

**Minutes of the AOPA Committee of the
Natural Resources Commission**
July 20, 2004

Jane Anne Stautz, Committee Chair, called to order the AOPA Committee of the Natural Resources Commission at 9:04 a.m., EST, on July 20, 2004 in the Dining Room, The Garrison, Fort Harrison State Park, 6002 North Post Road, Indianapolis (Lawrence). Another member present was Lori Kaplan. The Committee Chair observed a quorum.

Consideration of Objections to Nonfinal Order of Administrative Law Judge in the matter of *Gerber v. DNR*; Administrative Cause Number 01-159L.

The Committee Chair reported that, at the request of Thomas N. O'Malley, attorney for Steven T. Gerber, the director of the division of hearings continued the matter. Janet Parsanko, attorney for the Department of Natural Resources, later joined the request.

The Committee also affirmed, generally, application to its meetings of 312 IAC 2-1-3. An administrative law judge or the division director may remove an item from the agenda if the removal occurs more than 48 hours before the AOPA Committee is scheduled to convene. In this instance, the division director removed the item from the agenda more than 48 hours in advance of convening.

Consideration of Objections to Nonfinal Order of Administrative Law Judge in the matter of *Jansing v. DNR*; Administrative Cause Number 04-009W.

The AOPA Committee received oral argument on objections with each party presenting argument through its attorney. Stephen L. Jansing appeared on his own behalf. Stephanie Roth was attorney for the Department of Natural Resources. William W. Barrett was attorney for the Intervenors.

Barrett objected to the presentation of argument by Jansing because only the DNR had filed written objections to the administrative law judge's nonfinal order. The objection was overruled, but Jansing was limited to arguing issues raised by the DNR. During Jansing's presentation, Barrett objected on the basis he had exceeded the scope of the DNR's objections, and the objection was sustained.

In response to a question from the Committee, the administrative law judge indicated he had not intended to express a perspective either way on the merits of the administrative review sought by Jansing. His nonfinal order was intended, exclusively, to address the "standing" of the Intervenors to participate as parties. At the close of argument, the matter was taken under advisement.

At approximately 9:45 a.m., EST, the meeting was adjourned.