

NATURAL RESOURCES COMMISSION
Fort Benjamin Harrison State Park
The Garrison
Minutes of July 20, 2004

MEMBERS PRESENT

Mike Kiley, Chair
John Goss, Secretary
Damian Schmelz
Jerry Miller
Jane Anne Stautz
Lori Kaplan
Larry Buckle
Raymond McCormick, II

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Jennifer Kane
Debra Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Krystal Wethington	Executive Office
John Davis	Executive Office
Paul Ehret	Executive Office
Eric Myers	Executive Office
Janet Parsanko	Executive Office
Linnea Petercheff	Fish and Wildlife
Glen Salmon	Fish and Wildlife
Glenn Lange	Fish and Wildlife
Katie Smith	Fish and Wildlife
Burney Fischer	Forestry
Samuel Purvis	Law Enforcement
Lee Casebere	Nature Preserves
Nila Armstrong	Outdoor Recreation
Jerry Pagac	State Parks and Reservoirs
George Bowman	Water
Terri Swoveland	Water
James Hebenstreit	Water
Jomary Crary	Water

GUESTS PRESENT

Melvin R. Daniel
Roger Young
John K.

Kevin Strunk
John D. Lahr
Jack Corpuz

Randy Kutz
Bill Smith
Clarence Williams

Doug Allman
Dick Mercier
Gary Doxtater

Dave Hollenbeck
Page Berry
Jeff Pomp

Mitch Hayes
Dennis K. Ogle
Randy Showalter

REGULAR REPORTS

Michael Kiley, Chair, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., on June 20, 2004, at the Garrison, Fort Harrison State Park, Lawrence, Indiana. With the presence of eight members, the chair observed a quorum.

Jerry Miller moved to approve the minutes of May 18, 2004. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Director Goss reported that the newly appointed Lakes Management Work Group (LMWG) held one meeting and would have two or three meetings by fall. He said the work group decided it should “pick-up” the group pier issues and funneling from condominiums and similar properties, and lake access as their top issues. Goss said that the LMWG was planning to have all-day discussions on the issues. “Hopefully, we’ll have some information by later this fall back to the Commission and to the Legislative Summer Study Group.” Goss said the Legislative Summer Study Committee would meet on July 27, 2004 at the Garrison, Fort Harrison State Park. Goss said that the Department of Natural Resources would seek endorsement of several bills, which did not pass during the last session. These include:

- The discount senior fishing license
- Increase in the limits on in-house construction
- Phasing out of the life-time hunting and fishing license
- Authorization for the DNR Commission to adopt rules

Goss reported that Prophetstown State Park is scheduled to open the last week in August 2004. He said that the park would open for daily use only for Fall of 2004, and for camping in spring 2005. “Everybody should try to get up there sometime and see that prairie in bloom.”

The Director said camping reservations at the state parks have inclined, resulting in increased revenues. “This year’s Indiana State Fair is “going to be another good one. I think the most diverse and best programs schedule day by day.”

Goss reported that DNR has a new vista marsh wetlands education boardwalk in northeast Indiana, an effort applying the DNR’s non-game fund. “The effort is to create something good that is going to be real good for school groups and families to get out into the wetland and learn all about the plants and animals and the importance of wetlands.”

Goss reported on the Great Lakes Water Withdrawal Agreement. He said that the Governors of the Great Lakes States are working together to make some changes in the Agreement that would generally limit the diversions of the Great Lakes water to \$5 million gallons a day outside the basin. The Director said that the changes would have to go through each state legislature, hopefully in 2005. “All the states are going to be trying to adopt a new agreement on that.”

Jerry Miller, Chair of the Advisory Council for Lands and Cultural Resources, thanked the Commission for their efforts concerning perch fishing. “The perch fishing is starting to come back.” He said the Advisory Councils met jointly on June 23rd at Fort Harrison State Park. “All of the items were approved except for one, which was not included on the agenda for today.”

Kiley noted a recent article in the South Bend TRIBUNE concerning an increase in the perch population in Lake Michigan. The article attributed the increase to the 1992 rule adoption that eliminated commercial perch fishing in the lake. “There has to be some correlation between that, and the fact that the perch are now coming back.”

John Davis, Deputy Director of the Advisory Council for Lands and Cultural Resources, indicated the DNR is seeking to purchase an 8,000-acre parcel in Greene County known as the “Goose Pond”. He said newspapers have reported the negotiations to purchase the parcel of land have been discontinued, but reported that DNR “is still actively in negotiations with the owner to try to purchase that parcel.”

Davis said Charlestown State Park would be obtaining an additional 2,500 acres of river frontage from the U.S. Army Corp of Engineers. The acreage overlooks the Ohio River and would provide five miles of river frontage for the new park. “It will be a great asset to that area and a great state park.” Davis noted that the new addition of the park would not be open to the public for several months. “That will be a great addition to Charlestown.”

Davis reported that the renovation of Clifty Falls Inn have begun. The Recreational Development Commission is scheduled to meet the week of July 26th. “We expect that they will accept one of the bids.” Davis said the renovation is scheduled for completion in the spring of 2005.

Davis provided the Commission an information sheet entitled *Forest Products Industries in Indiana*. “It shows a pretty significant impact to the overall state economy.” Davis said that any questions on the information contained in the handout could be directed to Burnell Fisher, Indiana State Forester. “I think this is a part of Indiana industry that we need to get the word out on. It’s helping in a significant part of Indiana.”

Damian Schmelz asked if there was opposition to the 8,000-acre parcel on Goose Pond being reclaimed as wetlands from an agriculture area. Davis replied that 7,000 of the 8,000 acres have already been enrolled in the WRP Program through the Natural Resources Conservation Service. He commented, “So, restoration has already begun. There’s no doubt that there is an impact to the farm community, because farmers worry about critical mass received, and the equipment folks have to have enough acreage out there to stay in business. But, the Goose Pond is one area that has struggled over the years to produce good crops when the weather’s been right and the water is been right, and they’ve had some difficult times.” During the public meetings held concerning the possible purchase, “several people” spoke in favor of returning the Goose Pond to wetlands.

Raymond McCormick, Chair of the Advisory Council for Water and Resource Regulation, said he was unable to attend the last Advisory Councils joint meeting due to having to harvest wheat, but noted that he had been busy working on other conservation issues. “I’ve been next to the Goose Pond project, and working with Ducks Unlimited and NRCS and the owner to expedite the restoration of the project, and that’s been quite challenging.”

