

NATURAL RESOURCES COMMISSION

Minutes of May 25, 2000

MEMBERS PRESENT

Michael J. Kiley, Chair
Jack Arnett, Vice Chair
Larry Macklin, Secretary
Damian Schmelz
Jane Ann Stautz
Jerry Miller
John Goss
Steve Cecil

NATURAL RESOURCES COMMISSION STAFF PRESENT

Steve Lucas
Jennifer Kane
Debbie Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Larry Macklin	Executive Office
Jack Costello	Executive Office
Paul Ehret	Executive Office
David Vice	Executive Office
Carrie Bales	Executive Office
Carrie Doehrmann	Executive Office
Robert Waltz	Entomology and Plant Pathology
Larry Allen	Law Enforcement
John Friedrich	Forestry
Betsy Nightingale	Fish and Wildlife
Wayne Faatz	Fish and Wildlife
Laurie Rounds	Water

Guests

Reggie Korthals	Curtis Vosti
Charlotte Read	Tony Srvay
Michael Ryan	Kathy Luther
Peter McCarthy	

MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular monthly meeting of the Natural Resources Commission at 7:02 p.m., CDT, on May 25, 2000 at Indiana's International Port, Burns Harbor, Indiana. With the presence of eight members, the chair observed a quorum.

Director Macklin thanked Peter McCarthy, Director of Indiana's International Port, for hosting the meeting. He also expressed appreciation to McCarthy and his staff for providing the Commission with a tour of the Port immediately prior to the meeting. Macklin informed the members of the Natural Resources Commission that McCarthy also served with him on the Great Lakes Commission.

The Chairman thanked members of the audience for their attendance. He reflected that the Commission was well aware of the importance of the Lake Michigan Coastal Area to Indiana and of the responsibilities of the DNR and the NRC to the area. Kiley reflected the Commission had developed a tradition for the past several years of holding one meeting annually along the coastline, and he was pleased the tradition was being continued.

Jerry Miller moved to approve the minutes of April 18, 2000. Jack Arnett seconded the motion. Upon a voice vote, the motion carried.

Director Macklin said modeling continues to suggest the drought will extend through the summer, and the intra and inter-agency task forces formed to address the drought will help prepare for possible problems. He reflected, "We want to be proactive rather than reactive." He also said all DNR properties have been asked to monitor the water table levels. Macklin reported, in terms of moisture levels, the southern part of the state is "pretty much back to normal," the central part of the state is in a moderate drought, and the northeast is susceptible to possible severe drought.

Director Macklin said he met with the divisions involved with prescribed burning. He said he was "enlightened and proud" of the preparedness exhibited regarding the burn policy. The New Mexico burn situation heightened awareness of the issue, but he has learned an extensive prescribed burn policy is already in place within Indiana's DNR. This policy will continue to be reviewed annually.

Director Macklin observed the annual Governor's Conference on the Environment was well attended. He said the first White River fish stocking took place during the conference. Director Macklin reported in May there was a press conference to announce a civil suit against Guide Corporation that seeks compensation for contamination the corporation allegedly caused to the river.

Director Macklin said the Second Annual Departmental Awards Ceremony was held on May 9 to recognize outstanding employees. The ceremony was well attended, but it was “very difficult to make the award decisions.”

Director Macklin reported Steve Lucas, IDEM Commissioner Lori Kaplan, and he traveled to Duluth, Minnesota for the semi-annual Great Lakes Commission meeting. He said Peter McCarthy joined them in Duluth. Director Macklin said there was extensive discussion about the proposed gas pipeline under Lake Michigan. The pipeline as proposed would extend from St. John in Lake County, Indiana, pass through Illinois waters adjacent to Chicago, and terminate in Milwaukee.

Director Macklin said that he also visited the “Billy Sunday” home on Winona Lake, a prospective state historic site, with State Senator Kent Adams and State Representative David Wolkins. He observed, “It’s marvelous what they have done with the home,” and Director Macklin added that the new Interpretive Center and Museum would soon be opened.

