

NATURAL RESOURCES COMMISSION

Minutes of January 23, 2001

MEMBERS PRESENT

Michael J. Kiley, Chair
Larry Macklin, Secretary
Damian Schmelz
Terri Moore
Lori Kaplan
Rick Cockrum
John Goss
Steve Cecil
Raymond McCormick

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Tim Rider
Jennifer Kane
Debbie Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Carrie Bales	Executive Office
Andy Cullen	Executive Office
Bob Waltz	Entomology and Plant Pathology
Bill Maudlin	Fish and Wildlife
Gwen White	Fish and Wildlife
Todd Wess	Forestry
John Friedrich	Forestry
Larry Allen	Law Enforcement
Jerald Jackson	Law Enforcement
John Richardson	Reclamation
Gary Miller	State Parks and Reservoirs
Jerry Pagac	State Parks and Reservoirs
James Hebenstreit	Water
George Bowman	Water
Eric Myers	INRF

GUESTS

Rich Swartwood Bill Wharton

ELECTIONS OF OFFICERS AND MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular monthly meeting of the Natural Resources Commission at 10:12 a.m., EST, on January 23, 2001, at The Garrison, Fort Benjamin Harrison State Park, Indianapolis, Indiana. With the presence of nine members, the chair observed a quorum.

Terry Moore moved to approve the minutes of November 28, 2000. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

ELECTION OF OFFICERS

Chariman Kiley opened the floor for nominations to elect officers.

Rick Cockrum nominated Michael Kiley as Chairman, and Terri Moore seconded the motion. There were no other nominations. He was elected on a voice vote.

John Goss nominated Rick Cockrum as Vice Chairman, and Lori Kaplan seconded the motion. There were no other nominations. He was elected on a voice vote.

Damian Schmelz nominated Larry Macklin as Secretary, and Steve Cecil seconded the motion. There were no other nominations. He was elected on a voice vote.

MONTHLY REPORTS

Larry Macklin provided the Director's Report. He wished everyone a "Happy New Year," since it was the first meeting since the beginning of the New Year. He said, "we're very excited as an agency and looking forward to having a good year for the Department. It's an honor to work with this Commission. Thank you for your past guidance and leadership and we'll look forward to more in the future."

The Director reminded the Commission that the Indiana General Assembly is in session, and several bills of interest to the DNR have been filed. He stated, "although we have not sought any as an agency, there are plenty of issues to consider; probably as high as 60 different bills being looked at already. We'll keep you posted as some of those issues unfold." Macklin said many of the bills would not make it out of the committee. "It's just too early to speculate which bills are likely to succeed."

Macklin said the DNR's presentation to the Budget Committee "went quite well." He said the members of the House, Ways and Means Committee are considering the various agency and administration requests. Macklin said the agency's presentation of the budget bill is scheduled for February.

Jerry Miller, Chairman of the Advisory Council for Lands and Cultural Resources, was not present due to recent surgery.

John Davis, Deputy Director for the Bureau of Lands, Recreation, and Cultural Resources, reported that Jerry Miller recently had heart surgery. “Everything seems to be going well, and Jerry hopes to be back in February.” Davis reported that the Advisory Council met and approved the three easements that appear on the Commission’s agenda. He said the bureau has been busy getting ready for the invasion of gypsy moths, and plans are being developed for individual properties in anticipation of the “pretty tremendous impacts the moths will have on tamaracks, white oaks, and many other tree species.” Davis said, “unfortunately, the gypsy moths would probably change the complexion of some the properties to a great extent.”

Chairman Kiley introduced and welcomed Raymond McCormick to the Commission. McCormick is the new Chairman of the Advisory Council for Water and Resource Regulation. Kiley said, “Ray has a wealth of experience in environmental affairs, and he will be a terrific member of the Commission.” McCormick said the most important council votes were on items set for the February meeting, so he would defer his comments on them until February.

Dave Vice, Deputy Director for the Bureau of Resource Management, reported on the Indiana Heritage Trust.

Vice reported that the Division of Entomology has scheduled gypsy moth meetings in Hendricks, Lake, Noble, and Kosciusko Counties.

