

NATURAL RESOURCES COMMISSION

November 20, 2012 Meeting Minutes

MEMBERS PRESENT

Bryan Poynter, Chair
Robert Carter, Jr., Secretary
R. T. Green
Donald Ruch
Michael Cline
Thomas Easterly
Phil French
Patrick Early
Doug Grant
Robert Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Debra Freije

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Cheryl Hampton	Executive Office
Cameron Clark	Executive Office
Phil Bloom	Communications
Scotty Wilson	Law Enforcement
Steve Kinne	Law Enforcement
Linnea Petercheff	Fish and Wildlife
Mitch Marcus	Fish and Wildlife
Mark Reiter	Fish and Wildlife
Bill James	Fish and Wildlife
Herschel McDivitt	Oil and Gas
Dan Bortner	State Parks and Reservoirs
John Bergman	State Parks and Reservoirs
Julie Planck	State Parks and Reservoirs
John Bacone	Nature Preserves
Robin Wilson	Nature Preserves
Jim Hebenstreit	Water
Mark Basch	Water
Monique Riggs	Water

GUESTS PRESENT

Clarence McKinney	Jack Corpuz
Rick Sumner	Barbara Simpson

Shawn Gallagher
Paul Arlinghaus

J. Nathan Noland
Ann Sterling

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., EST, on November 20, 2012 at The Garrison, Fort Harrison State Park, 6002 North Post Road, Ballroom, Indianapolis, Indiana. With the presence of ten members, he observed a quorum.

Thomas Easterly moved to approve the minutes for the meeting held on September 18, 2012. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

Reports of the Director, Deputies Director, and Advisory Council

Director Robert E. Carter, Jr., provided his report. “We’re in the height of gun season for deer hunting, and I’m pleased to report that the bundled license proposal has been a tremendous success.” He asked Mark Reiter for statistics on the bundled licenses.

Reiter responded, “We’ve sold more [deer license bundles] than any other type of license. In fact, I think we sold fewer of some licenses—mostly archery licenses, because that’s what the bundle was designed to do is to be an all-seasonal license.” Reiter added, “So far this year 50,000 fewer deer licenses were sold, but we gained \$1.25 million more in revenue.”

Director Carter commented, “Pretty good. It has been a tremendous success and positive for our income flow.”

Carter reported the Division of State Parks and Reservoirs had another successful season. He asked Dan Bortner to report on the season’s sales.

Dan Bortner, Director of the Division of State Parks and Recreation, said the division had “a surprisingly good season” in spite of the dry weather. The season “started out gangbusters” with full campgrounds in March until the dry and hot conditions began. “During the summer, we had beaches closed on reservoirs because the water didn’t start for 40 yards past the shore. We lost a lot of camping, but we came back real strong in the fall. We pretty well met last year’s numbers even with the heat, so we’re pleased with that.”

Director Carter resumed, “Lastly, I’ve duck hunted in Illinois and a lot in Indiana, and we are stealing their ducks, and that’s a good thing. With our efforts for wetlands, we’re literally changing the directional flyway.”

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. He said Commissioner Donald Ruch informed him the bioblitz of Goose Pond is to be published in the January *Indiana Academy of Science Journal*.” Ruch added the bioblitz showed roughly 870 species at Goose Pond. Davis said he would try to get copies of the paper for each of the Commission members.

Davis reported, “We’ve been busy in the woods. It’s forest harvest time. Our legislative organization day is today so we will find out all the new committees that will be appointed, and that will set us for the next round of legislating.” Davis deferred to Dan Bortner to report on DNR fee adjustments for 2013.

Dan Bortner again addressed the Commission. “If you remember back in November 2006, the Commission approved a range of fees and gave the DNR director the ability to approve within those fees. This round is within those ranges. But just as a courtesy, we just wanted to come and make sure that you understood the logic behind why we made the changes that we did.” Bortner explained there have been no fee increases since 2006, with the exception that approximately two years ago when the state sales tax raised to 7%, base rates went from a “tax included” system to a “plus-tax type of system.” He said, “This is the first time since 2006 that we’ve adjusted the actual base rates,” but the daily admission is unchanged. Bortner noted there are many activities on the properties, such as hiking and swimming at the beaches, which do not involve a user fee. But “in response to increased utility costs, increase of pool supplies and things of this nature, we’ve made adjustments to the camping and to swimming pools. The change in the annual pass cost is really in response to what we’re seeing the states around us doing.” Bortner concluded, “Expenses have increased to the extent that a little bit of that cost has to be passed on to the consumer.”

The Chair observed, “I think it would be one thing to pass it along if there wasn’t improvement in services, but your recognition of the improvements in the state parks for the last six or eight years has been certainly more than worth the nominal increase.” He congratulated Bortner on his recent appointment to the Board of the National Association of State Park Directors.

Bortner thanked the Chairman. He added that the increased inn rates and toboggan rates are in effect immediately and said 2013 annual passes would be sold at the higher rates with the remainder of the rates effective for the 2013 season.

Davis continued his report. He referenced a recent article in the *Wall Street Journal* concerning tree-stand safety and tree stands on public lands. “I don’t know if law enforcement saw that, but we’ll find it and share it with the Commission. Maybe we’ll even comment on some of the activities. I know we’re pretty strict about what people can do on public lands.”

Doug Grant added that the article discussed “the abuses of tree stands on public lands and the problems with enforcement. They had picked out Michigan and several other states that they were using examples of the permanent stands that are put on public lands, the damage that was being done, the clearing of fields of fire, and problems of enforcement.”

Ron McAhron, Deputy Director for the Bureau of Water and Resource Regulation, provided his report. He said, “I have five regulatory agencies, and we’re not really what most people think of in terms of the Natural Resources Commission. Yet, this body has passed rules in each one of our divisions: Historic Preservation and Archaeology, Oil and Gas, Water, Reclamation, and Entomology and Plant Pathology which deals with invasive species.” These are rules that have clarified programs and strengthened in areas where we needed strengthening. There is one that I particularly enjoyed, and I wanted to mention it again. We had a controversy and some very

hard feelings over people who spend a lot of money to go out and dredge or pan gold in streams. It started with a tremendous amount of controversy and people from the Division of Fish and Wildlife and the Division of Water. Thanks, in part, to Pat Early and the Advisory Council for joining us in the river. We ended up with a rulemaking package that provided protection for the environment, I believe, and also gave those folks who were interested in doing this some good directions. We ended up getting more people outdoors from what was a very negative start. I just wanted to thank the Commission for the rulemaking efforts that we've had in the lesser-known part of DNR."

The Chair said, "But a no less important part."

