

NATURAL RESOURCES COMMISSION

The Nature Conservancy, Efroymsen Conservation Center,
Meyer Board Room, 620 East Ohio Street, Indianapolis, Indiana

Minutes of September 21, 2010 Meeting

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Robert Carter, Jr., Secretary
Mark Ahearn
Brian Blackford
Donald Ruch
Doug Grant
Robert Wright
R. T. Green
Martha Mettler Clark

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
Chris Smith	Executive Office
Kari Evans Bennett	Legal
Mark Reiter	Fish and Wildlife
Linnea Petercheff	Fish and Wildlife
Mitch Marcus	Fish and Wildlife
Justin Lynton	Fish and Wildlife
John Bacone	Nature Preserves
Tom Swinford	Nature Preserves
Dan Bortner	State Parks and Reservoirs
Julie Planck	State Parks and Reservoirs
Lisa Johnloz	State Parks and Reservoirs
Mike Crider	Law Enforcement
Scotty Wilson	Law Enforcement
Jim Allen	Division of Forestry
Josh Kush	Division of Forestry
Bourke Patton	Indiana Natural Resources Foundation
Mark Basch	Division of Water

Monique Riggs Division of Water

GUESTS PRESENT

Paul Arlinghaus	Bowden Quinn	Walfredo Defries
Fred McAninch	Barb Grant	CeAnn Lambert
Brad White	Joe L. Armstrong	Rick Ingram
Joe C. Armstrong	Randy Carnes	Don Gorney
Donna Sheets	Wayne Findlay	Anne Sterling
Ron Shipe	Glenn Pratt	Tim Julien
Ellen Jacquart	Kurt Dorman	Bruce Moss
Mary McConnell		

Bryan Poynter, Chair, called to order the meeting of the Natural Resources Commission at 10:00 a.m., EDT, on September 21, 2010, at The Nature Conservancy, Efroymsen Conservation Center, Meyer Board Room, 620 East Ohio Street, Indianapolis, Indiana. Mary McConnell, Director of the Indiana Chapter of The Nature Conservancy, welcomed the Commission to the new facility. The Chair expressed his appreciation for the opportunity to meet in this “fabulous building”. He said as a professional in commercial real estate he has an understanding of the building’s excellence and the TNC’s expression of a vision of the future.

Chairman Poynter called upon Kari Evans Bennett, DNR Chief Legal Counsel, to illuminate two important high court decisions pertaining to user conflicts on the Indiana waters of the Ohio River.

Evans provided Commission members and the public with a thorough briefing of *Carter v. Nugent Sand Company* which was decided by the Indiana Supreme Court in April as 925 N.E.2d 356. She also provided an overview of *Dyer v. Hall* which was decided by the Court of Appeals of Indiana in June as 927 N.E.2d 273.

At approximately 10:30 a.m., the Commission recessed and was guided by TNC’s Ellen Jacquart on a walk-through of the Efroymsen Conservation Center.

The Chair reconvened the Commission for its business meeting at 11:00 a.m. With the presence of ten members, he observed a quorum.

Chairman Poynter recognized Martha Mettler Clark, proxy for Thomas Easterly, Commissioner for Indiana Department of Environmental Management. The Chair then asked her to provide a brief overview of her role within IDEM. Mettler Clark responded that she serves as the Deputy Assistant Commissioner for the Office of Water Quality. Mettler Clark indicated that Commissioner Easterly regretted missing the meeting and was currently in Washington D. C.

The Chair then recognized R. T. Green as the newest Commission member. “R. T., thank you for being with us.” He said before today’s meeting that he and Commissioner Green chatted about the Commission and its varied responsibilities. “I assure you that [R. T. Green] is and will be a great addition to our Commission”.

Doug Grant moved to approve the minutes of the Commission's July 20, 2010 meeting. Robert Wright seconded the motion. On a voice vote, the motion carried.

Reports of the Director, Deputies Director, and Advisory Council

Robert Carter, Jr., Director of the Department of Natural Resources, provided his report. "I don't recall being this busy in DNR since I've been here, 2005." He announced that on September 25, the Governor would visit Moscow, Indiana to re-dedicate the Moscow Bridge, which was destroyed by a tornado in 2008. The Division of Forestry, Indiana Department of Transportation, the Department of Corrections, and the Indiana Department of Environmental Management "all pulled together and worked with the fund-raising arm" to reconstruct the bridge. "The Governor took the lead in fund-raising." The Division of Forestry provided the majority of the timber for the bridge. "We are very proud of that."

The Director announced that on September 26, Ducks Unlimited would host a "pride event" at Goose Pond to celebrate the success of the property's biodiversity, which has "exceeded all expectations of habitat and the different varieties of waterfowl that is drawn to the property". The Governor is scheduled to appear and will be presented a conservation award by Ducks Unlimited. "That's going to be very important to us."

The Director said the DNR has been working with the Department of Army, the Department of Defense, and the National Guard to facilitate an exchange of 1,300 acres at Camp Atterbury with the Indiana National Guard. The Indiana National Guard will build a cantonment on the acreage. "It has been a long process. We've been working on it for six years, and we're just about done." The "symbolic deed transfer" will take place on October 18 in the Governor's Office.

The Director said that "probably the most important" job especially during these "tough economic times" is the position of CFO for the Department. He said Jon Vanator left the agency to assume the position of Deputy Director of the State Budget Agency. "We are very fortunate to have Mike Smith who is a long-time state employee." The Director said Smith has worked with the State Budget Agency for the past ten years and will assume the responsibilities as the DNR's CFO. "Most importantly, Mike shares the passion and love for the outdoors that we do, so he's going to be a good fit."

The Director said he and John Davis attended a "Carp Meet" held at the White House. "We found out at that last second that we had to go and represent the Governor. It was a very interesting meeting with stakeholders, federal agencies, and a couple governors.... They were very impressed with the efforts of the Division of Water, Ron McAhron, and other folks that got together and in 60 short days built a carp barrier in Fort Wayne through Eagle Marsh. It was pretty impressive for them to hear that information."

John Davis, Deputy Director of the Bureau of Lands and Cultural Resources, provided his report. He said the 2010 Indiana State Fair was "very successful" noting that this year's State Fair was longer than previous years. The Hoosier Outdoor Experience was held September 18 and 19 at Fort Benjamin Harrison State Park with "lots of volunteers and customers experiencing a lot of outdoor activities for the first time."

