drilling and production.

J. Nathan Noland, Executive Director of the Indiana Coal Council, addressed the Commission. He said the Coal Council was supportive of the rule changes. "I don't anticipate this to be an adversarial rule-making."

Rick Cockrum asked what motivated the proposed modifications.

Mayes responded that there was a recent circumstance where the application of the current rule and statutory authority were questioned. As a result, the Indiana legislature changed the statute, and the rule now needed to be modified consistently with the statutory change.

Matthew Klein asked about the language of proposed 312 IAC 16-5-4(c)(2). This subdivision indicates a variance should not result in (A) waste; (B) fresh water pollution; (C) blowouts; (D) cavings; (E) seepages; (F) fires; or, (G) unreasonably detrimental effects upon fish wildlife, and botanical resources. He inquired whether this language had been coordinated with IDEM's

statutory responsibilities for groundwater protection and to address other environmental concerns. In particular, he asked what “waste” meant.

Noland responded that the language was copied from the existing statutory authority that governs petroleum production operations. The rule language is essentially a restatement of the statute.

Jim AmRhein of the DNR’s Division of Oil and Gas gave illustrations of what might constitute “waste” under the statute and the proposed rule. He said “waste” would occur if salt water were returned to the surface and discharged on the land either during or after completion of the drilling process.

Rick Cockrum moved to give preliminary adoption of amendments to 312 IAC 16-5-4 and 312 IAC 16-5-5, which govern intermediate strings for the protection of coal resources during oil and gas drilling, and production. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

### **Division of Fish and Wildlife**

#### **Consideration of Preliminary Adoption of Rule Amendments to 312 IAC 9 Concerning the Following: Taking, Chasing and Possessing Wild Animals; License Exemptions for Owners and Lessees of Farmland; Deer Hunting; Hunting Deer by Firearms; Trapping Coyotes; Bobcats; River Otters; Badgers; Migratory Birds; Mute Swans; Wild Turkey Hunting; Special Purpose Turtle Possession Permit; Taxidermist License; Fur Buyer License; Nuisance Wild Animal Control Permit, and Wild Animal Possession Permit.**

Steve Lucas, Director of the Commission’s Division of Hearings, reported his division had already received email comments pertaining to the rule proposal. He directed the Commission’s attention to printouts of these emails, from Terry Grindlay, John S. Hutchins, and Joe Bacon, that he distributed to the Commission members prior to commencement of the meeting.

Linnea Petercheff from the Division of Fish and Wildlife presented this item. Petercheff said the amendments were drafted jointly by the Division of Law Enforcement and the Division of Fish and Wildlife. The amendments are needed to provide additional clarification of rules, protection of wildlife resources, and provide for better enforcement of current laws. Petercheff provided an overview of the proposed rule amendments.

Ray McCormick inquired concerning the amendments proposed to 312 IAC 9-2-14. This rule section provides for fishing, hunting, and trapping without a license by owners and lessees of farmland. He asked for further explanation concerning the word “farmland”.

Petercheff responded that “farmland” was defined in the statute under IC 14-22-11-1(a). This subsection provides:

- (a) As used in this section, “farmland” means agricultural land that is:
  - (1) Devoted or best adaptable for the production of crops, fruits, timber and the raising of livestock; or
  - (2) Assessed as agricultural land for property tax purposes.

McCormick questioned the wording “family member”. He said, “It says a family member, but in the old regulation, it says a family member had to be living upon the land. And, it doesn’t say that in this section. Is that the intent? I mean it doesn’t say that.”

Petercheff replied, “The intent is that if it’s owned by a corporation, the only person who gets that exemption is the person who lives on the land.” McCormick asked for clarification or definition on the word “person” in Section 1(b).

Director Hupfer replied, “ ‘person’ is a catchall, basically, so that any sort of organization, other than an individual,” would be included.

McCormick also referenced Sec 1(b) concerning the exemptions of hunting license.

Sec. 1(b) “For farmland owned or leased by a corporation, limited liability company, partnership, or another person other than an individual or individuals, the license exemption applies only to an individual who resides on the farmland.”