Paul Ehret, Deputy Director of the Advisory Council for Water and Resource Regulation, reported that over 1.0 million dollars was approved for Lake and River Enhancement (LARE) grants. “They are all worthy projects. Unfortunately, we had a request for probably double the amount of money that was

available through LARE, but it's a good sign the program continues to be enthusiastically applied by a variety of different entities for enhancement of lake and river environments."

Ehret reported that reauthorization of the Abandoned Mine Land Program (AML Program) continues to struggle in Congress. The AML Program is set to sunset at the end of September. Currently, the AML Program inputs approximately five to seven million dollars annually into the state for reclamation projects. "Right now, it looks as if the best we might be able to do is a one-year extension of the AML Program."

Ehret said the Federal Emergency Management approved slightly over \$500,000 in grants to purchase 15 flood-damaged homes in Bluffton, Indiana. He informed that the Town of Bluffton plans to convert the flood-damaged area into a community park.

Ehret provided an update on sudden oak death disease. The DNR quarantined the importation of nursery products from specific locations in California and Oregon. He said that sudden oak death disease has been a serious problem in California, primarily for oak trees, but also for other vegetation. "It's something that we need to be particularly alert for considering the type of vegetation that we have here in Indiana."

Ehret referenced Director Goss's report on the Great Lakes Water Withdrawal Agreement. He said there would be three public hearings set in late August at Indianapolis, Fort Wayne, and Portage.

PERSONNEL

Consideration of Recommendations of Division of State Parks and Reservoirs for Permanent Appointment of Robert Gutsell as Assistant Property Manager at Patoka Lake

Jerry Pagac, Director of State Parks and Reservoirs, presented this item. He recommended Robert Gutsell for permanent appointment as Assistant Property Manager at Patoka Lake.

Jerry Miller moved to permanently appoint Robert Gutsell as the Assistant Property Manager at Patoka Lake. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of the Recommendations of Division of State Parks and Reservoirs for Permanent Appointment of Phil Brown as Assistant Manager at Harmonie State Park

Jerry Pagac presented this item. He recommended Phil Brown for permanent appointment as Assistant Manager at Harmonie State Park.

Jerry Miller moved to permanently appoint Phil Brown as Assistant Manager at Harmonie State Park. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of the Recommendations of Division of State Parks and Reservoirs for Permanent Appointment of Mike Felton as Assistant Manager at Roush Lake

Jerry Pagac also presented this item. He recommended Mike Felton for permanent appointment as Assistant Manager at Roush Lake.

Jerry Miller moved to permanently appoint Mike Felton as Assistant Manager at Roush Lake. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of the Recommendations of Division of State Parks and Reservoirs for Permanent Appointment of Jerry Sobecki as Assistant Property Manager at Versailles State Park

Jerry Pagac also presented this item. He recommended Jerry Sobecki for permanent appointment as Assistant Property Manager at Versailles State Park.

Jerry Miller moved to permanently appoint Jerry Sobecki as Assistant Property Manager at Versailles State Park. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of the Recommendations by the Personnel Committee for the Appointment of Cory Rieman as the Assistant Property Manager at Potato Creek State Park

Jane Anne Stautz presented this item. She said the Personnel Committee supported the selection of Cory Rieman as Assistant Property Manager at Potato Creek State Park. He is “a very enthusiastic and committed individual who I think will do a wonderful job there.”

Stautz then moved to recommend Cory Rieman as Assistant Property Manager at Potato Creek State Park. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF LAND ACQUISITION

Consideration of A Request by the Division of Land Acquisition to Transfer Land in Spencer County from the Department of Natural Resources to the Indiana Department of Transportation

Barbara Moore, Director of the Division of Land Acquisition, presented this item. She distributed a proposed “Declaration of the Inter-Departmental Transfer of Use and Possession of Real Estate” for interests held by the DNR along US 231 in Spencer County. The parcel consists of .135 acres, and it runs along existing right of way for CR 400E and running north to just south of SR 162. Moore said the Division of Land Acquisition recommended the transfer to help facilitate road construction.

Raymond McCormick moved to approve the proposed land transfer in Spencer County from the Department of Natural Resources to the Indiana Department of Transportation. Jerry Miller seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF FISH AND WILDLIFE

Consideration of Approval of a Nonrule Policy (Information Bulletin #45) Regarding Disposition of Permanently Injured, Non-Releasable Wild Animals (Administrative Cause Number 04-083D)

Linnea Petercheff, EPO Staff Specialist for Division of Fish and Wildlife, presented this item. She said the Division of Fish and Wildlife and the Division of Law Enforcement proposed a nonrule policy to

establish guidelines for management of permanently injured and non-releasable wild animals rescued by licensed rehabilitates. Rehabilitators rescue sick injured and orphaned wild animal with the intent of releasing them back into the wild. She said that a rehabilitator's permit require that an animal be released within a 180-day time period. If an animal cannot be released within the 180-day period, the rehabilitator would notify a conservation officer regarding the disposition and could seek additional time if needed. Some wild animals are unable to be released even after medical treatment due to a serious injury or an acclimation to humans. Petercheff explained that, as a result, wildlife rehabilitators often keep permanently injured or non-releasable animals as pets. Conservation officers have not had a consistent way provide answers to rehabilitators and to respond to concerns on how to handle the non-releasable animals. The nonrule policy document would help establish a consistent policy for the handling:

- mammal or non-migratory game bird
- white-tailed deer
- reptiles and amphibians

Jerry Miller moved to approve the nonrule policy regarding Disposition of Permanently Injured, Non-Releasable Wild Animals. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF OUTDOOR RECREATION

Consideration for Approval of an Annual Vehicle Fee for Redbird State Riding Area

Nile Armstrong, Division of Outdoor Recreation, presented this item. She said for consideration was a proposed annual vehicle fee for the Redbird State Riding Area. The current fee is \$10 per day. Several riders visit Redbird every weekend and sometimes two to three times during the weekend. Armstrong said, "a lot of the riders have requested an annual fee." She said the Division of Outdoor Recreation was proposing an annual fee of \$175, with a fee of \$100 for the remainder of 2004. Armstrong added that Redbird State Riding Area consists of 620 acres with 31,000 active registered vehicles.

Jane Anne Stautz asked Armstrong how Indiana's rates compared to the rates of other states with off-road vehicle areas such as Redbird. Armstrong replied that not many states have riding areas such as Redbird. The Silver Lake Dunes State Park in Michigan charge a fee of \$15 per day compared to Redbird's fee of \$10 per day. Armstrong added that Silver Lake Dunes also has an annual fee.