Davis announced setting in motion the transfer of management of Roush Lake from the Division of State Parks and Reservoirs to the Division of Fish and Wildlife as a “budget move” that “will save us some money”. There was an approximate \$500,000 gap that needed to be closed in this year’s budget. “It takes fewer people to run a fish and wildlife area. We will offer fewer varied forms of activities. We are losing some activities at Roush, but I think we can make those up at the other reservoirs and Wabash State Park, Bluffton—all have activities close by.”

Davis provided an update regarding the Governor’s effort along the Wabash and Sugar Creek Corridor and along the Muscatatuck National Wildlife Refuge. “Those are going according to plan, which is to go as quickly as we can, but to make sure that we include all the different stakeholders and concerns of the local folks—particularly county officials.” Some of the big issues are lost property taxes, and drainage challenges along the Muscatatuck River. “We are working through that.” The DNR has attended county commissioner meetings, talked to commissioners individually, and met with stakeholders that will deliver services. The agency would eventually meet with the public through a series of meetings in fall 2010.

The Chair requested Bourke Patton, Director of the Indiana Natural Resources Foundation, to provide an update regarding attendance at the Hoosier Outdoor Experience.

Bourke Patton said last year there were 13,300 attendees, and this year there were approximately 18,400.

The Chair reflected, “That was a big success. Good work and great organization by a lot of people inside the Department.”

Ron McAhron, Deputy Director, Bureau of Resource Regulation, provided his report. He said the Division of Reclamation in working with a diverse group—the Department of Interior, NRCS, industry, folks from the environmental community, Farm Bureau and academia—has been recognized by the Department of Interior for the Partners in Conservation award. The Division has been studying in the coal mining area, southwestern Indiana, prime farmland reclamation techniques, “ways to put the soil back to restore the productivity that was there prior to surface mining.” The effort has been ongoing for many years, and “we are really proud”. He said the Director of the Office of Surface Mining in Washington D.C. would be coming to Indiana on October 6 to recognize these efforts.

McAhron reported that the Division of Entomology, with the “usual outstanding support from Steve” Lucas has put together an emergency rule to address a “very severe threat” to walnut populations. “There is a devastating walnut pest that has been found in Tennessee, another one of those invasive species making its way here.” The emergency rule established procedures to “hinder and hopefully prevent” accidental importation of the pest into Indiana. He said a rule proposal would be presented to the Commission for preliminary adoption at a future meeting.

Patrick Early, Chair of the Advisory Council, was not present.

CHAIR AND VICE CHAIR

Updates on Commission and Committee activities

Jane Ann Stautz, Vice Chair, indicated that the Commission's AOPA Committee is scheduled to meet in November.

The Chair said, "I know that you guys have been busy all summer long. Thank you for all you do as Chair of the AOPA Committee and thanks to the Committee members."

The Chair reintroduced R. T. Green, and asked him to provide a brief biography.

R. T. Green said he lives in Fort Wayne, is married, and has two grown sons. He has been a practicing attorney for 34 years. Of those 34 years, "five years I was on the bench down in Columbus, Indiana, as Circuit Court Judge". Green said he has spent most of his time in front of juries doing trial and civil work. "As part of what I do and what my sons and I do, we spend a lot of time outdoors. I know both of my sons really enjoy being outdoors as I do, and I consider myself both an avid hunter and fisherman." Green indicated that he owns approximately 330 acres in Martin and Daviess Counties, portions of which are planted in warm season grasses to provide quail habitat. "It's kind of a pet project for me, because as I grew up, my father shared a lot of field time with me. . .in the field fishing and hunting." The Natural Resources Commission "in many respects is just a natural extension of what I am and what I do." Green concluded, "I cannot tell you, but how I admire what this agency does, and what it has done for this State, and for what it can do for this State."

The Chair said, "Thank you. We are glad that you are a part of our Commission".

The Chair provided an update on the citizen petitions for rule change regarding coyote and closed pen issues. The Commission's task force, which was assembled to review the issues, has worked "very hard to try to find some opportunities for this Commission to actually go and witness kind of what we anticipated or what we thought might be going on." The Chair said the task force and the Division of Law Enforcement have spent hours over the summer investigating through "good old belly to belly conversation" with the owner of an enclosed pen to understand "what the issue, in fact, was; what this Department could do prudently; and what this Commission could do as our next step. We promised that this activity or this action of this item would not be shoved under the carpet, but in fact would be dealt with in the open light of day." He said he has spent several hours in conversation with the pen owners "for my own personal understanding of what has happened. I know that Law Enforcement as well as the Division of Fish and Wildlife have made a personal visit to the operation in Linton." He indicated that the Commission has instructed the Department to present to the Commission, at its November meeting, proposed rule amendments. The Chair thanked all those that have worked on this issue. "Linnea [Petercheff] has spent hours, Law Enforcement has spent hours, and I think this will be the best course of action".

The Chair also provided an update on the Comprehensive Fish and Wildlife Rules Enhancement Project. "I'm very proud of not only the Department of Natural Resources, but most importantly

the citizens here in the State of Indiana.” The comprehensive review of the fish and wildlife rules at 312 IAC 9 was commenced two years ago. The project has been “executed on time.” Staff from the Department and from the Commission’s Division of Hearings has done an “incredible job” under Sandra Jensen’s leadership. At its July 2010 meeting, the Commission gave preliminary adoption to rules governing deer hunting. The Division of Fish and Wildlife, in conjunction of “an awful lot” of interested stakeholders, met to draft a proposed rule. “At the time, that rule package was ‘best-practice best-output’, if you will, of what might accomplish the goal, and the goal was the deer herd reduction especially with antlerless deer.” After preliminary adoption in July, the Division of Fish and Wildlife and Commission members have “reviewed very closely” the comments that have been received through the Department’s five open houses and the written comments received through the Commission’s online comment form. “It was stunning; it’s true testimony to the fact that people pay attention and responded as we had asked them to do.” The Chair then asked Mark Reiter, Director of the Division of Fish and Wildlife, to offer his perspectives.

Mark Reiter said that with the number of comments received regarding the proposed amendments, “it was pretty obvious that people didn’t understand all of the reasons behind the proposals that [the Department] made, especially they didn’t understand that we had an objective that was different from our previous objective.” Previous deer herd management objectives were designed to produce a “stable and slightly increasing” deer herd. He said the current deer management objective is to have “a herd that’s trending downward.... We need to employ some different hunting regulations to get there.” Reiter said the Division of Fish and Wildlife conducted five open houses around the state in order to provide open discussion. 300 people attended the open houses.