CHAIR AND VICE CHAIR

Updates on Commission activities and scheduled 2013 meeting dates

Chairman Poynter reported January 15, March 19, May 14, July 16, September 17, and November 19 were reserved as dates for the 2013 Commission meetings. At present, the meetings are scheduled for The Garrison, Fort Harrison State Park, all to begin at 10:00 am, local time. The Chair explained the goal was "to find at least two of those dates probably in the summer where we can find a strategic location perhaps where we will have issues on an agenda." He expressed appreciation to members who made the trips in 2012, noting the meeting at Potato Creek State Park was well-attended. "There were issues on the agenda related to Lake Michigan." He said members would be advised if changes were made to the schedule.

DNR, EXECUTIVE OFFICE

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

No additional topic was identified.

DNR, DIVISION OF NATURE PRESERVES

Consideration of the rededication of Allee Woods Nature Preserve, Parke County to correct and restate the articles of dedication

John Bacone, Director of the Division of Nature Preserves, presented this item. He said the consideration of the dedication Allee Woods was to correct and restate the articles of dedication. He said that the nature preserve was dedicated in May 2011. A scrivener's error was found and corrected, but the new language was inserted inadvertently into an older template, causing articles of dedication to be incorrect. With the corrected articles, Bacone recommended the Allee Woods Nature Preserve be rededicated.

Donald Ruch moved to approve the rededication of Allee Woods Nature Preserve with the corrected documents. Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of Addition to Big Walnut Nature Preserve in Putnam County

John Bacone presented this item. He said the proposed nature preserve addition of 777 acres is located 45 miles west of Indianapolis and is one of the state's largest high-quality natural areas with one of the state's highest quality streams. The first tract of land was acquired in the mid-1970s. The addition is part of a much larger conservation effort in partnership with The Nature Conservancy and the Central Indiana Land Trust. Bacone noted conservation easements have also been acquired from adjacent farmers who continue to farm while protecting the land. The area includes habitat for numerous rare plants and animals. He recommended the dedication of the Addition to the Big Walnut Nature Preserve.

John Davis agreed "Big Walnut is a pretty special place" with 3,000 acres of land not all State-owned and with "cutting edge technology" protection, consisting of private landowners with active farms "who partner with us and agree to protect the watershed. It's a great beautiful valley. Three covered bridges that cross over Big Walnut. It's a special place and a cool place to think about protecting land also."

Bacone added, "New trail systems have been installed so people can get in it, yet a lot of it remains wild and undeveloped."

Donald Ruch moved to approve dedication of the Addition to the Big Walnut Addition Nature Preserve. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of the Ouabache Flatwoods Nature Preserve in Wells County

John Bacone presented this item. He said the proposed Nature Preserve consists of a small area within the Ouabache State Park near the Bluffton that consists of high quality flatwood forest dominated by large white oak and swamp white oak trees. "We've been working with the Division of State Parks over the last few years inventorying all the state parks trying to find if there were appropriate sites and to bring to you for dedication. We're really happy to bring this to you today." Bacone said that both the Division of State Parks and the Division of Nature Preserves recommended the dedication of the Ouabache Flatwoods as a nature preserve. Bacone then turned to Dan Bortner for additional comments.

Bortner commended John Bacone and his staff members for "making this dream a reality. In a perfect world, conservation is fully funded. Unfortunately, that's not the world we live in. As a parks department, we use recreation to pay for conservation." Going forward the parks will receive increased pressure from recreation and explained his desire "to ensure that every park property had at least one area that we could point to that is left in its natural condition." Bortner

said with the dedication of this nature preserve, “that goal has been accomplished. So we can say that on every property, we have dedicated nature preserve.”

The Chair commented, “That’s a big deal. Thank you both.”

Phil French moved to approve the dedication of the Ouabache Flatwoods Nature Preserve in Wells County. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF STATE PARKS AND RESERVOIRS

Consideration of citizen petition to modify rules governing primitive camping at Lake Monroe and recommendations of committee of DNR employees appointed by the Director to evaluate the petition; Administrative Cause No. 12-050P

John Bergman, Assistant Director of the Division of State Parks and Reservoirs, presented this item. He said a citizen petition questioned why the DNR was enforcing restrictions on camping in a remote area of the east end of Lake Monroe because for years camping was tolerated in the area. A committee of five DNR employees was selected to review the petition request: Jim Roach, Monroe Lake Manager; Marian England, Legal Analyst; Dale Briar, Division of Outdoor Recreation; Dan Ernst, Assistant State Forester; and himself. He said the committee traveled to Monroe Lake in April to view the area the petitioner requested to be allowed to camp. After a thorough review of the area and the petition, the committee decided the petition should be denied based upon the following:

1. 312 IAC 8-2-11 is designed to control specific activities that have adverse effects on natural resources.
2. Federal Regulation Title 36, Part 327 paragraph 7, as it pertains to lands leased to the DNR, restricts camping in non-designated areas.
3. Indiana State Department of Health Rule 410 IAC 6-7.1-35 includes definitions and requirements that would cause these areas as campgrounds to be unlawful.

Additional management reasons for not opening these areas around Lake Monroe are as follows:

1. These areas are very isolated and Public safety is a major concern.
2. Local residents are concerned about private property damage.
3. These areas are very subject to flash and long term flooding.
4. These areas are 35 miles from maintenance facilities. Sending someone to maintain and patrol these areas is a commitment DNR financial resources cannot support.
5. These areas have become permanent locations for long-term transient camping.

Bergman said the committee recommended the petition be denied and the current ban on camping in unauthorized areas of Lake Monroe be retained. He added, however, the Department would offer the petitioner and others who have used these areas in the past an option to the use of the Horse Camp at Brown County State Park. The horse camp is approximately seven miles from the areas the petitioner wishes to camp.

The Chair called upon the petitioner, Clarence McKinney, for his comments.

McKinney said he lives in Owensville and has been a resident of Indiana for 56 years. He has hunted, camped and fished in the Monroe Lake area for 51 years. In the past “it was not only permitted to camp, it was encouraged.” He was previously unaware of the change, or he “would have raised the issue before. I could argue every one of these points that they said is contrary to my petition.” Although “primitive camping is not for everyone, some people enjoy it.” He said he “primitive camps in Indiana, Michigan, Kentucky, and Colorado.... I’ve been trying to get somebody for twelve months to sit down and talk to me, so I could argue my points and try to get support for my petition. Nobody wanted to. Nobody would sit down and just give me a few minutes of their time.” McKinney added there are a lot of people who feel the same as he does, and although he did not put together a petition or actively seek support at this time, “it may not be done yet.” He identified a need to get younger people more involved, and often “younger individuals can’t afford to go to a campground and spend \$40 a night and still afford to hunt and fish. Through primitive camping, they can enjoy the outdoors, fish, camp and hunt.”

