

NATURAL RESOURCES COMMISSION
Meeting Minutes, July 16, 2019

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Cameron Clark, Secretary
Martha Clark Mettler
Laura Hilden
Noelle Szydlyk
Phil French
Patrick Early
Bart Herriman
John Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen	Dawn Wilson
Scott Allen	Billie Davis
Barrett Kyle	

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Mike Smith	Executive Office
Tara Wolf	Communications
Steve Hunter	Law Enforcement
Libby Gamboa	Legal
Ihor Boyko	Legal
David Bausman	Legislative
Kenneth Smith	Water
Moumita Mukherjee	Water
Amanda Smith	Forestry
Colleen Hartel	Fish & Wildlife
Hasha Halbleib	Fish & Wildlife
Will Johnson	Fish & Wildlife
Steven Donabauer	Fish & Wildlife
Terry Coleman	State Parks

Dan Bortner	State Parks
Melissa Stewart	State Parks
Anthony Sipes	State Parks
Dale Brown	State Parks
Zack Clark	State Parks
Luke Fulford	State Parks
Cheyenne Knox	State Parks
Garrett McAdams	State Parks
Cole Osborne	State Parks
Grahm Selm	State Parks
Ronnie Hileman	State Parks
Larry Brown	State Parks

GUESTS PRESENT

Jack Corpuz	Liz Jackson	Chris Neggers
Mike Warner	Craig Brouyette	Nick Buggia
Perry Seitzinger	Ryan Boyer	Grant Schimmele
Brent Headland	Bowden Quin	Nancy Bookwalter
David Boggs	Matthew Aztizer	Angela Herrmere
Herb Higgins	Melinda Sweeten	Kathryn Lisinicchia
Marguerete Topping	Terry Thatcher	Tim Kimmel
Hannah Berz	James Moore	Sarah Gillin
Jodi Becker	Cindy Stites	Charles Turner
Jeff Stant	Susan Pollard	Tim Moyer
May Bolloalta	Rev Michael Bean	Brooks Fetters
Barb Fetters	Matt Barton	Barnaby Anron
Lorna Utteer	Jeff Marks	Lora Kemp
Jeff Wells	Gene Hopkins	Greg Hersburger
Larry Sedem	Phil Beoom	Linda Geist
James Geist	Gary Hunter	Susan Hunter
Clark Kahls	Lori Adelson	Barry Banks
Ausin Allen	Gene Hoskins	Joe Vansen
Robert McInteer	Samantha Morton	Barbara Clisham
Angelo Dattilo	Paul Arlinghaus	Pat Dye
Michele Tomarelli	Jerry Williams	

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:01 a.m., ET, on July 16, 2019, at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of ten members, the Chair observed a quorum.

APPROVAL OF MINUTES

The Chair asked for a motion for the approval of the Commission's March 19, 2019 meeting minutes.

Bart Herriman moved to approve the minutes, as presented. John Wright, seconded the motion. Upon a voice vote, the motion carried.

REPORTS OF THE DNR DIRECTOR, DEPUTIES DIRECTOR, AND THE CHAIR OF THE ADVISORY COUNCIL

Cameron Clark, Director of the Department of Natural Resources (Department), provided his report. Clark said Jody Kress, Director of the Indiana Natural Resources Foundation (Foundation) conducted outreach with employees of Clif Bar Baking Company by planting 5,000 trees at Morgan-Monroe and Yellowwood State Forests and holding the Foundation's biennial "Northeast Indiana Banquet" on May 1, 2019, with \$200,000 dollars being raised.

Clark stated that Governor Holcomb announced in May that out of approximately 85 applications from 42 counties, 17 "Next Level Trails" projects were granted awards totaling \$37.5 million dollars Clark said that a second round of the grant application process will occur in August or September of 2019.

Clark said the International Bowhunting Organization (IBO) held the second leg of the National Championship Triple Crown at the Fairfax Recreation Area in June with archers from many different states participating. Clark announced that the IBO committed to future tournaments.

Clark said the Friends of Goose Pond donated \$60,000 dollars for interpretive displays in the visitor's center at Goose Pond Fish and Wildlife Area.