Reiter reflected the Division did not “see anything different than what was expected” regarding comparison between the responses received at the open houses and the responses received through the Department’s online informal survey conducted before preliminary adoption. “By and large the vast majority—I will say 95% to 98%—of the comments were about the shortened firearms season”, the proposed rule amendment that citizens dislike the most. Many comments expressed an interest in having more ability to use crossbow throughout the season, especially in archery season. Comments were received regarding a proposed later state-wide bonus antlerless deer season to occur between Christmas and New Year’s Day. “People made comments that they didn’t think that many people would be inclined to go out that time of the year because it was cold.”

The Chair said that as a result of the comment received after preliminary adoption, the Commission should “anticipate seeing some revisions” to the proposed amendments. “The key here and the message here is that the Commission has heard, the Department has heard. We’re working very closely to create an atmosphere that it’s not a done deal. There is opportunity out there for further discussion. Most importantly, the objective has to remain—and that is important for everybody to understand in the hunting community—of reducing the deer population, but how we get there” is still in the mix. Those constituents who buy licenses and who enjoy our hunting traditions in the State of Indiana are being heard.” The Chair said that the comments received indicate there is dissatisfaction with the current rule proposal. “There will be

further conversation between now and our November meeting, and we can expect to see some modifications” proposed in November “to that preliminarily adopted rule package.”

DNR, EXECUTIVE OFFICE

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

The Chair asked whether there were any items for referral to the Advisory Council.

John Davis noted proposed amendments to the rules governing the taking of smallmouth bass would be scheduled for discussion during the Advisory Council’s October 13 meeting.

Information Item: Update on recently enacted legislation and possibilities for new legislation

Chris Smith, the Department’s Legislative Liaison, reported on new legislation from the 2010 Legislative Session. He said P.L.46-2010 (HEA 1064) established a procedure for the Division of Fish and Wildlife to collect a minimum \$1 donation with purchase of a hunting license. The funds would be deposited into the Sportsman’s Benevolence Fund and used to support programs to help feed Indiana’s hungry. “Basically, hunters will go out and harvest a deer through the Sportsman’s Benevolence Fund, and the main group they work with right now is Farmers and Hunters Feeding the Hungry”, which works with several deer processors throughout Indiana. The donated funds would help cover the cost of deer processing, and the venison would be donated to local food banks or pantries. This new opportunity “is just now starting to gear up some dollars. It hasn’t hit real high notes yet, but it’s early on in the process”.

Smith explained that P.L.59-2010 (HEA 1040) extended the “sunset” date on the Lakes Management Workgroup, a 26-member committee that “helps give some suggestion on lake preservation” such as amendments to administrative rules or statutes.

HEA 1232 dealt with the removal of log jams in the floodway by streamlining the permitting process. “We had been working under an emergency rule the past two years due to some severe flooding throughout the State...and that legislative piece basically put [the Department] in that role permanently. Smith said the Department only becomes involved in logjam removals on scenic and recreational streams. Otherwise, IDEM is the “key point” of permitting.

P.L.84-2010 (SEA 356), which was a professional licensing bill, contained an amendment dealing with licensing of water well drillers and pump installers. He said Mark Basch from the Division of Water would present additional information regarding this statutory change when the Commission considers for preliminary adoption a proposed rule in Agenda Item 10.

Smith said SEA 400 was a miscellaneous motor vehicle bill, which contained definitions for “all terrain vehicles” and “recreational off-highway vehicles”. He said the amendments did not affect the administrative rules governing off-road vehicles.

Smith said the Department tracks three Legislative study committees—Water Resources, Natural Resources, and Environmental Quality Services. He said the Natural Resources Study Committee’s second meeting was set for September 27 and 28 at McCormick’s Creek State Park. The Committee would be provided updates by the Invasive Species Council regarding Asian carp. The Nature Conservancy would lead a discussion to help create a sustainable funding source for conservation. “We are going to talk a little bit about our deer rules again.”

PERSONNEL INTERVIEWS

Recommendation for appointment to position of Assistant Property Manager at Kankakee River Fish and Wildlife Area following personnel interview process

Mitch Marcus, Chief of Wildlife Section of the Division of Fish and Wildlife, presented this item. Marcus recommended Justin Lynton for appointment as Assistant Property Manager at the Kankakee River Fish and Wildlife Area. He noted that Lynton grew up in Corydon, Indiana, a graduate of Franklin College, and is currently working at O’Bannon Woods State Park as a labor foreman and maintenance supervisor.

The Chair said, “I did have a chance to talk to all of the personnel candidates. Again, I am always astonished with the quality of folks that the Department is able to recruit.” He invited Lynton to provide a brief biography.

Justin Lynton said he has worked at O’Bannon Woods State Park for the last two years. “I’ve been looking forward to taking this job.” In response to a question from the Chair, Lynton said his new responsibilities “start out with the waterfowl season. I’m looking forward to that.”

John Davis noted that the Kankakee River Fish and Wildlife Area is a property where the Department has a “tremendous group of interested constituents and residents, all of whom have a direct connection to the Kankakee River, the Yellow River, and their drainage. It will be really a great experience for Justin to watch government and citizens in action.”

Mark Ahearn moved to approve the appointment of Justin Lynton as Assistant Property Manager at the Kankakee River Fish and Wildlife Area. Brian Blackford seconded the motion. Upon a voice vote, the motion carried.

Recommendation for appointment to the position of Assistant Property Manager at Morgan-Monroe State Forest and Yellowwood State Forest

Jim Allen, Property Manager at Morgan-Monroe State Forest and Yellowwood State Forest, presented this item. He recommended the appointment of Joshua Kush as the Assistant Property Manager at the two properties. Allen noted that Kush is originally from Pennsylvania, attended Paul Smith College in New York, has worked for the U.S. Forest Service, and is currently working for the Department as a part-time forester on the properties. “We really like Josh. He has done a good job for us. We would appreciate approval” of his appointment.

The Chair said that the appointment of Kush was preliminarily approved, “in an unconventional way”, contingent on final approval by the Commission as a whole. He had an opportunity to visit the two State Forests while hiking a portion of the Tecumseh Trail. “I had an opportunity to talk to Josh about some of his projects.”

Brian Blackford moved to approve for appointment of Joshua Kush as Assistant Property Manager at Morgan-Monroe State Forest and Yellowwood State Forest. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

John Davis reflected the Kankakee River Fish and Wildlife Area, as well as the Morgan-Monroe State Forest and Yellowwood State Forest, are “fantastic examples of the multi-disciplinary talents needed to manage DNR properties. We have, as you know, a lot of conversation about timber harvesting and use of the forest. That will be one of the things that Chris [Smith] and I will talk about at summer study this next week.... The talents that it takes are really broad.”

