

NATURAL RESOURCES COMMISSION

Minutes of May 22, 2002

MEMBERS PRESENT

Michael J. Kiley, Chair
John Goss, Secretary
Damian Schmelz
Jack Arnett
Jane Anne Stautz
Lori Kaplan
Rick Cockrum
Megan Murphy
Larry Goode
Raymond McCormick, II

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Jennifer Kane
Debbie Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Carrie Bales	Executive Office
John Davis	Executive Office
David Vice	Executive Office
Paul Ehret	Executive Office
Randy Lang	Fish and Wildlife
Dan Mathis	Legislative Liaison
Jim Slutz	Division of Oil and Gas

MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular meeting of the Natural Resources Commission at 1:00 p.m., EST, on May 22, 2002, at The Indiana Government South, Conference Room A, Indianapolis, Indiana. With the presence of ten members, the chair observed a quorum.

Jack Arnett moved to approve the minutes of April 24, 2002. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

John Goss provided the Director's Report. He said emergency spillways nearly were put to full usage on three DNR lakes. This potential arose because of recent heavy rainfall in

Indiana. The Director said water overlapped the emergency spillway at Monroe Lake, but there were no serious problems.

Director Goss said that pursuant to a new initiative the executive staff engages in monthly field trips to DNR properties. "It has been great for educating our top level management." He said the first sites visited were Metamora and Brookville Lake. They viewed the new golf course along the shore of the Brookville Lake, where previously there were concerns, but he added, "I think it's getting worked out." Goss said the second site visited was the Brownstown Nursery and Hatchery and State Forest Properties. "What we're really working on is the new concept of regional cooperation between properties" for various functions. Goss explained that the idea is to "share equipment" between properties to cut costs and also to share expertise.

Goss reported the proposed organized boating activity rules for Lake Wawasee and Syracuse Lake may be returned to the Commission's July agenda. DNR staff would again meet with the principal groups and develop an amended rule draft for the Commission's review.

Goss said the DNR is trying to become more "technologically" efficient. NRC packets will now be distributed by email. Carrie Bales, Executive Assistant, requested email addresses from Commission members.

Jerry Miller, Chairman of the Advisory Council for Lands and Cultural Resources, was not present. John Davis said he Council had not met since the last Commission meeting, but it was scheduled to meet on June 5.

Davis discussed becoming more technologically efficient among the Department's divisions. The Department is "progressing" on its centralized reservation system for park inns. The goal is to have the system in place for the 2003 recreational season.

Davis reported the Department's Division of Forestry open houses were completed. "They were a big success." He also reported April's Arbor Day festivities went very well.

Davis returned to the Director's comments concerning high water at DNR lakes. He said the high waters were at Lake Monroe, Patoka Lake, and Raccoon Lake. The water levels have since subsided, although there were some closures as a result of the high water. He said that fishing tournaments at Monroe have been cancelled for the next four to five weeks.

Davis said the Advisory Council would meet on May 29th at Sugar Ridge Fish and Wildlife Center. The council will discuss inter-lake properties and the cooperative use of property for horseback riding, off-road vehicles, and field trials.

Ray McCormick, Chairman of the Advisory Council for Water and Resource Regulation, reported the Advisory Council had not met since the last Commission meeting.

David Vice, Deputy Director for the Bureau of Resource Management, reported the 2002 breeding season for the Indiana peregrine falcons has been successful. He said there

were a total of ten nesting pairs that produced 23 chicks. The new nesting female falcon in Indianapolis is believed to be from Milwaukee.

Vice reported that the Division of Fish and Wildlife certified three new state fish records— a 42.5-pound muskie, a 53.9-pound buffalo, and a 65.2-pound grass carp. Vice said the 50-inch muskie was caught on April Fool's Day from the upper basin of Lake Tippecanoe. In February, an angler fishing for bluegill in a privately owned former coal mine pit in Gibson County "had the surprise of his life when the huge buffalo grabbed his earthworm bait." A fisherman trying to catch bass and bluegill caught the 65.2-pound grass carp on April 8 in Morgan County. The fisherman was using a miniature crankbait and 6 pound test line. The grass carp surpassed the old grass carp record by nearly 24 pounds.

Vice said the Division of Law Enforcement Officers participated in several evacuations and rescues across the state during the recent flooding.

Vice reported approximately 900 acres were treated in two rounds for the gypsy moth using aerial applications of the bacterium BTK. Treatments with pheromones are scheduled for approximately 19,000 acres in mid to late June.

Paul Ehret, Deputy Director for the Bureau of Resource Regulation, reported that staff has been very busy with high water issues. He said the Division of Water dam safety personnel had been monitoring some of the high hazard dams. Ehret said, "So far, in spite of the high waters, there have not been any serious concerns."

Ehret said the high waters have created a "slow-down" for the Division of Oil and Gas. Access has been hindered to areas that contain problem wells.

