

NATURAL RESOURCES COMMISSION
Minutes - August 19, 1997

MEMBERS PRESENT

Michael Kiley, Chair
Larry Macklin, Secretary
Mary Titsworth Chandler
John Goss
Steve Cecil
Damian Schmelz
Joe Seiner
Jane Ann Stautz

NATURAL RESOURCES COMMISSION STAFF PRESENT

Tim Rider
Jennifer Kane
Sharon Turk

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Jack Costello	Executive Office
Lori Kaplan	Executive Office
Bill Stuart	Executive Office
John Friedrich	Forestry
John Gano	Law Enforcement
John Bacone	Nature Preserves
Mike Sponsler	Reclamation
Sylvia Wilcox	Reclamation
Louise Krick	Personnel

GUESTS PRESENT

Matt Waldo	Myrna Newgent
Emily Roscoe	Paul Kohlhoff
Nat Noland	Joyce Martin

MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular meeting of the natural resources commission at 10:09 a.m., EST, on August 19, 1997 in Indiana State Museum, 202 North Alabama, Indianapolis, Indiana. With the presence of eight members, the Chair observed a quorum.

Joe Siener moved to amend the minutes of the July 22 meeting with respect to the agenda item for Edwardsville Water Corporation and Citizens Against the Pit v. Department of Natural Resources and Silver Creek Sand and Gravel. He suggested deleting the reference in the

proposed minutes to Judge Teegarden rendering a partial summary judgment. He also asked that a reference be made to the consolidation of the Citizens' administrative review of the action by the DNR Division of Historic Preservation and Archeology (97-064), with the action by the DNR Division of Water (96-138), accomplished before the July commission meeting. Siener noted the changes were sought by the Citizens' attorney and concurred in by Judge Teegarden. The amendments were accepted by consensus.

Damian Schmelz moved to approve the minutes of the July 22, 1997 meeting as amended. The motion was seconded by Jane Stautz. Upon a voice vote, the motion carried.

Larry Macklin provided the Director's Report. He outlined a trip to southern Indiana's Ohio River and the Falls of the Ohio greenway project. He said the project is a "very ambitious" joint effort among Clarksville, Jeffersonville, and New Albany. Macklin said he also had an opportunity to visit the interpretive center and view the fossil beds.

Macklin said he met recently with the division of engineering during its annual gathering at Fort Harrison State Park. He said he "tries to visit with one or two divisions each month," and this approach has been "very fruitful and successful."

He said there were 14 interviews for the DNR position of chief counsel, and all were "great candidates." He commended Lori Kaplan in her efforts as new deputy director while continuing to function as chief counsel.

Macklin said he also met with the Cardinal Greenway Group, another three-city joint project. He said the Cardinal Greenway Group represented Marion, Muncie, and Richmond. It is developing a 62-mile multipurpose trail from Muncie to Richmond. He said the DNR will continue to provide technical assistance to the group through the division of outdoor recreation.

Macklin said he met with several of those concerned with the crossbow issue. Included was a meeting with Joe Bacon, the president of the Deer Hunter's Association. He said public hearings on the proposed rule are scheduled for September.

Macklin expressed appreciation to the staff members who served at the State Fair. With the dedication and work done by staff within the facility, there were crowds going through all the time.

Macklin said the Governor held an awards ceremony in the Rotunda to honor those who have served the state for 35 years or more. Carl Eisfelder, division of fish and wildlife, was honored for his 35 years of service.

Larry Macklin reported upon the initial meeting of the Natural Resources Interim Study Committee. The committee members heard 16 proposals for the agenda, several of which were informational items. No agency legislation is anticipated unless required by the federal government or of an emergency nature.

He said he attended the Walnut Council meeting at Brown County State Park. About 200 persons attended from throughout the Midwest. He said this initiative was originated several years ago by Jack Costello and many others.

Lori Kaplan, Deputy Director for the Bureau of Water and Resource Regulation, provided her report. She said the Indiana Dunes State Park hosted the National Healthy Beaches Symposium August 6. The symposium was a well-planned and well-attended interagency effort directed to the causes and solutions of bacterial contamination of beaches. There were speakers from California, the Midwest, New Jersey, and Washington, D.C. Illinois-Indiana Sea Grant worked with the Indiana Task Force on E. coli and the Lake Michigan Coastal Coordination Program to organize the symposium. She said the staff at Indiana Dunes State Park did an excellent job preparing the beach-house pavilion and the nature center for the event.

