

**Minutes of the AOPA Committee of the
Natural Resources Commission**
October 12, 2004

Jane Anne Stautz, Committee Chair, called to order the AOPA Committee of the Natural Resources Commission at 1:33 p.m., EST, on October 12, 2004 in Conference Room D, First Floor, Indiana Government Center South, 402 West Washington Street, Indianapolis. Another member present was Linda Runkle. The Committee Chair observed a quorum.

Approval of Minutes for Meeting Held on April 14, 2004.

The Committee discussed and approved by acclamation the minutes for the meeting held on April 14, 2004.

Approval of Minutes of Meeting Held on July 20, 2004.

The Committee discussed and approved by acclamation the minutes for the meeting held on July 20, 2004.

Consideration of Process to Address Any Motion to Disqualify a Committee Member from Hearing Objections in the matter of *Gerber v. DNR*; Administrative Cause Number 01-159L.

Stephen Lucas, Director of the Division of Hearings, reported that the parties had agreed, subject to approval of the AOPA Committee, upon a schedule for briefing Gerber's requests to disqualify two members from considering objections. He distributed to the Committee a "Motion to Disqualify Panel Members" and a "Report of Agreed Briefing Schedule", both of which had been filed on October 8, 2004.

Following a brief discussion, the Committee approved the agreed briefing schedule tendered by the parties. Under this schedule, the Department of Natural Resources shall file any response to the "Motion to Disqualify Panel Members" by November 8, 2004. Steven Gerber shall file any rebuttal to the response by November 23, 2004.

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

On July 20, 2004, the AOPA Committee had received oral argument on objections. Stephen L. Jansing appeared on his own behalf. Stephanie Roth was attorney for the DNR. William W. Barrett was attorney for the respondent intervenors. Following the completion of oral argument, the matter was then taken on advisement.

During the October 12 meeting, the AOPA Committee discussed several possible approaches to addressing the July 20 oral arguments. No public comment was received.

The Committee ultimately declined to issue a final order with respect to intervention. The proceeding was remanded to the Administrative Law Judge with instructions to complete the adjudication. The respondent intervenors would participate on the basis of the ALJ's nonfinal order granting intervention that was entered on April 26, 2004. The Committee directed the ALJ to again consider standing among those issues addressed in findings of fact and conclusions of law, and a nonfinal order, when rendered upon the merits. The Committee stated that the parties would retain the right and opportunity to file any objections, including those pertaining to standing, following the issuance of a nonfinal order upon the merits.

Adjournment

At approximately 2:05 p.m., EST, the meeting was adjourned.