

ADVISORY COUNCIL
Meeting Minutes of June 11, 2014

ADVISORY COUNCIL MEMBERS PRESENT

Patrick Early, Chair
Bart Herriman

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Jennifer Kane

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Cameron Clark	Executive Office
Chris Smith	Executive Office
John Davis	Executive Office
Joe Hoage	Executive Office
Brad Baughn	Executive Office
Lt. Col. Steve Hunter	Law Enforcement
Mark Reiter	Fish and Wildlife
Bill James	Fish and Wildlife
Linnea Petercheff	Fish and Wildlife
Phil Marshall	Entomology and Plant Pathology
Jim Hebenstreit	Water
Mark Basch	Water
Monique Riggs	Water

GUESTS PRESENT

Barb Simpson
Herb Higgins

Call to Order

Patrick Early called the meeting to order at 10:15 a.m., EDT, at the Fort Harrison State Park Inn, 5830 North Post Road, Indianapolis, Indiana. With the presence of two members, the Chair did not observe a quorum, and official action was not taken on any agenda item.

Reports of Deputies Director

Chris Smith, Deputy Director of the Bureau of Resource Regulation, reported that one-third of his Bureau's professionals are eligible for retirement. "We are seeing a lot of changes in our staff hierarchy". Assistant Directors Steve Herbert with the Division of Reclamation, and Frank

Hurdis with the Division of Historic Preservation and Archaeology, retired at the end of May. Both positions are in the process of being filled. “We have a crop of internal candidates, and we’ll probably get a few external candidates” for the Division of Reclamation position. Smith added that Bill James, Gary Armstrong, and Gregg McCollam, all with the Division of Fish and Wildlife, plan to retire this year.

Smith also reported that Steve Lucas, Director of the Natural Resources Commission’s Division of Hearings, plans to retire in August. He has been with the agency for more than 30 years. “I would like to thank [Steve] for all his work and effort. He will be greatly missed and has been a pleasure to work with.”

Smith announced the Division of Historic Preservation and Archaeology recently received an award from the National Parks Service. The Division was the first U.S. State agency to complete a survey of historic structures and sites. The survey was a group effort between the Division and two nonprofit organizations, Indiana Landmarks and ARCH, both of which support historic preservation.

Smith said the DNR’s regulatory divisions have hired a Governor’s Intern to investigate the use of social media. The Divisions of State Parks and Reservoirs, Fish and Wildlife, and Law Enforcement use social media frequently and have FaceBook pages. “We have a very bright intern who is going to” evaluate whether social media is a “right fit based upon our regulatory authority and what boundaries we should use moving forward.”

John Davis, Deputy Director of the Bureau of Lands and Cultural Resources, indicated he did not have a report.

Approval of minutes of meeting held on January 15, 2014

Approval of meeting minutes was deferred to the next scheduled meeting.

Information Item: Discussion of the discovery of *Thousand Cankers Disease* in a Black Walnut stand in Indiana prompting quarantine of the area through emergency order; Administrative Cause No. 14-080E

Phil Marshall, State Entomologist and Director of the Division of Entomology and Plant Pathology, presented this item. He said Thousand Cankers disease complex, which is a disease involving an insect (walnut twig beetle) and a fungus (*Geosmithia morbida*), was discovered in the Western United States in 2008 and is similar to Dutch elm disease. The fungus is new, but the walnut twig beetle is native to Southwest United States and Mexico. All eight Western States have the disease complex, as well as the Tennessee, Virginia, North Carolina, Pennsylvania, Ohio, and Maryland. Only the fungus has been detected in North Carolina and not the beetle, which is a vector. Maryland has the walnut twig beetle from a trap but has not detected the beetle in a tree.

Marshall said any walnut is subject to the disease complex and can succumb to it. The black walnut in the Western United States is the native black walnut from the Eastern United States.

“A lot of these trees were put in, in bad situations, and the trees are out of range.” Black walnut is one of the most valuable trees in Indiana’s timber industry and is at risk. Once a tree is inoculated with the disease, the tree dies within three to five years from the first signs of symptoms. The walnut twig beetle is the vector for the fungus. The beetle emerges about every month except in December and January. “It is a small, tiny beetle that would fit on the ‘G’ on a penny.” The beetles carry the fungus continually on their bodies. Marshall explained that every time the beetle attacks a tree and makes a hole, the beetle inoculates the tree with the fungus. The fungus then grows and makes a wounded area called a “canker”. The beetle re-attacks, remaining in the inner bark. A canker grows together and slowly coalesces bringing the branch down, and gradually bringing the tree down over a period of time.