In response to the offer to allow the use of the Horse Camp, McKinney noted the only reason that would be allowed is for Brown County State Park hunting. “There is a sign there that said ‘horsemen only’ in that area.” Having the opportunity available for hunters “doesn’t address camping in the summertime, camping in the spring, and fishing....” McKinney offered to answer questions and expressed appreciation for the opportunity to speak to the Commission.

The Chair asked, “Did I hear you say correctly, because John made the presentation, that there was a committee that kind of investigated this. Did they ever talk to you during this whole process?”

McKinney replied, “No, sir.”

The Chair said, “You said there are other people. Is it ten, two hundred?”

McKinney answered in the last 20 or 25 years the numbers primitive campers have dwindled. He estimated that until the fall of 2012 there were probably 30 to 40 primitive campers in remote areas near Lake Monroe. “There was not room for any more.” McKinney added his petition sought to have the DNR look at additional areas in Indiana, and not exclusively at Lake Monroe, to allow primitive camping.

The Chair asked Bergman, “Did I understand you’re suggesting that the Horseman Camp would be made available for primitive camping?”

Bergman answered that despite the sign saying “‘horsemen only’, from November on we’re more than willing to waive that issue and allow these people to camp.”

The Chair expressed appreciation for McKinney’s petition and effort but added the Department is “bound by the Army Corp of Engineers” with respect to leased land.

McKinney commented, “But if I understood him right, and maybe I misread it or misunderstood, he said unless you got designated areas that’s not to say the State can’t designate this spot as

designated camping, is that not correct? That's what I heard you say. If I misunderstood you can adjust me."

Bergman responded if the DNR wanted to create a designated campground, the agency has the ability to do that. A designated campground is typically limited to ten sites unless provision is made for "sanitation, water, toilets and things like that." The Department cannot designate an area to allow a person to "park along the side of this road over here, and two miles away you can park on this side over here."

John Davis offered, "Twenty people in a place with no facilities—that's the problem." He said it is possible to allow primitive camping in some sparsely used areas "such as the back country of the State Forests. When you have a lot of people..., that ends up being a sanitation issue that's hard to overcome, without restrooms and designating a camping area."

McKinney urged that Indiana and other States sometimes allow primitive camping on Federal land.

Davis acknowledged "primitive camping can be allowed on Federal land deemed 'wilderness', but too many people in one place ends up being a sanitation issue."

McKinney replied, "Every State I've hunted on Federal land, they have primitive camping."

The Chair offered, "I think the recommendation of the committee to the Commission is one that we have to take fairly seriously. But I do know your time is valuable, and I appreciate you coming here to make your point. Perhaps the accommodation made by the Department will be close enough in this case, but I don't know that there's much else that we're going to be able to do."

Director Carter added, "Can we offer some other thoughts? I primitive camp on the Wabash River all the time."

McKinney added, "Well, I just go around the corner now that's Federal land so it doesn't make any difference, but that's beside the point."

The Director continued, "I could show you maps of places to camp. I mean there are plenty of places in Indiana. On the White River, sandbars are the best to me. I love to camp on sandbars."

McKinney said, "Well, like I say, we can go around the corner now to a national forest."

Carter added, "If you're in Evansville, you're close to the Wabash River, and there are a lot of good places."

McKinney added, "Well, you see I've been in this area for 51 years, so I didn't want it to change."

The Chair said, "Thank you very much for coming, we do appreciate your time."

McKinney concluded, “Thank you. Thank you for your time.”

Phil French moved to approve the recommendations of the DNR committee to deny the citizen petition to modify the rules governing primitive camping at Lake Monroe. Donald Ruch seconded the petition. Upon a voice vote, the motion carried.

DNR, DIVISION OF WATER

Consideration of request for preliminary adoption of rules for water resource management in the Great Lakes Basin under the Great Lakes-St. Lawrence River Basin Water Resources Compact (Great Lakes Compact); Administrative Cause Number 12-089W

Mark Basch of the Division of Water presented this item. He said for consideration is a request for preliminary adoption of rules for water resource management to help implement the Great Lakes Compact as anticipated in Indiana law at IC 14-25-15. The Great Lakes Compact was ratified by President Bush in December 2008. The proposal would address the following with regard to water withdrawals: (1) registration and permitting of water withdrawals; (2) a voluntary conservation and efficiency program for water withdrawals; (3) mandatory conservation and efficiency programs for new and increased withdrawals, diversions, and consumptive uses; and (4) any other compliance measure required by IC 14-25-15. The new standards would apply within Indiana’s portion of the Great Lakes Basin, including watersheds of both Lake Michigan and Lake Erie.

Basch said the registration of a new surface or groundwater withdrawals with a capacity of at least 100,000 gallons-per-day has been a legal requirement for several years in Indiana. Adoption of the rules would implement the Great Lakes Compact so an individual or general permit would be required for a surface or groundwater withdrawal, for any period of 90 consecutive days, which exceeds on a daily basis the following:

- From Lake Michigan, five million (5,000,000) gallons;
- From a salmonid stream, one hundred thousand (100,000) gallons; and
- From any other source of ground water or surface water (or the combination of both), one million (1,000,000) gallons.

The rules would implement mandatory and voluntary water conservation and efficiency. They would also promote and encourage environmentally sound and economically feasible water conservation measures,

Basch commented, “There’s been a significant amount of work done with regard to this part of the Compact. There’s been a lot of information obtained from significant water withdrawal users in the State through our water use report.” He said the Division of Water received “a lot of feedback from the Michigan-Indiana Association and other folks” with regard to the proposal.

Basch reported 875 significant water withdrawal facilities are currently registered in Indiana’s Great Lakes Basin with the capacity of withdrawing greater than 100,000 gallons per day of

groundwater and surface water. This number is approximately ¼ of the total number of such facilities registered in the State. Approximately two-thirds of the 875 registered facilities provide irrigation. Basch said the registered facilities have a combined withdrawal capacity of approximately 7.8 billion gallons per day, and reported water withdrawals in 2011 totaled 893 billion gallons.

Basch said that the Division of Water recommended preliminary adoption to amendments to 312 IAC 6.2 to assist with implementation IC-14-25-15.

Doug Grant asked Basch if all Compact States have similar withdrawal rules.

Basch answered, “The Compact itself sets kind of the standard if they don’t adopt a provision for the regulated facilities. I think a lot of them look at the 100,000 gallons per day as the minimum capacity.” For other States, including Wisconsin and Minnesota, regulation is triggered when capacity reaches 10,000 gallons per day for some facilities.

