

ADVISORY COUNCIL MEETING
Minutes of February 16, 2011

ADVISORY COUNCIL MEMBERS PRESENT

Patrick Early, Chair
AmyMarie Travis-Lucas, Vice Chair
Bill Freeman
David Lupke
James Snyder
Jim Trachtman
Donald Van Meter
William Wert

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Jennifer Kane

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Cheryl Hampton	Executive Office
Mark Reiter	Fish and Wildlife
Marian England	Legal
Ginger Murphy	State Parks and Reservoirs
Dan Ernst	Forestry
Megan Abraham	Entomology and Plant Pathology
Jim Hebenstreit	Water

GUESTS

Jody Peacock
Kent Reineking

Call to order by Chairman, Patrick J. Early

The Chair called to order the meeting of February 16, 2011 at 10:42 a.m., EST, at the Fort Harrison State Park Inn, Roosevelt Room, Indianapolis, Indiana. With the presence of eight members, the Chair observed a quorum.

Approval of minutes of meeting held on December 15, 2010

William Wert moved to approve the minutes of the meeting held on October 13, 2010. Donald Van Meter seconded the motion. Upon a voice vote, the motion carried.

Election of Officers

David Lupke moved to re-elect the current slate of officers for the year 2011. He nominated Patrick Early as Chair and AmyMarie Travis-Lucas as Vice Chair. No other nominations were offered. Bill Freeman seconded the motion. Upon a voice vote, the motion carried.

Consideration of Hearing Officer Report in Preparation for Advisory Council Summarizing Public Meetings and Making Recommendations to the Natural Resources Commission Regarding Request by Brookville Enhancement Partners for a Water Sale Contract Under IC 14-25-2 and 312 IAC 6.3; Administrative Cause No. 11-020V

Jim Hebenstreit, Assistant Director of the Division of Water, presented this item. He explained that Brookville Enhancement Partners (“BEP”) has requested to extend the water supply contract for irrigation of the golf course at Brookville Lake. In 2003, the Department entered into a contract with the Buck Point Golf Club, a subtenant of BEP, but on August 1, 2010, the sublease was terminated. BEP has requested the water withdraw contract be transferred for its holding. Hebenstreit said the Department is requesting approval of a contract for extension of ten years, or 2021.

Hebenstreit said two public hearings were held regarding the water withdraw request with two persons attending but no comments were offered. He noted Kent Reineking of BEP was present at today’s meeting. Hebenstreit recommended approval of the contract for water withdrawal from Brookville Lake. He said this contract and a separate contract with another party total less than 1% of the available water “even if they would use water every day of the year”. The other 99% of the available water is not contracted for use.

David Lupke asked whether the contract with BEP would be impacted if the Legislature amends the rate structure.

Hebenstreit said he would have to review the contract language in order to see whether a legislative change would impact an existing contract.

Donald Van Meter moved to approve the hearing officer’s report, as the Advisory Council’s report to the Commission under 312 IAC 6.3-3-4, and that the Advisory Council recommend the Commission enter a contract with Business Enhancement Partners, under IC 14-25-2 and 312 IAC 6.3, consistent with the hearing officer’s report. William Wert seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation to amend 312 IAC 8-2-6, and to make a corresponding reference change to a nonrule policy document for “Horses on DNR Properties”, to make the requirement for horse tagging on DNR Properties apply year-round; Administrative Cause Nos. 10-202F and 11-022F

Dan Ernst, Assistant State Forester with the Division of Forestry, presented this item. He explained an annual “horse pass” is available and currently a person must have an annual permit or a daily permit to use horses on a DNR property from April 1st to the end of November. “We are getting more and more uses of horses throughout the year, and we have pretty extensive facilities and trail systems across DNR lands.” The proposed amendment to 312 IAC 8-2-6 would require, year round, either a daily permit or annual permit to bring horses on a “DNR property”. Ernst said funds from permit sales, \$20 for an annual or \$5 for a daily, would go toward trail maintenance. He then requested the proposed rule amendment be recommended for preliminary adoption. Ernst explained the Natural Resources Commission has a nonrule policy document, Information Bulletin #47, regarding the use of horses on DNR properties. He requested a recommendation to amend the nonrule policy document to reflect the annual permit requirement.