The Chair said, “Having spent...quite a bit of time at Morgan-Monroe and Yellowwood both, they are just extraordinarily diverse properties, beautiful, and a lot of work to do. You guys do it very well.”

Recommendation for appointment to position of Assistant Property Manager at Pokagon State Park, Steuben County

Dan Bortner, Director of the Division of State Parks and Reservoirs, presented this item. He recommended the appointment of Lisa Johnloz as Assistant Property Manager at Pokagon State Park. He said Johnloz has been with the Department for about 15 years. “She’s done everything from water treatment operator to her current position as a supervisor for the Trine property reclamation project. Lisa has done an outstanding job on building removal and all of the things necessary to bring that property up to snuff so we can get it open to the public.”

The Chair observed, “Sometimes when you operate in these roles as a Commission to approve an assistant property managers and property managers, I have the opportunity or the Personnel Committee has an opportunity to talk to candidates.... I encourage all those to visit with these property managers and assistant property managers. As Deputy Director Davis said, it is extremely diverse, extremely technical, and I couldn’t have been more thrilled to hear all of the things [Lisa Johnloz is] doing and has done. [Pokagon] is a very, very important state park.” He then asked Johnloz to provide a brief biography.

Lisa Johnloz said she has two grown children and a grandchild on the way. She has worked for the Department at Pokagon for 14 years. “After I got my degree later in life, I went to a university, and found that university life...was not for me. I was called back to be Project Manager at the Trine State Recreation Area. I love it. Working with the Young Hoosier Conservation Corps—I love it. It’s just a great opportunity where we have taken buildings down and been able to work at a property from a floor level up. It’s just a wonderful experience.”

Robert Wright moved to approve for appointment of Lisa Johnloz as Assistant Property Manager at Pokagon State Park. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

HERITAGE TRUST AND FOUNDATION

Information Item: Overview and update on the Foundation

Bourke Patton, Director of the Indiana Natural Resources Foundation, presented this item. He explained that approximately 20 years ago the Natural Resources Foundation was created by statute to be the “supporting not-for-profit” for the Department. He said the Foundation’s mission is “specifically” to support and sustain educational and scientific programs and policies. Patton provided Commission members with a copy of the Foundation’s annual report, noting that the Foundation has been “very active”. The annual report outlined mission successes. He said the Hoosier Outdoor Experience is the Department’s number one outreach program for children and adults to “get into conservation and get into the outdoors”. The Foundation also supports ProjectWild and ProjectWet, which are educational programs and curriculum for teachers.

Patton said the Foundation has helped purchase land for nature preserves and for fish and wildlife areas, and it has also helped purchase heavy equipment. The Foundation’s Board is “challenging us to think more strategically and to think more proactively about how we can support DNR. We’re starting to look at how we can move the needle for DNR from dependency on general fund dollars from the Legislature.” He said the Foundation’s focus for the next two years is to “provide seed money and transition funds and strategic planning assistance to help move programs off of general funds...to be self-sustaining.” The Foundation will review the educational curriculum and how the Foundation can be a “revenue provider” for the Department to construct gatehouses. “If you don’t have a gatehouse, you can’t charge admission.”

Patton said the Foundation, for the long-term, will review feasibility of supporting building visitors’ centers or assisting in large-scale remodeling projects. He mentioned Muscatatuck Bottoms, a 25,000-acre land acquisition project, and the Wabash River Corridor Buffer, a 48,000-acre project. “We are going to be a key partner in that, some of the land acquisition but more of the installation, preparation, and restoration work.... It’s an incredible task. There’s a lot of need out there, a significant need for the Department.”

DIVISION OF NATURE PRESERVES

Consideration of the dedication of the Tom and Jane Dustin Nature Preserve, Allen County

John Bacone, Director of the Division of Nature Preserves, presented this item. He said the nature preserve would be dedicated in memory and in honor of Tom and Jane Dustin, who were “eminent conservation and environmental proponents for many years”. The Dustins founded the ACRES Land Trust and were “instrumental in the establishment of the Indiana Dunes National Lakeshore and a number of Indiana’s best conservation laws.” Bacone said the Dustins owned the 85-acre property. Upon their deaths, they donated the property to the ACRES Land Trust, along with property’s house, which is now the Trust’s headquarters.

Bacone said the property contains “very high quality” old growth oak hickory forest on the bluff of Cedar Creek, which is a State designated river. He noted conservation properties have been established along Cedar Creek “so it’s now over 1,000 acres of conservation corridor.” Part of

the property proposed for dedication was acquired with funds from the Indiana Heritage Trust Program. He then recommended dedication of the property as a nature preserve.

Glen Pratt said he moved to the Midwest “40-some years ago” working for the Department of the Interior, then for EPA addressing the Great Lakes and the surrounding States. “Early on, I met the Dustins. I have never known people that were more focused in working in a positive way, not threatening and challenging, but working to bring together a balance of development and preservation of this national treasure that we have.” He said he was employed as an Assistant Commissioner during Governor Robert Orr’s Administration. “When you look at not only the water quality impacts, but the impact on the whole surrounding area, this is a national treasure.” The Dustins “really deserve what you have done.” They were outstanding by “working together with people, working on legislation, and working to help get funding to preserve it.”

Donald Ruch moved to approve the dedication of the Tom and Jane Dustin Nature Preserve. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of the Mossy Point Nature Preserve, Parke County

John Bacone also presented this item. He said the 93-acre land tract is located on Sugar Creek, and is “pretty significant environmentally.” The property contains a remnant population of hemlock that is only found naturally along Big Walnut Creek and Sugar Creek. “It contains some very high and spectacular ridges with high quality forests, both upland and floodplain.” He said this tract is an integral part of the Governor’s conservation area initiative that begins in Terre Haute and runs up the Wabash River, continues along Sugar Creek, and then up to Shades State Park. The property is joined on its north boundary by Allee Woods, owned by Wabash College. Immediately north of Allee Woods is the Gelhausen Tract that was acquired by the Division of Forestry. The proposed nature preserve is owned and managed by the Central Indiana Land Trust and was acquired, in part, with funds from the Indiana Heritage Trust. He then recommended dedication of the Mossy Point Nature Preserve.

Donald Ruch moved to approve the dedication of the Mossy Point Nature Preserve. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF WATER

Consideration of sixth amendment to nonrule policy document, which provides procedural guidelines for conservancy districts to defer collection of cost repayments; Administrative Cause No. 10-156W

Ron McAhron, Deputy Director, Bureau of Resource Regulation, presented this item. He said in January the Commission approved an amendment to the nonrule policy document (Information Bulletin #36), provides procedural guidelines for the interpretations of the Conservancy District Article. The amendment implemented an existing statutory provision in IC 14-33-2-17(b) and IC 14-33-2-18(b) for repayment of costs incurred by the Department and the Commission associated with the conservancy district formation review process. At the Commission’s May meeting, the Department presented examples of costs that might be incurred.

