

NATURAL RESOURCES COMMISSION

January 10, 2012 Meeting Minutes

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Robert Carter, Jr., Secretary
Mark Ahearn
Amy Vaughan
Thomas Easterly
Phil French
Patrick Early
Doug Grant
R. T. Green
Donald Ruch

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Debra Freije

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Chris Smith	Executive Office
Shelley Reeves	Executive Office
Cheryl Hampton	Executive Office
Dan Bortner	State Parks and Reservoirs
Ginger Murphy	State Parks and Reservoirs
Phil Bloom	Communications
Scotty Wilson	Law Enforcement
Steve Hunter	Law Enforcement
Mark Reiter	Fish and Wildlife
Gregg McCollam	Fish and Wildlife
Mitch Marcus	Fish and Wildlife
Linnea Petercheff	Fish and Wildlife
Kevin Hoffman	Fish and Wildlife
Nick Heinzelman	Land Acquisition
Ken Smith	Water
Terri Price	Water

GUESTS PRESENT

Clarence McKinney	Steve Mund
Alan Hux	Herb A. Higgins
Travis Stoelting	Jack Corpuz

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:08 a.m., EST, on January 10, 2011, at The Garrison, Fort Harrison State Park, 6002 North Post Road, Ballroom, Indianapolis, Indiana. With the presence of eleven members, he observed a quorum.

Thomas Easterly moved to approve the minutes for the meeting held on November 15, 2011. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

Election of Officers

Doug Grant moved to re-elect for 2012 the same officers who served in 2011: Bryan Poynter, Chair; Jane Ann Stautz, Vice Chair; and Robert Carter, Secretary. R. T. Green seconded the motion. No other nominations were offered. Upon a voice vote, the motion carried.

Reports of the Director, Deputies Director, and Advisory Council

Director Robert E. Carter, Jr. provided his report. He said he was pleased to inform the members that eleven Conservation Officers recently graduated.

The Director said DNR just acquired 1,200 acres of property in Porter County that was previously a prison farm. “Thanks to the Governor for saving this property from auction.” He added that Mark Reiter “plans to make a new game bird habitat area which we expect to be a very special place for pheasants and game birds.”

The Director observed, “We are in the height of the legislative session. We’re just watching bills to see what may come our way.”

John Davis, Deputy Director of the Bureau of Lands, Recreation, and Cultural Resources, provided his report. He said under our Master Plan for water improvements at Charlestown State Park, “all of the new improvements are up and online delivering water more efficiently in Charlestown.” Progress on the bridge over the Ohio River is “speeding up. It looks like the east end over by Charlestown State Park will be first. That will bring a lot of changes.”

Davis noted the Commission preliminarily adopted the black bass rule. “We are back in discussions with some of our constituents about problems we have with implementing what you’ve preliminarily adopted. We don’t know what the solution is, but we’re aiming to bring you a solution.”

Davis said John Bacone, Director of the Division of Nature Preserves, accepted an award on behalf of the Governor from the Northwest Indiana Paddling Association for DOC land

protection. He added that the DNR “continues to cooperate with the other States and the Provinces of Canada in the effort to limit the spread of the Asian carp.”

Ron McAhron, Deputy Director for the Bureau of Resource Regulation, provided his report. “There’s been a lot of newspaper coverage about earthquakes in Ohio tied to hydrologic fracturing for oil and gas. We’ve had hydraulic fracturing in Indiana for some 60 years as part of the oil and gas business. The fracs Indiana has are small by comparison to Pennsylvania and New York. The largest frac in Indiana on record is approximately 4% of the typical Marcellus shale frac in Pennsylvania. The total of all the Indiana fracs recorded since 2005 is less than a single frac in Pennsylvania. We believe that the issue in Ohio relates to excess fluid from fracs in Pennsylvania that were disposed of in commercial wells in other States, because the formations in Pennsylvania won’t accept the fluid. We don’t have that commercial well disposal in Indiana.” He added that “Indiana’s fracs are not of the size or magnitude of material or volume that may have been of the Ohio issue. The predominance of Indiana fracs is in coalbed methane production.”

Patrick Early, Chair of the Advisory Council, provided his report. He said the Advisory Council met in December. “We spent quite a bit of time discussing alternatives on how we could save the black bass rule and the progress that we’ve made without having to start over. As John said, there were some ideas thrown out, and there’s a working group that’s been put together to try to come up with some solutions that may still fit without it being a major amendment to the rule. But, it centers around the Ohio River, and some issues that we have down there.”

The Chair replied, “We are aware of that, and I’m hopeful. We’ll see what happens.”

Early continued, “Before you get into consideration of topics appropriate to refer to the Advisory Council, you should be aware that one of the legislative agenda items is eliminating the Advisory Council as part of government efficiency. So, there is a possibility that this body may not continue to exist after this legislative session.” He said other items discussed during the December meeting were contained in “today’s agenda”.