The disease is advancing east. The disease is vectored through the beetle and movement of material by the timber industry and the public. The Ohio infestation originated from a veneer mill and the disease is now located in nearby trees. An area in Jeffersonville, Indiana has been monitored for the last four years. The Division of Entomology maintains a list of all Indiana sawmills and sets traps near them. Indiana and other States apply an external quarantine, which provides that walnut product entering from a quarantined State must be certified free of the disease complex. Missouri does not allow any walnut product from a quarantined State to cross its borders, due to Missouri’s much larger walnut industry. Indiana manages the disease complex by requiring compliance agreements from quarantined States and fumigation in the State of origin of all material shipped from the Western States.

Geosmithia morbida has been detected and confirmed on a new host, a weevil, *Stenomimus pallidus*, in a 10-acre plantation at Yellowwood State Forest, Brown County. The fungus has not been detected in any tree sample. *Stenomimus pallidus* is a native weevil that attacks wounded areas on branches and stems of walnut, oak, and hickory. There are options in managing the site: (1) do nothing; (2) cut down the plantation and destroy the wood product; or, (3) quarantine part or all of Brown County. “What I’m looking at is the ability to create a border to quarantine just that plantation. Under basic rules of quarantine, I need to go in and do surveys and evaluations in and around that site to determine if the disease is still present there.... If we ever have any concerns, we can always go in and cut that stand down and destroy it. It’s a young stand.... It’s called ‘young pole’ size timber” and not of great monetary value.

Marshall said Indiana surveyed for the disease complex for the past four years and has not detected the walnut twig beetle. “Academia is continuing to study the disease complex and its proper management. The Indiana timber industry is aware of the fungus detection.” Once the Indiana quarantine is announced through an emergency order, all Midwestern States will add Indiana to their respective quarantine lists. “They probably won’t want walnut coming from Indiana into their State unless the [product] is certified. My staff will be able to handle that. We are [certifying] everything that is coming in.”

The Chair asked for clarification regarding the impact of quarantine. Marshall responded the wood product can be moved from the quarantine site, but only with the guidance and control of the Division of Entomology and Plant Pathology. “We will have to take the trees down that are girdled. [The trees] will go to Purdue, and [Purdue] has to have a work plan to study the site. Other than that, nothing can come out of there.”

The Chair continued, “The concern is, from an industry standpoint, when the word gets around that this is in Indiana, other States will not accept our walnut unless it’s fumigated?” Marshall answered, “I don’t think other States will require that for Indiana”.

John Davis asked about certification of mills and walnut product. Marshall said certification is completed through visual inspection. Davis then asked whether Indiana has a fumigation program. Marshall responded that wood product exported to Europe is fumigated in a facility located in Westfield, Indiana.

Bart Herriman asked whether the DNR or industry conducts the fumigation. Marshall answered the industry pays for the fumigation of products. There is a cooperative effort with the industry and the USDA to construct the fumigation facility to meet USDA standards. The Division of Entomology and Plant Pathology monitors fumigations.

Introduction to the Great Lakes–St. Lawrence River Basin Water Resources Compact and NRC referral to evaluate salmonid streams and other matters; Administrative Cause No. 14-097V

Stephen Lucas, Director of the Natural Resources Commission’s Division of Hearings, introduced this item. He said professionals in the Division of Water, Division of Fish and Wildlife, and of the Division of Law Enforcement were present to provide additional information. Jim Hebenstreit, Assistant Director in the Division of Water, was a long-time member of the Interstate and Binational study group that drafted the Great Lakes-St. Lawrence River Basin Water Resources Compact (the “Compact”). “I don’t know how many years [Jim] worked on it, but it is more like decades.... He is very knowledgeable, and I will defer to him and his staff...to talk about programmatic specifics.” The Compact and these rules apply to the portion of Indiana within the watershed of Lake Michigan and Lake Erie.

Lucas provided Advisory Council members a brief outline of recommendations that were presented to the Commission for additional recommended action (printed on yellow paper). The Commission gave final adoption in May to Compact rules. He noted that the Department Director, Cameron Clark, approved temporary rules governing the same subject matter for the past couple of years. “We have had a structure here for some time, but it has evolved.” Recommendations include some aspects of the Hearing Officer’s Report that warrant further review and work. “If this Compact is going to work, it’s going to be around for a while.... I expect lots of statutory and rule changes” going forward.