During a study committee, some legislators said they were considering repealing the authorizing statutes, and asked whether it was necessary for the Department to implement the policy for cost recovery. McAhron said he responded that collection was a statutory mandate. McAhron reported to the Commission that neither the Department nor the Commission has yet collected fees for costs incurred during a conservancy district formation process. There are currently no conservancy districts “in the pipeline”. He said he offered to propose that the Commission postpone collection “until we see what the role of the Legislature is this session”.

McAhron explained that Section IX of the nonrule policy document would be amended to add provisions to “allow the exchange between the [conservancy] district on the potential billing and let [the conservancy district] review the bill before it becomes final”. McAhron recommended approval of the amendment. He said the amendment would “fine-tune the procedure to where there would be a billing offered, an opportunity for comment.... We’ll see what the will of the Legislature is this session before we go forward.” He thanked Steve Lucas for helping draft the amendment and recommended approval.

Robert Wright moved to approve amendments to the nonrule policy document that provides procedural guidelines for conservancy districts to defer collection of cost repayments. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration for preliminary adoption of amendments to 312 IAC 13 governing water well drillers; Administrative Cause No. 09-065W

Mark Basch, Section Head for the Division of Water’s Water Rights/Use Section, presented this item. Rule amendments are proposed in response to the SEA 356, which provides licensing of water well pump installers and continuing education for water well drillers and for pump installers. The Indiana Groundwater Association, an association of water well drillers, has promoted the licensing of pump installers and continuing education for the past several years “mainly due to concerns about inappropriate pump installation and potential impacts to the groundwater resource”. A “water well pump installer” is a person who installs or repairs water well pumps. Currently, there is a license for water well drillers. With the amendments, a single license is anticipated, but the license would have “endorsements for an individual be it a driller and/or pump installer, or both on a particular license”.

Basch said the statute and proposed rules also require a total of six hours of continuing education every two years for renewal of licenses for a water well driller or pump installer. A total of twelve hours would be required every two years for a person with an endorsed license covering water well drilling and pump installation. The statute allows for the Department to contract with the Indiana Groundwater Association to administer the continuing education program. Basch said the Association and members of the Plumbing and Heating Contractors Association have provided input on the rule proposal. The Department has attended the annual meetings of both associations to provide information and to receive feedback from the members. “So, we feel like what is in front of you is a fairly good representation of what the industry is looking for and what we would like to see in order to meet” statutory provisions. He recommended the proposed rule amendments be given preliminary adoption.

Martha Mettler Clark noted that the proposed amendment to the definition of “public water supply well” at 312 IAC 13-1-20 is aligned with IDEM’s definition of “public water supply system”, which “gets everything in sync” with the Safe Drinking Water Act. She noted, however, IDEM’s definition is qualified by the words “used for human consumption.” She asked whether there was any significance to the Department’s omission of this qualifier from proposed amendment to 312 IAC 13-1-20.

Basch responded that the Division of Water consulted IDEM’s Public Water Supply Section in drafting the proposed amendment. “If that was a concern, we sure could revise that during this process.” He noted the existing rules governing water well construction include references to IDEM’s definition.

Mettler Clark asked whether the Division of Water has previously coordinated a continuing education program. Basch responded the Division of Water had not coordinated any continuing education program, but “we are learning about it”.

Mettler Clark continued, “One thing that we have encountered with ours is that if you were to reject those credits that people like to have an opportunity to appeal that denial. I wasn’t sure if that was in” the proposed rule.

Basch said, “We will take note of that.”

Steve Lucas, Director of the Commission’s Division of Hearings, added: “Mark and I have talked about that a little bit and this issue has come up recently in several contexts. I think the Commissioner’s point is very well taken.” Whether it says it or not in the rule, the right exists. “It would probably be better to say it expressly than to have it be merely implicit.”

Bruce Moss, representing the Indiana Groundwater Association (“IGWA”), said he and others that are in attendance are contractors. The IGWA was in favor of the amendments. “We are more here to answer questions.... Our primary purpose is to protect our natural resource, water, and that was the whole premise behind this licensing and continuing education.”

Fred McInnis, a member of the IGWA but representing himself, said he was also a member of the National Groundwater Association and serves on two committees. “I have been a local water well contractor from Hendricks County, Washington Township, since 1964.” In conjunction with his national membership, he works with various state organizations that have continuing education. “I am pretty familiar with it, and I am definitely in favor of it. As a contractor for this long, I have looked forward to this for a long time.” He “definitely supports” the proposed amendments. McInnis said Illinois, Michigan, and Kentucky have “agreed to support us. So, we are getting national support.... We have a lot of information and input that we can touch on. We’ve got a lot of background in this, and I think the Commission needs to know this.”

Jane Ann Stautz moved to approve for preliminary adoption amendments to 312 IAC 13 governing water well drillers. Martha Mettler Clark seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF FISH AND WILDLIFE

Consideration of recommendation of DNR committee formed to consider citizen petitions regarding the use of the 220 trap set on land; Administrative Cause No. 09-211D

Linnea Petercheff, Staff Specialist with the Division of Fish and Wildlife, presented this item. She explained that the Commission received two citizen petitions for rule change from Claude Shepherd and Charles Kline regarding the use of 220 Conibear™ amending 312 IAC 9-3-18 to either require a person who sets this trap or similar body-gripping trap capable of killing a dog to notify adjacent landowner of the trap location or to make the use of the body-gripping trap set above-ground illegal. Petercheff said the Department Director formed a committee to review the citizen petitions, and before the Commission is the Committee's response to those petitions.

Petercheff said these body-gripping traps are commonly used by trappers during the trapping season as well as used by nuisance wild animal control operators to take raccoons, groundhogs, opossums, and other wild animals for “thousands of Hoosiers across the state each year”. An individual homeowner could also use one of these traps on their property without a permit. The trap is commonly set outside of water along the edge of ponds and creeks. She said nuisance wild animal control operators use the traps in situations “especially with difficulty in capturing raccoons and opossums that may be ‘trap shy’.” Indiana’s existing rules limit the size of these body-gripping traps that can be set on dry land to help prevent non-target captures, as do “many other States although some [States] have additional restrictions.” 312 IAC 9-3-18, as currently written, allows body-gripping traps that are used on land to be no more than 7 ½ inches, if square, or 8 inches, if round. Otherwise the trap must be completely submerged under water.