Ron McAhrn added the Compact and Indiana’s statute provide “if you don’t have site-specific thresholds established, it defaults to 100,000 ten years after the passage. Ohio has similar numbers” to what is being proposed in this rule. “Michigan’s are more restrictive. We went back and looked at 20-some odd years’ period of record for the withdrawals by category to identify these. Indiana Code requires that the legislature revisit the thresholds established ten years after the passage of the implementation language.”

McAhrn continued, “We were the first State, I believe, that had heavy-lifting to pass this. Had it not been for Indiana... I don’t believe [the Great Lakes Compact] would have passed. Minnesota had a permitting program in place before Indiana. They were before us in implementation language. Illinois, which is largely exempted by virtue of a Supreme Court decree back many years ago for the Chicago diversion”, also adopted implementation language before Indiana. Our State was the first which had to undertake comprehensive new statutory responsibilities to implement the terms of the Compact. “So we were very instrumental in getting this started. There’s a lot of works that will be done in this area.” The rule adoption “is a necessary step to keep the ball moving forward.”

Michael Cline said, “Just for profiling, what types of facilities are we talking about? Are these local communities that take water out for their use of municipal water company? Are they industry?”

Basch answered that in terms of the number of persons regulated, it “would be farmers. Actually, the way that Indiana divvies up the facilities, there would be an irrigation category, public supply, industrial, energy production, power plants, miscellaneous and rural usage also.” In terms of water usage, “predominant ones” would include “public water supply systems and irrigation facilities. Even though the power plants would be a small number, they also represent, as you could imagine, a significant amount of the water withdrawn.”

Cline continued, “So, in general, most of the water is for municipal use, or is it for power companies or farmers?”

Basch replied, “The predominant water usage would be for energy production, but the majority of the facilities that are actually using it would be for agriculture or irrigation. Two-thirds of the registered facilities we have in the Great Lakes Basin are irrigation.”

Thomas Easterly commented, “I’m a little confused about the general permit. I understand you want a general permit that says if you’re less than five million gallons of surface water, you’re okay. But then when you come down, it says ‘any prior written approval from the department for any withdrawal from a well within one-half mile of a salmonid stream.’ Is every single homeowner going to have to get a DNR water withdrawal permit if they’re close to one of those streams?”

Basch answered, “Well, that would still have the 100,000 gallons per day.”

Easterly commented, “It doesn’t say that though, or maybe it’s hidden in another part of the rule.”

McAhron stated, “That’s the initial threshold for applicability of this, unless you want to divert water out of the Basin. If you want to divert any water out of the basin..., that’s covered.” You need a permit. “But for in-Basin use, there’s a statutory threshold of the 100,000 gallons to get into the game.”

Easterly continued, “So I never get to that page, to the general permit page [if I’m withdrawing less than 100,000 gallons a day], because I’m exempt from the whole rule?”

McAhron responded, “If you’re withdrawing less than 100,000 gallons, and you do not divert water out of the Basin, you’re exempt from the statute and from the proposed rule.”

R.T. Green moved to approve preliminary adoption of rules for water resource management in the Great Lakes Basin under the Great Lakes-St. Lawrence River Basin Water Resources Compact as recommended by the Division of Water. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

McAhron added, “We will have a more robust than normal set of public hearings on this. We’ll get that schedule out there. There’s a lot of interest, especially up in the Basin.”

Consideration of request for preliminary adoption of new rules to assist with implementation of IC 14-37 governing coal seam protection and coal bed methane wells; Administrative Cause No. 12-189G

Herschel McDivitt, Director of the Division of Oil and Gas, presented this item. He said for consideration was a request for preliminary adoption of rules governing coal seam protection and coal bed methane wells. During the 2011 session of the Indiana General Assembly, significant amendments were made to the oil and gas law. Primary among the amendments were new provisions that govern the permitting, drilling, producing, and operating coal bed methane wells. “Coal is found in the Illinois Basin, part of which is in the southwest part of Indiana. Oil and gas

is also very predominant in the area, and the development of either resource can have adverse impacts on the other.” What was “particularly important in the enactment of the legislation was to ensure the health and safety of underground coal miners.”

McDivitt explained that other changes included coal seam protection measures. Another important change with the 2011 legislation was granting the DNR Director temporary or emergency rule-making authority “for the benefit of the Division of Oil and Gas.” The Director implemented temporary rules with respect to coal bed methane and coal seam protection and noted these temporary rules (LSA Document LSA #12-503(E)) are due to expire August 15, 2013. In preparing the formal rule language for preliminary adoption, the division “pretty much followed the current language. We’ve had a year and a half of experience in administering the rules and believe they are working well in covering all the issues of concern.” He said the Division of Oil and Gas recommended approval of the proposed rules for preliminary adoption.

The Chair observed, “Complicated issue, well said.” He then invited Rick Sumner to speak.

Rick Sumner, Vice President of CountryMark Energy Resources (CER) addressed the Commission. CER is a privately owned Indiana company that is “controlled by 17 cooperative members that are in turn owned by 115,000 Indiana farmers.” CER is the largest independently owned refinery in the Midwest. “We refine approximately 30,000 barrels of oil a day through that refinery in Mount Vernon, Indiana. In addition to that downstream presence, we’re also the largest oil producer in Indiana.” He said CER produces approximately 4,500 barrels of oil per day and refines 95% of the crude oil produced in Indiana through the Mount Vernon refinery. “The bottom line is we’re an Indiana owned company owned by Indiana farmers that produces Indiana oil and refines it in Indiana, and we’re proud to say that 75% of our product is consumed on Indiana farms. Obviously, the importance of being able to drill for oil and produce oil in Indiana to CountryMark and our farmer owners cannot be overstated.”

Sumner continued, “We’ve had the opportunity to follow this legislation and offer our input. I testified to a Senate Committee and a House Committee. We’ve worked with administrators and we’ve worked with the coal industry on the wording of this legislation, and we feel it’s a very constructive piece of legislation. We feel it offers increased safety to coal miners and gives direction and format to the oil industry. So I’m here to lend CountryMark’s support to the adoption of these new rules.”

Director Carter said, “Rick, I wanted to applaud you and your company. First off, we’ve had a couple of opportunities to tour the refinery in Mount Vernon—fascinating place. It was very in-depth. We spent the day there, and it was a great tour. The second thing we did, we went to the Hulman oil field in Vigo County, and it was another fascinating field trip. One thing I didn’t know before we took the two tours is that all your oil comes from the Illinois Basin. This is Indiana oil that is being refined in Indiana and sold in Indiana. It was a great tour and we appreciate you. You’ve got a great staff.”