Ehret said the Division of Water conducted the first of a series of meetings in Fort Wayne with the LaGrange County surveyors to explain the permitting process. Ehret said that the meeting progressed "very well." The next meeting will be held in Crawfordsville.

Ehret announced that Harry Nikides, Director of the Division of Soil Conservation, was presented with the John A. Hillenbrand II Award as DNR Division Director of the Year. Ehret said Nikides has "worked hard to come up with a lot of good ideas and has been very innovative during tight budget times."

Ehret announced that Jim Slutz, Director of the Division of Oil and Gas, has submitted his resignation. The resignation is effective June 3, 2002. "Our loss is going to be somebody else's gain." He said Slutz has accepted a position as Deputy Assistant Secretary for the U.S. Department of Energy in Washington D.C. Ehret said Slutz has been with the Department of Natural Resources for over nine years. "Jim has been an outstanding manager, leader and division director, and will be solely missed by the agency and by the State of Indiana. He's done a very good service for the state."

Chairman Kiley introduced Larry Goode. Kiley said Goode will serve on the Commission as the Department of Transportation's representative.

PERMANENT APPOINTMENTS AND PERSONNEL INTERVIEWS

Permanent Appointment for the Assistant Property Manager at Lake Michigan Fisheries Headquarters.

Randy Lang, Fishery Staff Specialist in the Division of Fish and Wildlife, presented this item. Lang said Joe Exl brought “quite a bit of job knowledge and experience” when he became the Assistant Property Manager at Lake Michigan Fisheries Headquarters. Lang said that Exl had worked several years at the Lake Michigan, and he said Exl has exhibited “outstanding leadership.” Lang recommended Joe Exl for permanent appointment as the Assistant Property Manager at Lake Michigan Fisheries Headquarters.

Chairman Kiley congratulated Joe Exl and said, “We appreciate that you are staying with us. Thank you very much.”

Rick Cockrum moved to approve Joe Exl for permanent appointment as Assistant Property Manager of the Lake Michigan Fisheries Headquarters. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

BUREAU OF RESOURCE MANAGEMENT

DIVISION OF FISH AND WILDLIFE

Consideration of Request to Install an Underground Electric Line on Division of Fish and Wildlife Property Adjoining the Sparta Lake Public Access Site in Noble County

Randy Lang also presented this item. He said the fish and wildlife property adjoining the Noble County Sparta Lake Public Access Site consists of 34 acres. Currently, there is an above ground electric line that serves the property. American Electric Power Company requests permission to replace damaged power lines by installing them underground for safety and long term cost savings.

Lang said the Division of Fish and Wildlife is in agreement with American Electric Power Company. He recommended the Commission approve the request.

John Davis asked whether American Electric Power was “requesting an easement also or is it just permission.” Lang replied, “We’re asking for an easement for American Electric to bury these power lines.”

Lori Kaplan asked if there would be payment from American Electric Power. Lang responded, “No one’s asking for that right now—the property was donated to us in 1940, and we’re not asking for that. Since there is already an existing power line, we’re not asking for any type of consideration or payment.”

Jane Anne Stautz moved to approve installation of the underground electric line, including an easement. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

BUREAU OF RESOURCE REGULATION

DIVISION OF OIL AND GAS

Consideration of Preliminary Adoption of Oil and gas Bonding Rules and Permit Fees (312 IAC 16-3.5); Administrative Cause No. 02-33G

Jim Slutz, Director of Division of Oil and Gas, presented this item. Slutz said the main part of this rule is the changes to the bonding regulations. He explained the proposed rule package is a response to the statutory changes that passed in the last legislative session, which significantly restructures the bonding for oil and gas operators. “What it does is it sets up a fee-based system that will tie our bonding system to rewards for good compliance.” An operator “can get bonding amounts waived” if an operator has a “good compliance record. The fee system will then fund the Orphaned Wells Program.”

Slutz also explained that the opportunity was taken to make a change to our permit fee rules to make it more equitable and more reasonable. Currently, there are classes of wells that are exempted from the fee.

Chairman Kiley asked Slutz if he knew how many orphan wells still exist in Indiana. Slutz replied there are currently between 525 to 550—down from a high of 850 to 900 only four years ago.

Rick Cockrum moved to approve to give preliminary adoption to the amendments proposed to the oil and gas bonding rules and permit fees. Lori Kaplan seconded the motion. Upon a voice vote, the motion carried.

LEGAL PROCEEDINGS

NRC DIVISION OF HEARINGS

Consideration of Report of Public Hearing, Analysis, and Recommendation for Final Adoption of Rule Adding of 312 IAC 22.5 that Provides Standards for Registration and Management of Cemeteries and Burial Grounds; Administrative Cause Number 00-144E; LSA #01-361(F).