Petercheff said the “best management practices” for raccoons put together by the Association of Fish and Wildlife Agencies supports the use of these traps. The traps were developed through carefully researched recommendations, designed to address animals’ welfare, as well as trapping efficiency and selection. To require a trapper to notify an adjacent landowner of the setting of one of these body-gripping traps on land would create “problems for the landowners that may have large amounts of property, have more than one adjacent landowner, or if the adjacent landowner does not reside on the property, such as nonresidents and properties in foreclosure.” A notification requirement would also increase costs for homeowners since nuisance wild animal control operators would have to spend additional time to provide the notification and “would charge the customers for that service.” The notification would need to be in writing and be carried in the field, or it would be difficult for conservation officers to confirm compliance.

Petercheff said, “There is concern about private property rights if an animal is trespassing onto a person’s property without permission. Adding restrictions to the placement of 220s and other body-gripping traps or requiring written notification could cause additional problems for landowners who are trying to efficiently and quickly get a nuisance wild animal removed from their property and make difficulty of trappers to control furbearer populations around the State.” The Department does not recommend amendment to 312 IAC 9-3-18. Petercheff concluded by saying the Department wants to provide trappers and nuisance wild animal control operators with “effective and efficient” means of addressing nuisance raccoons and other wild animals. “Trapping is a wildlife management tool that helps control populations of furbearers and can be

one of the most efficient and most practical means available especially in many cities around the State that have local ordinances regarding restriction of firearms.”

Ce Ann Lambert, representing herself, stated that the situation where a “beloved family pet tragically died in Indiana fatally crushed in a Conibear™, strolling just six inches from their property the dog’s owner did not stand a chance to save his gentle beagle from the death grip of a purposely set trap” was the impetus for the citizen petition for rule change filed by the beagle’s owner. Lambert said adjacent notification of landowner of location of body-gripping traps “is the very least the DNR could do to help save non-targeted animals, including companion animals and/or livestock... and to protect children in playing in area where trapping is utilized.” The second citizen petition for rule change was filed to make the use of the body-gripping traps be illegal “or at least their usage curtailed and highly regulated”.

Lambert said, “I support the petition at the NRC to make the Conibear™ trap illegal, or at the very least require trappers to notify adjacent landowners that they have put out a dangerous body-crushing device and where that device is located.” She also requested that trappers should post signs in the vicinity where the traps are placed. Lambert, citing Born Free USA statistics, stated that over 3,000 non-target animals are caught in Conibear™ traps annually, and Conibear™ traps are “outlawed more than any other type of trap across the USA.” Through her research of online trapper sites, she has learned that “many trappers do not report non-targeted domestic animals that are caught in set traps.... It’s time to address the deadly consequences arising from the usage of Conibear™ traps in Indiana.” Lambert said she was “disappointed” the Department has not supported “action against the reckless use of Conibear™ traps.”

Lambert said the petitioner whose beagle was trapped and killed also has grandchildren that play on the same adjacent property where the trap was set. “Public safety is at extreme risk if the trapping laws are kept as is. Ignorance may have been an excuse for complacency in the past. It cannot be the excuse for the future.” The Department’s report references trapper education for the appropriate use of body-gripping traps to reduce or eliminate accidental capture. “Reducing accidental captures is unacceptable.” Twelve states have outlawed the use of body-crushing traps, and efforts are underway in Illinois, Nevada, and other States to restrict Conibear™ use and placement “due to the dangers presented to non-targeted animals including pets, livestock, threatened and endangered species, and most importantly human beings.”

Lambert said, “I talked with the two men who put in the petition, and they said that because of the report they got from [the Division of] Fish and Wildlife, they thought it was a done deal, and that they didn’t have any recourse to come and speak” before the Commission. Lambert said she supported the two rule-amendment petitions to make the use of Conibear™ and other body-gripping traps illegal, as well as to require notice to adjacent landowners.

Tim Julien said he is an instructor for the Fur Takers of America Trapper’s College, which operates in coordination with Purdue University. He and Tim Rose of the Indiana State Trapper’s Association and Fur Takers of America Indiana Chapter reviewed the Department’s report. “We’ve been very involved...and we are very sorry for the loss of that dog, but the reality is we’re probably the reason there has been only one dog killed. Regardless of legislation, trappers have been very proactive about using these traps responsibly.” He said “Conibear™” is

a trade name “not a type of trap”. The 220 Conibear™ is a body-gripping trap with opposing jaws—“no different than a rat or mouse trap you use in your home. It is designed to kill quickly.”

Julien said the trappers associations are “very, very active” in making sure these types of traps are used properly and responsibly. “There is responsibility on both sides of this issue, and I think we have exercised ours.” Trapping seasons are set by public notice, and the types of traps used by Indiana’s trappers are by public notice. “It’s in the Hunting and Fishing Guide now to the credit of the DNR. It’s out there. The information is there. We have a responsibility to know where we are at and what’s being used.”

Julien said the Fur Takers of America has spent \$45,000 towards a public education. A draft educational DVD, a byproduct of the public education effort, was forwarded to the Department. Another \$45,000 will be spent to pay for a 70-episode education program to be aired on the Outdoor Channel showing the proper use of these traps. “We’re addressing the dog owners” and “consumptive users that are on the property, beagle owners, birddog owners, so that other sportsmen are aware of what we’re doing and we are aware of them”. The education efforts are not mandated. “We know it is our duty.” The educational DVD is entitled *Dog Proof Traps and Removing a Dog from Conibear™*. “There’s no reason that a dog has to die in a Conibear™, especially if you are there. This trap does not kill a dog-sized animal that fast. It will, because it cuts off the oxygen.” The DVD will be available to “anybody and everybody free. This is not a profit-making venture.”

Julien said the Fur Takers of America Trapper’s College instructs USDA trappers, conservation officers, wildlife biologists, and other agency personnel. “We do care very much about this trap. We’ve spent a lot of time making sure trappers use it properly. There are unlimited pamphlets printed every year by trappers teaching other trappers how to use these traps safely.”

Donald Ruch asked, “In light of the apparent significant educational effort that you are making, wouldn’t you believe that it would be in your best interest if you took the additional step to inform property owners around where the trap is?”

Julien answered, “Yes. Not legislatively. We don’t think there should be a mandate rule. That rule has been used in other States, and it is very problematic.” A rule amendment to require adjacent landowner notification “sounds good, but it is not very practical.”

