

NATURAL RESOURCES COMMISSION

Overlook 1 Meeting Room
Clifty Falls State Park
1501 Green Road
Madison, Indiana

Minutes of May 22, 2007

MEMBERS PRESENT

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

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Jennifer Kane

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Dave Certo	Executive Office
Cheryl Hampton	Human Resources
Amanda Ricketts	Human Resources
Linnea Petercheff	Fish and Wildlife
Glen Salmon	Fish and Wildlife
Mark Reiter	Fish and Wildlife
Jim Mitchell	Fish and Wildlife
Chad Stewart	Fish and Wildlife
Samuel Purvis	Law Enforcement
Scotty Wilson	Law Enforcement
Bill Beville	Law Enforcement
Gary Catron	Law Enforcement
Andy Cline	Law Enforcement
Angie Goldman	Law Enforcement
Mike Kellner	Law Enforcement
Steve Kinne	Law Enforcement

Mike Lamar	Law Enforcement
Jeff Milner	Law Enforcement
Phil Nale	Law Enforcement
Jay Noble	Law Enforcement
Mick Rutherford	Law Enforcement
Dan Sprinkle	Law Enforcement
Rob Vickroy	Law Enforcement
Lorri Dunwoody	Indiana State Museum and Historic Sites
Leslie Grow	Parks and Reservoirs
Andrea Logsdon	Parks and Reservoirs
Darrell Skinner	Parks and Reservoirs
Kevin Snyder	Parks and Reservoirs
Larry Gray	Parks and Reservoirs
Kim Brant	Communications
Jim Glass	Historic Preservation and Archaeology
Frank Hurdis	Historic Preservation and Archaeology

GUESTS PRESENT

Doug Allman
Anthony Haven

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 4:07 p.m., EDT, on May 22, 2007 in the Overlook 1 Meeting Room Clifty Falls State Park, 1501 Green Road, Madison, Indiana. With the presence of ten members, the Chair observed a quorum.

Chairman Poynter welcomed guests and visitors to the “absolute great facility” Clifty Falls Inn. He announced that Commission member Damian Schmelz would not be able to attend tonight’s meeting. Chairman Poynter indicated that Schmelz was “very disappointed that he couldn’t make this meeting...but is looking forward to attending our meeting in July at Pokagon State Park.” The Chairman also said, “I think this is a great opportunity to force ourselves to get out and see some of the great resources here in the State of Indiana. I know there were sacrifices made that were business and personal to be here. On behalf of all the Commission members, I appreciate it.”

Mark Ahearn noted that his attendance at the March 13, 2007 meeting was not reflected in the minutes, and requested the minutes be amended to correct the error. Thomas Easterly moved to approve the minutes of March 13, 2007 with amendment. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Report of the Director, Deputies Director, and Natural Resources Advisory Council

Director Carter thanked Chairman Poynter for “suggesting we get out of the office and get out of Indianapolis to come to some of the properties to have our meetings. That says a lot for his

leadership.” Director Carter said the Department is preparing for the “biggest” weekend— Memorial Day Weekend. “The state parks have done a great job for preparing, and the conservation officers have the boats gassed up and ready to go.”

Director Carter thanked District 9 conservation officers for their efforts in the recent Ohio River paddlefish case, as well as the combined efforts of the Division of Fish and Wildlife fisheries biologists. “They did an outstanding job. That was a good effort.” He also thanked the conservation officers for their undertaking in presenting the “phenomenal display” of equipment used in law enforcement that was available for review prior to the Commission’s meeting.

Director Carter indicated that discussions have occurred regarding the statewide trails program. “We are moving aggressively on trying to build trails at a record pace.” He indicated that he, John Davis and other DNR staff have been working to acquire 122 miles of abandoned rail corridor. The results of the acquisition would be known within two weeks.

Chairman Poynter commented, “I have enjoyed working since our last meeting. There have been a lot of issues that Ron, John, and Rob have worked on and continue to have good momentum. I appreciate the spirit of working with the Commission in the fashion you and the Deputies Director have.”

John Davis, Director, Bureau of Lands, Recreation, and Cultural Resources, introduced Dan Bortner, Director of the Division State Parks and Reservoirs. Bortner thanked the Commission for holding its meeting at Clifty State Park. “It has given us the opportunity to show off what we have.” He also thanked the Clifty State Park staff, the Property Manager, Darrel Skinner, Assistant Property Manager, Kevin Snyder, and Karen Hinton, Manager of Clifty Inn.

Davis announced that the Atterbury Fish and Wildlife Shooting Range will be opening, as well as a new addition at Pokagon State Park opening end of May, and pool and aquatic center at O’Bannon Woods State Park will be dedicated in early June. “A lot of progress is going on.”