Clark announced the Department's creation of the Community Hunter Access Program that allows hunters to register for deer hunting opportunities on property, such as golf courses, farmland or common areas under the control of a homeowners association, when help is needed to maintain deer populations. He noted that training and technical assistance to administer the hunting registry is available through the program.

Clark said registration has started for dove, waterfowl, pheasant, and deer "reserved hunts".

Clark said that the Department's initiative originally known as "R3 will now be referred to as the "Invitation to Conservation (I2C)" and is designed to recruit, retain and introduce people of all ages to more outdoor activities.

The Chair asked if the R3 was a national program.

Clark said that the R3 on a national level is focused primarily on hunting, fishing, trapping, and shooting sports, but the Department's initiative is to focus on all forms outdoor recreation.

Clark noted that the Department will offer daily activities at the Indiana State Fair, which begins August 2, 2019 and ends on August 18, 2019.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. Davis stated that Ron Hellmich, a 25 year employee of the Division of Nature Preserves was promoted to Director of the Division Davis announced that Mark Reiter, Director of the Division of Fish and Wildlife, retired and the position will be posted.

Davis said flooding caused the water treatment facility at Brown County State Park to be "overwhelmed". Davis said the Department and the Indiana Department of Environmental Management (IDEM) worked to treat the water and the park was open for the Fourth of July holiday. Davis thanked Martha Clark Mettler with IDEM for her assistance in resolving the water treatment issue at the park.

The Chair thanked Martha Clark Mettler for being at the Commission meeting as a proxy for IDEM's Commissioner and the water quality work that was done at Brown County State Park.

Davis stated that the Nubbins Ridge Trail at the Bluffs of Beaver Bend Nature Preserve and that the Morgan-Monroe State Forest Office, which was built using wood harvested from the Forest, were dedicated. Davis noted the Dunes National Seashore is now the Indiana Dunes National Park, which is separate from Indiana Dunes State Park. Davis announced that new shelter would be dedicated at Harmony State Park on July 19, 2019.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, provided his report. Smith said that in June, Indiana hosted the "Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement members". The Great Lakes-St. Lawrence River Basin Water Resources Compact is an agreement between the eight Great Lakes states and two Canadian provinces to regulate the diversion of water from the Great Lakes basin.

Smith said the Division of Entomology and Plant Pathology intercepted plants containing a fungal pathogen, known as Sudden Oak Death (SOD) that kills oak trees, in May 2019 resulting in the removal of over 6,000 plants from facilities statewide. Smith said the Division also received a positive test from another nursery on a fungus called Boxwood Blight and those plants are being destroyed.

Smith said that the Indiana Historic Preservation Review Board will meet on July 17, 2019 at the Fort Harrison Park Inn to consider nine properties for inclusion on the National Register of Historic Places.

Smith said that Colleen Baughman, Permit Coordinator, with the Division of Reclamation will retire at the end of July 2019.

Smith said that the legislature passed SB442 creating a pilot program for underground storage of carbon dioxide and the Division of Oil and Gas are working on the program specifics.

Smith said the Division of Communication received awards from the Association for Conservation Information including first place for Nick Werner's article, "Retracing the Buffalo Trace", and second place for Outdoor Indiana magazine as a national outdoors publication.

Smith said the Division of Water was recognized by Federal Emergency Management Agency's Cooperating Technical Partners Program for creating the best floodplain layer, which is a geographic information system (GIS) updated floodplain map for planning and identifying potential flood risks. Smith stated the Department has won the "Excellence in GIS Award" for the seventh time in 11 years at "Indiana's GIS Conference."

Patrick Early, Chair of the Advisory Council, provided an update and stated that the Advisory Council (Council) met on April 30 and June 25, 2019. He stated there was discussion on the Department's administrative rule proposals governing fish and wildlife in 312 IAC 9. Early noted the Council's discussion on the Department's recommendation to eliminate the commercial harvest of roe bearing species. He stated the few commercial fishers of roe bearing species have other options and that the elimination of commercial harvest will help restore the paddlefish, shovelnose sturgeon, and bowfin fish population.