Ruch said, “The information that we’ve been given says, “While notification of adjacent landowners is a good idea, it could conflict between landowners.” I disagree with that statement totally. I think informing them would prevent conflict, and it would be the dog owner’s (or whoever’s) problem if they allow the dog to go where the trap is. But, by not telling them and having then some animal killed that was not meant to be, this would really create a conflict.”

Julien answered, “I’m kind of half way agreeing and disagreeing. I understand your point. Notification is good, but there is a limit to where notification becomes liability. If I tell you I have these traps on my property and you are opposed to these traps, that doesn’t help you any; that encourages you. We face this at the Trappers College every year.... Trappers hang ribbons

and mark their traps on public property, such as Pigeon River Fish and Wildlife Area.” The Department posts on hunter sign-in boards that trapping is occurring on the area. “It’s very specific as to which large areas we are in. But when we place ribbons on the traps or get too detailed as to where our traps are, it invites problems. You have people looking to see what it looks like, and that type of thing”. He said trapper associations agree that notification is a “good tool,” but when notification is “too specific, it goes to the other side.”

Ruch then asked, “So you have a problem, if you are notifying, with people actually going out and looking for these traps?”

Julien answered, “I have problems with curiosity seekers wondering what it is while their dog sticks its nose in it. Yes. The purpose is to avoid people and pets, not to expose them to it.” Researching the proper landowner to notify is also “the issue we have with most notifications”. Julien also noted trappers post signs on landowner property, because “sometimes the landowner doesn’t remember to tell the guy he allowed to rabbit hunt.”

The Chair said, “I think it’s a great conversation to have. And I’m glad that both Ce Ann [Lambert] read the letter, and Tim [Julien] was here to answer some questions.”

Sandra Jensen stated the petitioners were provided notice of today’s Commission meeting.

Robert Wright moved to approve the recommendation of DNR committee formed to consider citizen petitions regarding the use of the 220 trap. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

Recommendation for preliminary adoption of amendments to 312 IAC 9-1-7 and 312 IAC 9-10-13 governing falconry licenses; Administrative Cause No. 10-088D

Linnea Petercheff also presented this item. The proposed rule amendments governing falconry are a result of Federal regulations that were enacted in late 2008, and they include changes requested by the DNR and the Indiana Falconer’s Association. “Falconry” is the “sport of caring for and training raptors for pursuit of wild game and hunting wild game with those raptors.” The amendments would address taking raptors from the wild for falconry and possessing, purchasing, and supporting raptors. There are approximately 80 licensed falconers in Indiana.

Petercheff said the rule amendments would extend trapping seasons for taking raptors from the wild, modify the species of birds that apprentice falconers can possess; change the minimum age requirements for apprentice and general class falconers; and increase the bag limit for squirrels. The Department has “worked hard” to address Indiana Falconer’s Association concerns, “although we have not approved of every change [the Association] has requested.” She said the Commission in July deferred consideration of the proposed amendments to allow the Department and the Indiana Falconer’s Association to discuss additional amendments. “The language that was problematic in July has been modified so that it is clear that a person cannot request to have his or her license re-instated while a suspension or revocation of a license is in effect.”

Petercheff said the Department believes the proposed amendments, as presented, will meet the new Federal requirements as well as provide the additional changes recommended by both the Department and the Indiana Falconer's Association.

Kurt Dorman, President of the Indiana Falconer's Association, thanked the Commission and the Department. "This has been a very professional collaborative effort." The Department has "worked very hard to seek our understanding and approval, as well as falconers within the State. On behalf of the Indiana Falconer's Association, I would like you to know that we approve of the document that [the Department] has put forth."

Jane Ann Stautz moved to give preliminary adoption of amendments to 312 IAC 9-1-7 and 312 IAC 9-10-13 governing falconry licenses. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

Request for approval of amendments to the Public Freshwater Lake Listing, Information Bulletin #61; Administrative Cause No. 10-159A

Linnea Petercheff also presented this item. She said 1½ years ago the Commission approved a nonrule policy document to list Indiana's public freshwater lakes. Proposed amendments to the nonrule policy would remove two lakes and change the description of one lake all located in Noble County. She explained the nonrule policy document provides guidance for Department staff and the public regarding the Lake Preservation Act and associated permit requirements.

Petercheff said the Commission's Division of Hearings received a request to remove Marl Lake in Noble County from the list. "After additional research by DNR staff and a finding by Judge Steve Lucas, the DNR is requesting that we remove this lake from the list since we could not provide evidence that it met the definition of 'acquiescence'." She said "there has not been real general public use. We could find a couple of people who have fished the lake, but with permission of the property owner. There are no businesses, such as campgrounds, on this lake." Deep Lake in Noble County is very close to Marl Lake. She said the Department found that "Deep Lake also does not meet all three requirements for a finding of acquiescence". Petercheff requested that Deep Lake in Noble County be removed from the public freshwater lake list.

Petercheff explained that there is an error in the description of Miller Lake in Noble County. She said the description should indicate "east side of State Road 9... which would not be a big deal except there is a Miller's Lake" on the west side of State Road 9." The proposed amendment is recommended for approval to clarify that the listing is for Miller Lake west of State Road 9 and not Miller's Lake east of State Road 9.

Donald Ruch moved for approval of amendments to the nonrule policy document listing public freshwater lakes, Information Bulletin #61, for the identified Noble County lakes. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

Request for approval of amendments to the Free Sport Fishing Days, Information Bulletin #59; Administrative Cause No. 10-155D

Linnea Petercheff also presented this item. IC 14-22-18-1 requires Department Director and Commission approval of the Indiana's free sport fishing days. A nonrule policy document was approved by the Commission in 2008, and the proposed amendments would update the nonrule policy document to include the free sport fishing days for 2011 and 2012 as June 4 and 5, 2011, and June 2 and 3, 2012. The 2011 and 2012 dates are the "first full weekend" of National Fishing and Boating Week sponsored by the Recreational Boating and Fishing Foundation. "Usually there is a national initiative to advertise" the weekends. Petercheff recommended approval of the amendments to nonrule policy document, Information Bulletin #59.

Jane Ann Stautz moved to approve amendments to the nonrule policy document, Information Bulletin #59, establishing the free sport fishing days for 2011 and 2012. Robert Wright seconded the motion. Upon a voice vote, the motion carried.