The Chair reflected, “For whatever its worth, I do find incredible value in the Advisory Council and what they do. The work that was done by the Council...with regard to our comprehensive fish and wildlife review project was invaluable to this Commission working efficiently. Not that they’re going to read any of our minutes, but I do hope that they see the value of the workings of the Advisory Council. I know your Council has had issues sometimes with quorums and other things, but it doesn’t dismiss the value of the work that you guys do as pertains to operation of this Commission. So, that being said, I hope that it continues.”

CHAIR AND VICE CHAIR

Updates on Commission and Committee activities

The Chair reported the next Commission meeting will be at The Garrison on March 20. He said he and Jane Stautz were currently working on personnel review issues. “It’s that time of the year. Without belaboring an issue, we are just incredibly blessed to have such great hearing officers,

administrative law judges, and staff. I can't thank them enough for the work they do day in and day out to make us all efficient.... So, I thank you for that.”

DNR, EXECUTIVE OFFICE

Consideration and identification of any topic appropriate for referral to the Advisory Council

No additional topic was identified.

PERSONNEL ITEMS

Personnel interview of Zachary Taylor DeYoung for Assistant Property Manager at Glendale Fish and Wildlife Area in Daviess County

Mitch Marcus, Chief of the Wildlife Section for the Division of Fish and Wildlife, presented this item. He said Zachary DeYoung obtained a degree in wildlife biology from Purdue University; worked as a wildlife technician for the Automatic Finger Identification System; a park guide at the Indiana Dunes National Lakeshore, building houses; “and worked on his family farm.” He recommended DeYoung for Assistant Property Manager at Glendale Fish and Wildlife Area.

Amy Vaughn moved to approve Zachary Taylor DeYoung for Assistant Property Manager at Glendale Fish and Wildlife Area. Jane Stautz seconded the motion. Upon a voice vote, the motion carried.

Personnel interview of Travis Eric Stoelting for Assistant Property Manager at Goose Pond Fish and Wildlife Area in Greene County

Mitch Marcus also presented this item. He said Travis Stoelting graduated from Purdue University with a B.S. in Wildlife and Wildlands Management. He has worked as a wildlife technician and supervisory research technician with Purdue's hardwood ecosystem experiment. Stoelting was a biological intern at Muscatatuck National Wildlife Refuge, and, most recently, was a habitat programs director with the Indiana Wildlife Federation. Marcus said the Division of Fish and Wildlife recommended approval of Stoelting for Assistant Property Manager at Goose Pond fish and Wildlife Area.

R.T. Green moved to approve Travis Eric Stoelting for Assistant Property manager at Goose Pond fish and Wildlife Area. Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

Personnel interview of Steve Thomas Mund for Property Manager at Crosley Fish and Wildlife Area in Jennings County

Mitch Marcus also presented this item. Marcus said Steve Mund “grew up in Dearborn County” and graduated from Purdue with a B.S. in Wildlife Management. Mund served as a laborer at Atterbury, and, since 2007, as the Assistant Property Manager at Crosley Fish and Wildlife Area.

Since retirement of the previous property manager in February 2011, “Steve...has proven himself ready to take on the manager’s position.” Marcus recommended Steve Mund for Property Manager at Crosley Fish and Wildlife Area.

Amy Vaughan moved to approve Steve Thomas Mund for Property Manager at Crosley Fish and Wildlife Area in Jennings County. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

The Chair thanked the three of the applicants for being present. “Congratulations, we appreciate your service.”

DNR DIVISION OF Nature Preserves

Consideration of the dedication of an Addition to the Oscar and Ruth Hall Woods Nature Preserve in Putnam County

John Bacone, Director of the Division of Nature Preserves, presented this item. He said Hall Woods is a “very high quality forest property” that is part of the Big Walnut Creek Natural Area Complex. The original tract was granted to DNR in the 1980s. The tract is located on the south side of U.S. 36 near Bainbridge. In the interim, The Nature Conservancy was able to acquire the remaining land to connect on the north and east sides of Hall Woods. “We finally got that transfer to us so we’re happy to bring it to be considered for dedication.”

Thomas Easterly moved to approve the dedication of the addition to the Oscar and Ruth Hall Woods Nature Preserve in Putnam County as recommended by the Division of Nature Preserves. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of an Addition to the Brock-Sampson Nature Preserve in Floyd County

John Bacone also presented this item. He said the proposed 233-acre addition to the nature preserve “is a relatively large chunk” of the Knobs which are Indiana’s “little mountain range”, located approximately seven miles southwest of New Albany. The original 355-acre tract was acquired in the 1980s. “Over the years, we’ve been trying to get some of the neighboring properties on all sides.” He said “three or four tracts” were obtained over the last 20 years. “A lot of rare species can be found within the nature preserve.” Bacone recommended dedication of the addition to the Brock-Sampson Addition Nature Preserve.

Donald Ruch moved to approve dedication, as recommended by Bacone, of the addition to the Brock-Sampson Nature Preserve in Floyd County. Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

DNR DIVISION OF STATE PARKS AND RESERVOIRS

Consideration of recommendation for preliminary adoption to amendments to 312 IAC 8, which governs the use of DNR properties, that pertain to the definition of “mushroom” and to the possession of alcoholic beverages on designated youth camp sites; Administrative Cause No. 11-192P

Stephen Lucas presented this item. He said the “mushroom” definition was presented to the DNR Property Use Committee following a Commission directive. The Committee “discussed this at some length” and determined a “mushroom should not have to be edible to be subject to management.” The Committee proposed to strike the word “edible” from the definition of “mushroom”. The second proposed modification would prohibit the possession or consumption of an alcoholic beverage at a designated “youth tent area”.