Kaplan presented a new sign, copies of which will be placed at state properties purchased with some or all Heritage Trust money. The sign will help inform the public where money is being used which was collected from the sale of the license plates. Chairman Kiley praised the Heritage Trust license plate as "the best looking in the United States."

Kaplan said the Director recently signed the "Scenic Byways Interagency Agreement." The agreement brings together the Department of Commerce, INDOT, and DNR to designate appropriate "scenic byways." The division of outdoor recreation and the division of historic preservation and archeology will play lead roles for the DNR.

John Goss said the program has great potential. A number of communities will work together on promotions, particularly for the Ohio River Scenic Route. The route is the first federally-designated route and connects New Harmony and Lawrenceburg. He said US 40 is scheduled to be the next project.

Jerry Miller, Chairman of the Advisory Council for the Bureau of Lands and Cultural Resources, was not present.

Jack Costello, Deputy Director for the Bureau of Lands and Cultural Resources, said Clarence Long and council alumni were present at the last meeting. He announced work was beginning on the parking lot at Fort Harrison State Park, part of a \$1,000,000 project plan for the park and golf course. He said bids were being let for the expansion of The Garrison and "what will become the pro shop."

Joe Seiner, Chairman for Advisory Council for Water and Resource Regulation, reported that the division of water's new tracking permit system will be online soon.

Paul Ehret, Deputy Director for the Bureau of Mine Reclamation, was not present. Speaking for him was Michael Sponsler, Director of the Division of Reclamation. He reported the final results of the measurements of off-site mining impacts from last quarter showed a 98% compliance ratio by the industry, with only 1/2% being major impacts. Also, blasting compliance was at 99.5%. Of 3,200 blasts, only 16 were out of compliance in the last quarter. There were over 1,000 acres released following reclamation in the last quarter.

In the Abandoned Mine Lands Program, reclamation was completed at the Shasta Warrior Mine Tipple Project. He described the former tipple as "the worst bond forfeiture site in the state with acid mine drainage problems." He said bond forfeiture restoration is also proceeding on lands secured by the insolvent Guard Casualty surety company, for which the DNR has received over \$2,000,000 million in a settlement. He said all projects are completed, in construction, or designed and ready for bid.

Chairman Kiley recommended the division of reclamation present to the commission a short summary of activities (examples: bond forfeitures, land use changes, the status of mine reclamation). Sponsler said the division of reclamation routinely formulates reports which can be augmented with background information. He said he could present a summary of activities for the September meeting.

BUREAU OF LANDS AND CULTURAL RESOURCES

Division of Nature Preserves

Consideration of the Dedication of Cressmoor Prairie Nature Preserve, Lake County

John Bacone, Director of the Division of Nature Preserves, presented this item. He said the proposed nature preserve is a 38 acre tract in the town of Hobart in Lake county. The site is owned and managed by the Shirley Heinze Environmental Fund, and money from the Indiana Heritage Trust Fund helped with its purchase. Bacone said Cressmoor Prairie is the largest protected example of a silt-loam or "black soil" prairie within the state and would be a worthy addition to the state's nature preserves. He recommended approval of its formal dedication.

Myrna Newgent, President of the Shirley Heinze Environmental Fund, gave a brief history of the property. She urged the commission to dedicate this "marvelous place" as a nature preserve.

Paul Kohlhoff, Executive Director of Shirley Heinze Environmental Fund, also spoke. He said he was involved in the purchase negotiations, and his organization appreciated the funds that were provided by the Indiana Heritage Trust to help purchase the property.

Damian Schmelz suggested that Cressmoor Prairie Nature Preserve would be a good site for a fieldtrip during the next commission meeting in Northwest Indiana. The Chair expressed his concurrence with this suggestion.

Mary Titsworth Chandler moved to approve the dedication of the Cressmoor Prairie Nature Preserve in Lake County. The motion was seconded by Steve Cecil. Upon a voice vote, the motion carried.

DIVISION OF FORESTRY

Consideration of a Request by South Central REMC for a Four-Year Permit for the Installation, Operation, and Maintenance of an Underground Electric Cable Across Morgan-Monroe State Forest

John Friedrich, Property Specialist for the Division of Forestry, presented this item. He explained that Indiana University is erecting an atmospheric research tower on Morgan-Monroe State Forest. Instrumentation on the tower requires electrical power. As a result, South Central REMC is requesting a permit to install and maintain a 7,200 volt underground electric cable across a portion of Morgan-Monroe State Forest to serve the tower. Friedrich indicated the Division of Forestry was supportive of the proposal.