Vice reported that Lt. Gene Huffines, District Commander for District 7 (southwest corner of Indiana) is retiring in March. Vice said all of the Law Enforcement officers would be attending the Annual In-service Training in March. He said there is an ongoing investigation of a Golden Eagle that was killed in St. Joseph County in November.

Vice reported that on January 9, 2001, he and fisheries staff met with eight sport fishing groups in Michigan City to discuss issues relative to the Lake Michigan fisheries. Vice reported on the mid-winter Bald Eagle Survey. He said there were 278 bald eagles wintering in Indiana, which was the largest number ever for the winter count. The deer harvest for the season was down 1%, a drop from 95,135 to 94,371.

Vice said on January 19, he attended the funeral for Wildlife Biologist, Larry Lehman, who had been a DNR State Employee for 35 years.

Paul Ehret, Deputy Director for the Bureau of Resource Regulation was not present.

**BUREAU OF LANDS, RECREATIONAL
AND CULTURAL RESOURCES**

PERMANENT APPOINTMENTS AND PERSONNEL INTERVIEWS

Personnel Interview for Assistant Property Manager at Deam Lake State Recreation Area.

Terri Moore presented this item. She said there were two interviews for this position. "As always, the candidates were extremely well-qualified." Moore added, "Gold had a lot of previous experience with the Department, but for personal reasons she had to leave the job for a few years. We thought she would be well-qualified for the position again." Moore said the personnel committee recommended Opal Gold for appointment as Assistant Property Manager at Deam Lake State Recreation Area.

Chairman Kiley asked if both candidates had come from within the system. Moore replied, "Yes, they did."

Damian Schmelz moved to approve Opal Gold for appointment as the Assistant Property Manger at Deam Lake State Recreation Area. Steve Cecil seconded the motion. Upon a voice vote, the motion carried.

Personnel Interview for Assistant Property Manager at Wyandotte Caves

Tom Lyons presented this item. He said the Division of Forestry recommended Leland T. Webb for permanent appointment as Assistant Property Manager at Wyandotte Caves. He reflected that Webb was a valued employee.

Lori Kaplan moved to approve Leland T. Webb for permanent appointment as Assistant Property Manager at Wyandotte Caves. Rick Cockrum seconded the motion. Upon a voice vote, the motion carried.

Leland Webb was present. He said he had been with the Department for "just over a year." Chairman Kiley told Webb his services were appreciated and that the committee was happy to approve him for permanent appointment.

DIVISION OF FORESTRY

Consideration of a Request by Camp Pyoca, Presbytery of Whitewater Valley, for an Easement on State Forest Land for Development of Facilities at Jackson-Washington State Forest.

John Friedrich, Property Specialist for the Division of Forestry, presented this item. He said the Division of Forestry recommended approval of the request for a permanent easement to Camp

Pyoca, Presbytery of Whitewater Valley, Inc., for expansion of the facilities at Camp Pyoca, in exchange for approximately four acres of land.

Rich Swartwood, Executive Director of the Presbytery of Whitewater Valley, was present to answer questions. He said the Presbytery was “happy with John’s report” and hoped the NRC would approve the easement as requested.

Rick Cockrum moved to approve the request for a permanent easement to Camp Pyoca, Presbytery of Whitewater Valley, Inc. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of a Request by Walton and Aleta Guthrie for an Easement for Ingress and Egress across Harrison-Crawford State Forest.

John Friedrich also presented this item. He said the Guthries own approximately 120 acres in Crawford County. They plan to build a house in the southeast corner of their property. The existing access to their property is about a quarter mile from the proposed building site. The Guthries have requested an easement for ingress and egress across state forestland because of the short distance to the public road. He said the Division of Forestry recommends approval of a four-year permit to Walton and Aleta Guthrie at no cost. This authorization would be for ingress and egress with the approximate dimensions of 50 feet wide and 100 feet long.

Steve Cecil moved to approve the request for approval of an easement for ingress and egress across Harrison-Crawford State Forest. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of a Request by Town of Nashville for an Easement for Installation, Operation, and Maintenance of a Water Line across Yellowwood State Forest.