Thomas Easterly moved to approve preliminary adoption of amendments to 312 IAC 8 governing the definition of “mushroom”, and prohibiting alcohol at youth tent areas, as recommended by DNR’s Property Use Committee. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

DNR DIVISION OF FISH AND WILDLIFE

Request for a new game bird habitat area in Newton County to be named after Bob Lyons for his long time commitment to conservation and preserving Indiana’s outdoor heritage

Mark Reiter, Director of Division of Fish and Wildlife, presented this item. He said the Division of Fish and Wildlife recently acquired a 121-acre game bird habitat area in Newton County. Pheasants Forever, Inc. and Quail Forever assisted DNR with the purchase by retaining the property until DNR funds were available. He said Bob Lyons, who was the Habitat Chairman for the Iroquois River Chapter, was personally responsible for helping restore over 6,000 acres of game-bird habitat in Newton and Jasper Counties. Lyons was named one of Pheasant Forever’s “Pioneering 25 Volunteers” from throughout the country. Pheasants Forever and Quail Forever Chapters asked DNR to “name the property after Lyons for his unfaltering hard work to preserve habitat in Indiana.” Reiter then deferred to Jack Corpuz for additional comments.

Jack Corpuz with Pheasants Forever, Inc. said Bob Lyons “was a crusty old feather hunter” who loved his habitat and “really loved his birds and his bird dogs. He spent just about every spare moment in the Jasper and Newton county area sitting on a tractor planting habitat. That’s what he did.” When the property first became available, a request for funding assistance for closing costs was sent to 17 chapters of Pheasants Forever. “The first \$5,000 of the \$17,000 was raised by Bob Lyon’s chapter.” Lyons “was adamant” about having the property added to the roles of protected land. “I think it would be interesting to note that a couple of the properties across the road and down the road are properties he planted several years ago—long before this one ever became available. Bob would probably be embarrassed if he knew we were doing this. But what the heck, we think he deserves it; and that’s why we’re asking for it.”

The Chair reflected, “I know the Department doesn’t take naming properties lightly, and it’s certainly an honor to have such. I appreciate both of you being here making the presentation.”

R. T. Green moved to name the Newton County bird habitat area “after Bob Lyons in recognition of his long-time commitment to conservation and to preserving our outdoor heritage.” Amy Vaughan seconded the motion. Upon a voice vote, the motion carried.

Consideration for preliminary adoption of amendments to 312 IAC 9 governing deer hunting, commercial deer processing, and wild turkey hunting; Administrative Cause No. 11-207D

Mark Reiter, Director of Division of Fish and Wildlife, presented this item. He directed attention to a yellow sheet that was distributed at the table before the meeting and which included clarifications and corrections to proposed language posted on the Commission’s website.

Reiter said the “first piece” for preliminary adoption relates to what is “commonly called the ‘one-buck rule’. We’ve had the one-buck rule in effect now for ten years. Even when we started talking about the one-buck rule, the support for it was kind of 50/50, and I think it remained 50-50 up until the last couple of years. This past spring we did a survey of deer hunters in Indiana and asked in particular about the one-buck rule and their support for it. That support now is up in the 65% range and most people agreeing with us keeping the one-buck rule in effect. So, what we’re asking for here is to adopt this indefinitely.”

Reiter continued. “The second piece of this puts language in the rule that will allow us to do an electronic harvest reporting for deer. We’ve been kicking this around for quite a long time. It was part of a rule enhancement project requesting the Department to institute that. It’s always been a money problem. It costs some money to develop the system. So, what we’re planning to do right now is to try and have electronic harvest reporting in place. This all depends on a lot of other people whether we can get the development of the system together, and a few other things, for turkey hunting this spring. During the spring, we would have the ability for the hunter to check in online or at a traditional turkey check station like we’ve always had. When we move into the fall, we hope the hunter would be able to check their deer in online, at a traditional deer check station, or at a license vendor. We haven’t talked to any license vendors just yet, but there is a module within the point-of-sales system that license vendors could use to check in a deer or a turkey. The idea behind that is there are people who don’t have connectivity, and we’re going to need to charge for this. Since we don’t have the upfront money, we want to make it kind of a break even situation so it would be \$2 or \$3 to check in a deer or a turkey. Of course, a licensed vendor would get 75 cents. That’s what we’re proposing at this time, just as they do when they sell a license. We need to have a place for people without credit cards and without connectivity to check in a deer or turkey. That’s how we intend to kind of move into this slowly and get everybody used to it. The second turkey season, it would be our proposal to have only the online and vendor check-in, and we would drop the traditional check station situation.”