Lucas said that one of the recommendations or topics regards salmonid streams. During the rule adoption process, there was much interest in including special protections for salmonid streams additional to those already listed in IC 14-25-15-7(b). The rules given final adoption incorporated the streams listed in the statute. The Commission has statutory authority to add streams by rule, “but there were several problems” with doing so in this initial permanent rule. “I didn’t want to jeopardize” the likelihood of final approval of the proposed rule by the Attorney General based on the legal framework. IC 14-25-15-7(c) requires the Commission to seek input from the U.S. Fish and Wildlife Service before adopting rules to add additional streams, and “that hadn’t been done”. Also, when rule amendments are proposed, fiscal analyses are required.

Adding streams to the proposed rule may have had fiscal impact. “I had a concern that going forward, there really needed to be a definition of a salmonid stream.” Other States have similar provisions for sensitive “trout” streams, but no other State uses the concept of “salmonid streams”, and there is no definition in the Compact.

In a May Commission resolution, the Advisory Council was charged to work with the Department and interested citizens “to come up with the definition of a ‘salmonid stream’. Should there be additional streams added, and if there should be, help assure the fiscal analyses are done.” Also, the Advisory Council should consider, but would not be bound by, perspectives offered by the U.S. Fish and Wildlife Service.

Lucas noted that other hearing officer recommendations pertain to the evaluation of water use conservation. This subject was one of major interest to several citizens who commented on the rule proposal. “The Compact certainly puts a big emphasis on water conservation with respect to new or expanded diversions, which is kind of the ‘heart and soul’ of the Compact.” But the Compact also requires the States to consider guidance for water conservation in other contexts, such as large consumptive uses. For other than diversions, the Compact authorizes the use of non-binding guidelines (which are required to be identified by a State law). By Indiana statute, mandatory conservation measures for other than diversions must also be sanctioned by the Indiana General Assembly.

The Chair asked, “What additional regulations or restrictions does being classified as a ‘salmonid stream’ create?”

Jim Hebenstreit responded a “salmonid stream” classification sets a higher standard of scrutiny for review on a new proposal to withdraw water within one half mile of a salmonid stream. The “threshold permit trigger” for withdrawals is 100,000 gallons per day. This trigger is the same as the registration quantity that has applied in Indiana for several years, and the Division of Water has good data based on registrations submitted by users within the Great Lakes Basin and elsewhere. Existing registrations become part of the baseline and do not require permitting. To permit new or expanded withdrawals exceeding 100,000 gallons per day within one half mile of a salmonid stream, “there would be more scrutiny”. Greater scrutiny for non-salmonid streams does not occur unless the withdrawal exceeds one million gallons per day.

The Chair reflected, “So it’s primarily water withdrawal regulations.”

Hebenstreit agreed. He added the Compact arises from a 20-year effort to prohibit what is called “diversions” of “water from the Great Lakes to some place like California. The Compact was legislation that was passed by each Great Lakes State, ratified by Congress, and it is a legally binding document. We haven’t had any diversion proposals, per say, for things that are subject to regulation under the Compact, so we developed rules.... We don’t have any experience so as there are... withdrawal proposals submitted that are subject to review under the Compact, I’m sure we are going to learn there are things in the rules that need to be tweaked. We’ll have to come back with those pieces as we learn about them. The salmonid streams issue came up quickly.” Although elsewhere defined differently than in the Compact, “salmonid” streams are already subjected to greater review scrutiny under Commission rules for certain permitted

activities. “Because of the investment in the fishery, [salmonid] streams get—for a lack of better term—‘special treatment’ and a little more scrutiny when there is a proposal that will impact a” salmonid stream.

The Chair asked whether the diversions being discussed are primarily local, such as farm irrigation, or by communities for water supply.

Hebenstreit explained that new or expanded diversions of water from the Great Lakes are categorically prohibited. But there are several exceptions in the Compact if a request for approval of a diversion to provide Great Lakes water to what is called a “straddling county” or “straddling community”, such as Valparaiso, where the drainage divide to the Great Lakes Basin cuts very close to a municipality’s corporate boundaries. Valparaiso’s “primary service area is entirely in the [Great Lakes] Basin, but there is a window that [the City] can expand service to outside the Basin. To bring Great Lakes water to Indianapolis is expressly prohibited.”

The Chair asked, “From a DNR standpoint, is the idea behind this, in trying to define what these streams are, is it from a fish and natural resources preservation standpoint so that not too much water is drawn down, or is it water conservation?”