McCormick expressed the opinion that “lots of farmers incorporate their farmland without intentions to exempt themselves from having to buy a hunting license but rather to limit the liability or to reorganize their farm for inheritance purposes.” He questioned the rule identifying partnerships as another entity that would no longer be exempt. “What you’re, in fact, doing is singling out two types of farm organizations or farm entities that would no longer be exempt, and you’re leaving those in personal ownership as exempted. That doesn’t seem fair and equitable to those others. It seems there would be better ways to define who would be exempt, or to not allow anyone to have an exemption from a hunting license.”

McCormick said that the State of Illinois defines exempt entities “as those containing at least 40 acres. That’s the determining factor. So, if there are three corporate members, and they only have 40 acres, then none of them would be allowed for that exemption. But, if they had 120 acres, then they would be exempt. But, here we’re just singling out legal entities. So, to me it doesn’t seem fair. While it’s trying to accomplish what your goals are, which I agree with, it doesn’t seem fair to a lot of the average farmland owners who would now be exempted from this.”

Petercheff responded, “I know we have talked in light of some of the comments we received about extending the exemption particularly for the farming corporation and those who are the members just of one family. We’re going to continue to allow that exemption.”

Lt. Col. Mike Crider, Division of Law Enforcement, added: “The expansion might be if you either live on the land or you farm the land. It has been discussed. We’ll continue to try to make sure that we don’t exclude people unintentionally. What we’re really trying to get out are the four or five individuals who own a corporation and go out and buy land just for hunting. We don’t think they should be exempted. And, we’re also running into problems where people are saying, ‘I’m a stockholder’” in a corporation. The corporation “ ‘owns this land, therefore, I can hunt without a license.’ Those are really the two areas we’re trying to address.”

Kiley reflected, “I think this discussion will resurface when this rule amendment comes up for public hearing. The agenda item is simply for preliminary adoption, and you can raise these issues in the hearing process, which are really important issues.”

Bryan Poynter, Commission Member, asked Lt. Col. Crider, “How big of an issue is this when you see this in the field in terms of checking licenses?”

Crider responded that it is “becoming an ever growing issue.” Several individuals might “seek corporate status for a variety of tax shelters. They will then register the ground as a part owner for each acre in order to extend the license exemption to themselves and their entire immediate family. We’ve been trying for years to get a clear definition as to what is or is not acceptable.” Crider said that legislature recently defined “farmland” more clearly. How to use the exemption to avoid purchasing a hunting license is being shared in chat rooms on the Internet. “People are actually telling other individuals how to do this and get around the license requirement. We feel like in situations where there is a farming structure in place with a corporate status, that the license exemption should apply to those people in actual practice of farming and managing the land. For individuals who are simply trying to bypass the license requirement, we feel like there needs to be a line that needs to be defined.”

Crider communicated that the Division of Law Enforcement has asked the DNR staff attorneys to look at the issue, to get clarification and receive public comments in order to “come to some middle ground where everybody knows where they stand.”

Bryan Poynter asked Crider, “So, what I heard you say is that it’s a revenue issue on the one hand and it’s a law enforcement on another.” Crider replied, “It’s definitely a law enforcement issue because it’s difficult to take any of these cases and try to get a prosecution on hunting without a license when an individual can show they’re registered at the local courthouse as owning a portion of each acre on that particular farm. So, what they’ve done in the past is if they own 100 acres with six individuals, each individual owns one-sixth of each acre. Where do you draw the line on how this exemption applies? I think the original legislative intent was that it applied to people actively engaged in farming, and their children who live with them; is the way it initially was.”

Rick Cockrum added, “I think you’ve touched on something you may want to look at through the process and that is defining ‘family’. You used the term ‘immediately family’, and the rule just says ‘a family member.’”

Director Hupfer said another law enforcement issue was when a law enforcement officer confronts an individual who claims to own a piece of land and the officer calls the county courthouse to verify the person’s ownership. “Now you’re adding another layer there because you have the deed and the deed says XYZ Corporation. Now you have to go and look through corporate records. How are we ever going to get to the bottom of that?”

Dick Mercier of the Indiana Sportsman Roundtable addressed the Commission. He said that he was in favor of the changes with the exception of the deer tagging. Mercier referenced his years of lobbying to get the automated license system in place. A primary purpose was to provide better income for the Division of Fish and Wildlife by establishing better control. “Unfortunately, doing it this way is not going to do that. It’s leaving a huge loophole by allowing people combined with the 48 hours to get to the check stations. They’re going to have to kill a deer, and then they’re going to go buy the proper license after they kill the deer, because they can tag with just their nametag. This isn’t right. I think this needs more consideration.”