Reiter added. “We talked a long time about allowing people to do electronic harvest reporting on a phone. We talked to some of the States around us who have experimented with that and ran into some jams with cell phones because of not having good reception everywhere, having

dropped calls...where a guy makes the payment doesn't get checked, but makes the payment and then we have another problem. Right now, our idea is to hold off on the phone and cell phone check-in until we feel a little more certain that we have really good cell phone reception around the State. That's the direction we're headed. The language in this rule just sets it up so that electronic harvest reporting is a legal way to check in a deer, on top of going to a check station and receiving a metal tag. That's what the language does."

Vice Chair, Jane Ann Stautz, reported she was familiar with telephone reporting harvests in Iowa. To her knowledge, "there were never any issues or problems there. I just wondered if you're being too narrow. If you are at all interested in pursuing or at least exploring the opportunity or possibility of telephone," I wonder "if you would want to make" enabling rule amendments "at this time."

Reiter commented, "Definitely, definitely so."

Chairman Poynter asked, "Would you have to come back for that?"

Stautz responded it appeared another rule amendment would be required. "That's why I was wondering."

Reiter reflected, "I would imagine when we're going to the public hearings, we're going to hear the desires of the public."

John Davis asked for clarification. "There's a phone prohibition right now?"

Reiter answered, "No, it just says instead of having a metal tag, you have a confirmation number. How you get that confirmation number is not in the rule. We would issue the confirmation number through the electronic harvest report system."

Davis asked, "So, if this passed, you could do phone if you could accomplish it" logistically and financially. "You wouldn't have to come back for a new rule?"

The Chair observed, "That's not the way I read this" rule proposal.

Stautz asked for clarification concerning reporting by telephone.

The Chair added, "Why don't we add telephonic at this time to allow you to do all of it—online, telephonically, and the check stations—instead of having to come back. Is there a reason we wouldn't do that? My point is if we can be efficient, just give the opportunity for the Department's discretion at the time that appropriate funding is available and technology is available."

Reiter responded the rule proposal "just refers to it as electronic harvest reporting system."

The Chair said, "I don't want to make it any more complicated than we have to."

Reiter said, “Well, I don’t think that necessarily keeps a cell phone or phone out.”

Stautz continued. “That’s what my question was. Was that the intent because your explanation only referenced online, and it did not mention telephonic. I was seeking clarification. If you think that’s already incorporated, great. If not, I would say, ‘Don’t preclude yourself from having the opportunity.’”

Reiter replied, “We feel that it is incorporated.”

Commission member Patrick Early asked, “Are you talking about charging? No matter how you check in a deer, a hunter will have to pay a fee?”

Reiter answered, “Just if a hunter uses the electronic harvesting report.”

Early continued, “So, if they go to a deer station, they’re still just going to get a metal tag?”

Reiter replied, “Right. That will be the same. I guess you could look at it as a convenience fee, at least to start. I don’t know that we will always keep the fee, but we need to finance it somehow.”

Commission Member, Doug Grant, asked if there was a “guess or estimate as to how many deer have been harvested over the years that go unreported.”

Colonel Scotty Wilson of the Division of Law Enforcement replied. “We know there are deer being taken that aren’t checked in, and we feel that there are times some of that is because of the inconvenience, such as the check station wasn’t open or the cost of gas. Some people just may not go and check them in. We do not feel that having the electronic reporting out there is going to cause any more noncompliance.... We believe that with it being a little more convenient, we may actually get a few more deer checked in than we have been because of the distance to the check station. With people paying \$3.50 for gas, they don’t want to drive 50 miles away to check a deer in. We’ve had that complaint. We’ve heard that in the field, and I know some of the other divisions have heard that as well.”

Grant continued, “I was talking to someone in one of the southern States just recently about this issue.” The estimate was that under-reporting “could have been as much as 30%. That number just blew my mind.”

Col. Wilson added, “I’ve heard that number, too. One State estimated that they had 18% noncompliance, and then it increased to 30%. Again, I don’t know how they determine those numbers other than based on deer that were checked in from one year to the next. That could be determined by success rates rather than check-in numbers.”

The Chair asked Reiter, “Did I hear you say that you were getting rid of the check station and/or including a vendor?”

Reiter answered, “Yes, the traditional check station that we have right now, we would not do that anymore. Some of those people that have check stations right now are also licensed vendors, so they will stay in the system that way, but there are people that are check stations, like processors for instance, that probably would not be licensed vendors, too. If they want to stay in as a check station, they would have to become a licensed vendor. I think some people will do that, and I think processors would be most likely to do that because the ‘you can check your deer thing’ is what brings a guy in the door and then they end up leaving their deer.”

The Chair added, “That is where I was going with that... When I check in a deer, I’ll take it to the processor most of the time that I’m taking it to and check it in. On the other side of the equation, I can’t see Wal-Mart wanting people to bring their deer in.”

Reiter said, “They won’t have to. At most check stations, other than processors, I think a lot of times the person checking in the deer never sees the deer. They wouldn’t have to in this situation either. There’s a list of questions that you answer when you go to the check station. What did you shoot it with? What county? That person at the license counter at the Wal-Mart will ask the same questions. The system will issue a confirmation number and print all that out on a piece of paper.” The person at the license counter would hand the printout to the hunter instead of a metal tag, “and then they’re good to go.”