Jerry Miller, Chairman of the Advisory Council for Lands and Cultural Resources, said the Council did not meet and will meet next month at Spring Mill State Park.

Jack Costello, Deputy Director of Bureau of Lands, Recreational and Cultural Resources, reflected that some of the awards given to recognize outstanding DNR employees are named after former employees. He thanked Carrie Bales for organizing the awards ceremony.

Costello said several persons handcuffed themselves together in the office lobby at Morgan-Monroe to protest timber sales there. He said the persons left at the close of business, eliminating any need for forced eviction. He said the FBI is investigating the basis for comments made during the protest.

Costello said DNR’s informal Lake Michigan Coastal Club met in the afternoon to discuss Northwestern Indiana issues. Tom Anderson, Executive Director, Save the Dunes Council, spoke regarding its role in the Coffee Creek Watershed Conservancy. The conservancy is responsible for the long-term management of natural areas within the Coffee Creek development project. Costello said a great tour has been planned for tomorrow to review the project on-site.

Dave Vice, Deputy Director of Bureau of Resource Management, reported on the non-game program. He said three peregrine chicks were banded in Fort Wayne. Indianapolis has three chicks that were recently banded. Vice said there has been excellent media coverage and “everyone is starting to watch the falcons.”

Vice said John Castrala and he participated in an eagle count. Indiana has 23 nesting pairs of bald eagles. In the last five years, there have been 85 young eagles fledged from their nests.

Vice said an angler survey is being conducted during the entire summer. Three intermittent creel clerks will be interviewing anglers five days a week from May through October.

Vice said Indiana is experiencing a dramatic increase in the presence of methamphetamine labs on remote DNR properties. Besides the destruction to human lives the drug causes, the production by-products are extremely volatile and environmentally hazardous.

Vice reported several Conservation Officers attended the National FOP Police Memorial Service in Washington, D.C. in May. The Division of Law Enforcement Division hosted the International Association of Natural Resources Crime Stoppers Annual Conference at Brown County State Park on April 30 through May 2. Several provinces and 37 states were represented.

Vice outlined progress by the Division of Engineering to upgrade campground electrical systems. Most of the upgrades have been completed, with the effort set to be concluded by Memorial Weekend.

Paul Ehret, Deputy Director of Bureau of Resource Regulation, reported there were two resignations within his branch. Mike Sponsler, Director of the Division of Reclamation, will resign effective May 31 to begin his work for Ohio's DNR. Ehret also said that John Allen, Assistant Director of Reclamation, retired after 32 years with the Department and was presented with the Distinguished Hoosier Award.

Ehret said DNR is working on an agreement with the U.S. Army Corp of Engineers to perform an extended study on Sylvan Lake. He said the agencies were hoping for a nine-month turn around on a review of the condition of the dam. Ehret invited the Commission to the Public Freshwater Lakes Workgroup meeting, chaired by Senator Meeks, scheduled for June 7 at 6:00 p.m. at Pokagon State Park.

Ehret said the Environmental Protection Agency (EPA) determined on May 22 that coal combustion waste is not a hazardous material. EPA and the Office of Surface Mining (OSM) are working to formulate regulations within the next two or three years. Ehret said he toured "lake country" the north-central and northwest sections of the state with Mike Neyer, Director of Division of Water, with plans to tour the northeastern section of the state in the early part of June.

BUREAU OF LANDS, RECREATIONAL, AND CULTURAL RESOURCES

PERMANENT APPOINTMENTS AND PERSONNEL INTERVIEWS

There were no permanent appointments or personnel interviews.

BUREAU OF RESOURCE MANAGEMENT

Division of Entomology and Plant Pathology

Information Item: Presentation concerning the spread of the Gypsy Moths in Indiana.

Director Macklin introduced Robert Waltz, Director of the Division of Entomology and Plant Pathology. Waltz also serves as State Entomologist. He informed the Commission a new species of mayfly (*Cloeodes waltzi*) has been named for Dr. Waltz. The mayfly is the third to be named for Waltz, and Macklin congratulated him on receiving the honor.