John Friedrich also presented this item. He said there is currently no public water supply system available along the terrace of Salt Creek. The Yellowwood State Forest property manager’s residence and other surroundings residences obtain water from wells located in the Salt Creek floodplain. During and after high-water events, the wells become contaminated and unfit for drinking. The Town of Nashville agreed to establish a water line to bring water to the residences.

He said the Division of Forestry recommended approval of an easement to the Town of Nashville for the installation, operation, and maintenance of a water line along the county road known as Green Valley Road. The Division of Forestry recommended the easement be at no cost, because the primary purpose was for the benefit of, and was requested by, the Division of Forestry.

Lori Kaplan applauded this cooperative approach to assuring safe drinking water to the property manager’s residence at Yellowwood State Forest and to nearby property owners. “IDEM encourages and supports potable drinking water for residents in the area.”

Kaplan moved to approve the request for approval of an easement to the Town of Nashville upon the terms recommended by the Division of Forestry. Rick Cockrum seconded the motion. Upon a voice vote, the motion carried.

BUREAU OF RESOURCE REGULATION

DIVISION OF RECLAMATION

Consideration of the Preliminary Adoption of Recodified Rules under the Indiana Surface Mine Control and Reclamation Act; Administrative Cause No. 00-215R

Steve Lucas introduced this item. He said the proposal would recodify at 312 IAC 25 rules governing administration of the Indiana Surface Mining Control and Reclamation. Rules currently codified at 310 IAC 12 governing coal mining and reclamation would be repealed.

John Richardson of the Division of Reclamation indicated the proposal made no substantive changes. He said he was present to answer questions and that his division recommended preliminary adoption.

Damian Schmelz moved to give preliminary adoption to 312 IAC 25 and to the repeal of 310 IAC 12 governing Indiana SMCRA. Rick Cockrum seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF WATER

Consideration of Preliminary Adoption of Recodified and Modified Rules to Govern Flood Plain Management; Administrative Cause No. 00-199W

Steve Lucas introduced this item. He said the proposal was part of the continuing process of recodifying DNR rules at 310 IAC to become NRC rules at 312 IAC. Unlike the circumstance with respect to surface coal mining, the current proposal also included proposed substantive changes. Lucas said Jim Hebenstreit and George Bowman from the Division of water were present to describe highlights of the rule proposals.

Jim Hebenstreit said the rules were previously presented to the Advisory Council. An important policy question was whether two feet of freeboard should be required for buildings constructed in the flood plain. This freeboard requirement is not mandated by FEMA, but requiring only one foot of freeboard would result in higher flood insurance rates, and requiring no freeboard would result in higher rates still. Of course, the amount of freeboard also has significance to public safety. He said the Advisory Council recommended two feet of freeboard be required, and the proposal was placed before the Commission with this recommendation.

Hebenstreit explained, that traditionally two feet of freeboard has been required by the NRC and the DNR of local governmental entities administering the regulatory program for the floodway fringe. For construction in the floodway, administered by the DNR primarily through the Division of Water, two feet of freeboard was only a recommendation. He said, if there is to be a distinction between freeboard in the fringe and the floodway, the more conservative approval should be for the floodway where floodwaters are carried—not the fringe. The current status is the opposite and very difficult to justify. He said whatever the requirement for freeboard, the Division of Water recommended the same amount be required in the floodway and in the fringe. Asked by the Commission whether the Advisory Council recommendation would mean Indiana would be more stringent than FEMA requirements, he said it would be.

Chairman Kiley asked whether Hebenstreit believed a discussion of the freeboard requirement would generate discussion at public hearing. He responded he felt certain it would, whatever the NRC proposed at preliminary adoption.

George Bowman described a new “general license” or “license exemption” that was being proposed for outfall structures in the floodway. He said in terms of numbers, many of these needed licenses, but the scope of the DNR’s review was the structure and not the contents of its discharge. As a consequence, permitting terms are “pretty much boilerplate.” Also, a negative consequence of requiring individual licenses was that many developers would stop just short of the floodway with their outfalls, allowing water to be discharged on the surface with no regulatory control, rather than submit themselves to licensing requirements. The proposal would set technical requirements consistent with the language currently required in the individual licensing process but without unnecessary bureaucracy.