Davis noted that a “pretty successful” turkey season ended and approximately 3,000 Kentucky brown trout were stocked in the tail waters of Brookville. He also noted that Chairman Poynter participated in the “egg taking” for walleye and muskellunge. Chairman Poynter encouraged Commission members to participate with the conservation officers and the DNR professionals as they perform their occupational duties.

Ron McAhron, Deputy Director, Bureau of Resource Regulation, noted that the Division of Oil and Gas has been “very busy”, and the Division has had a record year in permitting. “Importantly we have created a lot of momentum in plugging a lot of the abandoned wells that we have had on the books for years. That increased revenue stream has helped us.” He said the Division has grown in efficiencies and is “doing a really good job for Indiana right now.”

McAhron indicated that after more than a year of searching, the vacant directorship of the Division of Historic Preservation and Archaeology was filled. He said Dr. Jim Glass, previously employed with DNR in the 1990s, accepted the Director position. McAhron introduced Dr. Glass and reported that he started and developed the Center for Historic Preservation at Ball

State University. “Some of you may know him from a column he writes in the *Indianapolis Star*. He’s a nationally known expert in his field. We are just really excited to have him back with us.”

Chairman Poynter thanked the conservation officers for their efforts in showcasing and explaining the law enforcement boats and other watercraft equipment on display this afternoon. “I know they went to a lot of extra effort to bring their equipment and spend the time talking” to Commission members and guests. The Chair introduced Maj. Scotty Wilson, the Logistics Officer for the Division of Law Enforcement.

Wilson gave a PowerPoint presentation regarding the preparedness efforts of the Division of Law Enforcement. He indicated that the main mission of the division is to protect natural resources, but highlighted that along with natural resource protection, major law enforcement activities include protecting Indiana’s citizens, waterways and wilderness. During natural disasters, Wilson indicated that the Division of Law Enforcement’s “efforts and expertise are where pavement ends and water begins”.

Commission member Richard Mangus asked whether the conservation officers patrol the Department properties. Wilson answered, “We are still there...and there every weekend.”

The Chair thanked Wilson for his presentation. “We are going to try to incorporate some [other presentations in] different places we go. Thanks for your time. It is very helpful to us. Good work.”

Patrick Early, Commission member and Chair of the Natural Resources Advisory Council, announced that the Advisory Council met on April 10. He noted that Stephen Lucas presented for discussion issues regarding riparian zones in public waters.

Updates on Commission and Committee Activities

Vice Chair Jane Ann Stautz indicated that the Commission’s AOPA Committee did not meet since the Commission’s last meeting.

DNR, EXECUTIVE OFFICE

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

The Chair inquired whether there were any issues that have been discussed or need to be brought forward as a potential agenda item for the Natural Resources Advisory Council. Ron McAhron noted that the Indiana General Assembly through P.L. 231-2007 (HEA 1738; codified as amendments to IC 14-25-2)) created a task for the Advisory Council relative to the sale of

water from the state reservoirs. “We plan to bring some preliminary rules” to the Advisory Council in the June meeting.

PERSONNEL ACTIONS

Permanent appointment of Leslie Grow as Assistant Manager at O'Bannon Woods State Park, Corydon, Indiana

Lawrence Klein, Chair of the Personnel Committee, indicated that he spoke with Amanda Ricketts from the Department’s Division of Human Resources and Dan Bortner regarding the two candidates. He then deferred to Dan Bortner.

Bortner said he was “glad to come before [the Commission] with people that have been successful in their career.” The two candidates have been with the Department for one year, and the Division of State Parks and Reservoirs is seeking permanent appointment status for them. “These ladies have done an outstanding job. They come to us with experience and have been real assets to the properties.” Bortner recommended that the Commission approve the permanent appointment of Leslie Grow as the Assistant Manager at O’Bannon Woods State Park.

Leslie Grow said, “We have an exciting year at O’Bannon Woods. We have gotten a lot done.” She invited Commission members to attend the property’s pool dedication ceremony scheduled for June 6. “We are excited about the year to come.”

The Chair asked for a motion for both this item and the following item for the permanent appointment of Leslie Grow and Andrea Logsdon as assistant property managers at their respective state parks.

Lawrence Klein moved to approve permanent appointment of Leslie Grow as Assistant Property Manager at O'Bannon Woods State Park, Corydon, Indiana. Robert Wright seconded the motion. Upon a voice vote, the motion carried.

Permanent appointment of Andrea Logsdon as Assistant Manager at Charlestown State Park, Charlestown, Indiana

[See additional discussion in previous agenda item.]