Davis added, “I do want to clarify one other thing. You said that the traditional check station disappears. It is our aim to eliminate the traditional check-station. Mark outlined the perfect scenario if everything goes smoothly, and everything works, transitioning in just a year. Of course, if things don’t go smoothly and we’ll see how many people use this, and what the response is and that will probably dictate how fast this can move.”

The Chair added, “I would also caution that...if you eliminate my option for me to drop my deer at a check station and force me to do it electronically and charge me three bucks, I’m not going to be happy about that.”

Stautz commented, “Right—versus assuming that it’s already included in the fee for the license.”

The Chair continued, “What I hope and what I’m hearing is that nobody here is disagreeing with what we’ve heard through our comprehensive fish and wildlife review process. Make it easier and more convenient.” Support science. Retain “the cultural traditional things with taking your deer to a check station that a lot of hunters will like to do. I would hope that that’s not an onerous impediment such that law enforcement gets unintended consequences of not having people check in because I’m going to be charged \$3 when I could drop it off at the processor. I know those graphs are yet to be determined, but I wouldn’t like being charged additional money to be dropped off someplace I’m going anyway.”

Reiter explained, “Some of these things we’re going to have to play by ear as we go. That’s why we decided to take little steps at a time to see where we are. We can evaluate it every step of the way. But it’s not that we don’t have any models to compare to. There are a lot of States around us that do electronic check-in. We’ve seen what works for them and what doesn’t work. None of them charge, which is a big step for us that makes us really different. But we’re clued in on

their problems with cell phones and are trying to avoid whatever kind of problems we see are coming at us because they've already happened elsewhere.”

The Chair commented, “I know we've dealt with this issue. I think we agreed, in principle, that we should move to this and give authorization once funding was available. Have you quantified what the cost is to implement the system?”

Reiter answered, “Right. The \$2 or \$3 per animal that I talked about is about what we estimate right now as a breakeven point.”

The Chair asked, “\$300,000?”

Reiter replied, “Yes. It depends on how we work on the contract with the people who develop all the software. I think what we're looking at right now is they probably won't charge us anything for development, but they'll charge per transaction. Of course, when you use a credit card there's a charge for the transaction. The actual transaction charge will probably be a buck or less, but the credit card company is going to get a buck, and then they're going to get a percentage. That's the way all credit cards work, so that's what runs the price away from a dollar and up into the \$3 range. But, it's still break even.”

John Davis reflected, “Mr. Chairman, I think that's the way we have proposed trying to get into this. It's not to say that we couldn't along the way say, ‘Well, maybe there's a different way of paying for this. Maybe there's a way to pay for this in the fee upfront.’”

The Chair asked Reiter if the proposal had any delineation for fees or cost associated with the \$3 charge.

Reiter replied that the proposal allows for the confirmation number to be for a legally checked in deer.

The Chair asked, “As it's developed..., will we be asked to look at those again, or is that going to be left to the Department's discretion as to how those fees and things are?”

Reiter replied, “We can sure come talk to you. With the idea that it was going to be a break-even kind of thing, and we were going to go as fast as we could without turning everything upside down and having a major uprising on our hands..., we felt we'd kind of decide what the fee would be based on break even and how fast we could go.”

The Chair replied, “I don't think anybody disagrees with that. I think that there are enough rule changes and opportunities in our future deer seasons and license costs. I'm speaking personally that I would like to make sure it's not an unintended tax on someone ongoing indefinitely to pay for something that does have legitimate upfront cost to implement that's eventually going to be a major convenience to people in the field. We want to encourage compliance with that.”

Reiter said, "We're going to keep looking at the upfront development cost. Right now, that's the main thing. There is a cost for the guy who shoots the deer, but if the check station isn't on his way home, maybe \$3 is nothing compared to what it would cost him to go to the check station."

Phil French added, "I think somebody needs to be looking over their shoulder before we pull the trigger on whether we're charging at the front end or at the back end."

Davis asked, "Couldn't we just come back every other month and find out where we are?"

The Chair commented, "I don't think this is going to stop what we're talking about here. But I think you've heard loud and clear that there are concerns about fees."

Director Carter said, "If we want to move fast and get this thing implemented, we're going to have to pay for the development somehow. We have a company that has agreed to do it but they want a pass-through on the cost."

Reiter continued, "We don't know what their cost is either. We're just starting out. But it was an opportunity to get the wording in the rule language so we could do this should we be able to get it all rolling."

The Chair asked if there were any other questions for Reiter.

Herb Higgins with the Indiana Bow Hunters Association directed questions to the Division of Law Enforcement as to whether there is potential for abuse and whether that been evaluated?

Col. Wilson replied, "One thing, this will provide us an instant database to check. We can go right immediately to verify what you turned in on that confirmation number. I think, actually, it's going to provide us with more tools electronically in a quicker timeframe than we have now."