Chairman Kiley reflected these proposals were likely to motivate public comment. In the absence of any remonstrance at this early stage, however, he suggested the proposal appeared ready to move forward.

Damian Schmelz moved to give preliminary adoption to recodification of the rules to assist with Flood Plain Management at 312 IAC 10 and the simultaneous repeal of 310 IAC 6-1 that currently addresses this topic. Included were the changes set forth in the Commission packet and outlined by DNR’s Division of Water. Steve Cecil seconded the motion. Upon a voice vote, the motion carried.

LEGAL PROCEEDINGS

NRC–DIVISION OF HEARINGS

Consideration of Report of Public Hearings, Analysis, and Recommendation for Final Adoption of Recodification and Amendment of Watercraft Rules; Administrative Cause No. 00-95L; LSA #00-122(F)

Steve Lucas, hearing officer, presented this item. He said for consideration was the final adoption of the recodification of rules setting special standards and zones relative to watercraft

operations on public waters. Most of the language in proposed 312 IAC 5 was unchanged from the version currently codified at 310 IAC 2.1. Notable new provisions would authorize state law enforcement officials (notably the DNR's Division of Law Enforcement and county sheriffs) to enforce standards for Type II and Type III marine sanitation devices on Lake Michigan and its navigable tributaries. This authority was supported in public comments by the Indiana Task Force on *E. coli*.

Also reflected in the rules were statutory changes in Public Law 38-2000 (amending IC 14-15-7-3) authorizing the Commission to establish special watercraft zones to protect environmental factors and users, although these rules established no new zones. Chairman Kiley asked if these changes would authorize the protection of fragile aquatic resources, such as wetlands, from disruptive boat traffic at specified sites on public freshwater lakes. Lucas responded the statutory changes established this authority.

Lori Kaplan moved to give final adoption to 312 IAC 5, and to the repeal of 310 IAC 2.1, governing standards and zones for watercraft operating on Indiana's public waters. Damian Schmelz seconded the motion. On a voice vote, the motion carried.

Consideration of Report of Public Hearings, Analysis, and Recommendation for Final Adoption of Lythrum Species ("Purple Loosestrife") Biological Control Permit; Administrative Cause No. 00-111E; LSA #00-153(F)

Steve Lucas, hearing officer, introduced this item. He said the proposal would make permanent an emergency rule that allows purple loosestrife to be introduced and grown to host biological control organisms, for research, and for public education.

Robert Waltz, Director of the Division of Entomology and Plant Pathology, said the efforts to control *Lythrum* species (purple loosestrife) with biological agents were proving successful. He said a new initiative for school children and others to grow purple loosestrife to disseminate these agents was popular last summer, and if the rules were given final adoption by the Commission, he anticipated continued future success. He said the Division of Entomology and Plant Pathology favored final adoption of the proposed rule amendments.

Damian Schmelz asked whether a person who grows purple loosestrife in a flower garden is required to destroy the plant. Waltz responded the law did not require the destruction of living plants, but did prohibit their sale and distribution (unless specially licensed by the DNR, as would be done under the rule proposal).

Damian Schmelz moved to give final adoption to the rules to authorize a license to introduce and possess purple loosestrife upon the limited terms described in proposed 312 IAC 18-3-13(f). Terri Moore seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearings, Analysis, and Recommendation for Final Adoption of Amending 312 IAC 18-3-14, Which Governs Control of Gypsy Moth, by Adding Counties to the Quarantine Area; Administrative Cause No. 00-102E; LSA #00-124(F)

Jennifer Kane, hearing officer, presented this item. She said the proposed rule amendments add Allen, Dekalb, Elkhart, LaGrange, Noble, and Porter Counties to the gypsy moth quarantine area. For last summer, these counties were addressed by an emergency rule. Currently, only Steuben County is under quarantine by permanent rule. Kane said the 1999 trapping data supports the declaration of quarantine for each county. She explained that, in the absence of county-specific quarantines, the federal government through APHIS (Department of Agriculture, Animal and Plant Health Inspection Service) is empowered to establish the entirety of Indiana as a quarantine area. Kane recommended final adoption of the rule.