Dan Bortner said that Andrea Logsdon is the Assistant Manager at Charlestown State Park and Falls of the Ohio State Park, and recommended that the Commission approve permanent appointment of Logsdon as Assistant Manager at Charlestown State Park.

Andrea Logsdon thanked the Commission for allowing her the opportunity to gain experience with the Department. The Chair inquired, “Is there a new boat ramp opening?” Logsdon responded that the boat ramp opened today, May 22, with a public dedication set for June 26.

The Chair continued, “That’s quite a boat ramp, which is going to make that particular park; it’s going to change it.”

Lawrence Klein moved to approve permanent appointment of Andrea Logsdon as Assistant Manager at Charlestown State Park, Charlestown, and Falls of the Ohio State Park. Robert Wright seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF FISH AND WILDLIFE

Consideration of request for approval of amendments to nonrule policy document (Information Bulletin #45) addressing the disposition of permanently injured, non-releasable animals; Administrative Cause No. 07-102D

Linnea Petercheff, Operations Staff Specialist from the Division of Fish and Wildlife, presented this item. She noted that one of her job responsibilities is to process wildlife rehabilitation permits. Petercheff explained that the Commission adopted the nonrule policy document addressing the disposition of permanently injured, non-releasable animals two years ago. She said the nonrule policy document has been “helpful in dealing with situations in which wild animal rehabilitators wish to keep a nonreleasable wild animal typically for educational purposes, but sometimes to keep the wild animal as a pet.”

Petercheff noted that 312 IAC 9-10-9 requires rehabilitators to release an animal unless a conservation officer gives approval to keep the animal if the animal is not capable of fending for itself. The nonrule policy “provides a statewide policy for conservation officers to use. It has been helpful in the past few years in a few situations.”

Petercheff clarified that a wild animal rehabilitator permit has a condition that the wild animal cannot be kept for more than 180 days. An amendment is proposed to require a letter from a licensed veterinarian indicating the animal is nonreleasable. The disposition of game birds, such as quail and turkey, is clarified. Also clarified is that any nonreleasable white-tailed deer cannot be kept under any license. “Several rehabilitators have more than one type of permit or license both with the state and federal government so clarifications were necessary.”

Petercheff said that although migratory birds are covered under federal and state law, federal law does require that migratory birds be released within 180 days, unless granted extension approval. She said the proposed amendments would make the nonrule policy document consistent in application to all the species under the state permit and federal regulation. Petercheff recommended approval of the nonrule policy document as amended.

Jane Ann Stautz moved to approve the proposed amendments to a nonrule policy document (Information Bulletin #45) addressing the disposition of permanently injured, non-releasable animals. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

INDIANA STATE MUSEUM AND HISTORIC SITES

Consideration of request for recommendation for final approval to deaccession items from the collections of the Indiana State Museum and Historic Sites

Lorri Dunwoody, the Indiana State Museum Registrar, presented this item. She explained that items within the Indiana State Museum and historic sites collections are reviewed on a regular basis “to make sure we are upgrading the collection and making sure everything we have is consistent with our mission.” Dunwoody said the items listed for deaccession have out-lived their usefulness. “A lot of times items are duplicated, lack authenticity, or are deteriorated beyond use.” She emphasized that items for deaccession undergo “very careful consideration.”

Chairman Poynter asked for an overview of the deaccession process. Dunwoody responded that the curator reviews the collection, and presents a list of items for deaccession to the Collections Review Committee for approval, and then subsequently presents the proposal to the Indiana State Museum Board of Trustees. Following approval by the Trustees, the rules provide for final action by the Commission.

Klein asked, “Who sets the value of the items?” Dunwoody explained that the curators set the value “since the curators know the collection so well and they know the current market value of those items.” She also explained that the items are sold by special auction. “If the item does not have very much value, we can use state surplus” or the item can be used for conservation experience.

Thomas Easterly moved for approval to deaccession items from the collections of the Indiana State Museum and historic sites. Mark Ahearn seconded the motion. Upon voice vote, the motion carried.

DIVISION OF WATER

Consideration of renewal of contract for low flow augmentation from Monroe Lake for Indianapolis Power & Light Company, Contract No. MWS-05-1

Chairman Poynter indicated that this item was withdrawn, and then deferred to Ron McAhron for further explanation. McAhron explained that P.L. 231-2007 (HEA 1738; codified as amendments to IC 14-25-2)) became effective on May 18, and “precluded us from getting all the necessary work done as per the new statute to allow this item to go forward.”