Sandra Jensen, Chief Administrative Law Judge for the Commission's Division of Hearings, introduced the Division's intern, Barrett Kyle, a graduate student currently attending Indiana University's O'Neill School of Public and Environmental Affairs (SPEA). Jensen recalled for the Commission that Professor Glen Salmon brought his SPEA class to the Commission meeting on March 19, 2019. Following the meeting, she explained the class participated in a presentation by the Division of Hearings and thereafter, Kyle contacted Jensen about an internship opportunity. Jensen observed that the internship, developed through collaboration with Chris Smith, the Division of Fish and Wildlife, and the Division of Oil and Gas provided Kyle the opportunity to assist in formatting rules for the Division of Oil and Gas, formulating language for a non-rule policy document to be proposed by the Division of Fish and Wildlife and editing a new administrative review guide being developed by the Division of Hearings.

The Chair asked Kyle "Where are you in school?"

Kyle replied that he is in SPEA, in the master's degree program.

CHAIR, AND VICE CHAIR

Updates on Commission and AOPA Committee

Jane Ann Stautz, Chair of the Commission's AOPA Committee, stated that there was not an AOPA Committee meeting held since the last Commission meeting, but there is anticipated to be a couple of items coming before the AOPA Committee in the next couple of months.

Information: Consideration of 2019 meeting dates (Indianapolis):

The Chair noted that the remaining 2019 Commission meeting dates are September 17, and November 19 and announced that the meetings are scheduled to take place at the Fort Harrison State Park Garrison in Indianapolis.

DNR, EXECUTIVE OFFICE

Consideration and identification of any topic appropriate for referral to the Advisory Council

No items were identified for referral to the Advisory Council.

DNR, DIVISION OF STATE PARKS

***Information Item:* Division of State Parks New Assistant Property Managers**

Dan Bortner, Director of the Division of State Parks, presented this item. Bortner noted that the Division of State Parks does not have a lot of turnover, but recent retirements created vacancies. He noted that most property management positions were filled by promotions from within, and noted that new staff members go through a rigorous hiring process. Bortner then introduced the following new staff members:

- Dale Brown, Assistant Property Manager, Falls of the Ohio State Park
- Kaitlin Carroll, Assistant Property Manager, Fort Harrison State Park
- Zac Clark, Assistant Property Manager, Patoka Lake
- Luke Fulford, Assistant Property Manager, Harmonie State Park
- Cheyenne Knox, Assistant Property Manager, Lincoln State Park
- Garrett McAdams, Assistant Property Manager, Versailles State Park
- Cole Osborne, Assistant Property Manager, Spring Mill State Park
- Graham Selm, Assistant Property Manager, Brookville Reservoir and Whitewater Memorial State Park

Bortner noted that the following three additional new staff members could not be present at the meeting:

- Natalie Brinson, Assistant Property Manager, Clifty Falls State Park
- Tyron Jessup, Assistant Property Manager, Ouabache State Park
- Hunter Mitchell, Assistant Property Manager, Raccoon Lake State Recreation Area

DNR, DIVISION OF FORESTRY

Consideration of Citizen Petition for Rule Change to amend the definition of “state park”, 312 IAC 8-1.5-21-5, to effect the re-designation of the Salamonie River State Forest to the Salamonie River State Park and to identify the Frances Slocum State Forest as a “small state park” or transfer it back to the Frances Slocum State Recreation Area; Administrative Cause No. 19-047F

The Chair said several people had requested to comment on the Citizen Petition and said the Commission would allow public comments so that the essence of the issue is heard. The Chair asked if there were any people present who were potential speakers representing groups.

Kathryn Lisinicchia stated that she represented “Friends of Salamonie”

Jeff Stant stated that he represented the “Indiana Forest Alliance”

Michele Tomarelli stated that she represented. “Battleground Saddle Club”, but does not want to speak.

The Chair recognized John Davis to present this item.

Davis stated that the Department appointed a committee to re-designate the Salamonie River State Forest and the Frances Slocum State Forest. Davis said that the recommendation of the committee is for the Commission to deny the petition.

Davis elaborated that the Division of Forestry, which was created in 1901 because of the concern of the denuding of Indiana’s forests, has increased what was only 1 million acres to over 4 million acres of timberland that exists today. Davis noted that the 160,000 acres of the forests on the Division of Forestry properties provide water and soil conservation, wildlife habitat, income, research, and recreation.

