

**AOPA COMMITTEE
OF THE
NATURAL RESOURCES COMMISSION
September 24, 2015 Meeting Minutes**

MEMBERS PRESENT

Jane Ann Stautz, Chair
R.T. Green
Jennifer Jansen

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen
Dawn Wilson
Jennifer Kane

PARTICIPANTS AND GUESTS PRESENT

Joy Grow	Ihor Boyko
Sean Wooding	Mae Moriarity
Donn Wray	Eric Wyndham
Ken Smith	William Gooden
John Eggen	

Call to order and introductions

The Chair, Jane Ann Stautz, called the meeting to order at 2:00 p.m., EDT, on September 24, 2015 in the Sycamore Room of the Fort Harrison State Park Inn, 5830 North Post Road, Indianapolis, Indiana. With the presence of all three members, the Chair observed a quorum.

Consideration and approval of minutes for meeting held on June 22, 2015

R. T. Green motioned to approve, as presented, the minutes of the meeting held on June 22, 2015. Jennifer Jansen seconded the motion. Upon a voice vote, the motion carried.

Consideration of objections with respect to “Findings of Fact and Conclusions of Law with Nonfinal Order” by the Special Administrative Law Judge in *Moriarity v. DNR*, Administrative Cause No. 12-094W

The Chair reported that the Claimants, pursuant to 312 IAC 3-1-12(f), requested a court reporter be present to record the argument. For information regarding this item, see transcript.

Consideration of Final Order following remand from the Steuben Circuit Court in *Cress v. Byrer and DNR*, Administrative Cause No. 12-192W

The Chair reported the item withdrawn.

Consideration of draft Findings of Fact and Conclusions of Law with Final Order following remand by the AOPA Committee in *Holland v. Phillips, et al.*, Administrative Cause No. 14-056W

The Chair explained that this Committee, at its June 22, 2015 meeting, remanded this matter back to the Administrative Law Judge to revise the nonfinal order to reflect the Committee's decision that the *easement is, in fact, unambiguous and that the rights that were given are limited to just the access for the waterline and the water pump and no more.*¹ She noted that the Committee's packet includes a draft Modified Final Order, which incorporates the Committee's decision. She asked the Committee members whether the "Modified Final Order" adequately and accurately reflects the Committee's decision.

Jennifer Jansen said, "I may not be the best person to ask, because I believed the language was ambiguous."

The Chair stated that the Modified Final Order "accomplishes and does what we we're asking the [Administrative Law Judge Jensen] to do as far as the proposed findings and order."

R.T. Green asked, "So our job, if that's the case, is then to adopt this as modified...and consistent with what we suggested?"

The Chair answered in the affirmative.

R. T. Green moved to approve the Modified Final Order as the Natural Resources Commission's Final Order. Chair Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried. Jennifer Jansen voted against the motion.

Consideration of recommended amendment of nonrule policy document, Information Bulletin #1

Dawn Wilson, Administrative Law Judge with the Commission's Division of Hearings, presented this item. She noted that this AOPA Committee established a special committee to review Information Bulletin #1. The review was initiated by a request from an attorney to add negotiated orders to the Commission's decisions database (CADDNAR). Also addressed was the preparation of transcripts by Commission staff. Jennifer Jansen, Bart Herriman, and Wilson served on the special committee. Wilson explained that the revisions provide additional clarity. She provided Committee members with an updated version of the nonrule policy document, but

¹ NRC, AOPA Committee minutes of meeting held June 22, 2015 (http://www.in.gov/nrc/files/nrc_aopa_june_2015_minutes.pdf).

indicated the revisions, as compared to the amendment proposal in the Committee's packet, were minimal. Wilson indicated that the updated version is presented for final approval.

The Chair reflected that she appreciated the time and effort of the special committee. "I thought it was well-documented. I also appreciate the detail around the transcript fees, costs, and procedure for managing requests for transcript preparation."

R.T. Green moved to approve amendments to the nonrule policy document, Information Bulletin #1, *Establishment of Division of Hearings; Indexing of Final Adjudicative Agency Decisions; Transcript Fees*. Jennifer Jansen seconded the motion. Upon a voice vote, the motion carried.

Sandra Jensen, Director of the Commission's Division of Hearings, asked the AOPA Committee whether its directive would be to place the amended nonrule policy document on the November meeting for full Commission consideration or to submit the document directly to the Legislative Services Agency (the "LSA") for publication in the INDIANA REGISTER.

Green asked, "Is it our job to speak on behalf of the Commission?"

The Chair stated that it was not truly necessary for the full Commission to consider the amended Information Bulletin #1 "given the scope of our authority. I'm sure they are not going to have any additional insight or information."

Green suggested the AOPA Committee make a report to the full Commission at the November meeting regarding the approval of the amended nonrule policy document.

The Chair agreed, and directed the document be submitted to LSA for publication.

Adjournment

The meeting was adjourned at 2:40 p.m., EDT.