Hebenstreit explained that the idea is to make sure a withdraw proposal does not impact stream flows to a point that the water withdraw adversely impacts the fishery.

The Chair then asked whether it is anticipated that the DNR biologists will recommend streams to be added to the definition of “salmonid stream” at 312 IAC 6.2-1-2(11) with discussion and debate involving the constituency. “Is it going to be controversial to add streams?”

Hebenstreit said that during the rule adoption process, many groups submitted comments regarding adding streams. If the Commission proposes rules to add salmonid streams, “I’m sure, at some point..., there will be some people that oppose it.”

Linnea Petercheff, Staff Specialist with the DNR, Division of Fish and Wildlife, noted 327 IAC 2-1.5-5 lists salmonid streams to which 312 IAC 10-5-0.3, and 312 IAC 10-5-6 refer. The streams listed in IC 14-25-15-7(b) and 312 IAC 6.2-1-2(11) provide a different listing of salmonid streams. There is a special set of conditions applied to and limitations imposed on permits issued for the removal of log jams or wood debris, prospecting, or other construction activity in a floodway to lessen the impacts to salmonid streams. The list at 327 IAC 2-1.5-5 includes streams where DNR stocks trout. The Division of Fish and Wildlife supports making 312 IAC 6.2-1-2(11) match 327 IAC 2-1.5-5. “The Division of Fish and Wildlife will be looking at making a list in a nonrule policy document. Certain streams stay the same every year that are mentioned in [327 IAC 2-1.5-5], but stocked streams, for the most part, stay the same but may change depending on habitat conditions.” Nonrule policy documents can be amended more easily than rules.

Davis asked whether the Department would include under the definition of “salmonid stream” those streams that may not support a native salmonid population but are otherwise stocked with fish from the Salmonidae family. Petercheff answered in the affirmative.

Bill James, Chief Fisheries Biologist with the DNR, Division of Fish and Wildlife, explained that there are three categories of stocked trout streams: (1) streams that are stocked with trout in the spring, but cannot support the trout year-round; (2) stocked streams that support trout year-round; and (3) stocked streams that support trout year-round, but with evidence of natural reproduction.

The Chair suggested defining a salmonid stream “is not just about water conservation; it’s stream bed protection, too. It’s all geared to try to protect the fishery, correct?” James answered in the affirmative.

Bart Herriman asked whether the stocked streams historically supported trout and other salmonid species.

James responded that for the most part, other than lake trout in Lake Michigan, trout are not native to Indiana. Indiana is outside the range of Eastern brook trout and rainbow trout. There is evidence of reproducing brown trout, which are naturalized in Indiana, but which originated from Europe.

The Chair said over the next year, proposed rules or nonrule policy documents will be vetted by the Advisory Council “to try to make sure that we know where the people are that have problems” regarding salmonid streams.

Davis suggested the Advisory Council should consider having a meeting in the northern part of Indiana. “If there is something potentially contentious with a Compact rule or nonrule policy document, “that would be something to think about”. He asked whether there were other citations to salmonid streams in the Commission’s rules. Petercheff responded there are also restrictions regarding salmonid streams at 312 IAC 9.

Herriman asked, “If you ultimately defined ‘salmonid stream’ in a nonrule policy document, do you think that is sufficient to notify the general public who may draw water out of that specific stream?”

Petercheff answered “the definition of ‘salmonid stream’ should probably be by rule, but the salmonid streams could be listed in a nonrule policy document. The nonrule policy document could be incorporated by reference in the rule.”

Hebenstreit clarified that for any applicant requesting authorization to withdraw at least 100,000 gallons of water from a salmonid stream or within a half mile from a salmonid stream, the DNR would apply a stricter review criteria and the applicant will have to demonstrate the withdrawal would not impact significantly the minimum stream flow.

Consideration for recommendation of preliminary adoption of amendments to fish and wildlife rules in 312 IAC 9; Administrative Cause No. 14-054E

Linnea Petercheff presented this item to outline an initiative by the Division of Fish and Wildlife to amend several aspects of 312 IAC 9. 312 IAC 9-3-18.2 is proposed to be amended to establish a river otter trapping season. Because river otters are not a “furbearing” mammal as defined in statute, 312 IAC 9-2-3(c) is amended to allow the sale of river otter hides and their parts. The Commission received a petition for rule change seeking to allow the sale of squirrel hides, and the Division also now recommends the subsection be amended to allow the sale of squirrel hides. 312 IAC 9-3-18.2 prohibits the possession of live river otters. The section would be amended to set requirements for the trapping, possession, and sale of river otters. 312 IAC 9-3-18.4 governs the possession and sale of river otters, badgers, and bobcats. The section would be amended to remove the references to river otters. Bobcats and badgers “are legal species that can be taken in other States, so we tried to deal with those separately” from river otters.