Sumner replied, “Thank you very much for your comments. We’d extend those tours to anyone on the Commission that might have an interest.”

Carter continued, "It's very worthwhile, especially the Hulman property. That's an amazing place."

The Chair thanked Sumner for his time and participation. He then invited Shawn Gallagher to comment.

Shawn Gallagher spoke as Legislative Chairman of the Indiana Oil and Gas Association. He said the Association represents Indiana's coal bed methane producers and oil and gas drillers. "In the interest of time, I just want to say 'thank you'. The oil industry worked hard with the coal industry; Nat Noland (Indiana Coal Council) and his group; and with Herschel McDivitt of the Department of Natural Resources, Division of Oil and Gas. The rules are a product of some effort. Because of the temporary rule provision, the industry has had an opportunity, before we came to you, to live with this rule for months and months. It's so far, so good. Both sides seem to really think it works. To that end, I appreciate your support. Thank you, sir."

The Chair replied, "Thanks for making the trip here today." The Chair then called upon Nat Noland to provide comments.

Nat Noland, President of the Indiana Coal Council addressed the Commission. He said the Coal Council "represents coal producers throughout southwestern Indiana. We are very supportive of the proposed rule." Noland extended thanks and gratitude to the leadership of Rob Carter, Ron McAhron, Herschell McDivitt, and his friends in the oil and gas industry for coming to the table" for 3½ years to work through issues. "I have not heard complaints from my industry, nor have I heard complaints from folks in the oil and gas industry. I think as long as we continue to work together, we can develop all these natural resources for the State of Indiana. So we do support the rule."

The Chair commented, "Again, thank you. I think it's kudos to Ron and the group and Herschel for everybody working through these issues together."

Thomas Easterly moved to approve preliminary adoption of new rules governing coal seam protection and coal bed methane wells. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

Consideration of request for preliminary adoption of 312 IAC 29 to assist with implementation of IC 14-39 governing carbon dioxide transmission pipelines; Administrative Cause No. 12-185G

Herschel McDivitt also presented this item. He said the proposal was "similar to the rules proposed for governing coal seam protection and coal bed methane wells in that the 2011 session of the Indiana General Assembly enacted new legislation involving construction of carbon dioxide pipelines in Indiana and the certification process." The legislation designated the DNR to implement the program. "As we did with the temporary rules for coal bed methane and coal seam protection, we did the very same thing with temporary rules as they related to CO₂ pipelines. This temporary rule also expires in August, "and the package for consideration is for preliminary adoption of permanent rules covering the same subject. Virtually the same identical

language” was used for the proposed permanent rule language as was used for the temporary rule language. “The one thing that I guess we could say is that we haven’t had any applications over the period of time for CO₂ pipelines. It’s a little difficult to predict, at this point, given climate change and other matters that would be relevant to CO₂ pipelines.” He then recommended preliminary adoption of 312 IAC 29 to govern CO₂ pipelines.

Thomas Easterly moved to approve preliminary adoption of 312 IAC 29 to govern carbon dioxide transmission pipelines. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF FISH AND WILDLIFE

Consideration of request for preliminary adoption of amendments to rules governing various fish and wildlife licenses and permits in 312 IAC 9; Administrative Cause No 12-183D

Linnea Petercheff, Staff Specialist with the Division of Fish and Wildlife, presented this item. She said the proposal contained a number of rules, many of which were included in the Division’s public-input process. One change governing a wild animal possession permit was due to a public comment. Petercheff said that another change was the governing of wild animal possession, which involved a “very small species of cats” that are currently considered Class III and would be moved to Class II. A “much more complicated permitting process, involving more time and requirements,” applies to a Class III animal than to a Class II animal. “So, that was one that did come from the public that I’d like to highlight.” A “lot of the rules involve cleanups.” She said that the turtle possession permit was “a good set” of proposed changes that “actually help applicants by consolidating permits.” Petercheff said the Division of Fish and Wildlife recommended preliminary adoption the proposed changes.

Donald Ruch moved to approved preliminary adoption of amendments to rules governing various fish and wildlife licenses and permits in 312 IAC 9 as recommended by the Division of Fish and Wildlife. Phil French seconded the motion. Upon a voice vote, the motion carried.

Consideration of request for preliminary adoption of miscellaneous amendments to fish and wildlife rules in 312 IAC 9; Administrative Cause No. 12-184D

Mark Reiter, Director of the Division of Fish and Wildlife, presented this item and provided handouts to the Commission. “Up until about the last seven or eight years, the Division of Fish and Wildlife has been on an every-other-year schedule of soliciting suggested changes to fish and wildlife rules from the public and resource professionals.” The division has “gotten off that track” the past few years. He said, “The rule enhancement project that the Advisory Council went through kind of replaced that for a little while, and we spent a lot of time on deer rules. We are through all of that now, and we’d like for the division to get back on that every-other-year schedule, so, hopefully, this is the start of that.”

Reiter said in May a staff biologist suggested rule changes “the division had wanted to make for a while.” The suggestions were discussed internally and then provided to the public in “a

general way. We didn't describe the rule exactly because we didn't want the public to feel like it was already 'a done deal', so we described it to them in a real general manner." The suggestions included "having rabbit season, pheasant season and the quail season all have the same opening date." Another division suggestion for rule change was to have a statewide rabbit season rather than a separate one for state-owned properties and one for private ground. "So, we just made some general statements of some directional moves on our part and let the public comment on them and also ask for public ideas for a rule change that they would like to be considered." The division provided "a couple of weeks for public response to the suggestions."

Reiter said the division reviewed the public responses. "Five of the suggestions from the public that held some merit were included in the today's rule packages." Two of the suggestions dealt with fisheries changes the division was already considering but Reiter explained that the Division doesn't have sufficient data "to push forward at this time with those."

Reiter said that two open houses, attended by approximately 50 people, were held—one in Mitchell and one in Plymouth—to receive public comments from those who wanted to meet with us in person "rather than go online." The division placed online what we "felt the actual rule proposals would be as we saw it, and then asked for their comments" Reiter advised that the 429 comments received were generally supportive of the rule changes being proposed. Reiter then deferred to Bill James.

The Chair questioned Reiter about hunter orange on ground blinds. "Is it 144 total inches or is it 144 inches on each side of the ground blinds?"

Reiter answered, "It's each side."

The Chair replied, "So it's a 12-by-12 blaze orange on each side of the ground blind?"

Reiter responded, "Yes, a foot square."

Bill James, Chief of Fisheries with the Division of Fish and Wildlife, addressed the Commission and provided the following fisheries rule changes.