Robert Waltz, State Entomologist, reported these rule amendments would help address the increasing numbers of gypsy moths in the state of Indiana and help slow their spread from quarantined areas. He repeated that six additional counties are recommended for regulation in Indiana (Allen, Dekalb, Elkhart, LaGrange, Noble, and Porter Counties). Each of these counties has been placed under federal regulation previously. Counties are reviewed individually and considered for regulation due to increased numbers of male moths trapped, presence of multiple life stages within the county, and increased incidence (number of infested sites known to exist within the county). The Division will work to eradicate incipient populations of gypsy moths or relatively few increasing populations ahead of the infested area; however, if there are multiple infested sites, eradication is nearly impossible to achieve and to document. Waltz added, “therefore, we are recommending that these counties be added to the state list of quarantined counties.”

Rick Cockrum asked who was affected by the gypsy moth regulations. Waltz answered that homeowners, commercial Christmas tree growers, nurseries, manufacturers, and others were all affected by gypsy moth regulations. He said the rules do not control gypsy moths within the county regulated, but they should help impede the spread of gypsy moths into other counties by artificial means.

Damian Schmeltz inquired about seeing gypsy moth defoliation. He recalled the NRC had previously considered viewing a site with defoliation following a regular monthly meeting. Waltz indicated May or June would be a good time to visit a site, and said June would typically show the devastation completed and will be the most dramatic month in terms of visual effects. May would be in the midst of the infestation and Commissioners could possibly see the larvae at work and experience the droppings, the offensive odors, and other unpleasant consequences. Waltz said that, “We will watch for signs of developing populations and report back to the Commission. Because of the fungus (*Entomophaga maimaiga*) we might anticipate a low population of gypsy moths this next season.”

Director Macklin commended Dr. Waltz and his staff for their “great” efforts in controlling gypsy moth.

Terri Moore moved to give final adoption to amendments to 312 IAC 18-3-4 to add Allen, Dekalb, Elkhart, LaGrange, Noble, and Porter Counties to the permanent gypsy moth quarantine. Rick Cockrum seconded the motion. Upon a voice vote, the motion carried.

Consideration of Recodification and Modification of Rules Governing Archaeological Reviews; Administrative Cause No. 98-173H; LSA #178

Steve Lucas presented this item. He said for consideration was a proposal to recodify DNR rules at 310 IAC 19 to become NRC rules at 312 IAC 21. In this instance, the Division of Historic Preservation and Archaeology was also offering several substantive changes. Notably, the “principal investigator” at an archaeological site would be required to be qualified by training and experience to perform Midwest archaeology, not merely archaeology at some site in the world. A field or laboratory supervisor would be required to have parallel training and experience. Persons governed by the rules and ethical standards set forth in a 1989 GUIDEBOOK would be subject to a “complaint” to disqualify them from performing activities under the rules if they failed to abide by those standards. Lucas said there had been some interest in these proposals based on the “notice of intent” to adopt published in the Indiana REGISTER, and he expected, if given preliminary adoption, there would be comments at public hearing.

Terri Moore moved to give preliminary adoption to 312 IAC 21, as proposed, and for the simultaneous repeal of 310 IAC 19. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Recodification and Modification of Rules Governing Human Remains, Burial Objects, and Artifacts; Administrative Cause No. 98-174H

Steve Lucas presented this item. He said the proposal was for preliminary adoption to rule amendments establishing 312 IAC 22 and simultaneously repealing 310 IAC 20 governing the treatment of ancient human remains, burial objects, and artifacts. He said these rules were closely related to the former agenda item, but there were few substantive changes other than those needed to be parallel with proposed 312 IAC 21. He indicated the Division of Historic Preservation and Archaeology sought their preliminary adoption.