Damian Schmelz moved to approve the annual vehicle fee of \$100 for 2004 and \$175 beginning in 2005 for Redbird State Riding Area. Jane Anne seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF WATER

Consideration for Preliminary Adoption of Rule Amendments to 312 IAC 11-2-5 to Define Bulkhead Seawalls to Include Timber and Railroad Tie Seawalls; Administrative Cause No. 04-116W

George Bowman, Assistant Director for the Division of Water, presented this item. He said for consideration was the preliminary adoption for a new definition for bulkhead seawalls. "Basically, what it would do is add clarification as to what type of seawall materials qualify for a bulkhead seawall. It also would add the criteria as to distinguish when a timber seawall should be considered a bulkhead seawall." Bowman informed that the rule amendments were considered due to staff discussions as to whether a timber seawall was "truly" a bulkhead seawall. He explained that currently, a "bulkhead seawall" is

defined as “an impervious, vertical, or near vertical shoreline protection structure”. He noted that under the definition of “impervious” a timbered seawall, “by its very design of being pieced together, would not be an impervious structure.” From an “engineering standpoint, a timber and/or railroad tie seawall provides shoreline protection and reflects wave energy and functions very similar to a concrete seawall or steel pile seawall.”

Bowman said since 1991 timber seawalls have been prohibited on Indiana “public freshwater lakes”. As a timber seawall needs to be replaced, “it comes down to the classification of whether it is a ‘bulkhead’ seawall. That dictates what type of materials they can replace that timber seawall with. If you consider a timber seawall a ‘bulkhead’, then they can replace that with suitable concrete or steel sheet piling. If you say it is not a bulkhead seawall, then there’s a potential that they may only be able to replace a timber seawall with glacial stone or some sort of bio-engineered seawall material.”

Bowman said the Department’s perspective is that when it can be demonstrated that an existing timber and/or railroad tie seawall is functioning as a bulkhead seawall, it should be recognized as a bulkhead seawall. He said the Department is proposing criteria “to allow the property owners the opportunity to demonstrate to the Department that their timber seawall is, in fact, functioning as a bulkhead seawall.” The property owner would be required to submit a written assessment by a registered professional engineer, licensed professional geologist, or soil scientist, with expertise in shoreline protection or wave dynamics, that demonstrates the seawall is functioning as a bulkhead seawall. Bowman added, “I do want to emphasize we are not advocating the timber seawalls. They’re still prohibited.”

McCormick said, “I guess my question is, if it’s a timbered seawall, and they want to repair the seawall, they cannot add timber to that seawall legally.” Bowman replied, “They cannot, no. That’s part of the problem. Sometimes you see very nice timbered seawalls out there that are three, four stacks high, and you have others where they’ve taken just one railroad tie and laid it across and say that that’s a timbered seawall. So, we’re trying to distinguish and get some specific criteria to distinguish between those situations.”

Ehret said timber seawalls were “grandfathered” under the rules, but when deterioration occurs and a timber seawall needs to be changed or replaced, there needs to be a process by which to determine what type of materials can be used for repair or replacement. “If in fact, if they’re considered to be a reflective wall, they have the option to use concrete or steel sheet piling.” If it’s not functioning as a reflective surface, then a landowner can only replace it with bio-engineered material or glacial stone material. “It basically allows us the mechanism to handle these maintenance and replacement situations. Currently, there’s some confusion on how to do that.”

Jane Anne Stautz moved to give preliminary adoption to rule amendments to 312 IAC 11-2-5 to define bulkhead seawalls to allow, under identified circumstances, for the inclusion timber and railroad tie seawalls. Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration for Approval for a Renewal of Contract for Water Supply from Monroe Lake to City of Bloomington Utilities (Contract No. MWS-04-1)

James Hebenstreit, Assistant Director for the Division of Water, presented this item. He said at issue was a request by Bloomington to renew its water supply contract for the purchase of raw water from Monroe Lake. The state’s average annual revenue from the contract was between \$160,00 and \$180,000 in the past two years. The revenue is transferred into a Department of Natural Resources account to be used for water resource related projects. Hebenstreit said the current request was that the new contract extend over the next 20 years. This period coincides with Bloomington’s water supply plan. “They may, indeed,

request an increase in the amount of their permitted withdrawal during that time, but if such a request is made, that would have to come back to the Commission.” Hebenstreit said the Division of Water recommended approval of the contract.

McCormick asked, “Where do we stand on guaranteeing the liability on the quality water? If this source of water is found to be unsuitable, do we incur any liability or responsibility?”

Hebenstreit said the contract was reviewed by the Attorney General’s office. “I suspect they would look at that issue.” Kiley added, “Most of those contracts have provisions in them directed to war or Acts of God”

Damian Schmelz moved to approve the renewal contract for water supply from Monroe Lake to Bloomington Utilities. Lori Kaplan seconded the motion. Upon a voice vote, the motion carried.

Consideration for Approval for a Renewal of Contract for Water Supply from Brookville Lake to Brook Hill Golf Club (Contract No. BL-04-1)

James Hebenstreit also presented this item. “This, again, is another request to renew a contract, that was originally entered into in 1994, by Brook Hill Golf Club.” He reported the Brookville Golf Club withdraws a “relative small amount” and that the state’s annual revenue ranges from \$170 to \$650. “There’s a huge amount of uncommitted water supply storage in Brookville Reservoir at this point in time. I don’t think when the reservoirs were originally built, the thought was that the water would be for water supply, but the demand for drinking water in those areas has not materialized, so we entered into some contracts with golf courses, and we’ve limited them to ten years. In the event that circumstances change, then I think public water supply would be the highest priority.” Hebenstreit said the Division of Water recommended approval of the contract.

Ray McCormick moved to approve the renewal contract for water supply from Brookville Lake to Brook Hill Golf Club. Jerry Miller seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF LAW ENFORCEMENT

Consideration for Recommendation for Preliminary Adoption of 312 IAC 5-6-5.5 Governing Restrictions on the Operation of Watercraft on Lake Manitou in Fulton County (Administrative Cause No. 03-069L)

Major Samuel Purvis, Indiana State Boating Law Administrator, presented this item. He provided a map of an area on Lake Manitou known as “the Prairie”, consisting of 42.8 acres. Purvis said the Prairie is a shallow area that consists of “some important aquatic vegetation”.

Purvis proposed that the Prairie be governed as a “no-motor zone” to protect the aquatic vegetation. He also proposed the rule currently before the Commission be further amended to establish a “no anchor” zone for the Prairie.