312 IAC 9-7-6: Black Bass

- The proposed amendments involve changing the black bass 12-15 inch slot size limit at Scales Lake in Warrick County back to the statewide 14-inch minimum size limit. Fishermen at Scales Lake implied that pan fish fisheries is "most important" to the visitors. James said that the bass under a 14-inch limit "are so abundant" at Scales Lake that they are grazing down the bluegill. "We think the slot limit is a good tool to use to try to maximize bluegill fishing down there."
- James said the second proposed amendment would remove the special language for black bass in Gibson Lake in Gibson County. In 2007, Duke Energy closed Gibson Lake to public fishing due to high selenium levels found in the fish. "There's no indication [Gibson Lake] is going to open to public fishing anytime soon."
- The third proposed amendment would add a 12-15 inch protected slot length limit for bass (standard five-bass bag limit) with not more than two bass over 15 inches at Big Long Lake in LaGrange County. James provided that the DNR has documented an overabundance of small

bass over several years that limits bass fishing quality and threatens to negatively impact a very good bluegill fishery. He stated that meetings with the lake association indicate their support for the proposal.

312 IAC 9-7-12: Walleye

- The proposed rule amendments would add a special 16-inch walleye size limit and two walleye bag limit for Wall Lake in LaGrange County. This proposal is supported by the Wall Lake Fisherman's Association who funded the first three walleye stockings until the Division of Fish and Wildlife was in a position to assume this responsibility as planned. James said, "This is kind of a two-pronged stocking program. One to provide more and better fishing with walleye, but also there's a lot of small stunted bluegill at Wall Lake, and it wouldn't hurt to have additional predator fish to thin down the over abundance of the bluegill population." He informed that the lake is regulated on the State-wide 14-inch minimum size limit on walleye and with a "very high-harvest" of walleye that it is limiting the development of the walleye fisheries. James said the hope is to boost the walleye fishery with the 16-inch minimum size limit and two-fish bag limit.

312 IAC 9-7-15: Lake Whitefish

- Allows not more than twelve Lake Whitefish to be taken per day. Lake Whitefish catches are becoming more common along our Lake Michigan shoreline and there currently is no bag limit. Illinois is preparing a twelve-fish limit which will be consistent with this proposal. Lake Whitefish are in the salmon family.

James said that the amendments for Lake Whitefish would cause Indiana to be in uniformity with Illinois and Michigan's bag limit. "They're really in our waters in the very cold times of the year, late fall and early spring. They seem to be doing better in Lake Michigan, but we do think they need some protection now that they're apparently available to our anglers more often."

312 IAC 9-7-20: Shovelnose sturgeon

- Since shovelnose sturgeon are a roe-bearing species and the harvesting and selling of roe is prohibited by statute and rule except with a roe harvester's license, rule language is needed to clarify that a sport angler cannot remove and possess or sell the roe from bowfin. James explained that Bowfin can be taken and eaten, but the roe could not be taken out of the fish except with a roe harvester's license.

Petercheff told the Commission members that the yellow copies she handed out related to the fisheries rules. Petercheff explained that there was an error in the walleye rule amendment that she corrected and for bowfin and shovelnose sturgeon, she explained the addition of "transport" in the list of activities prohibited to the sport angler with respect to roe that has been removed from the fish.

Mitch Marcus, Fish and Wildlife Section Chief with the Division of Fish and Wildlife, addressed the Commission. He said the Division of Fish and Wildlife proposed to amend the following rules:

312 IAC 9-2-14: Fishing, hunting, or trapping without a license by owners and lessees of farmland

- Would add language to address land owned by an estate or trust. This has been an issue in recent years with enforcement of license requirements when the land is in the name of multiple people as part of a trust or an estate

312 IAC 9-2-15: Hunter Orange & Ground Blinds

- If the hunter is required to wear hunter orange to hunt a species of wild animal, then a ground blind used by that hunter would also have to have hunter orange if used from a half-hour before sunrise to a half-hour after sunset during the deer special youth season, firearms season, muzzleloader season, new primitive muzzleloading season, and special antlerless only season.

312 IAC 9-3-2: General Requirements for deer hunting

- Adds the nonresident youth extra deer bonus antlerless license as a license type for a youth to take deer during the special youth deer season.
- Makes additional technical changes.

Marcus added, “We get back into deer hunting rules a little bit. We want to modify the bag limit for the deer license bundle. Currently, the bag limit for a bundle holder is one antlered deer and two antlerless deer. We want to modify the bag to be one antlered deer and two antlerless, or three antlerless. We also want to specify that the antlerless deer taken on that bundle must be taken in accordance with the bag limits for each deer season and that a hunter must abide by county quota for antlerless deer.”

312 IAC 9-3-3: Equipment for deer hunting

- Allows a draw-loc device to be used with archery equipment when crossbows are allowed to be used during the archery season.
- Removes the prohibition on the use of over-and-under combination rifle-shotguns. This prohibition is no longer needed since certain rifle cartridges and shotguns can be used.
- Specifies the muzzleloaders that can be used during the new proposed primitive muzzleloader season and specifies that crossbows cannot be used in the archery season from September 15 to September 30

312 IAC 9-3-4: Deer Season dates and bag limits

- Changes the starting date for the archery season to September 15. From September 15 through September 30, crossbows would not be legal to use.
- Adds a new primitive muzzleloader season that would start the first Monday in January and continue for an additional 6 consecutive days. The bag limit would be combined with the bag limit during the regular muzzleloader season (one deer of either sex).

312 IAC 9-3-14.5: Possession of furbearing mammals

- Makes technical corrections to new language to clarify the intent. The revisions approved in 2011 created some confusion, and a few minor changes are needed to clarify what can be done with a furbearer that is taken during the hunting or trapping season.

312 IC 9-3-15: Taking of specified nuisance wild animal to protect property

- Allow private property owners to take a nuisance mute swan on their property without a permit, which is already allowed for raccoons, opossums, and several other species. The amendment would also clarify legal methods must be used to take nuisance wild animals under the rule.

312 IAC 9-3-16: Cottontail Rabbits

- Modifies the rabbit season into a single statewide season beginning November 1 and ending on February 28. This will add days to the current season, but start it later to avoid conflicts with

research that shows that the breeding season runs from mid-February through September, with some young born or in nests through mid-October. The season for public and private land would be the same.

312 IAC 9-3-17: Squirrels

- Modifies the date when a squirrel hunter is required to wear hunter orange to start on November 1 (to match the proposed new starting date for other small game species) and go through the remainder of the season.
- Clarifies who can take a southern flying squirrel.