The Chair said, “I know this is going to be an item that’s going to be addressed by this Commission, and may be an opportunity for the Advisory Council and this Commission to work together to understand this issue to be of service.”

NRC, DIVISION OF HEARINGS

Consideration of Report of Public Hearing and Comments, and Recommendation regarding final adoption of amendments to 312 IAC 9 governing endangered species, rifles using cartridges of defined specification for hunting deer, and other miscellaneous amendment; LSA Document #06-272(F); Administrative Cause No. 06-125D

Sandra Jensen, Hearing Officer, presented this item. She explained that a proposed amendment would add the cerulean warbler to the list of endangered species of birds at 312 IAC 9-4-14, and would also strike the word “threatened” in several sections to identify the listed species as “endangered, not merely as threatened or extirpated.” She also noted that a proposed amendment would exempt a youth that is participating in a free hunting day from registration and possession of an identification number issued through the Harvest Information Program.

Jensen said a proposed amendment to 312 IAC 9-3-3 would clarify certain types of licenses that may be utilized to hunt deer by firearms and bow and arrow. “The predominant interest with this particular rule is the authorization that it would provide the use of rifles that fire bullets of .357 inch or larger diameter using cartridges with cases measuring a minimum of 1.16 inches and a maximum of 1.625 inches as a legal weapon for hunting deer firearms season.”

Jensen noted that Commission granted preliminary adoption to the proposed rule package in July of 2006. “All of the statutory processing requirements have been fulfilled.” She indicated that the report details certain ballistics data and other information relative to these “particular rifles in comparison to modern slug shotguns and muzzle loading guns” that are currently authorized. She also noted that the comments received were “predominantly” in favor of the proposed rule. “There were a certain number of citizens that commented in opposition to the use of any caliber of rifle. Many of these citizens believe that Indiana is just simply too densely populated across the board for use of any type of rifle for the hunting of deer.” Jensen pointed out that several comments suggested the Commission consider certain populated areas be exempted from the proposal that would allow the use of a rifle to take deer. Jensen indicated that she did not have a recommendation regarding exemption of areas. She then recommended final adoption of the rule amendments as revised and presented in the Commission’s packet.

Doug Allman indicated that he was not representing any particular group, but was speaking on his own behalf. “The groups that I work with have not taken a position, or had not had time to formulate a position.” He indicated that the adoption of the proposed rule would be a “mistake.” Allman said he has hunted since the late 1970s when the shotgun and muzzle loader “were pretty simple weapons”. He continued, “We chose those weapons in the state because they were limited to medium range weapons—60, 80, to 100 yard weapons”. Allman noted that with technology weapon ranges have increased “with no check”. He explained that as the muzzleloader became “inline” the ranges increased “dramatically to 100 to 150 yards.” Allman noted that Savage Arms, Inc. manufactures a smokeless powder muzzleloader that has a range of “200 to 250+ yards.” He also noted that the shotgun has “drastically improved” from a smooth bore to a rifled shotgun shooting sabots (bullets within a plastic jacket that spins the projectile increasing range).

Allman said that in the 1980s simple pistols were short range to medium range. “Then along came the pistols capable of firing 200 yard ranges, the Contender is the most prevalent of those guns.” He noted that the proposed rifle cartridges are currently allowed with the handgun. Allman said that Indiana’s population and urban areas have expanded. “There are homes in every woodlot. There is nothing being done to address” the ever-increasing weapons ranges. He indicated that the adoption of the proposed rule would “be taking us in the wrong direction.”

Allman noted that local governmental bodies are “banning projectiles” within their limits. “It is much easier to say that Indiana is a short to medium range deer hunting state, and defend it.” He indicated that the proposal would allow the use of a 10-shot magazine. The proposal is an “escalation of length, range, and at some point safety does become involved.”

Chairman Poynter thanked Allman for his comments, and said, “I know we have spent a lot of time with this documentation.” He asked Allman whether his concerns for safety originate from a ballistics perspective. Allman indicated that his concerns are regarding the effective range capabilities of the weapons.

Allman raised the concern that the Hearing Officer’s Report “does not go far enough to include the identity of the commenter and “where they’re from”. He added, “We have comments coming in from all over the United States, be it gun affiliation, or whatever, and we have gun manufacturers commenting”. Allman said he is “not opposed” to comments from these entities, but “I would at least like to know who is commenting.”

Stephen Lucas, Director of the Commission’s Division of Hearings, said that commenter identification is “a universal issue. It is not unique in this situation, and I think it is a legitimate thing to discuss.” He noted that approximately two years ago the Commission approved the position that any anonymous comments received are not considered. A response is sent back to the anonymous commenter requesting identification, sometimes without success. “With the advent of email, we have anonymous at a whole different range; it’s a whole different thing.”

