

NATURAL RESOURCES COMMISSION

Minutes of November 23, 2001

MEMBERS PRESENT

Michael J. Kiley, Chair
Larry Macklin, Secretary
Damian Schmelz
Jerry Miller
Jane Anne Stautz
Jack Arnett
Terri Moore
Raymond McCormick, II
John Goss
Lori Kaplan

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Jennifer Kane
Debbie Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Carrie Doehrmann	Executive Office
Carrie Bales	Executive Office
John Davis	Executive Office
David Vice	Executive Office
Paul Ehret	Executive Office
Lee Casebere	Nature Preserves
Scott McDaniel	Law Enforcement
Glenn Salmon	Fish and Wildlife
Sheila Gamble	Fish and Wildlife
Jill Hoffman	Soil Conservation
Dan Mathis	Legislative Liaison
Eric Myers	INRF
Terri Swoveland	Water
George Bowman	Water

GUESTS

Carrie Miles
Gary Doxtater
Lynn Simms

MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., EST, on November 27, 2001, at The Garrison, Fort Benjamin Harrison State Park, Indianapolis, Indiana. With the presence of ten members, the chair observed a quorum.

Damian Schmelz moved to approve the minutes of October 23, 2001. Jerry Miller seconded the motion. Upon a voice vote, the motion carried.

Larry Macklin provided the Director's Report. He reported the Legislature convened last week for its organizational day.

He reported members of the Heritage Trust Commission, as well as members of the Heritage Trust Committee, in November for a weekend retreat at the Hillenbrand Farms in Batesville. "We're approaching ten years of completion with the Heritage Trust. It's a wonderful program, and we thought it was time that we reevaluate the program—some thoughts, ideas, different goals and missions for the program. I can attest there were lots of great discussions and good ideas that came forward."

Director Macklin reported meetings were held regarding the impending transfer of 1,600 acres from the Army Corps of Engineers to the State of Indiana for the Charlestown State Park. The site includes productive water wells that are of great interest.

Director Macklin reported he, Paul Ehret, and Dean Lectenber and his Purdue University staff met on November 5 to discuss cost-saving measures. They also discussed continuation of the partnership with the Purdue Soil and Water Conservation Program.

Director Macklin said, "I'm also pleased to tell you that we have worked with the Indiana Trail Rider's Association on several occasions. We want to continue to work with and partner with the Trail Riders especially on sensitive areas across the state. The particular issue at Salamonie State Forest, is that some properties or portions thereof need to be preserved, as well as recognizing the Association's concerns and needs to have an opportunity for a very enjoyable ride." He added that a meeting was scheduled "to continue down that partnership line. We are very pleased to work with them."

Jerry Miller, Chairman of the Advisory Council for Lands and Cultural Resources, said the Council did not meet this month. The next meeting is set for December 7, 2001.

John Davis, Deputy Director for the Bureau of Lands, Recreation, and Cultural Resources, confirmed he and Director Macklin would be meeting with the horse riders on November 28, 2001. He added there had been approximately six meetings since June with the horse riders. He said, "we're continuing that good relationship" with discussion on the horse riders' activities and the DNR's duties in sensitive areas.

Davis reported the November 3rd dedication of the new Angel Mounds Visitor's Center was well attended. "It's a nice looking building with really fantastic exhibits.

Davis said there have been approximately six million seedlings pulled from the nurseries. Four million have been sold so far. The seedlings will be shipped next spring.

Davis said deer control hunts continue in the state parks. “The numbers on the 18th and 20th seem to indicate that the DNR’s process is working. There will be two more days of hunts on December 3rd and 4th.”

Ray McCormick, Chairman of the Advisory Council for Water and Resource Regulation, reported his Council met on November 14. The first item was proposed rule-making for establishment of the watercraft ecological protective zones at Lake Wawasee and Syracuse Lake. The proposal was unanimously recommended for preliminary adoption.