AmyMarie Travis-Lucas said, “The only concern might be purchase locations. I think a lot of times people bought them as they trailered in. And, since some of the parks aren’t manned in the winter time that might be a concern.”

Ernst responded that a daily tag is now either a cash register receipt or another receipt issued by DNR, which would have to be addressed for those purchasing a daily permit. He said a possibility is a self-serve kiosk located where the horse traffic enters the property, and its use would be based on the honor system.

David Lupke moved to recommend preliminary adoption to amend 312 IAC 8-2-6, and to make a corresponding reference change to a nonrule policy document for “Horses on DNR Properties”, to make the requirement for horse tagging on DNR Properties apply year-round. Donald Van Meter seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation to amend 312 IAC 8-1-3 regarding firewood on DNR properties and to adopt a new nonrule policy document for ‘Firewood Management on DNR Properties’; Administrative Cause Nos. 10-204A and 11-014P

Ginger Murphy, Assistant Director for Stewardship with the Division of State Parks and Reservoirs, presented this item. She said, “The gist of what we want to do is to ask people that when they camp, camp with certified or local firewood.” Murphy said proposed are amendments to the DNR property rules at 312 IAC 8 and to a nonrule policy document which incorporates the rule amendments for application as the rule proposal is reviewed by the public and the Commission. There are four ways that persons may bring firewood into a DNR property: (1) firewood that is certified with a Federal compliance stamp; (2) firewood certified with a State compliance stamp, which is

obtained by businesses through the Division of Entomology; (3) firewood that is kiln-dried or construction lumber; or (4) firewood that is local, which means firewood that originates in same county or less than 25 miles distant from the property or in the which the person is camping. She said a person may buy firewood from a concession on the DNR property. The Department intends to manage firewood for emerald ash borer and for other pest and pathogens. “This is a management strategy for trying to protect our DNR lands from invasive pests and pathogens that are going to affect our forests.”

Murphy noted the Department would need to address where campers bring in firewood that has been stored in their back yard. She provided a map that includes DNR properties and a 25-mile radius depicted around that DNR property where firewood would be considered “local firewood”. Murphy said each DNR property would have a map posted on the Web site and connected to the reservation system. Campers will be able to “look at Springmill State Park and know whether they are generally within the 25-mile range. That will be an easy way for people to look to see if they’re firewood is considered local.”

Murphy said the Department would provide a self-certification process to allow persons to take an online course on “how to get their firewood ready to bring it with them to a campsite—things like removing bark, making sure that it’s aged and stored off the ground, and covered to protect from gypsy moth in the northern part of the State.” The online certification course is not yet incorporated in the proposal but is in discussion.

The Chair reflected the 25-mile rule is “totally unenforceable. If somebody shows up and they’ve got wood with them, there is no way of knowing where the wood came from.”

Murphy said, “That’s very true. It’s going to have to be a trusting thing that we ask people to do that. I think the idea is ‘keeping it local’ and working as hard as we can. There has to be a lot of education in trying to keep the firewood local.” Wisconsin has a similar firewood policy with the 25-mile standard, and it seems effective. She said Wisconsin conducted a survey before adopting the firewood policy, and research conducted following policy implementation shows there is decent compliance. Murphy said the 25-mile standard “will be tough to enforce”, and the Department is aware some individuals may not be truthful about the firewood being brought in to a DNR property.

The Chair reflected that it is better to have a firewood policy, although unenforceable, than to not have any policy at all.

Murphy noted that the vast majority of infestations of emerald ash borer in Indiana were introduced through firewood being moved.

Donald Van Meter said the Department needs to have a policy to address the spread of pest and pathogens, but he was concerned about enforcement.

Murphy said the nonrule policy document would serve as an education tool but would not have the effect of law.

AmyMarie Travis-Lucas asked whether the Department would only confiscate firewood if someone admits to possessing non-compliant firewood. “Otherwise, you will not be able to prove it.” Murphy agreed. If the Department adopted a policy that bans any firewood to be brought into a DNR property, “it is going to be fighting a firestorm.” The Kentucky DNR adopted a ban, and people notified the agency they would cease camping at Kentucky’s DNR properties. Kentucky is not actively enforcing the ban.