The Chair noted there are several ways that a citizen petition could be addressed and offered the opinion that the Committee’s report was comprehensive and laid out the facts well.

The Chair asked if the Commission members had any questions.

Mettler asked how the Committee’s report was circulated and how people were made aware of the report.

Jensen stated that the Commission agenda and all related material, including the Committee’s report, was posted on the Commission’s website on July 9, 2019, and the petitioner was also personally notified when the Committee’s report was made available to Jensen.

The Chair recognized Kathryn Lisinicchia representing the Friends of Salamonie Forest.

Lisinicchia thanked the Commission for its time and consideration. She said that science, experts, and academics do not always agree on best management practices and land usage. She stated that the petition shows that there is an interest in state parks. Lisinicchia said that she is requesting time and opportunity for local leaders to examine the options and weigh in on what is best for their community. Lisinicchia stated that her request is that there be a three-year stay on logging in the Salamonie River State Forest and the Frances Slocum State Forest because logging will cause irreversible changes in the forests.

The Chair recognized Jeff Stant.

Stant stated that he is the Executive Director of the Indiana Forest Alliance that supports the petition to re-designate the Salamonie River State Forest and the Frances Slocum State Forest to state parks. He noted 871 signatures on a petition from citizens living in northeast Indiana supporting the petition to re-designate the two forests to state parks.

Stant stated that old growth forests are rarer in northern Indiana, noting from page 10 of the Committee's report that it does not show any forests older than 120 years. He observed that native hardwood forests do not reach old growth conditions until more than 150 years.

Stant said that most land in the upper Wabash Valley managed by the Department promotes early successional habitat and young forests for hunting. He said that there is vegetation manipulation that does not allow forests to return to old growth conditions. Stant said that if these properties were state parks it would allow old growth forest and nature to return.

Stant said that old growth forests have higher natural diversity than younger managed forests with fewer older class trees. He noted that old growth forests contain early successional habitat and patch opening that proliferate when large trees die.

Stant stated "edges created by logging are adversely impacting the nesting success of forest songbirds" and that it has been documented that the songbird population has declined in Indiana since the 1950's. He said the decline of the songbird population is a result of logging, which is far below early successional habitats. Stant said that there was a study that looked at 1,293 songbird nests, during 4 years, in the Hoosier National Forest and Yellowwood State Forest that concluded the "internal edge" created by logging was harming the songbird population and he observed that the Hardwood Ecosystem Experiment, referenced by the Committee, fails to refute that finding.

Stant said that the Department does not know what the impacts of forest logging are on flora and fauna. He said the Department does not have a program in place to inventory wildlife species or possess a baseline inventory of the flora and fauna on forest tracks before logging. He said the Department does not know what is in the forest or appear to appreciate or understand the impacts of heavy logging on forest dependent species that are rare or declining. Stant said the Department is logging the forests to create early successional habitat for game species.

Stant stated that the forest logging operations are unprecedented in size and in Salamonie River State Forest, it means, "logging 260,000 acres from a 121-acre tract" and he noted the picture on

page 5 of the Committee's report illustrating the largest amount of post canopy forest at Salamonie River State Forest in 1941. He said that Frances Slocum State Forest is a younger forest and they are removing 250,000 board feet of wood from a 91-acre tract, which is two-thirds of the total volume of timber ever taken from that forest. Stant stated there are bald eagles in the trees where timber cutting occurs at Frances Slocum State Forest and no other woodland in the state where the public enjoy seeing 15 eagles roosting in the winter.

Stant said that logging of pine trees at Salamonie River State Forest and Frances Slocum State Forest is not necessary, there is hardwood regeneration occurring and the pine trees do not need to be removed for the regeneration of the hardwood trees to continue.

Stant stated that if the Department proposed cutting the ash trees that ignores "research that Dr. Marshall and others at Purdue-Fort Wayne are doing that show that one to three percent of white ash and green ash are resilient and surviving ash bore." He said it would be better to leave the ash trees alone.

Stant said that an increase in the Division of Forestry budget is needed. Stant said that it has been documented in other states that logging will increase the invasive problems in the forests, but those states have more staff and resources to address invasive species. He said there is one district forester trying to manage Salamonie River State Forest and Frances Slocum State Forest and more staff and resources are needed.