Lucas said that Commission discussion of commenter identification would be “valuable” for all types of issues. “It’s great to get comments by email. It’s more convenient,” but identifying the person who comments has become increasingly problematic. He suggested that the issue may be an appropriate discussion topic for Natural Resources Advisory Council as a possible nonrule policy document.

Jensen said she reviewed ballistics data in preparation of the report. “I understand the perception of a rifle versus the perception of the traditional shotgun or traditional muzzleloader. The fact of the matter is that these particular rifles proposed do not carry effective ranges or even maximum ranges that are anything beyond a shotgun, or at least minimally beyond”. The Chair thanked Jensen for summarizing a “very complicated issue.”

Patrick Early, Commission member, said, “I always share any concerns about people trying to curtail hunting in any way. I understand what [Allman] is talking about, and in some ways I agree with him. I understand what [Jensen] is saying.” He explained that the rifles proposed are “within the ranges of the weapons we currently have available in Indiana.” Early noted that

there are fewer hunters, and “our children are not hunting as much. You are not having as many people buying licenses, and that’s a nationwide trend.” He also noted that the proposed rifles “do not kick. You certainly can have younger people hunting with them, and you can have women hunting with them. There are some advantages to that.” Early noted there is no statistical evidence in Indiana, since the range of weapons has increased over time, to indicate that there is any effect on public safety. “I don’t think the incidence of shootings has increased.” He concluded, “I think this is an opportunity to get people that do not hunt right now [to begin] hunting. This could be a positive for the sport. I think that local government and city council, and people like that that have a bone to pick, are going to attack us regardless. You don’t wait for people to do things like that, you move forward for what’s best for the sport.”

Chairman Poynter asked Mark Reiter to briefly summarize the ballistics of weapons that are currently allowed compared to the proposed rifles. Reiter, Public Lands Program Manager for the Division of Fish and Wildlife, said that the sabot shotgun slugs currently allowed and the inline muzzleloader have a “much longer effective range” than the rifles being proposed. The Chair asked Reiter to quantify his comments. Reiter indicated that he personally has several of the proposed rifles and has tested the distance and accuracy of these firearms. “I would not shoot at a deer beyond 75 yards or 100.” He indicated that the proposed rifles are “just not capable of that. The accuracy is not there once you get beyond 75 yards.”

Robert Wright, Commission member, inquired of the distance the projectile would travel with the proposed rifle shooting a pistol cartridge as compared with the muzzleloader. “Is it going to travel a longer distance?” Reiter said that the distance traveled would depend on the cartridge load. “It’s really hard to compare those things.” He explained that a heavier bullet coming out of a barrel “fast is going to go farther. There are muzzleloaders that are shooting 150 grains of black powder substitute, and shooting a 300 and some grain bullet...and that is a legitimate 500-yard gun.” He noted that to make a comparison of the traveling ranges of the weapons would amount to “an educated guess. The muzzleloader would go farther. The ultimate muzzleloader—the inline with the heavy charge—would go farther” than the proposed rifles. Allman asked whether the use of the proposed rifles would be allowed during state park hunts, fish and wildlife areas, and areas of high hunter density. Chairman Poynter said, “I don’t believe the rule calls for any sort of discretion. Whatever weapons are allowed during the legal season, wherever hunting is allowed, these will be allowed as well.”

Richard Mangus, Commission member, asked, “Are we just talking about deer hunting?” The Chair answered, “To the best of my knowledge.” Jensen clarified that the proposed rifles would be allowed during hunting of deer in the firearms season. Lawrence Klein asked whether a rifle is used in any other season. Reiter said that those hunting coyote “generally shoot a smaller caliber center-fire rifle.” Klein asked, “So, center-fire rifles are used for hunting already in the state of Indiana, which is not related to geography or ballistics?” Reiter answered in the affirmative. Jensen said that as the rule is currently written, the use of rifles in hunting deer during firearms season is not allowed. “This rule would allow only these rifles for hunting deer in the firearm season.” She explained that there is no rifle restriction during the hunting season of coyote, rabbit, fox, and other small mammals other than deer.

Allman said that he did not have concerns regarding the use of rifles during the hunting of coyote “where you are calling the animal in and taking one shot.” He said the concern is not with the first shot, but with additional consecutive shots “when swinging on the animal, and that’s when you get into trouble. That’s why we proposed a 3-shot limit. Your problem in safety allies when you are swinging on a running animal.” He noted that coyote hunting is a “controlled situation”.