Director Hupfer then addressed Mercier. “How would you propose that it be done, then?” Mercier replied, “I wish I had the answer to that, Director Hupfer, but—.” Hupfer said, “I don’t really know of any other way than to allow people to use paper tags.” Mercier said he was not familiar “with the automated system enough to know what it can print.” He asked whether there was the capacity to print tags from the Internet. Hupfer added that a law enforcement officer could additionally call the Division of Fish and Wildlife to check the person’s license number.

Brad Poynter questioned Chairman Kiley concerning procedures for the adoption of the fish and wildlife amendments. Kiley said a hearing process would be established to give the public a chance to present testimony either at the hearing, by the Internet, or by letter. A hearing officer would assemble the comments in a report and send the report back to the Commission to consider for final adoption. "So, there will be plenty of opportunity for the public to be heard and address these and various issues that are raised here today, as well as something else we may not have discussed today. That's really the purpose of the preliminary adoption. It's a great system and does give the public an opportunity to be heard further."

Jane Ann Stautz suggested that the DNR staff survey how other Midwest states define "farmland" and how they handle electronic licensing.

Ray McCormick moved to give preliminary adoption to the amendments to 312 IAC 9 as proposed by the Department of Natural Resources. Jane Stautz seconded the motion. Upon a voice vote, the motion carried.

### **Division of State Museums and Historic Sites**

#### **Consideration of Recommendation for Approval of Deaccession of Artifacts in the Indiana State Museum and Historic Sites Collections for Summer of 2005**

Todd Stockwell of the Division of State Museums and Historic Sites presented this item. He said the Indiana State Museum periodically reviews its collections to determine what artifacts should be deaccessioned. The Commission, through rules at 312 IAC 24, established the factors controlling deaccession. He said each of the items currently presented for deaccession were carefully scrutinized by the professionals within the State Museum, approved by the Division Director, then considered and approved by the Museum's Board of Trustees. He recommended the items for deaccession as more particularly described in the Commission's packet.

Chairman Kiley reflected that the Indiana State Museum makes a similar request "on pretty much an annual basis." Stockwell responded he was correct. The Chair asked whether the Commission members had questions or comments concerning any of the items proposed for deaccession. There were none.

Damian Schmelz moved to approve the deaccession of artifacts as recommended by the Division of State Museums and Historic Sites and the Museum's Board of Trustees as contained in the Commission's packet. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

### **Natural Resources Commission, Division of Hearings**

#### **Consideration of Final Approval of Rule Recodification by Re-Adoption of 312 IAC 11 Governing Construction Activities along and within Public Freshwater Lakes; Administrative Cause No. 05-001W; LSA Document #05-1**

Steve Lucas presented this item on behalf of Jennifer Kane, Hearing Officer. Lucas asked, and was granted leave by the Chair, to consider together this item and the next three.



Lucas said for consideration were the recodifications of four rule articles. These were (1) 312 IAC 11 governing construction activities along and within Public Freshwater Lakes; (2) 312 IAC 12 governing water wells and ground water; (3) 312 IAC 13 governing Water Well Drillers; and, (4) 312 IAC 23 governing the State Historic Rehabilitation Tax Credit. He explained the proposals were for the Commission to approve these four articles exactly as they currently exist so that they would not be sunsetted. No public comments were received concerning any of the proposed recodifications. Lucas said three of these rule articles rarely generated discussions or controversy, although 312 IAC 11 pertaining to the Lakes Preservation Act (IC 14-26-2) was a notable exception. This article generated frequent adjudications and is often amended, including amendments that would be considered separately later during this meeting, but the recodifications proposed no changes. He added that the current language for each article was contained within the Commission packets, if there were any questions, comments, or suggestions for subsequent amendments to them.

Lucas noted that what has been a low-key process with recodifications, since they rarely draw public comment or interest, would be changed by legislation enacted in the most-recent session of the Indiana General Assembly. Because these recodifications were published and public hearings convened before the July 1, 2005 effective date of the new legislation, he believed it did not apply to them. With all subsequent recodifications, and he said the Commission is called upon to perform recodifications nearly every year, the new process would apply. In the future, the DNR would perform fiscal analyses for each of the recodifications, with a special emphasis upon the regulatory impacts on small businesses. The need to perform expanded fiscal analyses, and the appointment of a “small business regulatory coordinator,” were important statutory changes and would be addressed in more detail in the September NRC meeting. Lucas suggested the simplicity of the current recodifications was “the end of an era.” He then recommended, by separate votes, that the Commission give approval to the recodification of each of the four rule articles.