Stant said that the Committee's report acknowledges the recreational activities that occur in Salamonie River State Forest and Frances Slocum State Forest, but the re-designation as State Parks will better serve a large majority of non-consumptive users by returning old growth forest to provide areas of nature and scenic beauty. Stant said that Native American historical culture could be better shared and appreciated. Stant said the re-designation to State Parks could be a powerful enhancement to the economic revitalization of the communities. Stant said that Indiana Forest Alliance requests the Commission consider the economic and ecological impacts of the re-designation of Salamonie River State Forest and Frances Slocum State Forest to State Parks and move forward with preliminary adoption.

The Chair recognized Brooks Fetters, Mayor of the City of Huntington.

Mayor Fetters stated that he and Scott Long, Mayor of the City of Wabash, are both part of the Northeast Indiana Regional Partnership, which consists of 11 counties in northeast Indiana committed to prosperity. Fetters expressed that Long concurred with Fetters' support for the petition to re-designate Salamonie River State Forest and Frances Slocum State Forest to State Parks

Fetters stated that Governor Holcomb awarded \$42 million dollars to the region and the City of Huntington is one of three regional cities. Fetters said the Governor invested in the growth of the northeast region, but the challenge is attracting and retaining people to live and invest in the area.

Fetters said that he and his wife live in a historic home built in 1859 from old growth forest wood. Fetters stated, "The golden rule of mayors who live along the river is do unto those

downstream what you would like to have those upstream do unto you.” Fetters said that he would like more time to explore options to allow the old growth trees to remain for the people to enjoy.

Fetters stated that the Department and the Commission are stewards of the natural resources and acknowledged the economic impact that the Department may lose by the re-designation of the forests to state parks. Fetters stated that his request is that logging be deferred for three-years in Salamonie River State Forest and the Frances Slocum State Forest to give northeast Indiana the opportunity to save the trees and to re-designate the forests to state parks so Huntington can create amenities that will most benefit the area.

Lisinicchia requested that a letter by Dr. Jerry Sweeten, who was not able to be at the meeting, be read or include in the record.

The Chair said that the letter could be included in the record and that Dr. Sweeten could mail the letter.

The Chair recognized Nicholas Buggia

Buggia stated that he represents the Congressional Sportsmen’s Foundation (CSF) that works with federal and state legislators and state governors to protect and advance hunting, angling, recreational shooting, and trapping. Buggia said that CSF opposes the re-designation of Salamonie River State Forest and Frances Slocum State Forest to State Parks.

Buggia said that forests that are managed are healthier and more resilient than lands not managed and transferring state forests to state parks would take away the ability to properly manage forest health, fire control, and wildlife habitat. He stated that active management is the best way to improve forest resilience and by removing certain trees, it can stop the threat of an invasive species spreading to other trees. Buggia said retaining Salamonie River State Forest and Frances Slocum State Forest in the Division of Forestry is the best way to achieve “forest and wildlife diversity as sited in the petition.”

Buggia stated there is not a threat to wildlife by keeping the two forests in the Division of Forestry. He noted that many Indiana state forests are classified as mature forests and observed a need for early successional forest habitat necessary to many wildlife and bird species that are declining in number. Buggia said that younger forests provide more seed and food for animals to eat and the plants that grow in young forest areas are essential to pollination.

Buggia stated that the reclassification of the forests to state parks would limit the access to sportsmen who contribute to conservation efforts and hurt revenue for the Department.

The Chair recognized Cindy Stites representing Backcountry Hunters and Anglers.

Stites read a letter by Backcountry Hunters and Anglers Chair, Neil Summers, opposing the petition for the re-designation of the Salamonie River State Forest and the Frances Slocum State

Forest to state parks. She noted that re-designation of the forests to state parks would limit hunting access and opportunities for sportsmen and women.

Stites stated that she personally is an arborist, angler, hunter, and a conservationist who understands that forest management is critical and logging does not mean that all the trees will be cut down. She said that timber management helps to enhance wildlife and provide habitat.

The Chair recognized Gene Hopkins, President of the Indiana Sportsmen's Roundtable.