McCormick said there was a motion to support the rule making. He said that there was also a report on the *Cylindrospermopsis raciborskii* (sometimes referred to as “cylindro”) that was identified in Ball Lake last summer. The occurrence was the first documented instance of this exotic species in Indiana. McCormick said, “it stirred a lot of interest because the toxins that can be spread from the disturbance of this species are harmful to humans, aquatic life, and animals. There was much statewide and regional interest in this event and further testing of other lakes.” He said cylindro is most likely to bloom and flourish during late July and early August when the water temperatures are warm. There will be further monitoring next summer.

McCormick said the Division of Oil and Gas reported on an effort in southwestern Indiana to help address the large number of oil wells in southwestern Indiana that were abandoned before the advent of strict environmental standards. McCormick said brine from some of the wells spills has contaminated farmland, making it unproductive, and resulting in erosion problems due to the sparcity of vegetation. Private, commercial, and governmental interests concerned with soil conservation and environmentalism have come together to form the “Brine Coalition” and have restored several sites. The coalition has produced a video to demonstrate this working partnership.

David Vice, Deputy Director for the Bureau of Resource Management, announced Robert Waltz, DNR’s State Entomologist, is the President Elect for the Indiana Academy of Sciences.

Vice reported the Division of Engineering would be accepting bids on November 29th for constructed wetlands for sewage treatment. These will replace eight sewage treatment plants at Huntington, Mississinewa, and Salamonie Reservoirs.

Vice said most of the Hunting and Fishing Licenses would be going “on-line” by mid-December. The Deer Hunting License should be “on-line” by January 2002. Lifetime Licenses will not be offered online.

Vice reported the Division of Fish and Wildlife tracked the movements of a young male bobcat. “On September 25th, we were able to find the transmission in Vigo County, and by October 31st, it was twelve miles east of the gateway arch in St. Louis, Missouri. Unfortunately, the bobcat was struck and killed by a motor vehicle.

Vice reported a new state record of brown trout was recently caught in Lake Michigan. The fish weighed more than 25 pounds and was three feet long.

Vice reported the Division of Law Enforcement continued its routine patrols for the hunting season. These included investigating a pair of fatalities.

Paul Ehret, Deputy Director for the Bureau of Resource Regulation, reported there was a meeting of the Lake Management Work Group (LMWG) on November 15. The purpose of the meeting was to discuss and recommend possible legislative action from previous work-group reports. Ehret said one issue is a concurrent legislative resolution asking the Governor to consider consolidation of all executive branch agencies dealing with lakes into a single unit.

Ehret reported that the LMWG would seek introduction of a bill to increase LARE Funds, including a fee increase from \$5 to \$15. One-third of the money would be dedicated to current LARE programs, another one-third would go toward increased lake patrols, and the final third would be used for in-lake projects such as weed control and dredging.

Ehret reported the LMWG would seek a legal opinion as to DNR's authority for seawalls constructed landward of the shoreline. He said the legislative representatives may seek an opinion from the Attorney General as to whether the DNR's authority extends landward of the shoreline for seawall construction, or whether there may have to be a change in the statute in order to increase DNR's authority. Ehret reported he also expected the Indiana General Assembly to seek re-authorization of Lake Management Workgroup, which is now scheduled to terminate in 2002.

Ehret referred to an article in the November-December OUTDOOR INDIANA magazine. He said, "there are several issues relative to the Division of Reclamation related to mining, a very extensive article—we're very pleased with it. There is another article on the construction of bat gate entrances, which keeps people out, but allows bats access to the mines. We are very pleased with OUTDOOR INDIANA."

BUREAU OF RESOURCE REGULATION

DIVISION OF SOIL CONSERVATION

Consideration of rule language for possible preliminary adoption by the Commission to Establish Zones on Lake Wawasee and Lake Syracuse Where the Use of Watercraft may be Limited or Prohibited for Fish, Wildlife, or Botanical Resource Management. (Administrative Cause No. 01-141A: LSA #01-293)

Jim Ray, Division of Soil Conservation, presented this item. He said legislation enacted in 2000 (HEA 1075) amended IC 14-15-7-2 to allow for establishment of watercraft-limited zones on public waters for ecological purposes. The authority set forth in HEA 1075 was incorporated into 312 IAC 5-6 during recodification.