Rick Cockrum moved to give final approval to the recodification by re-adoption of 312 IAC 11 pertaining to standards governing construction activities, along and within public freshwater lakes, under the Lakes Preservation Act. Damian Schmelz second the motion. Upon a voice vote, the motion carried.

**Consideration of Final Approval of Rule Recodification by Re-Adoption of 312 IAC 12 Governing Water Wells and Ground Water; Administrative Cause No. 05-002W; LSA Document #05-1**

See previous discussion in Consideration of Rule Recodification by Re-Adoption of 312 IAC 11 Governing Construction Activities along and within Public Freshwater Lakes; Administrative Cause No. 05-001W.

Rick Cockrum moved to give final approval to the recodification by re-adoption of 312 IAC 12 pertaining to water wells and ground water. Damian Schmelz second the motion. Upon a voice vote, the motion carried.

**Consideration of Final Approval of Rule Recodification by Re-Adoption of 312 IAC 13 Governing Water Well Drillers; Administrative Cause No. 05-003W; LSA Document #05-1**

See previous discussion in Consideration of Rule Recodification by Re-Adoption of 312 IAC 11 Governing Construction Activities along and within Public Freshwater Lakes; Administrative Cause No. 05-001W.

Rick Cockrum moved to give final approval to the recodification by readoption of 312 IAC 13 pertaining to water well drilling contractors. Damian Schmelz second the motion. Upon a voice vote, the motion

**Consideration of Final Approval of Rule Recodification by Re-Adoption of 312 IAC 23 Governing State Historic Rehabilitation Tax Credit; Administrative Cause No. 05-004H; LSA Document #05-1**

See previous discussion in Consideration of Rule Recodification by Re-Adoption of 312 IAC 11 Governing Construction Activities along and within Public Freshwater Lakes; Administrative Cause No. 05-001W.

Rick Cockrum moved to give final approval to the recodification by readoption of 312 IAC 23 pertaining to the Indiana state historic rehabilitation tax credit. Damian Schmelz second the motion. Upon a voice vote, the motion

**Consideration of Final Adoption of Amendments to 312 IAC 11 pertaining to Bulkhead Seawalls along Manmade Channels and Other Amendments to the Rules for the Lakes Preservation Act; Administrative Cause No. 05-030W; LSA Document #05-38(F)**

Steve Lucas introduced this item. He said for consideration was final adoption of amendments that liberalized the rule requirements for bulkhead seawalls along manmade channels in “public freshwater lakes” governed by IC 14-26-2 (sometimes referred to as the “Lakes Preservation Act”). Most of the changes proposed in the permanent rule were previously implemented through a temporary rule, and although the temporary rule has lapsed, the regulatory program has continued to be administered consistently with the changes. No public comments were received on the proposed rule changes, and he said they were presented for consideration as to the final adoption. Lucas added that James Hebenstreit, Assistant Director for the Division of Water, was present to answer technical questions and questions concerning the agency experience in implementing the temporary rule.

Jim Hebenstreit explained to the Commission that the proposal was implemented through a temporary rule approximately 18 months ago. Before that, the use of concrete or steel sheet piling for seawalls in manmade channels was often prohibited in favor of glacial stone, “which proved to be a problem.” Chairman Kiley added, “This is where we had the problem with the unstable bottoms of channels and were losing the glacial stone in the bottom and erosion on the banks.” Hebenstreit said that a related problem was that “typically, the channels have a three-foot depth at the banks, and when using glacial stone, you would have to lay somebody’s lawn back.”

Hebenstreit said, additionally, the rule amendments would allow variances where glacial stone might not protect the shoreline. Kiley continued, “That’s great. This rule is going to solve, I think, a lot off issues in the public freshwater lakes and the channels; I really do.”

Jane Stautz asked how the bulkhead were working and if there were any other issues that should be addressed in the future. Hebenstreit replied, “There probably are, but I think we’re in the process in getting Lake Management Workgroup back together and working with the property owners associations” to try and better identify priorities.