Hopkins said that the Indiana Sportsmen's Roundtable represents many clubs and conservation councils across the state. Hopkins stated that there are many properties in Indiana that strictly limit timber management including 36 state parks and 150 nature preserves and noted there are only 13 state forests and 23 fish and wildlife areas.

Hopkins stated that sportsmen use the forests or fish and wildlife areas for hunting, fishing, and trapping and they rely on these state properties. Hopkins said if they lose access the sportsmen would have nowhere to go to hunt, fish, and trap. Hopkins said that science based timber management allows for different levels of forest maturity for the benefit of all species.

Hopkins stated that the Indiana Sportsmen's Roundtable opposes the petition for the re-designation of the Salamonie River State Forest and the Frances Slocum State Forest to state parks. He observed that those people who are interested should work together to achieve both conservation and preservation. Hopkins said instead of re-designating properties one possible solution is to work with legislators to fund new properties for the Department.

The Chair asked people who oppose the re-designation of the Salamonie River State Forest and the Frances Slocum State Forest to state parks and represent a group to stand, introduce themselves, and identify the group they represent.

Jeff Wells stated that he also represents Indiana Sportsmen's Roundtable.

Ryan Boyer stated that he represents the National Wild Turkey Federation.

Liz Jackson stated that she represents the Indiana Forestry and Woodland Owners Association.

Perry Seitzinger stated that he represents the Ruffed Grouse Society and American Woodcock Society.

Craig Brouyette stated that he represents the Indiana Hardwood Lumbermen's Association.

The Chair also noted letters that were sent to the Commission in opposition of the re-designation of the forests from Backcountry Hunters and Anglers, Pike Lumber Company, Inc., Quality Deer Management Association, National Wild Turkey Federation, Pheasants Forever, and The Izaak Walton League of America.

Cameron Clark moved to accept the Committee's Report on the Citizen's Petition for Rule Change to amend the definition of "state park", 312 IAC 8-1.5-21-5, to effect the re-designation of the Salamonie River State Forest to the Salamonie River State Park and to identify the Frances Slocum State Forest as a "small state park" or transfer it back to the Frances Slocum State Recreation Area. Patrick Early seconded the motion. Upon a voice vote, the motion was unanimously carried.

DNR, DIVISION OF LAW ENFORCEMENT

Consideration of preliminary adoption of amendments to 312 IAC 5-9-2, governing the operation of boats on Geist Reservoir; Administrative Cause No. 17-016L

Ihor Boyko, Staff Counsel for the Department, presented this item. Boyko stated that some of the homeowners on Geist Reservoir filed a petition to amend 312 IAC 5-9-2 by adding the embayment known as Juice Box Cove to the list of locations on Geist Reservoir where a person must not operate a boat at greater than idle speed. Boyko stated that the petition was reviewed by a Department established committee, consisting of a staff attorney and two Conservation Officers, that proposing the amendment to 312 IAC 5-9-2 to create the idle zone.

Boyko stated that the committee recommendation is based on safety and the interest in reducing wake that could cause erosion and damage docks.

Boyko stated that the Division of Hearings recommended a change in the introductory language of the proposed rule to be consistent with the language in 312 IAC 5-9-2 (b)(3).

Jane Ann Stautz moved for preliminary adoption of amendments to 312 IAC 5-9-2, governing the operation of boats on Geist Reservoir. John Wright seconded the motion. Upon a voice vote, the motion carried.

NRC, DIVISION OF HEARINGS

Consideration of Hearing Officer's Report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Kent's Harbor and the Sagamore Resort's ratemaking petition; Administrative Cause No. 18-135P

Billie Davis, Hearing Officer, presented this item. Davis said in accordance with the guidelines set forth in the 5th amendment to Information Bulletin #20, Kent Reineking, on behalf of Kent's Harbor and the Sagamore Resort (Kent's Harbor), filed a Petition on December 21, 2018 with the Department and the Commission's Division of Hearings seeking rate increases for facilities operated on Brookville Lake, including lodging and slip rental. She noted that the Petition was attached to the Hearing Officer's Report as Exhibit A.

Davis stated that Kent's Harbor last requested an increase in 2017 and the increase of less than 2% became effective in 2018. She said the current petition seeks rate increases for the 2020 season on lodging and boat slip rentals within the marina. Davis stated the proposed rate increases are from 1.79% to 2.78%, with an average of 2.07%, and lodging requests reflect increases of 4% to 10%.