Waltz gave a presentation and update on the gypsy moth invasion of Indiana. He reported gypsy moths are crossing Indiana's northern and eastern borders in a dual front, attacking primarily the hardwood forest areas. Waltz said 13,000 traps have been set across Indiana for monitoring, and 3,389 male moths were trapped last year in Steuben County alone. Several agencies are working together to combat the gypsy moth. He said *Baccillus thurengensis* and flakes containing female moth pheromone will be used in eleven different counties in the next few weeks to treat gypsy moth populations. Waltz said Trail Creek was treated with BT on May 22. Public information sheets regarding gypsy moths and the responsible agencies would be published and disseminated soon. He said a strategic plan would set forth the responsibilities and roles of the different agencies regarding gypsy moth control. Waltz said the public can obtain more information about environmental assessments and treatment plans at its website: <http://www.state.in.us/dnr/entomolo/index.htm>

Waltz said the gypsy moth feeds on 500 different kinds of plant species, with hardwoods (particularly white oaks) as a favorite food source. In response to a question by Damian Schmelz, he said there would be a change in forest composition following the gypsy moth invasion. "The sheer numbers of the moth are staggering." For example, Waltz said there were recently estimated to be 2,000 egg masses of gypsy moths per acre in Detroit. Egg masses of this density could result in two million larvae per acre after hatching. With an individual moth capable of eating eleven square feet of leaf surface, the result could be 22,000,000 square feet of leaf surface being removed in a single season.

Kiley thanked Waltz for his informative report. "We can ill afford to be merely reactive." To the extent practicable, "we need to check the proliferation."

LAKE MICHIGAN INFORMATIONAL ITEMS

Informational Item: Biodiversity Recovery Plan for “Chicago Wilderness,” a multi-state nongovernmental initiative that includes Lake, Porter, and LaPorte Counties, Indiana.

Dr. Mark Reshkin, Director of Environmental Affairs at the Northwest Forest Foundation, informed the Commission as to the activities of “Chicago Wilderness.” He said various public agencies and private organizations are distributing \$1,500,000 in grants per year for biodiversity recovery in the southern Lake Michigan region. These efforts will be directed to Southeast Wisconsin, Chicagoland, and Lake, Porter, and LaPorte Counties in Northwest Indiana. Reshkin said Chicago Wilderness is not a lobbying organization but rather an educational organization. Chicago Wilderness has created a handbook for city and town planners to help make better decisions to manage present environments and to preserve the natural areas. He said the next five years would determine how much we could preserve. Reshkin said the goals are listed in the booklet provided. NIRPC is requesting to put together a team of experts to work with communities to help them identify “what they have and how to preserve it.”

Reggie Korthals from the Northwestern Indiana Regional Planning Commission said the agency’s goal is “to go further than just a resolution.” She said NIRPC has been working with Illinois, Chicago, and Indiana members to hold workshops for zoning boards and other planning entities. “This plan is more than just a verbal declaration; it’s what we plan to make happen.” The goal of the initiative is to acquire more “green” areas through public acquisition, public and private partnerships, and private development. Korthals said a good example of the latter is the Coffee Creek development project the NRC is scheduled to see tomorrow.

Informational Item: Coastal Coordination Program Annual Report for 1999

Laurie Rounds presented the 1999 Annual Report for the DNR Lake Michigan Coastal Coordination Program. Rounds presented activities that contributed to accomplishing the Coastal Program goals as developed in the 1995 Natural Resources Commission Resolution on Lake Michigan. Those goals can be summarized as enhancing public participation, improving government streamlining, improving communication and coordination, developing educational tools, establishing partnerships, and exploring innovative methods and opportunities. A highlight of the report was the description of a project between the Coastal Program and the DNR Division of Nature Preserves to conduct a natural areas workshop. The workshop brought together land managers from city, county, state, and federal agencies, private industry, and non-profit organizations to discuss natural areas in need of restoration or protection.

Rounds also announced the development of several new educational tools initiated in 1999. These include a Little Calumet-Galena Rivers Watershed Study, a Coastal Recreational Resources Study, and a Coastal Historic and Cultural Resources Study.