Chairman Poynter reflected, "I've read reports all season long about how your officers are investigating and making arrests because of those types of issues, and it is an issue for law enforcement. I think we're just saying as with anything new, fees, law enforcement, or social impact, we want it to work. I think that's what we try to do when we put this forward initially and the feedback came back. Let's stay in touch on this."

Director Carter added, "It may be a matter that we continue to look for funding. That's why we slow down a little bit. That's our other option. We just want to get it going."

The Chair agreed and then called on Jack Corpuz .

Jack Corpuz, representing the Indiana Sportsmen's Roundtable, addressed the Commission. He said the agenda was discussed at a meeting "last Thursday night. We recommend the adoption of the one-buck rule. Absolutely, we're 100% behind it."

Corpuz said electronic check-in “is an ambitious project, and we’re greatly in favor of it. This is the first time that we’ve heard about the fee, however. The chatter that you hear on the internet is mostly about cell phone check-in, not about web-based check-in. I know there are a lot of older hunters that really don’t even want to touch a computer. Now you’re going to tell them they’re going to have to pay a fee. You’re going to have an issue. But as far as the Sportsman’s Roundtable is concerned, moving towards electronic check-in is the right thing to do.”

Mark Ahearn asked, with the one-buck rule expiring on September 1, “Would anything bad happen if the new rule is not in effect prior to the expiration of the old rule. The latest that we could put it would be our July agenda for final adoption. But in the real world, it may not matter.”

Linnea Petercheff responded, “We are going to try and rush this through the Budget Agency for all the fiscal analyses and cost benefit analyses and the approvals that they have to provide. Number one, we’re going to do that with a rush. Number two, Director Carter has the option of signing an emergency rule to meet that provision and put that in place by September 1, 2012, if, in fact, we cannot get this through the permanent rule process in time.”

The Chair observed, “My concern in light of what you just said, and, again, raised with [Mark Ahearn’s] comments, I think there’s several things going on within this preliminary adoption. The one-buck rule is of itself its own animal. Some of the other provisions are their own, and much like what Jack said and Herb and others said, there’s going to be comment on this and there’s going to be feed-back and questions. If there is an opportunity to do that, is now the time to talk about maybe separating the rule into two proposals? Not that we want to create more work. I’m raising it not from any agenda standpoint, but just to discuss the merits of making sure we don’t have unintended consequence.”

Steve Lucas stated, “We don’t have any control over what [the Office of Management and Budget] does. The timing for review by OMB is kind of the bottom line. To the extent that OMB is willing to move quickly, July is not impossible. But July is very ambitious.”

Sandra Jensen added, “OMB does allow us to provide justification for why a rule needs to be rushed. My take on this would be somewhat different. If the Commission were to grant preliminary adoption to this entire package, but in discussing this with the Department staff, we decided to take the one-buck rule out of it, separate it from the other part of it, we wouldn’t be precluded from doing that.”

Lucas added, “My preference would really be that the Commission make the decision” as to whether to divide the rule proposal into two parts.

Director Carter said, “We can do an emergency rule if we have to.”

The Chair replied, “I’m not worried about the one-buck rule as much as I am some hearings. We want to do this right. We don’t want to rush into our hunting community with a discussion about electronic check-in and then have the one-buck rule get wrapped up in it at the same time, but we want to do it correctly. We want to give sportsmen who are going to use this system the

opportunity to comment on it. My intention is not to slow things down. My intention is to allow for the development of this, but at the same time, I want to make sure that the hunting community—the turkey hunters, the deer hunters, and those that may use this system—feel like they're vetted and they're heard. We've been consistent with that, and I don't want to just jam it down their throats and all of a sudden there are a lot of questions and then we create animosity.”

Davis provided, “We did have a little conversation about this and about the public part. I think we felt like we didn't exactly know what the system would look like and what it would cost until we were kind of out there. There might be some things that needed to change. If we had a lot of money, we would just pay for development and then have a hearing and say, ‘Well, we'll go back and fix things if this isn't right or that's not right or people don't want to pay or they do want to pay.’ But we don't have that luxury, so I think that we ended up envisioning what Mark [Reiter] has asked for as the public process. Easing into it, seeing who complies if we say, ‘Hey, if you want to pay three bucks, you can do that and call this in, but you can always drive to the same check station that you've driven to, and we would see....’ Other States are predicting we'd have a huge response, or some people think maybe it'll be a lot of people who won't want to pay \$3. But that would all be part of the process of figuring out what to do and what it should look like. I think that was kind of an attempt to make sure that what you want to not leave behind doesn't get left behind.”

The Chair stated, “We've had two distinguished organizations, the Roundtable and the Bow Hunters' Association who I know will bring people and others to discuss this issue, and as they should. I don't want to stop this, but does any other Commission member have any suggestions about what we do? I will leave it out there if there is there is a motion to preliminarily adopt as it was submitted. If there is a different opinion from any of the Commission members based on the conversation heard today, I'll also hear that.”