Petercheff said amendments proposed to 312 IAC 9-3-18.2 would allow a person to take no more than two river otters per year in 64 designated counties with a statewide quota of 600. The county designation and quota would be set by temporary rule until “we know where we will be comfortable with having counties open and a quota.” There will be an electronic check-in within 24 hours of harvest of the river otter, and a mandatory check-in with a carcass and hide within 15 days after the month of harvest. The DNR would issue a Convention on International Trade in Endangered Species of Wild Flora and Fauna tag, a Federal tag that is required to transport a hide across State lines. Most harvested river otter hides would be transported to the North American Fur Auction in Canada. The DNR would collect the carcasses for biological information to assist with establishing seasons and county restrictions over the next few years.

Petercheff said amendment to 312 IAC 9-10-12, the fur buyer’s license, would remove date restrictions on the possession of river otter, bobcat, and badger carcasses and hides; change the possession and reporting date to June 30 of the year the license expires (licenses run from July 1 through June 30 of the following year); and specify requirements for proper carcass disposal.

The Chair inquired of the impetus of the rule proposal. “Have you determined that there are now enough river otters that they can be harvested?”

Mark Reiter, Director of the Division of Fish and Wildlife, answered in the affirmative. He also noted that there have been conflicts with individuals raising fish in private ponds and with commercial aquaculture. Petercheff added DNR biologists determined river otters in the designated counties have self-sustaining populations.

Davis asked the price of an otter pelt. Petercheff responded otter hides “sell for close to \$100.”

Herriman inquired, “So, there are conflicts with private pond owners, aquaculture facilities, and recreational anglers. Is it a massive problem?”

Petercheff answered “the number of complaints has risen exponentially over the past couple years. The Department is issuing two to three times the number of nuisance wild animal permits for river otters that are basically wiping out ponds. [River otters] will come in usually late winter from off the main rivers and move into people’s private ponds, aquaculture facilities” or fish hatcheries.

The Chair then recognized Barbara Simpson, Executive Director of the Indiana Wildlife Federation. Simpson stated the Indiana Wildlife Federation supported the proposed amendments.

Smith asked Petercheff to expound on the proposed state-wide quota. Petercheff responded there would be a statewide quota of 600. Notification would be through the Internet and news releases. Reiter added that individuals would report harvests through electronic check-in, “so, we should be able to notify the quota has been reached.” Petercheff noted that the rule proposal would address the taking of a river otter after the date the statewide quota is reached.

Herriman asked what caused the decrease in the river population, historically. Petercheff responded the decrease in water quality and food source impacted the river otter population to the point of endangerment.

Information Item: Discussion of possible future rule amendment requests from the Division of Fish and Wildlife

Linnea Petercheff also presented this item. She said the material before the Advisory Council resulted from an online public input process that was initiated in January and February. “We gave the public an opportunity to write either online or by mail, to not only comment on suggestions [the Division of Fish and Wildlife] had for rule ideas, but to offer their own suggestions”. Over 4,000 comments were received. The comments were reviewed and compiled into a list of “topics and ideas” for proposed rule amendments. She said the Department was drafting analyses for the Office of Management and Budget’s review and approval.

Petercheff said that “there may be a couple proposals that may gather more attention than other topics,” such as the suspension of the ruffed grouse season and changing “urban deer zones” to “deer reduction zones” with an increase in antlerless bag limit. The zones would be modified in a number of locations. She noted other proposals included:

- Addition of a new 16-inch size limit for walleye north of State Road 26
- New daily bag limit of 25 for all species of sun fish
- Restrictions on the number of large catfish that can be taken from public waters for both sport fishing and commercial fishing.
- A major change for the taking of game turtles, such as snapping turtles, through a new season, size limit, and reduced bag limit.

Petercheff noted the following proposals were suggested by the public:

- Allowing the sale of squirrel hides
- Allowing individuals to put a DNR issued customer identification number on trot lines or other fishing gear left unattended. The customer identification number would also be allowed to be put on deer stands placed on DNR property.

The following Department proposals were tabled after the receipt of public comment:

- Shortening the rabbit season on designated DNR properties
- Imposing legal shooting hours for quail, pheasants, and migratory birds during the winter. This proposal was modified to cover the hours for rabbit season during February on designated DNR property

The Chair then recognized Herb Higgins.