Richard Mangus moved to give final adoption of amendments to 312 IAC 9 governing endangered species, rifles using cartridges of defined specification for hunting deer, and other miscellaneous amendments. Lawrence Klein seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing and Comments, and Recommendation regarding final adoption of amendments to 312 IAC 9-3-2, 312 IAC 9-3-4, and 312 IAC 9-3-5 governing the management of fish and wildlife (also known as the “one buck rule”); LSA Document #06-572(F); Administrative Cause No. 06-185D

Sandra Jensen also presented this item. She explained that the proposed rule corrects certain licenses by which deer may be hunted by bow and arrow, and extends the opportunity of taking of antlered deer by the use of crossbow through September 1, 2012. Another proposed amendment would extend the restriction of taking only one antlered deer per year. “This rule package has been commonly referred to as the ‘one buck rule’.”

Jensen said the Commission gave preliminary adoption to the proposed rules on November 14, 2006. She said the current rule has been effective for the last five years. “The majority of citizens offering comments of this rule package that would extend the ‘one buck rule’ have been in favor of that extension.” Jensen also said that those in favor of the extension commented that they have seen a greater number of mature antlered deer as a direct consequence of the restriction.

Jensen said the majority opposed to the extension of the ‘one buck rule’ commented that the restriction of taking only one buck per year eliminates hunting opportunities, especially during the bow season. “Many of the citizens desire to allow the taking of two antlered deer for a period of approximately three years, and collect data for comparison to the past five year period of time.” Jensen noted that Department data indicates that overall deer harvest with archery equipment declined in the past five years; however, “there have been a notable and large number of variables”, such as the 2001 license fee increase coinciding with the effective date of the “one buck rule.” Jensen said, “It is inconclusive as to whether the ‘one buck rule’ is having that impact on archery hunting or whether there is just a decrease” in hunting with archery equipment, but noted that an examination and continued monitoring of this situation might be worthwhile.

Jensen said that some comments offered “enhancements or alternatives” to the ‘one buck rule,’ such as elimination of all restrictions on crossbows. She said that these comments were “beyond the scope” of the rule proposal; however, the Department indicated in its response that these comments would be considered with respect to possible rule amendments in the future. Jensen

recommended final adoption be given the proposed rule amendments as presented in the Commission packet.

The Chair noted that the Natural Resources Advisory Council reviewed “extensively” the proposed rule. Early indicated that the testimony at the Council’s meeting was “overwhelmingly in favor” of the extension of the ‘one buck rule’. We had very few dissensions.” The Chair then recognized the Department’s deer biologist, Dr. Jim Mitchell.

Mitchell said, “Probably the most significant event that happened in the deer program this last year was the hiring of Chad Stewart.” He reported that Stewart has a Master’s Degree in deer management, and he has “extensive experience working as a deer manager beyond his degree, and as a deer hunter, both archery and firearms. He represents a real significant addition to the expertise.” Stewart said that he would be assisting Mitchell with proposed rules, setting seasons of harvest, disease monitoring, and deer crop depredation, and performing analyses of data.

Robert Wright moved to approve for final adoption amendments to 312 IAC 9-3-2, 312 IAC 9-3-4, and 312 IAC 9-3-5 governing the management of fish and wildlife (also known as the “one buck rule”). Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing and Comments, and Recommendation regarding final adoption of 312 IAC 18-3-20 governing regulation of Brazilian elodea (*Egeria densa*), an exotic plant, as a pest or pathogen; LSA Document #06-570(F); Administrative Cause No. 06-011E

Sandra Jensen also presented this item. She explained the rule proposal identifies Brazilian elodea, which is an exotic aquatic plant, as a pest or pathogen thereby authorizing the regulation of the plant by the Department. The Commission gave preliminary adoption to the proposed rule July 2006. Jensen said that no comments have been received.

Jensen explained that Brazilian elodea is a plant that is “capable of quickly crowding out native aquatic species, and has been discovered in Griffy Lake.” She said the eradication of the plant from Griffy Lake is estimated to cost, at a minimum, \$135,000. Jensen said the adoption of this rule would aid the Department in the eradication efforts, as well as to assist in preventing the spread of this exotic plant to additional bodies of water. She then recommended final adoption be given to the propose rule amendment as presented in the Commission’s packet.

John Davis pointed out that the infestation of Brazilian elodea in Griffy Lake may have originated from “numerous people dumping their aquariums” in the lake. He said the plant is still legal for sale as an aquarium plant. “We are making an effort to have an education program, especially at colleges, for students to understand that when they take their fish out to the lake and dump the aquarium, the fish probably die but the Brazilian elodea doesn’t.” Davis noted that the Department has done a “good job, but we are not done. We have to be ever-vigilant.”