Purvis proposed to remove for preliminary adoption an area on the south end of Lake Manitou. The south end area had originally been proposed as a restricted boat zone. The Lake Manitou Association petitioned to establish the Prairie as a restricted boat zone, and the Department of Natural Resources initiated the rule proposal for the south end of Lake Manitou. “We want to pull that off the table.”

Kiley asked Purvis how the DNR was proposing to delineate that the Prairie as a restricted watercraft zone. Purvis replied boaters in the Lake Manitou community are “very familiar” with the Prairie, and the area would also be marked with seven regulatory buoys that would say “no motors”.

Jeff Pomp addressed the Commission. “We do need to do something about that area, but I would encourage public education and awareness of that area.” He recommended having signs posted at the boat ramps concerning restrictions at the Prairie. He supported removing the south end area of Lake Manitou from consideration as to a proposed restricted watercraft zone.

Kiley said, “Now, we have to depend on the property owners a great deal in regard to this. You are our eyes and ears on a daily basis.”

Page Berry addressed the Commission. “I will second the things that Jeff said, and the Lake Manitou Association supports the proposal on the Prairie. We’ll work with DNR and within ourselves to try to increase boater education. We’ll work together to try and do that. We also were in favor as far as Maj. Purvis pulling the second part of the proposal.”

Purvis added that during the joint Advisory Councils meeting, it was proposed the south end area of Lake Manitou have a sunset date of three years from approval. “That would cause us to evaluate the success at the Prairie and to view what has occurred on the south end of the lake during those three years.”

Kiley said, “There’s been a tremendous amount of cooperation between the Department and the Commission and the various property owners and associations, especially in connection with the northern Indiana lakes where the Property Owners Associations are pro-active, and have been for the last decade or so. Some are a little more sophisticated than others, but some on even some of the small lakes have gotten pro-active to the point where it’s very helpful to us. It helps us manage the resource a lot better and yet protect their investment, not only for themselves, but also for the general public. We really appreciate the input and the participation of your Property Owners Association there at Manitou. We thank you very much.”

Purvis recommended that the Commission adopt the “no motor” and “no anchoring” zone, with a three-year sunset period, for the “Prairie area of Lake Manitou, and that the south end area of Lake Manitou be stricken from the rule adoption proposal.

Lori Kaplan moved to approve preliminary adoption of 312 IAC 5-6-5.5, to governing restrictions on the operation of watercraft on Lake Manitou in Fulton County, as recommended by the Division of Law Enforcement. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

Recommendation for Preliminary Adoption of Amendments to 312 IAC 2-4-6 and 312 IAC 2-4-14, Which Governs Fishing Tournaments and Other Organized Boating Activity on Sylvan Lake in Noble County (Administrative Cause Number 04-038L)

Maj. Samuel Purvis also presented this item. He said in 2003 Rome City Town Council President, Dave Abbott, petitioned the DNR to add Sylvan Lake to the roster of lakes that require fishing tournament permits. Sylvan Lake is contains about 600 acres, and fishing tournaments take place there “mostly during the week.” Purvis outlined the proposed new restrictions:

- (1) One tournament per day consisting of no more than sixty-five (65) boats for the period of April 1 to April 30.

- (2) One tournament per day consisting of no more than fifty (50) boats for the period of May 1 to September 30.

Purvis reported the proposed limitations were presented to the Rome City Town Council, and the Town Council agreed on the proposed limitations. Purvis recommended them for preliminary adoption.

Dick Mercier, Indiana Sportsman Round Table, addressed the Commission. “I want you folks to know that we and our tournament members strongly support this particular issue. I did want to thank Paul Ehret and Sam Purvis for the excellent work that they did on the tournament regulations that they did for Lake Wawasee, which has become the precedent for this particular issue. We hope this will continue in this manner. Thank you, very much.”

Jerry Miller moved to give preliminary adoption amendments to 312 IAC 2-4-6 and 312 IAC 2-4-14 to govern fishing tournaments and other organized boating activities on Sylvan Lake, Noble County. Lori Kaplan seconded the motion. Upon a voice vote, the motion carried.

Recommendation for Preliminary Adoption of Amendments to 312 IAC 4-6-6 Governing the Insurance Board for the Department of Natural Resources, Division of Law Enforcement (Administrative Cause Number 04-115L)

Maj. Samuel Purvis also presented this item. He said the proposal was “an in-house issue” on rules governing activities of the Division of Law Enforcement. The proposal would amend language to reflect election of Chair according to the Board’s bylaws, and it would also change the name of the Insurance Board to its official title. By state statute, the conservation officers and excise officers barter for their own insurance program. He said Director of the Division of Law Enforcement, Bruce Clear, who also previously chaired the Insurance Board, initiated the proposed rule amendment.

Jerry Miller moved to give preliminary adoption to amendments to 312 IAC 4-6-6 governing the Insurance Board as recommended by the Division of Law Enforcement. Larry Buckle seconded the motion. Upon a voice vote, the motion carried.

NRC, DIVISION OF HEARINGS

Consideration of Recommended Report of the Natural Resources Commission With Respect to the “Petition for Creation of the Hants Lake Conservancy District” (Administrative Cause Number 04-029C; Johnson Circuit Court Cause No. 41C01-0312-MI-00018)

Jennifer Kane, Hearing Officer, presented this item. She provided Commission members with copies of the DNR Division of Water’s inspection report for the Hants Lake dam—an attachment that was inadvertently omitted from the agenda packet. She said the Johnson Circuit Court referred to the Commission the petition for creation of the Hants Lake Conservancy District. The purposes for the proposed district are as follows: (1) Developing recreational facilities in connection with beneficial water management; and (2) Operation, maintenance, and improvement of a work of improvement for water based recreational purposes.

Kane said Hants Lake was created as a recreational impoundment during the 1940s, and it is one of a network of lakes within the Prince’s Lake area. Testimony presented at the public hearing indicated several dams in the area have failed. She also noted the Northeast Conservancy District

and the White Lake Conservancy District, also within the Prince's Lake area, were established for similar purposes as the proposed Hants Lake Conservancy District. "The proposed conservancy district will manage and maintain the Hants Lake dam and ancillary structures, which will protect the integrity of the water management infrastructure."

Kane said the Department's inspection of the Hants Lake dam resulted in an overall rating of "conditionally poor". The Department also classified the dam as a "significant hazard". She asked that a reference to "Exhibit B" on page seven of her report be deleted. With this technical clarification, Kane recommended the Commission adopt her report as its report to the Johnson Circuit Court.