Damian Schmelz moved to give preliminary adoption to 312 IAC 22 and to the simultaneous repeal of 310 IAC 20 as proposed. Steve Cecil seconded the motion. Upon a voice vote, the motion carried.

Consideration of Proposed New Rule to Govern Fishing Tournaments and Other Organized Activities on Public Waterways and DNR Lakes; Administrative Cause No. 00-116A; LSA #00-189

Steve Lucas introduced this item. He said the proposal was for new rules to help implement Public Law 38-2000 (HEA 1975). This legislation made significant changes to the statutes governing boat operations on public waters. One of the changes authorizes the NRC to regulate “watercraft engaged in group or organized activities or tournaments” on all public waters. Formerly, the Commission had rule-adoption authority only for boat races, water ski events, and fishing tournaments on DNR lakes such as Lake Monroe or Patoka Lake.

Lucas said the rules were written by a DNR committee including representation from several divisions. They reflected a philosophy that would typically regulate fishing tournaments and

other organized activities on public waters—probably most often “public freshwater lakes” located in the northern quarter of the state—only where regulation was sought locally. Although the DNR would retain the authority to initiate a rule adoption on its own initiative, the agency would generally look to local county commissioners, a municipality, or a conservancy district to begin the process. He said the DNR committee also believed current rules governing fishing tournaments on DNR lakes should be folded into this proposal so a single process would result. Lucas addressed one item that he recommended be modified. He said insurance and indemnification were currently required for tournaments administered on DNR lakes. This requirement for DNR lakes was borrowed for the proposed rules governing public waters, generally. He said several persons had contacted him and suggested this aspect of the proposal was inappropriate for public freshwater lakes and other public waters. Lucas indicated the point was not emphasized in discussions by the DNR committee, and while he could not speak for the committee, his own opinion was the concerns were well-considered. He recommended the insurance and indemnification provisions be moved to 312 IAC 2-4-13, for preliminary adoption, so they would apply exclusively to the listed DNR lakes.

Michael Kiley said a sensitive point, with Indiana citizens who used the public freshwater lakes, was that Michigan and Ohio close their waters to fishing in the bass spawning season. Since Indiana does not have similar closure, there is “tremendous pressure” on Indiana’s public freshwater lakes to accommodate tournaments from other states during this period. He asked whether the DNR committee had given thought to providing for similar closures in Indiana.

Lucas responded the DNR committee had reviewed this point. The participants believed the issue was one primarily for the fisheries biologists, and the Division of Fish and Wildlife, generally, rather than a tournament or watercraft issue. If rule changes were to be made by the NRC with respect to fishing seasons, those changes should more properly come in consultation with the Division of Fish and Wildlife.

Chairman Kiley pointed to 312 IAC 2-4-13 and noted specific limits were placed on the numbers of boats that could be put on DNR lakes in designated months. He said his opinion was that similar limits should be placed on the larger public freshwater lakes, which bear the major burden of fishing tournaments.

Lucas responded this structure was what was ultimately anticipated. If limitations were placed on a lake, they would look similar to those referenced in 312 IAC 2-4-13. He said the current rule proposal was designed to establish an orderly procedure to accomplish this result, with the emphasis on local promotion where support existed for such a limitation. The current rule proposal did not establish any new restrictions on tournaments, rather it provided a process if someone came forward to seek a tournament licensing requirement for a particular lake or other public water.

John Goss asked about public participation in the rule proposal. Gwen White indicated she and Jim Ray would work with constituent groups, including the summer legislative workgroup with both general citizens and lawmakers, that helped craft SEA 1975. Since the workgroup had not met subsequent to the DNR committee preparing its draft, there had thus far been no opportunity to present it directly to them.

Steve Cecil asked whether approval of these rules would mean fishing tournaments and other organized activities would be regulated on all public waters as soon as the rules were given final adoption. Lucas answered “that kind of the reverse is true.” The rule proposal would establish a procedure to determine which lakes should be subject to regulation, but regulation would occur only where determined following a separate rule adoption on a site-specific basis.