Lawrence Klein asked, “What happens to a Brazilian elodea dealer? I didn’t see a penalty.” Jensen indicated that assessment of infractions, fines, and various penalties may occur.

“Identifying the plant as a pest or pathogen allows the Department certain enforcement authority that [it] wouldn’t already have.” Klein said that pet stores should be prevented from selling the plant. Davis explained that it is not illegal to sell Brazilian elodea to aquarium owners. Jensen added that persons that have the plant in their aquariums are required “to make sure the plant does not get out.” Davis said that making the sale of Brazilian elodea illegal at some time may be considered, but “we are going cautiously here.”

Thomas Easterly moved to approve for final adoption of 312 IAC 18-3-20 governing the regulation of Brazilian elodea (*Egeria densa*), an exotic plant, as a pest or pathogen. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing, Analysis and Recommendation for final adoption of amendments to 312 IAC 1, 312 IAC 2, and 312 IAC 8 governing activities on DNR properties; LSA Document #06-333(F); Administrative Cause No. 06-082A

Jennifer Kane, Hearing Officer, presented this item. She noted the rule amendments to the various property provisions are a product of the DNR Properties Workgroup, an informal entity in the agency with representation from the DNR property divisions and the Division of Law Enforcement. She said the public hearing was convened as scheduled on April 18, but no one from the public appeared for the hearing, and no comments were received outside the public hearing.

Kane said that the definition of “boat”, “motorboat”, and “watercraft” are proposed to clarify that “boat” and “watercraft” are equivalent, and a definition of “motorboat” is also added. She said that the Division of State Parks and Reservoirs and the Division of Law Enforcement worked together to propose modifications to the fishing tournament rules at 312 IAC 2-4. “The proposed amendments would give the DNR flexibility with fishing tournaments and the number of tournaments requested in a given year.” She also noted that several amendments are proposed to the management of fishing tournaments to mirror current practice providing: (1) consistency between lakes located on and off of state property; (2) compliance with the new Lake Permit; and (3) more opportunity to more groups. Kane said the application fee for a fishing tournament will help defray administrative costs.

Kane said that 312 IAC 8-2-6(d) is amended to reflect that a daily horse tag was reintroduced for the use of horse riders using DNR properties. “The daily tag is set at \$5 and the annual tag was raised to \$20 in 2005.” The requirement to display a horse tag would be eliminated, but the receipts from the sale of either the annual or daily horse tag would serve as proof of purchase. She said that the daily receipt or annual tag receipt must be produced when requested by a DNR official.”

Kane explained that a the proposed amendment to 312 IAC 8-2-8 requires an annual boat or motorboat Lake Permit to operate or maintain a boat on all DNR property lakes, reservoirs and state park lakes, except for lakes on Fish and Wildlife Areas. “The Lake Permit replaces the Boat Launch Permit, which was not enforceable due to availability of free launch ramps.” She said the use of a Lake Permit would allow for more effective enforcement and better consistency

among DNR properties, as well as generating income.” An amendment to 312 IAC 8-2-16 would require property users to check in daily at a self-service check-station before entering the Goose Pond Fish and Wildlife Area. “At present, only hunters are required to check in.” Kane indicated that the Division of Fish and Wildlife would be able to track the use of the property in order to plan for future developments and programs. She then recommended the proposed rule amendments be given for final adoption as contained in the Commission’s packet.

Thomas Easterly noted that a state highway runs through the property. “Certainly, you do not want those people to check in, the ones just driving through.” Davis explained that it was not the Department’s intention to have those people driving through to check in. “There are self check-in stations for persons to log their intended use of the property, hiking or bird watching.” He also noted that there are places to pull off safely and use the property.

Lawrence Klein moved to approve for final adoption of amendments to 312 IAC 1, 312 IAC 2, and 312 IAC 8 governing activities on DNR properties. Robert Carter seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation for final action on readoption of 312 IAC 1, Definitions; LSA #07-111(F); Administrative Cause Number 07-001A

The Chair explained that this agenda item and the following three agenda items would be grouped together for summarization.

Jennifer Kane also presented this item. She said this agenda item and the next three agenda items are similar as to process and ready for readoption. Kane explained that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. For consideration are the recodifications of four rule articles: (1) 312 IAC 1, containing Definitions (that apply throughout Indiana Administrative Code Title 312 with some exceptions); (2) 312 IAC 4, governing Law Enforcement standards and practices [Agenda Item 13]; (3) 312 IAC 20, governing Historic Preservation Review Board standards and the Indiana Register [Agenda Item 14]; and, (4) 312 IAC 25 governing Coal Mining and Reclamation Operations (I-SMCRA) [Agenda Item 15].