The Petitioners' attorney, Roger Young, addressed the Commission. "The District has full public support for the Hants Lake Conservancy District. We concur with the hearing officer's recommendation." Young asked that the Commission adopt the petition for the establishment of the Hants Lake Conservancy District.

Kiley asked Young, "You do not anticipate any problems at the circuit court level with respect to the approval of this?" Young replied, "No, sir. We do not."

Jerry Miller moved to approve the hearing officer's report and findings with respect to the Petition for Creation of Hants Lake Conservancy District. Ray McCormick seconded the motion. Upon a voice vote, the motion carried.

Consideration of Recommended Report of the Natural Resources Commission With Respect to the "Petition for Creation of the South Coast Conservancy District"(Administrative Cause No. 04-081C; LaPorte Circuit Court Cause No. 46C01-0402-PL-042)

Jennifer Kane, Hearing Officer, also presented this item. Kane said the LaPorte Circuit Court referred to the Commission the petition for the creation of the South Coast Conservancy District. She listed the purposes for the proposed district: (1) Improving drainage; (2) Providing water supply, including treatment and distribution, for domestic, industrial, and public use; (3) Providing for the collection, treatment, and disposal of sewage and other liquid wastes; (4) Developing forests, wildlife areas, parks, and recreational facilities if feasible in connection with beneficial water management; and (5) Preventing the loss of topsoil from injurious water erosion.

Kane noted that attorney David Hollenbeck represented the petitioners: The Purdue University Foundation, Purdue University, and TP Orthodontics, Inc. David L. "The conservancy district involves a public-private cooperation—the public part of it being Purdue University."

Kane said Purdue University and Indiana University are "reevaluating regional campuses, which were traditionally primarily two-year institutions and were 'feeder systems' to the main West Lafayette and Bloomington campuses. The proposed district is a development of Purdue University North Central Campus as a working more freestanding four-year institution." She said the proposed district would retrofit existing buildings and provide the mechanism for "effective and smart growth" of the university village.

Kane said the proposed district boundaries are wholly within the Lake Michigan Basin, with surface water drainage remaining within the basin. The water supply for the proposed conservancy district originates in the Illinois River Basin and will service the district. "If established, the South Coast Conservancy District proposes to pump effluent to an existing wastewater treatment plant owned and operated by the Town of Westville, which is located

within the Illinois River Basin.” She said the treated water would return to the Kankakee River, a tributary of the Illinois River. She noted that the Division of Water reflected in its June 24, 2004 Memorandum the circumstance would not be a “diversion” from the Great Lakes Basin that would effectuate state and federal statute. “The record before the Commission indicates the proposed South Coast Conservancy District could be established and operated in a manner compatible with established conservancy districts and other water management or water supply projects.” Kane recommended adoption of the report and findings.

The Petitioners’ attorney, David Hollenbeck, addressed the Commission. “Thank you, for your action. This is a real opportunity, as Jennifer alluded, to try a real neat totally private partnership with Purdue. I think most of us in Northwest Indiana are really excited about turning Westville into a four-year institution.”

Jerry Miller moved to give approval of the report and findings regarding the Petition for Creation of the South Coast Conservancy District. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Recommended Report of the Natural Resources Commission With Respect to the “Petition for Dissolution of the Belleville Conservancy District” (Administrative Cause No. 04-103C; Hendricks County Circuit Court Cause No. 32C01-0305-MI-42)

Jennifer Kane, Hearing Officer, also presented this item. She said the Hendricks Circuit Court referred the petition for Dissolution of the Belleville Conservancy District to the Commission. The public hearing was held before the referral. Even so, the Hendricks Circuit Court found specifically that the hearing satisfied the statutory requirements. Kane explained that a conservancy district could be dissolved if the district loses its benefits. An engineering analysis indicated an expansion of the Belleville Conservancy District facilities was required to adequately service the area’s growth. Kane noted that an expansion of the facilities was not economically feasible for the freeholders.

Kane said the Belleville Conservancy District opted to contract with the Town of Plainfield with Plainfield agreeing to purchase the District’s assets and to provide retail sewage treatment and collection services to the District’s area. She noted that the First National Bank agreed to the transfer of the Belleville Conservancy District loan to the Town of Plainfield. “Upon closing the sale of the District’s assets to the Town of Plainfield and after payment of necessary expenses, the net balance will be, as agreed by the freeholders, distributed one-third to the District’s existing customers and two-thirds to the Liberty Township Fire Department.” Kane recommended that the determination and fact finding report be approved.

Melvin Daniel, attorney for Town of Plainfield, addressed the Commission. “Daniel said, “This is an interesting situation.” He informed that he also represented the Belleville Conservancy District when it was created in the 1970s. “Belleville was faced with a serious problem; it’s a very small conservancy district” consisting of approximately 300 plus members. Daniel said that the Belleville area was “looking at rates of \$60 to \$70 to re-do 20 year old plan. He said that the Town of Plainfield is currently constructing a new plant, which would probably result in enough capacity to service the region. He said, “Plainfield is willing to take over the system and guarantee their rates of \$35. “I think it’s a real nice solution to a good community working together to solve a problem. So, we would appreciate your consideration.”

Jerry Miller moved to give approval of the report and findings regarding the Petition for Dissolution of the Belleville Conservancy District.” Damian Schmelz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Recommended Report of Public Hearing, Citizen Comments, Responses by Department of Natural Resources, and Presentation for Final Adoption of Rule Amendments to 312 IAC 9, Biennial Amendments to Rules Governing Fish and Wildlife (Administrative Cause No. 03-202D; LSA #03-311(F))

Director Goss provided opening comments. “We can all recall, I think, when this was presented for preliminary adoption. There was a lot of controversy on the hunter orange requirement for the fall turkey season. DNR staff still believes that hunter orange is good for hunting safety, and they will continue to advocate that. I think our staff took a valiant position in presenting that position and defending that position all through this year. But, we have listened to the public; we have listened to the hunter groups, particular the Turkey Federation. We appreciate the communications with them on this. We did come to the conclusion that we need to recommend the removal from final adoption of the hunter orange requirement for fall turkey season. Our Conservation Officers, Fish and Wildlife Staff, and staff in general, will continue to work on hunter awareness, hunter safety, and continue to advocate hunter orange in the future. But, at this time we do not be recommend it for final adoption.”