Herb Higgins, Greenwood, Indiana, stated: “My only concern was...the wording that is in Item 2, on page one and two, on ‘deer urban zones’. My understanding was that originally there was proposed baiting, which was then taken out of the language, but the background speaks about it. I would suggest some cleanup there.”

Reiter said the Division of Fish and Wildlife originally proposed allowing baiting in certain parts of the reduction zones to assist hunters and increase the efficiency of deer harvest. The Division has tabled the proposal, but plans to engage in further discussion regarding the possibility of limited baiting in these zones. “We are still talking about it. It’s not completely gone.”

Higgins said, “I understand. I would just prefer to have [the proposal] removed” from the materials presented to the Advisory Council “for clarification since it wasn’t being addressed. I think there is some confusion. Because I have heard from people, ‘Oh, they are going to allow baiting.’ This isn’t addressed and it was taken off at the time.”

Barbara Simpson said she agreed with Higgins’s comments regarding baiting in deer reduction zones. “We know we need to reduce those does, but baiting, somehow, allowing in one area, and not another, we are concerned with that.”

Simpson noted that there is general support, but also opposition regarding the proposed statewide suspension of the ruffed grouse season. She asked for clarification regarding the Department’s statement contained in the background information for the proposal (Item 9, page four of the supporting material): *Prospects for a population recovery are dismal and extirpation seems possible unless some intervention occurs.* “What kind of interventions? Do we have any plan going forward on what to do about grouse? What is the strategy going forward?”

Simpson said the Indiana Wildlife Federation supported the proposals regarding catfish restrictions as listed in Item 12, page eight. “We have members that are really concerned about commercialization of catfish, especially taking them out of the Ohio [River] to pay lakes. I know there are some things going on between Indiana and Kentucky, so we just strongly support doing something. I know it is a complicated problem.” She said the proposal governing rabbit chasing “went through the Legislature..., and we tried to get clarification that it was just for rabbits. That was the intent. Now the language allows a possibility for chasing coyotes and foxes. I’m just pointing that out. We are a little nervous about that. That has come up in the past. I know the [Commission] most likely would stop something like that happening, but I think that is a soft spot in the language.... Now we see it again. I just want to highlight that.”

The Chair asked for clarification regarding moving the proposals forward.

Reiter explained that the suggestions and topics would need to be reviewed and rule language drafted before moving forward. DNR is also required to seek exemption from the rule moratorium from OMB for any rule proposals. Proposals approved by the OMB would be then be subject to the rule adoption process under IC 4-22-2.

Davis said the Division of Fish and Wildlife, in years past, would put forth proposed rules every two years, or biennially. “We suspended it when we went through the big process” of reorganizing 312 IAC 9. “We are back on track.... If a petition from a citizen comes in and it fits in with the [biennial] process, we prefer processing it that way. An emergency or something really special that comes in, we would start a separate process for that petitioned item, but we would like it to have it fall into” the biennial rule adoption package.

Reiter said the Commission has been forwarding the petitions for rule changes in 312 IAC 9 that have been filed with the Commission’s Division of Hearings, and those petitions have been “rolled into this package. We put those [petitions] in the same process” for public comment.

Herriman asked, “Is that a fairly common practice of State agencies to ask for ideas for rulemaking? I think it is a great idea.”

Petercheff responded that other States provide an email address where the public may submit comments or suggestions.

Davis said, “We have this long history of back and forth. We have this relationship. I think we do a pretty good job, or try to, asking for ideas”.

Steve Lucas noted that authorizing citizen petitions to the Commission for rule change was initiated “probably 20 years ago. Citizens would show up at a Commission meeting and have ideas, things that they wanted to see changed.” In the absence of a process, the citizens, the DNR, and the Commission were frustrated. Former Commission member, Fr. Damian Schmelz, asked whether a consistent process for dealing with these suggestions could be established. Other members on the Commission concurred.

Later, the Commission adopted a nonrule policy document to address citizen petitions for rule change. The process was later extended to include nonrule policy document. Information Bulletin #7 now provides a process for citizen petitions within the jurisdiction of the Commission. Some other agencies likely have a similar process to consider rule-change petitions. “I think [the Department] might use it more regularly and routinely than some others.”

Herriman said he thought the ability for citizens to suggest rule changes was a good concept.

Adjournment

The meeting adjourned at 11:40 p.m., EDT.