John Goss observed 312 IAC 2-4-13 appeared to preclude fishing tournaments on any DNR lake, other than Lake Monroe, between Memorial Day and Labor Day weekend. Lucas re-examined the section and indicated the wording in subsection (a) was obsolete and now inaccurate. He apologized for the error and indicated, that if the NRC gave the proposal preliminary adoption, it would be corrected before publication in the Indiana REGISTER.

Rick Cockrum said he was favorably impressed with the design of the proposed rule adoption. Rather than a “one-size-fits-all regulatory program,” any regulation that would follow could consider the conditions present on a particular lake. What might make sense on an inland lake in northern Indiana might not make sense for a reservoir in southern Indiana. “I think it’s a good step forward.”

Chairman Kiley expressed his agreement. While he had reservations about the proposal, he believed it should motivate a “good public discussion” during the rule adoption process and was, in fact, “progress of a positive nature.”

John Davis said he believed this rule proposal, and the previous discussion of a general license to govern the placement of outfall structures in floodways, reflected a philosophy “to seek a lighter touch to regulation.” The agency was looking for creative ways to design regulatory programs that intruded only to the extent needed.

Rick Cockrum moved to give preliminary adoption to new rules at 312 IAC 2-4, and to the amendments to 312 IAC 8, to address the regulation of fishing tournaments and other organized activities on public waters. Preliminary adoption would be as set forth in the Commission packet, but with the modifications described with respect to insurance and indemnification, and with the removal of the prohibition on fishing tournaments at DNR lakes between Memorial Day and Labor Day weekend. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Recodification and Modification of Rules Governing the Operations and Administrative Review of the Indiana Historic Preservation Review Board; Administrative Cause No. 00-202H; LSA #00-243

Steve Lucas presented this item. He said, once again, the proposal was part of the continuing process to recodify DNR rules as NRC rules. This proposal would adopt 312 IAC 20 to govern the operations and review of actions of the Indiana State Historic Preservation Review Board. The proposal would also repeal 310 IAC 10 that currently governs this subject. Lucas said 310 IAC 10 was now more than 20 years old. As a result, rule proposal required several modifications to reflect statutory changes that had taken place during the intervening rules, but he believed the proposed rule changes were unremarkable. He indicated the Division of Historic Preservation and Archaeology recommended the amendments be given preliminary adoption.

Rick Cockrum moved to give preliminary adoption to 312 IAC 20, and to the simultaneous repeal of 310 IAC 10, governing the activities of Indiana Historic Preservation Review Board. Terri Moore seconded the motion. Upon a voice vote, the motion carried.

Consideration of Preliminary Adoption of Watercraft Restricted Zone, as Sought by D. L. Adams, for the waters below the Oakdale Dam, Tippecanoe River; Administrative Cause No. 98-181L

Steve Lucas introduced this item. He said D. L. Adams petitioned the Natural Resources Commission to adopt a rule to restrict watercraft from beneath the Oakdale Dam on the Tippecanoe River. In accordance with the Commission's nonrule policy document concerning citizen petitions for rule change, the Division of Law Enforcement was asked to comment on the proposal. The Division investigated the site and concluded existing laws were sufficient, without rule adoption, to address the concerns expressed by Adams. Lucas said he had informed Adams of the time and place of the NRC's meeting, and he thought Adams might appear, but he had not.

Rick Cockrum moved to table indefinitely the request by D. L. Adams for a special watercraft rule to address the area downstream from the Oakdale Dam. Terri Moore seconded the motion. On a voice vote, the motion carried.

ADJOURNMENT

At 11:30 a.m., the meeting was adjourned.

FUTURE MEETINGS

February 21, 2001, 10:00 a.m., EST (The Garrison, Ft. Benjamin Harrison State Park, Indianapolis, Indiana)

March 22, 2001, 10:00 a.m., EST (location to be announced)

April 24, 2001, 10:00 a.m., EST (The Garrison, Ft. Benjamin Harrison State Park, Indianapolis, Indiana)

May 22, 2001, 10:00 a.m., EST (The Garrison, Ft. Benjamin Harrison State Park, Indianapolis, Indiana)

June 21, 2001, 7:00 p.m., EST (Pokagon State Park)