Jennifer Kane, Hearing Officer, presented this item. She explained the proposed rules are intended to assist in the implementation of statutory changes to the Historic Preservation and Archaeology Act (IC 14-21). Kane said 312 IAC 22.5 is directed to the licensing of development plans for construction activities within 100 feet of a cemetery. The rules would require that any person disturbing the ground within 100 feet of a cemetery for the purpose of erecting, altering, or repairing any structure to submit a development plan to the Division of Historic Preservation and Archaeology for approval. The proposed rules set forth the application procedure and the information needed for processing an application.

Kane said the “notice of intent” for the proposed rule was published in the November 2001 Indiana REGISTER, which generated three queries. The proposed language was sent to the three interested persons and no comments on its substance have since been received. She said no member of the public appeared for the public hearing held on April 26.

Kane noted the Natural Resources Commission gave preliminary adoption to the rule at its January 22, 2002, meeting. She said one Commission member then expressed concerns regarding what activities would be subject under the proposed rule and classified as “ground disturbance.” Application of the rules to some minor activities (examples, roof reshingling or gardening) “could prove to be burdensome.”

Kane said the proposed rule does not list exceptions to the regulatory requirements for activities within 100 feet of a cemetery. She explained, however, the underlying statute states a development plan is not required (IC 14-21-1-26.5(b)(2)) “if a person intends to erect, alter, or repair an existing structure for an incidental or existing use that would not impact the burial ground or cemetery.”

Kane said the proposed rule could form the framework in implementing the licensing of development plans. She also stated the later recognition of exceptions for minor ground disturbance activities that are unlikely to disrupt the integrity of a cemetery might facilitate the implementation of the proposed rule.

Kane recommended the Commission give final adoption to the proposed rules as contained in the Commission packet. She also recommended that a strategy guided by the state archaeologist be developed to help identify specific activities that would qualify for the generically referenced statutory exemption. The strategy could be in the form of a nonrule policy document or as rule amendment. Kane explained that the strategy would include illustrations of the kinds of activities considered to be a “minor ground disturbance.”

Jack Arnett moved to give final adoption to 312 IAC 22.5 that provides standards for registration and management of cemeteries and burial grounds. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

MISCELLANEOUS

Informational Item—2002 Budget Update

Director Goss discussed a handout entitled BUDGET REDUCTIONS IN THE DEPARTMENT OF NATURAL RESOURCES. He explained the document set forth those questions “frequently asked” by state park and reservoir visitors and the corresponding answers. Goss passed along the idea of distributing the handout at DNR properties for the public’s benefit. Some of the topics in the handout covered questions concerning DNR service changes, user fees, reduced staffing levels, and suggestions on what the public can do to help. Goss said, “we’re finding that a lot of people are coming forth to help with all kinds of things.”

John Davis reflected that perhaps one of the largest “untapped resources” are “people who love our parks, forests, fish and wildlife areas and those who want to help and have the talents to help. I think there is a silver lining to some of this. I think we’re going to end with some pretty good friends groups.” Davis said that after a meeting with a large number of people, one of the Raccoon Lake managers commented by email, “this looks like the beginning of a Wonderful Friends Group.”

Goss reported the DNR capital budget line has been rescinded. He said there are some proposals still pending until the next meeting of the Board of Finance. Goss said that the State Auditor has proposed the snowmobile licensing dedicated fund (also the off-road vehicle license fund) be transferred to the general fund.

Goss reported that Deb Lawrence, Director of Development, would give an update on a DNR proposal to the Natural Resources Foundation. He said that Lawrence had been working “very hard” in preparing the plan, which was taken to John Hillenbrand of the Natural Resources Foundation.

Deb Lawrence, Director of Development, reported that the Natural Resources Foundation approved a plan to “greatly expand their role in creating partnerships with the DNR.” She said it was proposed that the Foundation start operating as a support group for all of DNR. Lawrence said the Foundation authorized an investment of \$100,000 “which is a pretty big vote of confidence in what we want to do.”

Lawrence said that DNR “wants to create a tool for all the people coming to us— not necessarily to shield dedicated accounts but to have another place to put money that would never be threatened by anyone.”

Lawrence said that the Foundation would be a “vehicle for donations.” She reported that DNR also asked the Foundation to fund an infrastructure in order to track and research

donors and prospects. The Foundation authorized DNR to create a position for the management of the system.

Lawrence said the response from the public was “really tremendous. I think we’re discovering, like John Davis said, people really love our properties and their local properties and would help if they were asked.”

ADJOURNMENT

At 1:45 p.m., EST, the meeting adjourned.

FUTURE MEETINGS

June 19 and 20, 2002 at Inn of the Four Winds, Bloomington, Indiana

July 17, 2002, 10:00 a.m., (The Garrison, Ft. Benjamin Harrison State Park, Indianapolis, Indiana)