

NATURAL RESOURCES COMMISSION
Minutes - October 24, 1996

MEMBERS PRESENT

Michael Kiley, Chair
Patrick Ralston, Secretary
Jerry Miller
Mary Titsworth
Steve Cecil
Damian Schmelz
Joe Siener
Jodi Perras

NATURAL RESOURCES COMMISSION STAFF PRESENT

Steve Lucas Hearings
Tim Rider Hearings
Cheryl Hampton Hearings

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Jack Costello Executive Office
David Herbst Executive Office
Paul Ehret Executive Office
Louise Krick Executive Office
Lori Kaplan Executive Office
Ken Grantham Land Acquisition
Jim Hebenstreit Water
Matt Abriani Water
Jerry Pagac Parks
Emily Kress Outdoor Recreation
Otto Jose Outdoor Recreation
Charles Shannon Law Enforcement
Jerald Jackson Law Enforcement
Ted Stine Law Enforcement
Mary Davidsen Legal Counsel

GUESTS PRESENT

Donna Marron Larry J. Kane

MONTHLY REPORTS

Michael Kiley, Chair, called to order the regular meeting of the natural resources commission at 1:15 p.m., EST on October 24, 1996 at Ft. Harrison State Park, 5753 Glenn Road, Indianapolis, Indiana, With the presence of eight members, the chair observed a quorum.

Jerry Miller moved to approve the minutes of the September 18, 1996 meeting. The motion was seconded by Joe Siener and approved by voice vote of the commission.

Patrick Ralston presented the Director's Report. He noted he attended the Sea Grant meeting which was held in Sault Ste. Marie on behalf of the Great Lakes Commission. Ralston also noted that the DNR received a quality award for its many initiatives. The director reported on the dedication of Charlestown State Park which was held on October 12 with Congressman Lee Hamilton and Lt. Governor Frank O'Bannon in attendance.

Director Ralston introduced a new book "Indiana from the Air" published by Rich Fields and Hank Hoffman of the department. Ralston also introduced and welcomed Ken Grantham of the division of land acquisition.

Jerry Miller, Chairman of the Advisory Council for Lands and Cultural Resources, said his council met earlier in the week, and every item on the agenda was approved.

Jack Costello, Deputy Director for the Bureau of Lands and Cultural Resources, indicated a "very good meeting was held with the Corps and the DNR directors of the Midwest." Costello also noted the deer control program is being held on seven state parks and is moving along very well.

Joe Siener, Chairman of the Advisory Council for the Bureau of Water and Resource Regulation, stated his council did not meet in October.

David Herbst, Deputy Director for the Bureau of Water and Resource Regulation, reported upon the lake management meeting held on October 10, with an attendance of about 255. He said it was a productive meeting with positive comments.

Herbst noted that the archery season is less active than is typical because many crops not being harvested. Once the crops are harvested, he expects activity will "pick up."

Paul Ehret, Deputy Director for the Bureau of Mine Reclamation, said he attended the annual meetings of the Interstate Mining Compact Commission and of the National Association of Abandoned Mined Land Program. He indicated both of these meetings were "very informative."

Ehret also noted on October 30 the Assistant Secretary of Interior and the new acting director of OSM will be coming to southern Indiana to award a program grant of

\$325,000 for the Patoka Southfork Watershed. He reminded everyone of the 10th annual meeting of the Indiana Society of Mining and Reclamation on December 3rd.

Michael Kiley congratulated Patrick Ralston for the very nice award given by Indiana State University to distinguished alumni. Kiley said, "this award was not given lightly nor given often."

BUREAU OF WATER AND RESOURCE REGULATIONS DIVISION OF WATER

Consideration of the Establishment of a Commission Floodway for Part of Lots 16 through 21, inclusive, in Welch Lake Subdivision, Section Two, Hendricks County

James Hebenstreit, Assistant Director for the Division of Water, presented this item. He briefly reviewed the recent NRC determination to develop a nonrule policy document for the establishment of "commission floodways." He said the first utilization of the nonrule policy document was for the Welch Lake Subdivision. He noted that initial determinations concerning commission floodways had been delegated to the DNR, but in part because the effort was the first for the concept and in part because of the unusual factual circumstances regarding Welch Lake, he was presenting this commission floodway to the NRC for its review.