NRC, DIVISION OF HEARINGS

Consideration of report of public hearing and recommendation of final adoption of amendments to relocate surface water emergency standards from 312 IAC 11-6 to 312 IAC 11.5; LSA #09-876(F); Administrative Cause No. 09-176W

Jennifer Kane, Hearing Officer, presented this item. The rule amendments would relocate surface water emergency standards from 312 IAC 11-6 to 312 IAC 11.5. The proposed relocation to 312 IAC 11.5 would reduce occasional confusion to citizens by separating its provisions from those "pertaining exclusively to public freshwater lakes." IC 14-25-5 is infrequently applied but is an important protection for owners along lakes ten acres or larger, when the lakes are adversely impacted by a "significant water withdrawal facility" (one capable of withdrawing at least 100,000 gallons of water daily). Current 312 IAC 11-6 is placed at the tail end of a multipart rule, 312 IAC 11-1 through 312 IAC 11-5, which exclusively addresses waters that are "public freshwater lakes." Although a public freshwater lake could qualify for relief under IC 14-25-5, the far more likely application is to a small private lake.

Kane said the proposed relocation to 312 IAC 11.5 would eliminate confusion by separating its provisions from those pertaining to public freshwater lakes and would make the rule "more-readily identifiable". Proposed 312 IAC 11.5-2(2) also includes a cross-reference to an enforcement option that is not currently specified. Kane said a few technical changes are proposed within the rule to make its sequence fit the Legislative Service Agency's format. She noted that the proposed rule amendments are "not believed to be substantively different" from the existing rule, 312 IAC 11-6, which is proposed for repeal. To avoid the confusion that can arise from a boating-season amendment to rules affecting lakes, she suggested deferring the effective of date of the amendments until January 1, 2011. She then recommended final adoption of the proposed rule amendments as presented.

Donald Ruch moved to approve for final adoption amendments to relocate surface water emergency standards from 312 IAC 11-6 to 312 IAC 11.5 as recommended by the hearing officer. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration of report of public hearing and recommendation of final adoption of amendments to 312 IAC 2-4, which govern organized activities and tournaments on designated public waters; LSA Document #09-986(F); Administrative Cause No. 08-186P

Jennifer Kane, Hearing Officer, also presented this item. She said amendments were proposed to 312 IAC 2-4, which governs organized activities on public waters (most notably fishing tournaments). The rule is administered jointly, but on different lakes, by the Division of State Parks and Reservoirs and the Division of Law Enforcement. Kane said the proposed amendments have significance primarily to fishing tournaments administered by the Division of State Parks and Reservoirs.

Kane noted that many of the concerns voiced regarding the application and implementation of the rules during the public hearing were “outside the scope” of this rule proposal. Other concerns were stated regarding advanced notification to individuals of noncompliance with the rule standards. “The Department responded to those concerns and explained that it is currently working on a new database that will help inform those not in compliance, such as late payments or missing a report.” She said a rule change is not anticipated or required regarding a noncompliance notification.

Kane said an impetus for the proposed rule changes was to reorganize the existing rule standards. As currently written, the order of rule sections “sometimes causes confusion” as to the conduct of the organization meeting, which establishes dates for the following year on which fishing tournaments can be conducted. The amendments would re-order portions of the existing rule to make individual sections follow chronological steps. With the amendments, the license application process would be relocated to 312 IAC 2-4-7.5 so it would appear in the rule after consideration of advance date approval in 312 IAC 2-4-7. License application follows rather than precedes advance date approval. The annual draw date language would be revised to clarify an applicant must be an individual, but an individual who makes an application may represent an organization. Sanctions for noncompliance could be applied either to an individual or to an organization.

Kane 312 IAC 2-4-7.5(c) would authorize the addition of dates or an increase in the number of boats following completion of advance date approval, but subsection (c) would clarify the authorization is subordinate to prior approvals. 312 IAC 2-4-7.5(h) would allow the Department to establish a nonrefundable application fee. Several individuals voiced opposition to this amendment allowing the Department to set an application fee that would be “an amount within a range” approved by the Commission. The Division of State Parks and Reservoirs indicated at public hearing that it did not intend to ask the Commission to establish an application fee for the 2011 tournament season. Kane said establishment of any fee would require Commission approval, and the public would be notified of a Commission meeting and its agenda.

Kane said 312 IAC 2-4-9(11) would be amended to clarify that for the draw date only license approvals are limited to dates that are at least 14 days apart on the same waterway. 312 IAC 2-4-12(g)(1)(C) would be amended to provide the failure of a license holder to report information required by 312 IAC 2-4-9.5 could result in bond forfeiture by a fishing tournament.

Kane said the rule amendment that drew the most negative response was the proposed increase in the compliance bond. As published for preliminary adoption, 312 IAC 2-4-12(g) would have been amended to increase the bond on a fishing tournament at reservoirs from \$150 to \$300 per property. She said the Department on September 16, 2010 withdrew support for this proposed amendment, agreeing the compliance bond should remain as currently set at \$150. Kane stated the proposed amendments, with the exception of the proposed amendment at 312 IAC 2-4-12(g) that would have increased the bond from \$150 to \$300, were recommended for final action.

Doug Grant asked whether there was a limitation on the number of boats in fishing tournaments on lakes other than the lakes listed.

Dan Bortner, Director of the Division of State Parks, answered, "Yes, depending on the size of the lake itself, I don't think we exceed 200 boats on any given day, mostly for safety reasons."

John Davis asked, "Doug, are you talking about non-DNR lakes?" Grant answered in the affirmative. Davis reflected that if the Commission receives a petition to request a boat limit, then the Commission can establish tournament rules on a particular lake.

Stephen Lucas said there are parallel sets of procedures, but "they are both governed by" 312 IAC 2-4. He said the proposed amendments before the Commission today are directed mostly to fishing tournaments on lakes administered by the Division of State Parks and Reservoirs. There are rules for public freshwater lakes, but "a lake has to be specifically listed. There are only about three or four lakes that are listed, such as Wawasee". He said the Division of Law Enforcement administers organized activities for public freshwater lakes.

John Davis asked whether the Commission is "charged with making a site specific recommendation for each lake and that's why Law Enforcement goes out and investigates?"

Lucas explained that the Commission approved a process to govern petitions for rule change to establish a fishing tournament on a public freshwater lake. The petition for rule change "has to come from a municipality, a county, or local unit of government for a lake to be listed as a public freshwater lake where there is a fishing tournament standard." He said a petition submittal is a "prerequisite of [a lake] being on the list, but if [a lake] is listed, such as Syracuse or Wawasee, then [the fishing tournament] is administered in a process not identical but similar" to the Division of State Parks and Reservoirs' tournament standards on its reservoir lakes.

Brian Blackford moved to give final adoption of rule amendments to 312 IAC 2-4, governing organized activities and tournaments on designated public waters, with the removal of the proposed amendment at 312 IAC 2-4-12(g). Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Adjournment

The meeting was adjourned at approximately 12:34 p.m., EDT.