In June 2001, the Commission directed the Department to review a petition by three lake associations on Lakes Wawasee and Syracuse. The petition sought to establish protective zones at locations on the two lakes. Ray gave a slide presentation depicting areas on Lakes Wawasee and Syracuse being considered for the proposed zones.

Ray said a generalized goal of the wetland conservation is to conserve remaining wetlands, protect and to revitalize wetlands if possible. Effective January 1, 2000, the Natural Resources Commission approved a nonrule policy document for wetland conservation on DNR lands. The policy may be accessed online at <http://www.ai.org/nrc/policy/wetguide.html/> He said it has become increasingly clear there is a body of knowledge recognizing the importance of wetlands and the need to protect them.

Ray said the Department has now completed its review and is recommending the preliminary adoption of rules to establish ecological zones on Lakes Wawasee and Syracuse. The zones are as previewed in the slide presentation and included in the Commission packet.

Robert Dickerson, President of the Lake Wawasee Property Owner's Association was present. He indicated he was also speaking for the Wawasee Area Conservancy Foundation and the Syracuse Lake Association. Dickerson said, "we're very supportive of this proposal. Our only concern is enforcement, but we have two deputy sheriffs available to help with control and be of assistance to the DNR." Chairman Kiley stated that the matter of enforcement would be part of the discussions in the final adoption of the rule.

Jerry Miller asked Jim Ray what would be the timetable for adoption of this proposal if given preliminary adoption by the Commission. Ray deferred to Steve Lucas to respond. Lucas said the next step is to submit to the State Budget Agency a proposal fiscal analysis for implementation of the rule. Included would be the cost of signage—buoys and whatever additional markers would be used—as well as any increased costs to administration by the Division of Law Enforcement. If some expenses are to be satisfied by the petitioners or local government, then this information needed to be included in the analysis. Until fiscal approval is obtained from the State Budget Agency, Lucas said a timetable could not be provided.

Miller moved to give preliminary adoption to rules to establish zones restricted watercraft zones, for ecological protection, on Lake Wawasee and Syracuse Lake. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

BUREAU OF RESOURCE MANAGEMENT

DIVISION OF FISH AND WILDLIFE

Consideration of a request for a permanent easement on Atterbury Fish and Wildlife Area for the replacement of a bridge on Johnson County Road 775 South.

Glenn Lang, Chief of Wildlife Section, presented this item. Lang said that the easement is 0.348 acres. The request is to replace a deteriorating bridge that extends from the Atterbury to the town of Nineveh. A portion of the Atterbury Fish and Wildlife Area is needed for this project.

Damian Schmelz moved to approve the request for the permanent easement. Jane Anne Stautz seconded the motion. Upon a voice vote, the motion carried.

Informational Item: Update on Fish and Wildlife Lifetime Licenses

Glenn Salmon, Assistant Director of the Division of Fish and Wildlife, introduced this item. He then deferred to Sheila Gamble. She provided an update on the sale of Fish and Wildlife Lifetime Licenses. Gamble said sales had recently exceeded 3.3 million dollars. In the last two weeks, that figure had increased approximately another \$50,000. Gamble said staff has been working overtime to assist the public with the purchase of Fish and Wildlife Lifetime Licenses. Approximately 9,000 lifetime licenses have been issued since August 31, 2001, with the numbers increasing daily. Currently, there are approximately 700 applications that will be processed over the next two weeks.

Gamble explained that applications that are post-marked by December 31, 2001 would be sold at the current rate. The fee increase becomes effective January 1, 2002. She said a question and answer outline concerning the fee increase could be found on the DNR or Fish and Wildlife website.

Informational Item: Legislative Interim Study Committee Activities

Dan Mathis, Legislative Liaison for the Department of Natural Resources, presented this item. He said the Indiana General Assembly met one day last week and will meet periodically for the short session between January 7 and March 14, 2002. Mathis gave an overview of anticipated activities. He said tax restructuring would be a priority, as well as action on the state budget. Mathis said it could be an “historically active but short session.”