Stephen Lucas, Hearing Officer, said, “These rules are extremely lengthy. They cover a broad range of issues which makes review of them particularly challenging. I know that folks in DNR, particularly in the Division of Fish and Wildlife and the Division of Law Enforcement, have worked very hard with trying to address concerns raised by commentators. We had a lot of very insightful comments. There were, at least in my perspective, few legal issues raised. I think what we’re talking about are fundamental policy questions to the extent that there are still matters of disagreement. Those are, in my perspective, the prerogative of the Commission to decide, and I really didn’t make any recommendations regarding them.”

Lucas pointed out an error in the written materials. On page 125 in 312 IAC 9-4-11(f) (3)(d), where it states, “A person must not use a crossbow that has a mechanical safety”, it should read, “A person must not use a crossbow *unless* it has a mechanical safety.” Lucas said his recommendations as to the final adoption of the biennial fish and wildlife rules commenced, as Exhibit 1, on page 117 of the report. With the correction referenced from page 125 of the report, he said the proposal was presented for consideration as to final adoption.

Linnea Petercheff, EPO Staff Specialist for Division of Fish and Wildlife, reviewed the processing of this item. In June of 2003, the Division of Fish and Wildlife held open house meetings throughout the state. Over 500 people attended the open houses, as well as individuals that provided comments via written letter. Draft rule proposals were reviewed and mailed out along with a survey to all individuals who attended open houses. The public was given the opportunity to submit the survey on-line or via written letter. “We did not hold a second round of open houses at that time, but we did allow people to provide input either through the website, email, or via written letter.” Petercheff said that based on the early comments received, the Division of Fish and Wildlife dropped one proposal that would have prohibited the use of smokeless powder and muzzleloaders. The proposed rule amendments were presented to the Advisory Council in December 2003, and they received preliminary adoption in January 2004.

Petercheff said approximately 50 people attended the public hearing that was held on March 5, 2004. Approximately 100 comments were received via email. The Division of Fish and Wildlife met with several organizations, listened to their concerns, and reviewed the comments. Eight changes were made to the original rule proposals in response to public comments. “We made changes that we thought were

important and were not damaging to the resources that we were interested in pursuing.” On July 6, 2004, a bulletin was released announcing the Natural Resources Commission meeting where the proposed rule amendments would be considered for final adoption. “We tried to keep our public and our media well-informed of this process all along. And, again we responded to many of the comments received and tried to address their concerns.”

Randy Showalter, Indiana Senior Regional Director for the National Wild Turkey Federation (NWTf), addressed the Commission. “The volunteers of the Indiana Chapters and the NWTf want to thank you for your consideration of a strictly managed fall turkey season. This historic proposal is supported certainly by our organization. One of the “greatest challenges” wildlife agencies face is discovering ways to increase hunting opportunities and to remove barriers that slow hunters from successful hunting. Showalter thanked the Commission and DNR for allowing the Federation to participate in the rule amendment process. “We look forward to continued partnership at a local, state, and national level with you and the DNR. We understand with anything new, it’s going to be very important to educate our users that are thinking about taking to the field in the fall. We’re committed to working with you on that educational process, which will include fall hunting skills and the safety emphasis that goes along with those skills. Hunting is safer than riding a bicycle. We plan on doing our part with your agency to keeping it that way. We thank you very much.”

Doug Allman addressed the Commission. He told the Commission that he felt the crossbow recommendation “had changed somewhat” and said that he was against the modification which called for a “sun setting” of the rule. “I believe the rule should go forward as presented and that there be no sun setting of that rule. And, that if we need for some reason to change that in the future, we can do that in a rule package at that time. Crossbow has always been a controversial issue with a small group of organized bow hunters whose seasons basically might be doubly shared. There is an opportunity to share seasons with other hunters who wish to participate using a different type of weapon that they view as somewhat easier or maybe more efficient than what they use. But it is nowhere as efficient as a gun and some other weapons that we also use. There’s plenty of people who want to use this weapon.” These include “older people, women, children, and younger youth. This is an opportunity for them to enter the sport, participate in the sport and give the same allowances of others that use other weapons.” He added, “We do this with no other species in where we limit the take of the sex based on the weapon we use. I think it’s inconsistent to do that and it’s inconsistent to sunset when we’re not doing this with other rules.”

Allman also commented on the amendments proposed to the ruffed grouse season. “Once again, we’re cutting seasons. We’ve cut them once. We don’t need to cut it again. We as grouse hunters understand this species is suffering, but its suffering is not from hunting, it is suffering from lack of grouse habitat, which is due to inactive forest management. I realize there’s an environmental opposition to cutting trees, but if we are going to solve a problem, let’s not be punitive towards the hunters, which would be very little if any difference, in my opinion. I think the Grouse Society would support this, in which I’m a member of. Let’s do something where it needs doing and that’s to address the change in the forest management. And, if you cut some trees; create some habitat, educate the public, we believe that DNR has taken some steps down the road to try to develop some education. But, in the meantime, let’s not be punitive toward the hunters. There’s very few left in this state. They’re making very little impact. Again, I would urge you not to adopt the rule as written on curtailing of the season. I would quit hunting grouse in Indiana if I thought it would help growth, but I just don’t think that’s the reason.”

Clarence Williams, bow hunter from Newburgh, Indiana, addressed the Commission. He said he has been a bow hunter for 36 years. “The last three years, I’ve been a big cross-bow hunter. Since I’ve had trouble with my shoulder, I can’t draw a big compound bow anymore. I found crossbow is just another piece of archery equipment. It’s no better or no worse than the compound bow used by 93% of the bow hunters

today. I can see no reason why they should not be legal for all archery seasons, much less be illegal to take a late season buck.”

Williams said during the rules adoption process, he and other crossbowers proposed that the DNR rectify its past discrimination against “a group of deer hunters because of their choice of a hunting tool. We propose that the crossbowers be allowed the same opportunities as all the other hunters in Indiana and not be limited to antlerless only. Now, as we understand it, after meeting with a state bowhunter club, the Indiana Department of Natural Resources has issued a modification on this proposal to basically sunset this proposal in September 1, 2007. I would like to request that the Commission accept the original proposal and reject the modifications so that crossbowers will be allowed to hunt and take a buck now and from now on. Discrimination is discrimination whether it’s now or in the future.”

Jack Corpuz also provided comments on the ruffed grouse issue. He said he was opposed to shortening the grouse season. “The issue is really habitat.” He asked that the Commission “see fit to not pass this particular rule” and, instead, to pursue opportunities to improve the habitat.