Patrick Early said, “I have the same concern that you do. I'm concerned that when you get to the public hearing, the part of the tele-check, that you're going to have a lot of input. If that slows the process down, you are going to be in a position where you don't meet the September deadline. As we sit here right now, I would have preferred that they were split, so that we didn't have the one-buck rule getting bogged down because of tele-check. I think it's very possible that could happen, or else you're going to have to push tele-check through, and there might be a lot of people that are up in arms about the fee. Even though John is correct, they could still go check it in the traditional way, you still now introduced a new fee. Even as we sit here today we're hearing things we hadn't heard before, you know, about the fee and should that be part of the licensing process or should it be a tail-end thing. There are a lot of questions if you're going to charge people to do tele-check.”

The Chair stated, “I firmly believe that based on what we've seen over the last three years, I have implicit confidence in the hunters and the fishermen and the sportsmen. They want to know the facts. They want their comments to be heard, and I'm somewhat agreeing that there's nothing wrong with preliminarily adopting this. It's all good. This is good for the sportsmen. I just want to do it in the correct way procedurally such that we can have dual tracts. We can separate things so that everybody can be heard. They understand, they ask questions, and they'll come to the right decision.”

Sandra Jensen added, “There’s only one other thing that I would just say. A request to expedite OMB’s fiscal review will shorten the time between the publication of the Notice of Intent and the publication of the final rule, which in turn shortens the time to submit comments.

Tom Easterly stated, “I think we should go forward with them both and then rely on Director Carter to do his emergency rule if he needs to.”

Mark Ahearn asked how long the emergency rule would be effective.

Jensen responded a DNR Director’s “emergency rule was good for a year.”

Davis said, “If we pass this, are we definitely having a fee? I thought we were just enabling the electronic reporting.”

Reiter answered, “The confirmation number would be the same thing as a tag.”

Davis reflected, “I’m not seeing that it gets hung up. Does it get hung up until we say we want to put a fee on something?”

Director Carter stated, “I thought we were setting the framework.”

Jensen responded, “That’s essentially what the rule proposal does. It sets the framework that would authorize checking in through electronic means whatever those ultimately get developed to be.” The rule is not specific as to what those electronic means are, and it says nothing about fees.

Early asked, “But when do we pass the final rule, which we have to do, in order to meet that September 1 deadline?”

Jensen answered, “As it is written now, there would be nothing as it relates to fees. That, as I understand the conversation thus far, would be in the hands of the Department after the rule authorized them to do electronic check.”

Davis commented, “I don’t believe this sunsets the current system. It just says either or. We could go through. You guys could finalize this. We could say, ‘Let’s not do tele-check at all and keep what we’ve got.’ We could say, ‘Let’s do it but everybody wants to pay, and we can charge \$3.’ We could say, ‘Let’s charge every hunter who buys a license.’ We could just raise the fees. None of those things can happen without a lot of conversation with you all and lots of other people. I don’t even think we can do a fee without” Commission approval.

Chairman Poynter commented, “Well, that was my original question, is that right?”

Director Carter stated, “A fee is a tall order anyway.”

The Chair said, “There are other fees that are more important. If we’re going to charge fees, then we need to be talking about the donation programs and other things. I don’t want to mix what we’re talking about.”

Mark Ahearn clarified, “For the purpose of the deadline, rules don’t become effective when we finally adopt them. They become effective 30 days after filing with the Publisher.”

The Chair continued, “I’ve heard Director Carter say he’d be willing, if the one-buck rule is about to sunset..., to sign that emergency order. That’s all good. That solves that problem. I just want to make sure. I think we’ve all heard comments here that there are questions. There are issues. Sporting groups are going to ask questions in these public hearings as it pertains to the electronic check-in of turkey and deer.... You’re going to hear all kinds of stuff, and that’s all good. That’s the way it should be. I don’t think we should stop this if we have the commitment if the one-buck rule is brought by you, you’d be willing to do that, and I think you would.”

R. T. Green, asked, “What if we today moved to separate this agenda Item 10? The one-buck would be 10A, and the electronic check-in would be 10B. Keep the language the same so it’s still compliant with the Open Door Law, and all we’re doing is changing the numbers so that they have separate paths. One is not dependent upon the other.”

Chairman Poynter stated, “I think from a hearing officer perspective it would probably be easier, but you need to guide us if that would be beneficial or not.”

Sandra Jensen responded, “I think keeping the subject matters straight for purposes of the public hearings..., for the public to come in and speak as to the one-buck rule separately from the other, would be easier. At the same time, they might say, ‘Yeah, but we don’t want to come to two public hearings. We’d rather just come to one and talk about both things.’ For me, I can separate it as we go, so I don’t really know what everyone else would prefer.”

The Chair asked Mark Reiter, “Would you have any issues with that?”

Reiter answered, “No, I wouldn’t.”

Jensen said, “My only concern is with the idea of having to fast-track it for the one-buck rule, but that sounds like it’s resolved.”

Reiter added, “I’ll remind you, though, that there are several other pieces here in Item 10. One of them is the turkey part of electronic reporting system. If you’re going to do something different with electronic reporting, you need to pick up that piece, too.”

Davis interjected, “I don’t think you’re aiming to do something different are you, Mr. Chairman? Couldn’t they both travel the same path as long as there are no hiccups. In fact, Sandy, couldn’t you have a public hearing on 10A at 7:00 o’clock and 10B at 8:00 o’clock on the same day?”