312 IAC 9-4-8: Ring-necked Pheasants

- Modifies the pheasant season dates to be concurrent with the quail season in the north zone from November 1 to December 15. Pheasant habitat is disappearing across the Indiana range and our public lands in northern Indiana likely have or will become the reservoirs for pheasants to repopulate marginal habitat after significant weather disturbances. Wild pheasant populations are in decline across their range in Indiana, and hen pheasant survival is of utmost importance.

312 IAC 9-4-9: Bobwhite Quail

- Would modify the north/south boundary of the bobwhite quail zones by making I-74 the dividing line. The north-south boundary changes fit both climate data and research-and-monitoring data more appropriately than the current boundary. This change would allow an earlier start to the quail season (November 1) and can reduce additive mortality without significantly reducing the season length. There is a lack of appropriate quail habitat north of Marion County when compared to habitat south of Marion County. This would give small game hunters an additional weekend to hunt before the deer firearms season.
- Also modifies the quail season dates by subtracting two days from the season in the south (November 1 to January 10) and reduce the bag limit in the north to four from the current five. The north quail season would run from November 1 to December 15.

312 IAC 9-4-2: General requirements for migratory birds and waterfowl

- Exempts Eurasian collared doves from the species for which a person must register through the Harvest Information Program. They are not a federally protected species.
- Adds the requirement to use only non-toxic shot for hunting mourning doves on state properties in 312 IAC 9-4-2. Currently, this provision is only in the DNR property rule (312 IAC 8-2-3(k) effective on January 1, 2013) which has a penalty of an infraction instead of a Class C misdemeanor.
- Adds language to address Eurasian collared doves in the bag limit for mourning doves. When hunting mourning doves, Eurasian collared doves would be able to be harvested and not count against the individual daily bag limit if the head and at least one wing is left on all harvested doves while in the field.
- Because of the statutory change in IC 14-22-6-2 that removed the exemption for federal permit holders from having to get a state permit, the following changes are also proposed: (1) clarifies who can possess and take migratory birds, (2) adds exemptions for people to possess and sell raptors under a federal raptor propagation permit and waterfowl under a federal waterfowl sale and disposal permit without a permit from the DNR, (3) add exemptions for the possession of captive-reared mallard ducks in accordance with federal law without a permit from the DNR, and (4) adds a requirement for a depredation permit from the state to take a nuisance migratory bird.
- Adds language to allow an individual to take the nest and eggs of Canada geese between March 1 and June 30 in accordance with 50 CFR 21.50 without a permit from the DNR.

- Requires an individual to have a permit from the DNR to take a live Canada goose that is causing damage or threatening to cause damage to property or causing a health or safety threat to persons or domestic animals.

312 IAC 9-4-14: Endangered species of birds (Peregrine Falcon)

- Removes the peregrine falcon from the list of state endangered species. Following a successful restoration in the Midwest and Indiana, the population of peregrine falcons has increased steadily in Indiana and adjacent states. This species was removed from the federal endangered species list in 1999. The Bird Technical Advisory Committee, in its advisory role to Indiana's Wildlife Diversity Program, established de-listing criteria for this species in early 2011. These criteria are to have 16 occupied territories annually for 3 consecutive years with a minimum productivity level of 2.0 young per active nest. This goal was achieved in 2011 with 17 territories and productivity of 2.3 young per active nest. Historically, the number of peregrine falcons was three to four pairs, and the initial goal of Indiana's restoration effort was to establish and maintain four pairs in the State.

312 IAC 9-9-4: Mussels:

- Adds the Round Hickorynut as an endangered species of mussel. Research by our malacologist around the state has indicated that this species meets the requirements of the law as an endangered species and now needs to be listed as endangered to prevent extirpation. At once mussel inhabited more than 50 watersheds in the State, and now is reproducing in two.

Patrick Early asked Marcus to clarify the section concerning the new primitive muzzleloader season in January. "Your bag limits are combined with what they were for the fall, so you can still only shoot one buck for that whole season, correct?"

Marcus replied, "Yes. It's one buck regardless of season or equipment state-wide. By the time the hunter would get to the December muzzleloader season, if he hadn't taken his buck yet, he could do that or take a doe. If he didn't harvest during that then he would be able to take either again in the regular season."

The Chair asked Marcus about the taking of swans. "We've dealt with this a couple of times, like at Lake Webster, for example. I know a couple people that have property up there where swans are a problem. You talk about they can 'take' on their land, what does that mean? If that swan comes up to their beach, they can kill the swan?"

Marcus answered, "Yes. There are many methods of 'take'. And, it's presently what we're permitting, basically, through a DNR permit. So what this would be for those landowners who are experiencing damage or having a nuisance problem with that animal, they would be able to hire somebody to take it or take it themselves."

Doug Grant asked Marcus, "What are the requirements to control the swans, because more and more of the lake conservancies and associations are concerned about this explosion of them all over the lakes. Do you have to have a hunting license?"

Marcus replied, "Presently, control is through a permit from the Department."

Grant asked, "Is that a special permit to shoot a mute swan?"

Marcus replied, “It is. We’ve been working with several lake associations, principally in the northern part of the state on control. Some folks are dealing with the issue through egg and nest destruction. There are relatively few that have actually taken to lethal removal of adults.”

John Davis asked, “But that’s possible, right, under the permit, and the permit is it free?”

Marcus answered, “It is free. It’s the regular nuisance animal control permit that we issue for other species.”

The Chair commented, “You mentioned the Canada Goose, the 50 CFR 2150. What is that?”

Marcus answered, “That’s federal regulation related to control of migratory birds.”

The Chair commented, “Pretty comprehensive package, well done, and thanks for reaching out to get comment. I’m sure as this preliminary adoption item moves forward there will be lots of other public comment received through the process.”

R.T. Green moved to preliminarily adopt miscellaneous amendments to fish and wildlife rules in 312 IAC 9. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

Consideration of request to amend the Free Sport Fishing Days Nonrule Policy Document, Natural Resources Commission Information Bulletin #59; Administrative Cause No. 12-187D

Linnea Petercheff presented this item. She said that the Division of Fish and Wildlife is requesting an amendment to the free-sport-fishing-days nonrule policy document to establish the dates for 2013. “An amendment was made to the state statute this year to allow up to four days to be selected each year, instead of just two.” The amendment would add April 20, the week before the stream trout season opens, as well as May 18, which is Armed Forces Day. The proposed dates would also correspond with GoFishIN Family Learn-to-Fish Workshops, which are typically on the third Saturday of each month. June 1 and June 2 match-up with the National Free Fishing Weekend. “With the proposed dates being early in the year, and with a positive fishing experience”, an individual may be encouraged to purchase a fishing license for other opportunities. Petercheff concluded saying that since the two dates were new for the year 2013, the Division of Fish and Wildlife would propose to “do one year at a time.”