Mathis said Senator Wheeler offered a bill that would streamline the Division of Water’s process for enforcement. Senator Wheeler also offered a bill concerning the regulation of dams, clarifying the Department’s jurisdiction, which would give clearer permit authority. Currently, the authority is derived through IC 14-28-1 (sometimes called the “Flood Control Act”), and this statutory chapter does not always lend a completely satisfactory basis for action.

Mathis said a bill is being offered that would suspend a driver's license for persons who fail to appear in court following citations for improper boat registration. The Natural Resources Study Committee considered the concept upon suggestion by Dick Mercier of the Indiana Sportsmen's Roundtable. Mercier also advocated establishing a fishing license fee for persons over age 65, but an author for a bill to accomplish this result has not yet been identified.

Mathis said there would be a bill to establish the Indiana State Museum Commission again this year. Indiana State Museum Foundation President, Kent Agness, and his partner, Joe Loftus, as well as Louis Mahern are leading the effort to promote the concept in the General Assembly.

Mathis reported there was endorsed a state constitutional amendment to assure the right to hunt, fish, and take game. The resolution was offered by Representative Ulmer in the 2001 session and will likely be offered by him in the 2002 session.

Mathis said the Water Resources Study Committee considered a bill to make pump well drillers and pump installers licensed by DNR and subject to continuing education. Currently, only the water well drillers are licensed by the DNR. He expressed concerns for the additional time commitments that would be required by the Division of Water without additional staffing.

Mathis said State Representative Mark Kruzan spoke with the media about offering a bill to prohibit timber sales from State Forests. A summer study committee did not consider this bill.

LEGAL PROCEEDINGS

NRC DIVISION OF HEARINGS

Consideration of Petition for the Establishment of the Northeast Lake Conservancy District; Administrative Cause No. 01-169C

Steve Lucas, Hearing Officer, introduced this item. He said the proposed district would operate and maintain a four-acre lake in the Town of Prince's Lakes in southern Johnson County and was supported by nearly all of its 28 freeholders. The petitioners proposed to establish the district for five purposes: (1) flood prevention and control; (2) improving drainage; (3) developing recreational facilities; (4) preventing the loss of topsoil; and (5) operating, maintaining, and improving a work of improvement—notably here a dam. He said the evidence offered by the petitioners supported favorable findings on most technical issues relative to these purposes, but for purposes more specifically detailed in the report from the DNR's Division of Water, not for the purpose of flood prevention and control. He offered his report to the Commission for consideration as its recommendations to the Johnson Circuit Court.

Carrie J. Miles, Attorney for Northeast Lake Conservancy District, spoke on behalf of the petitioners. She said the district was the only feasible mechanism for freeholders to

restore the elevation of Northeast Lake to its normal pool. She reflected the lake had been lowered on the basis of a Director's Order issued by the Department of Natural Resources. Maintaining the lake at its current levels would have a very serious negative impact on property values and upon enjoyment of the lake by adjacent property owners. She said restoration was also important because a roadway over the dam provided a major access route for school buses, emergency vehicles, and general vehicular traffic. She noted that 23 of 28 freeholders had signed the petitioning favoring the district, and no one has expressed opposition to its formation.

Chairman Kiley said his understanding from reviewing the materials in the hearing officer report was that concerns for integrity of the spillway almost resulted in the full dewatering of Northeast Lake. Paul Ehret confirmed the understanding and said formation of the proposed conservancy district was an important step in restoring the integrity of the site.

Jerry Miller moved to approve the report of the hearing officer, as its recommendations to the Johnson Circuit Court, on the technical matters relative to formation of the proposed Northeast Lake Conservancy District. Jack Arnett seconded the motion. Upon a voice vote, the motion carried.

ADJOURNMENT

At 11:15 a.m., EST, the meeting adjourned.

FUTURE MEETINGS

January 22, 2002, 10:00 a.m., (Indiana State Museum, 202 North Alabama, Indianapolis, Indiana)

February 26, 2002, 10:00 a.m., (The Garrison, Ft. Benjamin Harrison State Park, Indianapolis, Indiana)

March 21, 2002, 10:30 a.m., (Mounds State Park Nature Center, 4306 Mounds Road, Anderson, Indiana)