The studies will be completed in 2000 and will compile existing information and provide recommendations for opportunities related to these important coastal resources. The availability of additional geographic databases through the Lake Rim GIS Internet site was also announced. The databases were provided by several DNR divisions and include recreational sites, trails, historic districts, historic bridges, shoreline structures, and shoreline aerial photographs. The Lake Rim GIS can be accessed at the following website: <http://adamite.igs.indiana.edu/indsurv/research/index.htm>

LEGAL PROCEEDINGS

NRC DIVISION OF HEARINGS

Consideration of Report for Public Hearing and Recommendation by Hearing Officer for Final Adoption of Modified No-Boat Zones and to Approve Nonbinding Resolutions in the matter of Hammond Lakefront Beach and Hammond Marina Beach No-boat Zones; Administrative Cause No. 99-153L; LSA #99-240L

Steve Lucas, hearing officer, presented this item. He said for consideration were three proposals that arose from a petition by Curtis Vosti, Administrator of City of Hammond Parks Department, to establish no-boat zones adjacent to recently developed swimming beaches on Lake Michigan in extreme northwestern Lake County. Each of the three recommendations are independent, "so the Commission could approve some, none, or all."

Lucas said the Commission members would recall touring the area during its regular monthly meeting in September 1998. The site is a good example of successful efforts to restore what was once a brownfield into much sought-after mixed recreational uses. He observed "in close proximity are a marina, a gaming boat, a city park, a bird sanctuary, an historic shipwreck, and a popular area for both the boating and fishing public."

Lucas said he believed the petitioner had established the "no-boat zones are appropriate to protecting the safety of swimmers using the Hammond Lakefront Beach and the Hammond Marina Beach. At the same time, boaters have a legitimate need to use the same waters." Lucas said a public hearing on the rule proposal was set for April 10, 2000 at the Hammond Pavilion. Don Novak appeared to represent the interests of local boaters. Novak, Vosti, and other interested officials and citizens conferred immediately before the public hearing and reached a compromise that reduced somewhat the length of the more western of two no-boat zones proposed on-site. Lucas said his first recommendation was to approve the compromise as a final rule.

Lucas said his second recommendation "has to do with timing." A permanent rule cannot be put in place for the upcoming summer season, even though the potential hazard to public safety would be presented. He recommended the Commission approve a non-binding resolution urging the Director to adopt an emergency rule parallel to the

compromise language of the proposed permanent rule. He said this proposal was made orally by the Hammond Parks Department during the public meeting on April 10 and then met with consensus approval.

The third recommendation was motivated initially by the fears expressed by Tim Early and other diving enthusiasts for the integrity of the *George F. Williams* shipwreck. The shipwreck is in close proximity to the more eastern proposed no-boat zone and a “boat-in beach” that would divide the two no-boat zones. They expressed concerns that an increase in boat traffic and setting anchors might damage the shipwreck. Jon Smith, Director of the DNR’s Division of Historic Preservation and Archaeology, was supportive of these concerns. He noted that a study by the former State Archaeologist concluded the *George F. Williams* is probably eligible for the National Registry of Historic Sites. In addition, the shipwreck itself poses some safety hazards, particularly to inexperienced divers.

Lucas said he was uncertain of the best strategy for addressing the shipwreck. Several groups have an interest in the site, and their input is appropriate to a final disposition. As a result, he recommended the formation of a workgroup as described beginning at page ten of his report to the Commission.

Curtis Vosti spoke in favor of all three recommendations by the hearing officer. He expressed appreciation to the Commission for reviewing the proposals for no-boat zones. In addition, he said he believed the development of a workgroup was the best approach for dealing with the *George F. Williams*. He said he looked forward to participation in the group.

Jane Ann Stautz said each of the three proposals appeared to have merit and to be supportive of public interests. The Chair asked if there were any contrary perspectives, and none were expressed.