Thomas Easterly moved to approve to amend the Free Sport Fishing Days Nonrule Policy Document as recommended by the Division of Fish and Wildlife. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

NRC, DIVISION OF HEARINGS

Consideration of report on rule processing, public comments, analysis, and recommendations regarding final action adoption of amendments to 312 IAC 9, rules

**governing hunting of white-tailed deer and wild turkey; LSA Document #12-115(F);
Administrative Cause No. 11-207D**

Sandra Jensen, Hearing Officer, presented this item. She said that the focus of the proposal was at 312 IAC 9-3-2 and 312 IAC 9-4-11. The amendments would establish the electronic check-in system for the harvest of white-tailed deer and for the harvest of wild turkeys. Other related sections would be amended to retain consistency. These included provisions at 312 IAC 9-3-10 and 312 IAC 9-3-2. She said a few of the items referenced earlier in the day by Mitch Marcus are already addressed in the present amendments and would not need to be repeated. The proposed rule would allow the taking of “three antlerless deer, or one antlered with two antlerless deer,” with amendments regarding the possession of a handgun during the deer hunting season, as well as changes relating to wild turkey hunting.

Jensen said a public meeting on the rule proposal was held on October 4. Two citizens provided comments as included in Exhibit A. From January 2012 until October 4, 2012, written comments were received. On October 22, the DNR responded to the comments. An “overwhelming majority of the comments related to the electronic check-in system.” The “vast majority” of the comments were in favor, and only a “small number disapproved of the electronic check-in”, believing it would cause an increase in poaching or lack of reporting. “The Department and the Law Enforcement Division were of the opinion that increases would probably occur with check-ins and that the availability of immediate data would be more helpful in tracking down those who decided not to check in through the system.” Jensen then recommended final adoption of the rule package.

Doug Grant moved to approve final adoption of amendments to 312 IAC 9, rules governing hunting of white-tailed deer and wild turkey. Michael Cline seconded the motion. Upon a voice vote, the motion carried.

The Chair asked Mark Reiter how the first week of the telephone check-in system worked.

Reiter replied, “Not very many people used the telephone check-in.” Only 225 people checked in by phone during the first two days. “We had the on-line system available for turkey season this year, and about 20% checked in using that.” Currently 20% of the deer hunters are using on the on-line check-in system.

**Consideration of report on rule processing, public comments, analysis, and
recommendations regarding final adoption of amendments to 312 IAC 9, rules governing
fishing guide licenses, roe dealer and harvester licenses, and other miscellaneous
amendments to the fishing rules; LSA Document #12-65(F); Administrative Cause No. 12-
018D**

Sandra Jensen also presented this item. She said most of the amendments are to implement P.L. 165-2011 which changed the former charter fishing boat operator’s license to a fishing guide license and which enacted IC 14-22-13-2.5 to establish roe harvester and roe dealer licenses. The statutory amendment associated with the charter fishing boat operator’s licenses established the need to obtain a license for fishing guide activities that do not necessarily involve the use of a

boat. IC 14-22-13-2.5, which established the roe harvester and roe dealer license, was itself subsequently amended by SECTION 7 of P.L. 151-2012.

Jensen stated that the rule amendments at 312 IAC 9-7-17 related to the fishing guide licenses and the change of the name and certain applications of the fishing guide licenses for consistency with the amended statute. The requirements associated with the newly created roe harvester and roe dealer license were addressed at 312 IAC 9-8-7 and 312 IAC 9-8-8. Contemporaneous amendments, including additions to general requirements and definitions, were at 312 IAC 9-8-1. Amendments at 312 IAC 9-8-2, 312 IAC 9-8-6 and 312 IAC 9-6-19 were needed to help implement IC 14-22-13-2.5. The proposed amendments “also addressed technical matters”.

Jensen said a public hearing was held on October 2, 2012 with attendance of two members from the public who provided both verbal and written comments. No written comments were received during the comment period of May through October.

Jensen referenced high-lighted rule language in Exhibit C. She said the high-lighted portions were to correct citation errors at 312 IAC 9-8-1 and to clarify language at 312 IAC 9-8-7, as well as to address a conflict with sport fishing rules related to the roe dealer and the roe harvester license at 312 IAC 9-6 and 9-7. Language consistency changes were made in 312 IAC 9-8-8(d) and (f). She said she believed the changes were “not significant changes but only corrected errors or resolved conflicts identified with other rules.”

She said two substantive changes were recommended to the rule based on public comments received during the public hearing. These revisions were at 312 IAC 9-8-6(i)(2) and 312 IAC 9-8-7(f)(8) and (g). She recommended final adoption with the revisions suggested.

Thomas Easterly moved to give final adoption to amendments governing fishing guide licenses, roe dealer licenses, roe harvester licenses, and miscellaneous fishing standards as recommended by the hearing officer. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration of report on rule processing, public hearing, written comments, analyses and recommendation regarding final adoption of 312 IAC 2-5 to provide standards for review of determinations for testing and programs for continuing education; LSA Document #12-273(F); Administrative Cause No. 11-189A

Steve Lucas, Hearing Officer, presented this item. He said the proposed rule would help provide a consistent agency process for reviewing testing or continuing education determinations, if DNR approval is a legal condition for participation in a vocation or avocation. The proposal would encourage informal review at the DNR division level and also acknowledge the right to a more formal review from the NRC.

Lucas said only one comment was received from the public concerning the proposal. The comment seemed directed to the substance of continuing education programs and not process. The proposal does not address substance. Also, he said he received a telephone call concerning applicability of the rule proposal to an outreach program from the Division of Fish and Wildlife. As the caller described it, “the program really wasn’t a mandate. It was training. It was

education. But the program wasn't a condition for participation in the activity." He said he told the caller the proposal would only govern "when a satisfactory test result or a completion of continuing education is actually a condition" for participation in the vocation or avocation. He recommended final adoption of 312 IAC 2-5, as published following preliminary adoption, to provide standards for review of determinations for testing and programs for continuing education.

Doug Grant moved to give final adoption of 312 IAC 11.8 to provide standards for review of determinations for testing and programs for continuing education. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

Adjournment

The meeting was adjourned at approximately 11:51 a.m., EDT.

Next Scheduled Meeting:

March 19, 2013 (10:00 a.m., EDT (9:00 a.m., CDT), Ballroom, The Garrison, Fort Harrison State Park, Indianapolis