Rick Cockrum moved to give final adoption to amendments to 312 IAC 11, pertaining to bulkhead seawalls along manmade channels within public freshwater lakes, and other amendments for administration of the Lakes Preservation Act, as set forth in the Hearing Officer’s report. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

**Consideration of DNR Property Use Technical Amendments for Definitions, Vehicles on DNR Properties for More than 48 Hours while using a Described Property, and Other Matters; Administrative Cause No. 04-197D; LSA Document #05-18(F)**

Steve Lucas, Hearing Officer, presented this item. He said Marian England of the Division of State Parks and Reservoirs chairs a committee that includes representatives of DNR’s property management Divisions, the Office of Legal Counsel, and the Division of Law Enforcement. This committee receives public comments and suggestions from property managers and Conservation Officers for modifications to the rules that govern public usage of DNR properties. The Committee has endorsed each of the amendments contained in the current proposal, and most of the amendments serve simplicity or clarity rather than offering programmatic or policy changes.

Lucas said one subject that might be of a more substantive nature was a proposed modification to how parking lots would be managed with respect to vehicles left for extended periods. The current rule prohibits a vehicle from being parked for more than 48 hours, after which it may be ticketed and towed. This approach has been the subject of periodic discussions. Also, Charles Ramsey filed a citizen’s petition for rule change addressed to the subject.

The proposed amendments would eliminate the regulatory prohibition and leave a determination of whether to limit the duration for parking to signs posted at the discretion of a property manager. An illustration of where a limitation on the period of parking might not make sense is at a trailhead. On the other hand, a lot adjacent at a lake access might become ineffective to support recreation if used as a neighborhood overflow or commuter lot. With this overview, Lucas said he presented the proposal for consideration as to final adoption.

Damian Schmelz asked whether these changes would address the concerns expressed by Charles Ramsey. He asked whether a person might, even with the changes, have a vehicle or trailer towed. Lucas responded that this possibility still existed on lots with signage indicating a limited period of usage. The proposed changes would place greater discretion in local property managers but would not prohibit all time limits on parking.

Ray McCormick moved to give final adoption to the amendments proposed to DNR property use rules, including the elimination of the rule that establishes a 48-hour limit on the duration for parking on a DNR lot. Rick Cockrum seconded the motion. On a voice vote, the motion carried.

**Consideration of Technical Amendment to 312 IAC 16-5-19, Governing Abandonment and Plugging of Wells for Oil and Gas Purposes; Administrative Cause No. 04-199G; LSA Document #05-14(F)**

Steve Lucas presented this item on behalf of Jennifer Kane, Hearing Officer. He said the change corrected a technical error resulting from the use of the term “fresh” in describing water that could be used in plugging and abandoning wells for oil and gas purposes. In this context, the limitation placed a restriction that was unjustified, and even wasteful, of fresh water. At deep intervals, water would typically have a high saline content disqualifying it as “fresh” water. He said other changes proposed to the rule were clerical and recommended by the Indiana Legislative Services Agency in accordance with that agency’s standards for rule drafting. Lucas recommended the amendments for final adoption.

Damian Schmelz moved to give final adoption to remove the word “fresh” and to make other clerical or technical changes to 312 IAC 16-5-19 governing the plugging and abandonment of wells drilled for oil and gas purposes. Rick Cockrum seconded the motion. On a voice vote, the motion carried.

**Consideration of Preliminary Adoption of Repeal of Geophysical Surveying Licensure Rule (312 IAC 17-3); Administrative Cause No. 05-080G; LSA Document #05-99**

Steve Lucas presented this item. He said for consideration was a “housekeeping measure” to repeal 312 IAC 17-3 that has governed the licensure of geophysical surveying. Lucas indicated that amendments by the Indiana General Assembly in SEA 442 repealed the statutory authority for the rule, effective July 1, 2005. With the statutory repeal, the rule must also be repealed and removed from the Indiana Administrative Code. Currently, 312 IAC 17-3 is already legally ineffective.

Damian Schmelz moved to give preliminary adoption to the repeal of 312 IAC 17-3 that has governed geophysical surveying licensure. Jane Stautz seconded the motion. On a voice vote, the motion carried.

**Adjournment and Next Meeting**

The meeting adjourned at approximately 11:20 a.m. The next meeting was scheduled for the Garrison, Fort Harrison State Park, Indianapolis (Lawrence), on September 20, 2005.