Jane Ann Stautz moved to approve the request by South Central REMC for a four-year permit to install and maintain an underground electric cable across Morgan-Monroe State Forest as more particularly described in the commission packet. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

DIVISION OF LAND ACQUISITION

Consideration of a Resolution for the Transfer of Right-of-Way by the Department of Natural Resources to the Indiana Department of Transportation for the Reconstruction of the US 52 Bridge Over the Whitewater Canal Near Metamora, Indiana

John Davis, Director of the Division of Land Acquisition, presented this item. He explained the proposal was for the approval of a written resolution to transfer realty from the DNR to INDOT in Franklin County for reconstruction of the US 52 bridge over the Whitewater Canal. He said the project sought to improve highway safety.

Damian Schmelz moved to authorize the Director of DNR to enter a written resolution for the transfer of property to the Indiana Department of Natural Resources as needed for reconstruction of the US 52 bridge over the Whitewater Canal. The motion was seconded by Mary Titsworth Chandler. Upon a voice vote, the motion carried.

LEGAL PROCEEDINGS

Natural Resources Commission, Division of Hearings

Consideration of Recommendation for Second Final Adoption of Rule Amendments following Recall and Consultation with the Attorney General's Office of Proposed Amendments to 310 IAC 12-3-121 regarding Significant and Nonsignificant Permit Revisions; Administrative Cause No. 94-080R; LSA #96-246(F)

Prior to the consideration of this item, Chairman Kiley introduced Joyce Martin, the Governor's Executive Assistant for the Environment. He praised her efforts and said the DNR and NRC were fortunate to have Martin as their primary contact person in the Governor's office.

Joyce Martin said she appreciated the opportunity to attend a commission meeting and to work with the agency. Martin introduced Matt Waldo of the Hoosier Environmental Council.

Sylvia Wilcox, attorney for the Division of Reclamation, spoke to this item. She explained that William Teegarden had been the hearing officer for the rule amendments, and he presented them for final adoption during a previous commission meeting. The rule had been recalled, however, at the request of the Attorney General's office. Wilcox explained she had been working with the Attorney General's office and was optimistic, that with the modifications contained in the commission packet, they were now in a form which could be approved as to legality. She said the most notable change was the deletion of what had originally been proposed as subsection (a) within 310 IAC 12-3-121. She asked that the commission give final adoption to the rule amendments with the modifications contained in the commission packet.

J. Nathan Noland, President of the Indiana Coal Council, said he had some questions concerning language in the rule amendments. He believed, however, that the package as drafted was an important step forward. He asked that it be given final adoption.

Damian Schmelz moved to again give final adoption to the amendments to Indiana SMCRA rules regarding significant and nonsignificant permit revisions, with the modifications included in the commission packet. The motion was seconded by Mary Titsworth Chandler.

Consideration of the Adoption of a Nonrule Policy Document to Address Minor Field Revisions; Administrative Cause No. 97-051R

Sylvia Wilcox also presented this item. She said it was closely related to the proposed rule amendments to address significant and nonsignificant permit revisions. This document would be published in the Indiana Register to help explain how minor field revisions would be implemented. Publication would take place simultaneously with final adoption of the significant and nonsignificant permit revision provisions.

Consideration of Report of Hearing Officer and Recommendation for Final Adoption of Amendments to 310 IAC 12 Relating to the Definition of "Affected Area;" Administrative Cause No. 95-320R; LSA #97-9

Jennifer Kane, Hearing Officer, presented this item. She explained that recommended for final adoption were amendments to Indiana surface coal mining and reclamation rules to address a series of largely technical matters. Included among these matters was a modification to the definition of "affected area" to incorporate haul roads and access roads. The proposal was not controversial. No one appeared for the public hearing or otherwise commented.

Damian Schmelz moved to approve for final adoption the amendments proposed to Indiana SMCRA addressing "affected area" and other technical issues. The motion was seconded by Joe Siener. Upon a voice vote, the motion carried.

Consideration of Report of Hearing Officer and Recommendation for Final Adoption of Amendments to 310 IAC 12-3 and 310 IAC 12-5 relating to Surface and Underground Mining; Administrative Cause No. 95-318R; LSA #97-010(F)

Jennifer Kane also presented this item. She said the proposal was for rule amendments to Indiana SMCRA to address several issues regarding permitting and hydrologic balance protection. Once again the item had proven noncontroversial with no public comments received.

Joe Siener moved to give final adoption to amendments to 310 IAC 12-3 and 310 IAC 12-5 relating to permitting and hydrologic balance protection under Indiana SMCRA. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Adjournment

The meeting adjourned at approximately 11:05 a.m., EST.