John Haendiges addressed the Commission and provided comments. He thanked the Commission for the opportunity to speak and said he was both pro-crossbow and “pro-liberalization of same through all archery seasons. I would like to express my support for allowing crossbow hunters the opportunity to harvest their one-buck during our late archery season without having said rule tied to our current one buck rule or other sunset clauses. It is my feeling that crossbow should be allowed to pass or fail on its own merits or failings, like all other weapons; to be decided in the field by the hunters of Indiana who choose to use them, not backdoor lobbying by organized hunting clubs, manufacturers, or others. I further feel that while their input on the subject should be taken into consideration, as they deserve, it should be noted that they speak only for their own members, not the rest of the hunting community. Clubs that collectively represent less than 10% of the total population of Indiana hunters do not speak for the rest of us, and they never will.”

Haendiges said the consensus among bowhunters was to “Use what you want that’s legal to use, and few expressed any dislike for the tool.” Most bowhunters have expressed a desire to further their knowledge with one or both weapons, and several indicated a desire to hunt with one or both. He added, “The revenue implications of this cannot be ignored.” He said he favored a trial period similar to the one buck rule. That would allow DNR to evaluate both the effectiveness and safety of the weapon, its impact on the resource, and the impact on the tax revenue from businesses selling them and their accessories. He concluded that DNR “would benefit from the sales of additional licenses, and more hunters would be afield during late archery season helping balance the herd in the process.”

Glenn Lange, Wildlife Chief for the Division of Fish and Wildlife, addressed the ruffed grouse and crossbow questions and concerns. “We agree with the speakers that we need to allow crossbow hunters in late season to take one buck. We think that’s a fair thing to do and that’s the reason we proposed the change as we did. We also recognize that there are lots of archers out there that think otherwise. We’ve had meetings with them. We hear both sides of that argument. And, so, we don’t want to propose to take away allowing a buck in the late season; however, we also want to listen to our other constituents that feel otherwise. So, we struck a compromise. We’ll do it for a while and see how it goes. Our proposal is to sunset it; that was the only legal way to do that. Like the one buck rule, we’ll evaluate that before it ends and bring back proposals to you for either maintaining it or letting it expire.”

Lange continued, “In regards to the ruffed grouse hunting season, we recognize and agree that the fact that habitat is declining is the main reason that ruffed grouse population are in the shape that they’re in. However, there’s also research to support that in the fall and beyond into November, and particularly into December, hunting mortality can remove birds that would breed the next spring. Since we have that

particular research, and because of the declining population, we felt it was necessary to propose the rule modification, and believe that biologically, that's the right thing to do. We will certainly want to do everything we can to support and encourage the right kind of habitat development that will prevent us from having to do radical modifications of seasons, or shutting off the hunting all together, or whatever circumstances may be required if our grouse population continues to decline."

Lange stated that in late 1960s and 1970s, when the ruffed grouse season began, the hunting season was two to three weeks long but has since been expanded. "With the expanding grouse populations, that habitat is moving the grouse population back the other way. And, so, we think it's appropriate to allow as much hunting as possible. We're certainly not removing that opportunity. They're state birds and there are birds that can be harvested without further decline in the population. So, we think that late season harvest is biologically a problem for our very little grouse population."

Davis questioned Lange on the 2007 sunset of the one buck rule. Lange responded that in 2006 the Division of Fish and Wildlife would evaluate the one buck rule, propose to keep it or let it sunset, or modify it. Lange said that the evaluation process would involve public input.

Jane Anne Stautz asked if there were any statistics on success rates or numbers of ruffed grouse taken between October and December that would have an impact on the grouse population. Lange responded that research studies in other states have shown that after the fall dispersal of the birds, the hunting mortality can be additive. "In other words, it would be taking birds that would be able to breed next spring." Lange said that with the low grouse population, any additional harvest in late winter would be a detriment to the continuation of the existing population. Stautz questioned the dispersal time for the ruffed grouse. Lange responded that the ruffed grouse dispersal time was usually over by mid-November, and he said "it is a time of mortality and other things that can happen to the birds. And, we feel that the birds need to survive after they get through that particular period. Those that are left during that winter period most likely are available for breeding the next spring." Lange said the Division of Fish and Wildlife was not trying to revert back to a short hunting season, but that it was "simply trying to eliminate some winter mortality to try and help a few pockets of birds that we have left."

Goss asked Lange for clarification of the current hunting season and the proposed changes for the ruffed grouse hunting season. Lange explained that with the current rule, the ruffed grouse season is October 1 through December 31. The proposal would terminate the season on the first Friday after November 9.

McCormick argued that one-third of the season has already been taken away from the grouse hunters. "While I agree that probably there is an additive effect of removing some breeding grouse after November 9th through December 31st, is a very small percentage of the birds which is lost from the lack of habitat." He said the private landowners that manipulate and work with habitat were being penalized, as well as a small number of hunters for the small impact they may have on the grouse population. These pale "in comparison with the lack of management that has went into public properties. It's not the fault of the DNR or the federal people that manage our national forest. But, to go back and penalize and remove more of the season, after one-third of it has been removed for the small number of dedicated conservationists that work to develop habitat and to raise funds, sort of flies in the face of conservation efforts. I think it would be wiser to work with those people; to leave the season as is, and working toward better habitat management will greatly offset any lost birds that would come from the hunting season staying as it is."

McCormick moved to give final adoption to the biennial rule amendments as set forth in Exhibit 1, but with the corrections to page 125 as recommended by the hearing officer, and also with

deletion of the changes proposed to the ruffed grouse season. Jerry Miller seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing and Written Comments and Recommendations for Final Adoption of Amendments to Rules Governing Permits for Wells for Oil and Gas Purposes and to Rules Governing Geophysical Surveying Requirements (Administrative Cause Number 03-178G; LSA #04-23(F))

Steve Lucas, Hearing Officer, introduced this item. He said there were two primary sets of subjects in the proposed rule amendments. The most notable were amendments to fundamentally update the geophysical surveying requirements for the first time “in years if not decades.” Lucas complimented Mike Nicholas, Director of Oil and Gas, and his staff for working with “this small, but very important industry”. He thanked Kevin Strunk for his help in conveying the issues involved. “It’s a very, I think, esoteric subject matter, but it’s one that is important to the future of the industry. I’m convinced, based upon what has been said to me in the hearing process, that it is a regulatory program that is seriously in need of modernizing.” Lucas recommended final adoption of the rule amendments.

Kevin Strunk, speaking as a representative of the Indiana Oil & Gas Association, addressed the Commission. He said the Association had worked with Mike Nicholas and staff members of the Division of Oil and Gas on the proposed rule. Strunk recommended final adoption of the rule amendments.