Davis stated Kent's Harbor notified slip renters of the proposed rates as required by Information Bulletin #20 but observed that no qualifying written comments to either support or oppose the requested rates were received by the Division of Hearings or the Hearing Officer.

Davis said, in determining whether to recommend that a proposed rate increase be recommended for approval, the Department's Division of State Parks is tasked with analyzing similar facilities and comparing rates with those sought by Kent's Harbor. Davis stated that each of the marinas from which rates were identified by Reineking qualifies as a "comparable marina" under Information Bulletin #20 in that each is located within 400 miles and provides similar amenities to the amenities offered at Kent's Harbor. Davis stated the comparison of Kent's Harbor to these marinas resulted in the conclusion that Kent's Harbor's requested increases are reasonable and justified and should be recommended for approval.

Davis stated that when a request seeks increases of over 2% for which no public hearing is required, the hearing officer, in consultation with the Department, will prepare a written report to the Commission, which includes written findings and a proposed Commission recommendation to the U.S. Army Corps of Engineers.

Davis stated a comprehensive list of all rates, approved previously or through the present petition, are set forth in the spreadsheet attached to the proposed findings and recommendations as shown in Exhibit C of the Hearing Officer's Report.

Patrick Early moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers, in the matter of the Petition for rate increase by Kent's Harbor and the Sagamore Resort. John Wright seconded the motion. Upon voice vote, the motion carried.

Consideration of Hearing Officer's Report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Hoosier Hills Marina Inc.'s ratemaking petition; Administrative Cause No. 18-130P

Sandra Jensen, Hearing Officer, presented this item. Jensen stated that Victor Polen, on behalf of Hoosier Hills Marina, Inc. (Hoosier Hills), filed a Petition on December 12, 2018 with the Commission's Division of Hearings seeking proposed rate increases of 1.5% to 2%.

Jensen stated that pursuant to Information Bulletin #20 the Department's Division of State Parks completed a comparative review of the rates proposed in the Petition. She stated that the analysis

showed that Hoosier Hills is considered a comparable marina. Jensen said that the Department found the proposed rates sought by Polen were found to be reasonable and justified.

Jensen said on January 4, 2019, Polen submitted an Amended Petition to clarify that in addition to the rate increase, Hoosier Hills is also seeking a permanent rate establishment for a new 20' x 80' extended single berth, open slip.

Jensen stated as required by Information Bulletin #20, an affidavit was provided by Polen confirming that he had notified the slip renters of the proposed rates. No qualifying written comments to either support or oppose any of the requested rates and no request for a public hearing was received by the Division of Hearings or the Hearing Officer.

Jensen noted that the establishment of a new slip rate is the reason for consideration by the Commission. Jensen stated that in her evaluation of Hoosier Hills' existing and proposed rates there were discrepancies that were addressed as noted in the Hearing Officers Report. She observed that the comprehensive rate list provided in Exhibit C offers an accurate description of the Hoosier Hills' complete slip inventory along with rates proposed in the current petition as well as rates previously approved by the Commission. Jensen noted an error you need to explain what the error and correction are in the comprehensive rate list that will be corrected before it is sent to the U.S. Army Corps of Engineers.

Jensen recommended that the proposed rate increases sought by Polen, in Hoosier Hills' Petition, be approved as set forth in the findings and recommendations as shown in Exhibit C of the Hearing Officer's Report.

Noelle Szydlyk moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers, in the matter of the Petition for rate increase by Hoosier Hills Marina Inc. Laura Hilden seconded the motion. Upon voice vote, the motion carried.

Consideration of Hearing Officer's Report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Quakertown Marina Inc.'s ratemaking petition; Administrative Cause No. 18-136P

Jensen also presented this item. Jensen stated that James Girot, Sr., on behalf of Quakertown Marina, Inc. (Quakertown), filed a Petition on December 27, 2018 with the Commission's Division of Hearings seeking proposed rate increases of 13.2% to 21.2%. She stated Quakertown's charges are based on boat type and not the length of the boat or slip, which complicated the Department's ability to compare Quakertown's proposed rates with the rates of other comparable marinas. At Jensen's request, Girot provided additional information to assist in making the necessary comparisons.