Kane noted that, as provided by rule, the Director of Division of Hearings gave preliminary adoption to each of the four articles. “The proposals are for the Commission to approve these four articles exactly as they currently exist so that they would not be ‘sunsetting’ or expired.” She indicated that the Commission packets contained copies of each article as currently written with the exception of 312 IAC 25, which was not restated due to its extraordinary volume. She noted, however, a copy of 312 IAC 25 was available for Commission review at today’s meeting and was also cross-referenced to the website of the Legislative Services Agency in the hearing officer report.

Kane said that no public comments were received concerning any of the proposed readoptions. She reiterated that amendments are not proposed and the articles would be readopted in their present written form. Kane said that fiscal analyses for each of the readoptions were performed

with a special emphasis upon the regulatory impacts on small businesses. “The net result of the analyses is that the [affected DNR Divisions determined the] proposed packages do not impose impacts to small business.” Kane recommended readoption be given to 312 IAC 1, 312 IAC 4 [Agenda Item 13], 312 IAC 20 [Agenda Item 14], and 312 IAC 25 [Agenda Item 15] in their entirety without amendment.

Lawrence Klein sought clarification of the process, and asked, “Simply what we are doing here is readopting rules that were previously adopted because of ‘sunset’ issues.” Kane answered in the affirmative.

Robert Wright moved to approve readoption of 312 IAC 1 in its entirety without amendment. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation for final action on readoption of 312 IAC 4, Law Enforcement; LSA #07-145(F); Administrative Cause Number 07-013L

[See discussion of previous agenda item.]

Robert Wright moved to approve readoption of 312 IAC 4 in its entirety without amendment. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation for final action on readoption of 312 IAC 20, Historic Preservation; LSA #07-140 (F); Administrative Cause Number 07-002H

[See discussion in Agenda Item 12.]

Robert Wright moved to approve readoption of 312 IAC 20 in its entirety without amendment. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation for final action on readoption of 312 IAC 25, Coal Mining and Reclamation Operations (ISM CRA); LSA #07-146(F); Administrative Cause Number 07-005R

[See discussion in Agenda Item 12.]

Robert Wright moved to approve readoption of 312 IAC 24 in its entirety without amendment. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

General Comments

Jane Ann Stautz complimented the Department’s Division of Outdoor Recreation regarding its STATEWIDE COMPREHENSIVE OUTDOOR RECREATION PLAN (SCORP) 2006-2010. “I know it took a lot of extra effort and time.”

Glenn Salmon, Director of the Division of Fish and Wildlife, said that the presentation by the Division of Law Enforcement illustrated the “changing face of law enforcement.” He indicated that with Brazilian elodea and hydrilla in Lake Manitou, “If you look at fish and wildlife resources, that’s looking to be the future. We have these exotic invasives, both aquatic and terrestrial coming in and we are spending a fair amount of time and resources to address these issues.” He noted the “very successful” treatment of the Brazilian elodea infestation in Griffy Lake. “We are trying to have the same impact on hydrilla infestation.”

Lawrence Klein complimented the Chair regarding scheduling Commission meetings around the state. “I want to support that. Being a new Commission member, I’m catching things on the fly and trying to get up to speed on some things. Getting to see the actual operation at work, I think is sometimes more beneficial than trying to catch up through words and reports.”

The Chair said, “I appreciate your comments, but I defer to [the Division of Hearings staff] who work very, very hard to accomplish what we had tasked them to do, and that was to help this Commission actually work with the different DNR divisions. People forget that the Department of Natural Resources is not just fish and wildlife; it is very diverse and very dynamic.” He concluded, “The opportunity to experience first hand what takes place has always been an open invitation by the Department’s executive office, the biologists, and other staff.”

Adjournment

Meeting adjourned at 5:53 p.m., EDT.

Future Meeting Dates:

July 17: Pokagon State Park

September 18 (Tentative): Turkey Run State Park

November 13: 10:00 a.m., EST, The Garrison, Ft. Harrison State Park

The Department of Law Enforcement provided a display of law enforcement equipment for Commission members and guests to review prior to the Commission meeting.

Following adjournment, the Division of Historic Preservation and Archaeology (DHPA) gave a presentation. Jim Glass, Director of the DHPA, gave an overview of the responsibilities of the DHPA. Frank Hurdis, Chief of Survey and Registration, provided a brief explanation regarding preservation and the designation process for historic districts. The Commission then took a guided tour of the Town of Madison Historic District.