Jerry Miller moved that the Natural Resources Commission:

- (1) Give final adoption to the compromise no-boat zone as final rule amendments to 310 IAC 2.1-7-2.
- (2) Approve a non-binding resolution urging the Director of the Department of Natural Resources to adopt an emergency rule for 2000 that parallels the language proposed to be amended in 310 IAC 2.1-7-2.
- (3) Establish a workgroup to determine short-term and long-term strategies for management of the *George F. Williams* that would include invitations to the following:
 - A representative of the City of Hammond Parks and Recreation Department.
 - A representative of the boating public from the City of Hammond.
 - A representative of the Office of Tourism and Film Development, Department of Commerce.
 - A representative of the Lake County Convention and Visitors Bureau.
 - A representative of the Aquatic Resource Institute.

- The State Archaeologist or his designee.
- The Lake Michigan Specialist for the Department of Natural Resources.
- A representative of the Division of Law Enforcement, District 10.
- A representative of the Marine Patrol Division, Lake County Sheriff.
- A fisheries biologist with the Division of Fish and Wildlife.
- A representative of the recreational fishing public from Northwest Indiana.
- A member of the Natural Resources Commission or its staff.

Damian Schmelz seconded the motion. Upon voice vote, the motion carried.

Consideration for Preliminary Adoption of Rules to Codify at 312 IAC 6-7 the Processes for the Issuance of Emergency Licenses on Lake Michigan; Administrative Cause No. 00-012W

Steve Lucas presented this item. He said for consideration were proposed rules to establish standards as to whether to grant an emergency authorization for construction activities within Lake Michigan. He said the draft was inspired by efforts of a former staff attorney at DNR, Melissa Stefanovich, and Steve Davis, DNR's Lake Michigan Specialist, to codify the processes Davis currently follows. Proposed 312 IAC 6-7 would commit these processes to writing and allow an opportunity for public scrutiny and comment. In addition, the proposal would clarify that where an emergency license is acted upon, an after-the-fact license must later be sought with a full opportunity for technical and public review. Finally, the proposal would identify the review processes available for emergency licenses, specifying any hearing on the license be held in Northwest Indiana and making administrative review a high priority in terms of scheduling. Lucas said the proposal was placed before the Commission for possible preliminary adoption.

Charlotte Read appeared on behalf of the Save the Dunes Council. She asked whether this proposal had been published for preliminary adoption in the INDIANA REGISTER and whether there would be an opportunity for public input.

Lucas answered, that if the Commission gave the rule preliminary adoption, it would be eligible for publication. When a rule is proposed rule is published, a public hearing is also scheduled to consider the proposal. He anticipated the public hearing on this proposal would be held in Northwest Indiana, possibly at the Department of Natural Resources Field Office in Michigan City.

Jane Ann Stautz moved to give preliminary adoption to 312 IAC 6-7 and to commit the proposal to public hearing. Jack Arnett seconded the motion. Upon a voice vote, the motion carried.

Consideration for Preliminary Adoption of Rules to Codify at 312 IAC 6-8 the Processes for the Issuance of Structure Construction Licenses on Lake Michigan; Administrative Cause No. 00-024W

Lucas said this proposal also arose from efforts by Melissa Stefanovich and Steve Davis to reduce to writing the process he applies when reviewing requests to place structures along or within the ordinary high watermark of Lake Michigan. Once again, the rule adoption would commit this process to public review and scrutiny. At issue here are applications for licenses to place hard structures, such as seawalls and breakwaters. Lucas said the item was placed before the Commission for possible preliminary adoption.

Charlotte Read spoke on behalf of the Save the Dunes Council. She asked what was the definition of “structure.” She noted the Save the Dunes Council was vitally concerned with the often ill-advised placement of hard structures along Indiana’s Lake Michigan shoreline.

Lucas said the proposal described the hard structures that would be subject to the rule. He provided Read with a copy of this rule proposal, as well as the previous rule proposal to address emergency authorizations. Lucas said if the Commission gave this proposal preliminary adoption, he expected the two proposals would be combined for discussion at public hearing.

Jerry Miller moved to give preliminary adoption to 312 IAC 6-8 and to commit the proposal to public hearing. Jack Arnett seconded the motion. Upon a voice vote, the motion carried.

ADJOURNMENT

At 8:20 p.m., CDT, the meeting was adjourned.