Jane Anne Stautz moved to approve the final adoption of amendments to rules governing permits for wells for oil and gas purposes and to rules governing geophysical surveying requirements, as set forth in the hearing officer’s report. Ray McCormick seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing, Analysis, and Recommendation for Final Adoption of New Article, 312 IAC 6.5, Governing Registration of Off-Road Vehicles and Snowmobiles (Administrative Cause Number 04-007A; LSA #04-3(F))

Jennifer Kane, Hearing Officer, presented this item. She said 2003 statutory changes amended elements of the registration of off-road vehicles and snowmobiles. The purpose of 312 IAC 6.5 is to assist with the registration process. The proposal implements fees established for registration renewals, decal replacement, change of address, transfer of ownership, and manufacturers or dealers registration requests. Revenues obtained are deposited in the off-road vehicle and snowmobile fund (IC 14-16-1-30). “The funds will be used for administration of the program, enforcement, construction and maintenance of trails for off-road vehicles and snowmobiles.” Currently, the DNR’s Division of Accounting is administering the program under a temporary rule (LSA Document #03-341(E)). The temporary rule is set to expire on December 31, 2004. If adopted, the permanent rule would supersede the temporary rule. She recommended final adoption of the rule amendments as set forth in the Commission’s packet.

Jane Anne Stautz moved to approve the final adoption of 312 IAC 6.5 to govern the registration of off-road vehicles and snowmobiles. Jerry Miller seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Hearing Officer and Recommendation for Final Approval of Rule Recodification by Readoption of 312 IAC 26 Governing Grant Programs (Administrative Cause Number 04-005T; LSA #03-315(F))

Jennifer Kane, Hearing Officer, also presented this item. This agenda item and the next (Item 22) are presented for consideration as to recodification by readoption. She noted that the Commission, at its April 24, 2002, meeting provided guidance and direction concerning administration of “recodification by readoption”. Kane also explained that the Commission recommended that “where no amendments are proposed, and the rules would be re-adopted in their current form, the Director of the Division of Hearings may approve preliminary action.” This rule authority was applied here.

Kane said 312 IAC 26 governs standards for Department’s grants and for the administration of the grant programs. The rules would be “readopted” in their entirety, without modification, as described in the Commission packet. She recommended the Commission give final approval to recodification by readoption for 312 IAC 26.

Jerry Miller moved to give recodification by readoption to 312 IAC 26 governing DNR grants. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of Report of Hearing Officer and Recommendation for Final Approval of Rule Recodification by Readoption of 312 IAC 19 Governing Research, Collection, Quotas, and Sales of Plants (Administrative Cause Number 04-004N; LSA #03-315(F))

Jennifer Kane also presented this item. She said 312 IAC 19 governs standards regarding research, collection, quotas, and sales of ginseng. She noted that no amendments were proposed to 312 IAC 19, and she recommended approval of recodification by readoption of 312 IAC 19, without modification, as contained in the Commission packet.

Jerry Miller moved to give recodification by readoption of 312 IAC 19 governing research, collection, quotas, and sales of plants. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

Information Item: Semi-Annual Update of Decisions on Appeal, Judicial Review, or from the Commission’s AOPA Committee.

Steve Lucas, Director of the Commission, Division of Hearings, presented this item. Unless the members requested more frequent reports, he said his office would provide semi-annual updates of adjudicatory proceedings decided by the Commission’s AOPA Committee and the courts. Where actions are pending, Commission discussion of them is often inappropriate, but there can be discussion where a final decision is rendered. Lucas said of the three cases included in this report, only *Ruffenbarger, et al. v. Elliott, et al.* was final. This case involves a riparian rights dispute along a public freshwater lake addressed primarily to pier placement.

Kiley asked, “How many pier cases are pending now?” Lucas responded that he did not have the exact figure, but pending and recent pier cases ranged in the vicinity of 50 to 75. He said “the good news” was that most all the pier dispute cases are solved through dismissal, mediation, an informal agreement among the parties, or another disposition by the NRC’s Division of Hearings. He could think of only one case

currently on judicial review. With the great activity in this legal arena, however, Lucas said more cases seemed likely to proceed to judicial review in the near future.

Information Item: Indiana Natural Resource Foundation Update

Eric Myers, Executive Director of the Indiana Natural Resources Foundation, presented this item. He provided materials representing an overview of the Indiana Natural Resources Foundation (INRF). The Indiana General Assembly created the INRF in 1990 to promote, support, assist and encourage the charitable, educational, and specific programs, projects and policies of the Indiana Department of Natural Resources. Included in the overview were past projects sponsored by the Indiana Natural Resources Foundation.

Myers said the INRF appointed a Task Force to look at the Foundation and “determine if there might be an expansion of its responsibilities.” He said that the Task Force was created as a result of requests from various friends groups and the Division of State Parks and Reservoirs “to help move along fund raising efforts.” The INRF was also a result of a request from The Nature Conservancy whose interest lies in the expansion of conservation to include all the local land trusts. “Before the Indiana Heritage Trust Program was created, with the proceeds coming from the environmental license plate, there were three land trusts in the State of Indiana, and now there are 33. So, there’s been an explosive growth at the local level.”

Myers said that regional meetings would be held to discuss whether there was the need for a statewide group to promote conservation efforts throughout Indiana. “And, correlated to that is the question as to whether the INRF should be the organization to do that, or whether it should be a separate organization to be established.”

Myers noted the Indiana Natural Resources Foundation was created to promote the programs, projects, and facilities of the Department of Natural Resources. The Task Force would be an expansion of the Indiana Natural Resource Foundation’s role beyond its DNR focus. “We are finding from initial meetings that there is an interest in promoting conservation fund raising throughout the state. The question is whether our Foundation is the appropriate vehicle.”

Director John Goss added, “I think it’s time to have a more aggressive Foundation. We’re trying to broaden the base for people who have some interest in working with the Natural Resources Foundation and to determine if we should accept this role of correlation statewide. Particularly, we’re hoping to connect with community foundations. All 92 counties now have community foundations. We think these community foundations are the next phase of revenue generators for conservation.”

Information Item: “Hoosier Smallmouth Bass: Today and Tomorrow”

Chairman Kiley reported that Commissioner Rick Cockrum, requested this information item. Because Cockrum is not present, he said the item would be deferred until another meeting.

ADJOURNMENT

At approximately 12:30 p.m., the meeting adjourned.

NEXT MEETING

September 21, 2004, The Garrison, Ft. Harrison State Park, Indianapolis