Hebenstreit provided an overview of administrative litigation involving the Welch Lake Subdivision and said its unusual facts helped support the application of a commission floodway. He said the existing lots did not conform to guidelines in the nonrule policy document requiring two feet of freeboard above the elevation of the 100-year frequency ("regulatory") flood at the time the homes were constructed. While the lots have been filled one to two feet above the 100 year flood elevation used at the time the fill permit was issued, FEMA has since published a Flood Insurance Study which includes a 100-year frequency flood elevation at this site which is 1.5 feet higher. The lots are filled within a half foot of this elevation, and the first floor of the home will be 1.5 feet above the 100 year flood elevation. In addition, because of the elevations of the filled lots, it is not believed that an emergency evacuation plan is needed. Therefore, no immediate danger appeared to be posed by approving the commission floodway. He said the Division of Water was not adverse to the approval of a commission floodway for this portion of the Welch Lake Subdivision, provided that terms of the nonrule policy document (except as to current calculations of the floodway elevation and emergency evacuation plan) were met.

Patrick Ralston moved to approve the establishment of a commission floodway for part of Lots 16 through 21 inclusive in Welch Lake, Section Two, a subdivision in Hendricks County, Indiana as outlined by the Division of Water. The motion was seconded by Damian Schemlz. Upon a voice vote, the motion carried.

DIVISION OF OUTDOOR RECREATION

Information Item: Status of the Pilot Mountain Bike Trail on Huntington Lake

Otto Jose of the Division of Outdoor Recreation presented this item. He reviewed the pilot mountain bike trail authorized for one year by the NRC at Huntington Lake. He presented a brief slide program and indicated the effort by the DNR had been to identify the impacts the trail had on-site. For example, tread depths were measured, surface erosion was identified, and photographs taken and catalogued.

Jose explained there were heavy rains in the spring of this year, forcing the closure of the trail for six weeks of what would otherwise have been the ordinary peak season. For this reason, absent NRC objections, the intention was to extend the pilot project for another year.

Chairman Kiley asked Jose to summarize his perspectives as to the impacts of mountain biking observed to date. Jose responded that mountain bikes apparently caused somewhat more erosion than hikers but considerably less than horses. No objections were raised by the commission members to continuing the pilot project.

DIVISION OF NATURE PRESERVES

Consideration of an Addition to Swamp Rose Nature Preserve in St. Joseph County

Gerald Pagac, Director of the Division of State Parks, presented this item. He said he was "standing in" for the division of nature preserves. Pagac explained that Swamp Rose Nature Preserve presently contains 100 acres and is located in the northeastern corner of Potato Creek State Park. The proposed addition contains 60 acres and consists of a high-quality mesic upland forest of beech and maple on rugged morainal topography.

Pagac referenced Natural Areas in Indiana and Their Preservation which identified the site as one worthy of preservation. He noted that Damian Schmelz was one of the authors of the publication.

Pagac summarized by saying, "I think it's a good addition to the existing nature preserve." He said there was support for its inclusion by local conservation groups and no stated opposition.

Damian Schmelz moved to approve dedication of the suggested addition to the Swamp Rose Nature Preserve in St. Joseph County. The motion was seconded by Steve Cecil. Upon a voice vote, the motion carried.

LEGAL PROCEEDINGS

Consideration of the Petition for the Dissolution of the Maple Grove Conservancy District; Administrative Cause No. 94-322C (Monroe Circuit Court: 53CO6-9408-CP-00926)

Steve Lucas, Hearing Officer, presented this item. He explained that the Maple Grove Conservancy District was established to provide water supply to a rural community in Monroe County. The district's directors previously proposed to dissolve the district in favor of operation by the Maple Grove Water Company, but the freeholders did not approve the proposal. A new proposal would now result in dissolution with operation by the Town of Ellettsville. Lucas said both the board of directors and the town spoke in favor of the dissolution, and no one spoke in opposition.

Larry Kane, attorney for the conservancy district, was present to answer question. No questions were directed to him.

Jerry Miller moved to approve the "Recommended Findings of Fact by the Natural Resources Commission with Respect to the Proposed Dissolution of the Maple Grove Conservancy District" as outlined by the hearing officer and contained in the commission packet. The motion was seconded by Joe Siener. Upon a voice vote, the motion carried.

Reconsideration of Final Adoption of Recodification of Entomology and Plant Pathology Rules to Make a Clerical Correction; LSA Document #96-97(F); Administrative Cause No. 95-185E

Steve Lucas, Hearing Officer, presented this item. He noted that during its September meeting, the commission gave final adoption to recodification of the rules governing activities by the division of entomology and plant pathology. He said the proposal was forwarded to the Attorney General where an error was identified: inclusion of the word "evergreen" in the laundry list of items constituting "nursery stock." He asked that the commission again give the rules final adoption but with the correction of the error.

Joe Siener moved to again give final adoption to the recodification of rules governing entomology and plant pathology but with the correction of the clerical error regarding evergreens. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

At approximately 2:00 p.m., EST, the meeting was adjourned.