Jensen said that five marinas were identified as comparable marinas by Quakertown.

Jensen noted that because of the flat rate that Quakertown charges, a boat, such as a pontoon boat, that would not use electric and water would be charged less for the same size slip than a boat, such as a cruiser or houseboat, that would customarily use electric and water. She said that Quakertown charges a flat rate because it does not have infrastructure to allow the water and electric to be metered. Jensen said the higher rate is charged for boats of types that are capable of using water and electric even if the water or electric is not used. Jensen observed that some pontoon boats are now equipped with electric and water hookups but noted under Quakertown's establishment of rates on a boat type basis a pontoon boat having such hookups would still be charged the lower rate. Jensen noted that she discussed some of the problems associated with establishing rates by boat type with Girot and he expressed his understanding and interest in proceeding with the request for rate increase.

Jensen noted the large percentage increase, but observed that Quakertown last had a rate increase in 2008. She noted that the proposed rates are still lower than other marinas. Jensen stated that the Division of Hearings received comments from nine slip renters who opposed Quakertown's Petition and one request for a public rate hearing, which is not sufficient for a public rate hearing under Information Bulletin #20.

Jensen stated that some comments referenced safety concerns. Jensen noted that Stewart indicated that no complaints have been filed in her two years with the Division of State Parks, Stewart did two inspections of the property, and she had no safety concerns. Jensen observed that the Commission's responsibility regarding marinas is only related to the setting of fees and noted that the Department has terms and conditions in the lease agreement with the vendors that the Department can enforce.

Jensen said some comments questioned whether Quakertown can be considered a marina comparable to Kent's Harbor that has amenities such as a lodging, restaurant, and nearby golf course that Quakertown does not provide. Jensen noted that the differences in the amenities had been considered and reflected that the slip rates at Quakertown were considerably less than the slip rates at Kent's Harbor and she also noted that in addition to paying an increased slip rate at Kent's Harbor, those slip renters were also charged an additional monthly bill for metered electric use.

Jensen recommended that the proposed rate increases sought by Girot, in Quakertown's Petition, be approved as set forth in the findings and recommendations as shown in Exhibit D of the Hearing Officer's Report.

Herriman inquired about one public comment that stated Quakertown is not handicap accessible and asked if that was a Department lease requirement. He asked if the Department would be liable for not requiring a vendor to have handicap accessibility.

Jensen stated that she would follow up with the Department to address that concern.

John Wright moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers, in the matter of the Petition for rate increase by Quakertown Marina, Inc. Phil French seconded the motion. Upon voice vote, the motion carried.

Consideration of recommendation for final action on readoption of 312 IAC 4, governing Law Enforcement; LSA #19-290(F); Administrative Cause No. 19-002L; and 312 IAC 10.5, governing Regulation of Dams; LSA #19-291(F); Administrative Cause No. 19-003W

Davis also presented this item. Davis stated that for consideration is the final readoption of 312 IAC 4 and 312 IAC 10.5 in their entirety and without amendment. Davis said 312 IAC 4 provides standards for the Division of Law Enforcement and 312 IAC 10.5 provides standards for regulation of dams.

Davis stated that preliminary readoption was granted on January 2, 2019, moratorium exception under Executive Order 13-03 does not apply, and budget approval is not necessary for readoptions.

Davis said that between March 11, 2019 to March 19, 2019, the Small Business Regulatory Coordinator (SBRC) for these two rule readoptions submitted their required fiscal analyses that was forwarded to the Legislative Council by email on May 22, 2019 as required by IC 4-22-2-28(i).

Davis stated the Notice of Intent to readopt the rule was published in the Indiana Register on May 22, 2019, which provides that a person has 30 days to submit a written request to have a particular section of the rule readopted separately. She noted that no request was received.

Mettler asked how often a rule needs to be readopted.

Davis answered that rules are readopted every seven years.

Cameron Clark moved to readopt 312 IAC 4 and 312 IAC 10.5 without amendment. Martha Clark Mettler seconded the motion. Upon a voice vote, the motion was carried.

Adjournment

The meeting was adjourned at approximately 11:42 a.m., ET.