Jim Trachtman said, “In the greater scheme of things, the educational part is probably more important than the enforcement part.” He added, “education is the important part.”

Murphy said the Department has in the last three or four years provided education to campers about firewood through its internal policy. “When we reach a point where there is a conflict, there’s nothing to hang the enforcement on at this point. This will give us something to be able to provide a citation or take the firewood. We have not been able to do that to this point.”

Donald Van Meter moved to recommend preliminary adoption of amendments to 312 IAC 8-1-3, and to recommend approval to a corresponding nonrule policy document for “Firewood Management on DNR Properties”, to set standards for the use of firewood on DNR properties. Bill Freeman seconded the motion. Upon a voice vote, the motion carried.

Information Item: Discussion of ballast water, invasive species and efforts at control on the Great Lakes; Administrative Cause No. 11-012B

Ron McAhrn, Deputy Director of the Bureau of Resource Regulation, provided a brief introduction. He said the Department recently met with Jody Peacock of the Ports of Indiana regarding the status of New York ballast water regulations that have “potentially pretty far-reaching impacts” regarding shipping in Lake Michigan. McAhrn said Peacock would update the Advisory Council regarding ballast water legislation. Doug Keller of the DNR’s Division of Fish and Wildlife would provide an update on Asian carp and other invasive species.

Jody Peacock said he has been employed with the Ports of Indiana for ten years. Indiana has three ports: one on Lake Michigan (Portage) and two on the Ohio River (Mount Vernon and Jeffersonville). The Ports of Indiana is a self-fund entity and does not receive public funding. “We are completely funded through revenues generated mostly by lease income...and by any cargo that comes across our docks. A wharfage or a user fee is assessed for moving a ton of cargo.”

Peacock said the three Indiana ports provide connection to multiple modes of waterborne transportation. On the Great Lakes, there are international and ocean going ships coming in through the St. Lawrence Seaway. “That’s regular daily trade with Europe—ships of windmill components, steel, fertilizer, and project cargo.... Raw materials and grain is exported.” River systems connect Indiana’s three ports. There is year-round waterborne

shipping reaching 38 states. The yearly economic impact for Indiana through its ports is \$5 billion.

Peacock said that located within Indiana's 45-mile Lake Michigan shoreline are some of the largest steel mills and the 6th largest oil refinery. "This is a huge industrial hub and a huge economic generator for the State, and an area that relies heavily on both of those connections—the international shipping through the Great Lakes out to the Atlantic Ocean and the domestic waterway system down to the Gulf of Mexico." Indiana's yearly economic impact for shipping through the Great Lakes is \$14 billion.

Peacock indicated there is concern Indiana's shipping system would suffer unintended consequences in the rush to address legitimate invasive species issues related to ballast water with requirements that cannot be technologically achieved. The desire is "to find the balance of finding real solutions...that will keep industry going and address our environmental threats." The first issue is ballast water—water a ship takes in from an ocean or a lake for ballast when it does not have cargo. Ballast water may contain microscopic organisms (or invasive species) from one area which may be deposited in another area where the ballast water is discharged. The transportation of invasive species through ballast water requires strong federal standards and "cannot be addressed in a patchwork system of one state having one rule and another state having another rule."

Peacock said New York has adopted regulations that will affect the shipping industry in the United States and Canada. Effective in 2012, New York's regulation would require every ship coming through New York to have technology to treat ballast water to "100 times more strict than the International Maritime Organization Standard"—the standard for all ships as established by treaty. "The problem is there is no technology available today anywhere that would meet those standards."

Peacock reflected New York does not have the capability to police and enforce the regulation, but the requirement would become "an insurance issue. The ships can't lawfully operate or can't go through an area where they are in violation of law or else their insurance will be voided."

Today, every ship that would enter the Great Lakes is boarded by the U.S. Coast Guard, and the ballast tanks are tested. A ballast exchange is required 200 miles from the Great Lakes. This system has been successful with no new invasives since its implementation. Shippers want to find an accepted and approved system for treating water that they can install and then sell the system to other shippers.

Recently, New York granted compliance extensions until August 2013 to those requesting extensions, and this is a positive step. The regulation "sunsets" at the end of 2013 leaving a four-month period when the regulation is in effect, however, so work remains to be done.

Doug Keller, Aquatic Nuisance Species Coordinator for the Division of Fish and Wildlife, then provided an update on Asian carp. Asian carp were introduced into the

river system during 1960s flooding in Southern United States where aquaculture businesses were located. Asian carp includes big head carp, silver carp, grass carp, and black carp. Asian carp have been found in the Wabash River. Keller said that big head carp and silver carp have been found upriver of the Williams Dam on the East Fork of the White River. “We thought that dam would be an effective barrier to the movement of these fish. Unfortunately, some really big floods down in that part of the State a few years ago allowed them to get over that dam.” Silver carp can reach 30 to 60 pounds and can jump out of the water causing injury to boaters. The big head and silver carp are plankton feeders and compete with native species, such as the paddlefish. Carp have high reproduction and fast growth that allows for escaping predation easily.

Keller said in parts of the Mississippi Basin, 90% of some of the biomass is Asian carp. The Illinois River has some extremely high densities of carp. “When it’s 90% Asian carp, which means very few native species are left out there, and, therefore, probably not many game species left out there either. There is no a lot of desire to utilize Asian carp, which may be due to the associations made with the name ‘carp’. These are not your ordinary common carp. These are much different fish.”

Keller said one strategy to target Asian carp is to reduce population through harvest. Asian carp feed differently in the food chain than the common carp. “I had Asian carp three months ago, and they were one of the best fish I have ever eaten,” but cleaning Asian carp is difficult because they are extremely boney.

Keller said there are many looking at different ways to use Asian carp for not only fish oil, but for pet food and human consumption. Commercial fishermen on the Illinois and Mississippi Rivers can harvest big numbers of Asian carp using gill nets, but “probably not enough to really put a serious dent in their population.” Gill nets are not allowed for fish harvest in Indiana waters. Asian carp are not going to be eradicated from the Wabash River, because it would be cost prohibitive and even if eradicated, the eradication would be short-lived. The fish would repopulate from the Ohio River. Electro-fishing is not an effective way to collect these fish.

Keller said another strategy limiting range expansion. “This is probably more important than any other strategies.” Anglers could easily move Asian carp from one water body to another because young Asian carp look remarkably similar to gizzard shad. The Natural Resources Commission recently gave final adoption to a rule to limit shad movement to unintended waters. Angler education is important to restricting the spread of Asian carp.

Keller said closing critical watershed connections is probably the most important step to prevent the spread of Asian carp into the Great Lakes. He provided an update on the Asian carp fence constructed at Eagle Marsh in Fort Wayne. During high flood stages, the fence would help prevent Asian carp from entering. The 1,200-foot fence is porous to allow water to flow through east to west to the Wabash River. Sections of the fence can be taken down to allow additional floodwater to flow. The fence was built well above the 100-year flood event, and gauges were installed three feet apart to measure water levels. “Fish are not going to be able swim over this fence even in the worst of floods.” He

concluded by noting that several studies are being conducted regarding Asian carp in the upper portion of the Wabash River system as well as spawning studies conducted by Purdue University.

General discussion followed the presentations. The Chair thanked Jody Peacock and Doug Keller for their presentations. He asked that the Advisory Council be kept apprised of developments in these important areas.

Information Update:

The Chair asked Mark Reiter, Director of the Division of Fish and Wildlife, to update the Advisory Council regarding the proposed amendments to rules governing the taking of deer.

Mark Reiter said at its January meeting, the Commission gave preliminary adoption to rule amendments that differ from the previous proposal governing this subject. The current proposal would amend rules to govern urban deer zones by expanding the number of days in the season and by including the use of crossbows. The proposal would amend the late firearms antlerless-only season between Christmas and New Year's Day. The firearm and muzzleloader seasons would not be amended. The current proposal retains amendment to allow use of crossbows during archery season, a strategy which continues to be controversial. He said the proposal would support the Department's goal to reduce the Indiana deer herd.

Adjournment

At 12:19 a.m., EST, the meeting adjourned.