Green reflected, “All I’m saying is just for purposes today that we separate them, and that way both parts have their own life without fear of one being dependent upon the other.”

Easterly asked, “The only thing in 10A is the one-buck rule. Everything else stays in 10B?”

Green replied, “That’s what I’m saying.”

Easterly asked, “Don’t we have to actually have the words that we pass written down somewhere? We’d have to say which parts we’re moving.”

Chairman Poynter replied, “We’ll get to that in a motion. Why don’t you make a motion?”

Green then moved to separate the one-buck rule provisions as Item 10A, with the other parts of Item 10 to remain and be considered as Item 10B.

The Chair said, “We’re going to preliminarily adopt both of them under separate tracks?”

Green replied, “Yes.”

The Chair said, “Based on the discussions we’ve heard today, which I think are all good, as it pertains to Item 10, the motion that is on the floor is to bifurcate for preliminary adoption with one aspect being the one-buck rule separated under its own rule package. All other items in Item 10 would become rule package two.” He thanked Mark Ahearn “for bringing this up and others who have clarified this because I think that this is the better path. I think it will give the sportsmen the opportunity to be much clearer when it comes to the hearing process.”

Ahearn seconded Green’s motion to separate Item 10 so the one-buck rule would be considered as one rule adoption and all other aspects would be considered as a second.

The Chair called for a vote on the motion to bifurcate the rule for preliminary adoption. On a voice vote, the motion carried.

Reiter added there were other items in Item 10 that needed to be presented and discussed. “The next thing would remove the requirements of a hand-gun license while deer hunting. Also, the commercial processing of deer would allow the use of the confirmation number in addition to the metal tag to be in place before processing can begin. There are several proposed rule changes regarding turkey hunting. The first one changes the fall turkey archery season to be concurrent with archery season as was just adopted and just went into effect. The second change would allow an individual to call wild turkeys for a hunter as long as that individual is properly licensed. The third one removes the requirement to have a handgun license and possess a handgun while turkey hunting. The last change would allow online or electronic harvest reporting for turkeys, which allows the confirmation to serve as the metal tag.”

The Chair said, “So we have moved and approved to separate the two rule packages. Now we need to have a motion to preliminarily adopt the two rule packages as previously separated.”

Green moved to preliminarily adopt removal of the provision that currently sunsets the one buck rule in September. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Green moved to preliminarily adopt all aspects of Item 10, including the revisions noted on the yellow sheet distributed to at the Commission table, other than those pertaining to the one-buck rule. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration for approval of amendments to Nonrule Policy Document on Hunting, Fishing and Trapping License Fees (Information Bulletin 54); Administrative Cause No. 11-209D

Greg McCollam, Assistant Director for the Division of Fish and Wildlife, presented this item. He said amendments to deer rules in 312 IAC 9-3 were effective December 31, 2011. Information Bulletin 54 sets out fees and types of licenses. The rule amendments established a license bundle, a new crossbow license, and renamed the extra deer archery license an urban deer zone license “which is a better description of how it would be used.” He said his Division also wished to include a military/refuge license that has been sold “for a long time but not listed.”

McCollam said the Division would like to offer the: (1) military/refuge license, (2) new crossbow license, and (3) urban deer zone license, for the same fee as other deer license for a single deer taking. “It doesn’t vary from what we’ve already asked for a deer license.” The license bundle gives a deer hunter the ability to hunt in four deer seasons (five seasons for non-resident youth) and take three deer of which one is an antlered deer. He said the Division was pricing the license bundle so there would be no revenue loss. The fee for the bundle would be \$65, 10% less than the cost of three licenses at \$72. McCollum explained that 2010 statistics show 24,000 deer hunters bought three or more deer licenses resulting in revenue of about \$300,000. “What we’re counting on is the bundle is convenient and easy, allowing you to hunt in all seasons. Of the 42,000 hunters that currently buy two licenses, approximately 4,000 of the hunters will buy a bundle, resulting in a 10% lift.” The Division also proposed a non-resident deer bundle fee of \$295. He said the current average cost for a license in the four surrounding States to take three deer, one being an antlered deer, was \$292. “In reality, there are only 48 non-residents that buy three licenses today, and approximately 700 non-residents that buy two licenses.”

Chairman Poynter reflected, “This was another issue that came out of our comprehensive fish and wildlife review process—the ease of bundling and hopefully administering more licenses for the Division and to allow more deer to be taken. We appreciate the initiative to put this together, and I know it wasn’t easy.” He opened the floor for comments.

Herb Higgins with the Indiana Bow Hunter Association addressed the Commission. “The only comment I have is that during the deer rule proposal there was some issues around access that we understand the NRC will address to a later point in time.” Higgins expressed concern that providing a non-resident reduction rate would result increased leased ground that will then lock up further ground that residents are trying to hunt that we’re trying to take more deer on.

Jack Corpuz represented the Indiana Sportsmen’s Roundtable. He said his organization supported the proposed new license bundle, the new crossbow license, and “the allowance of a successful turkey hunter calling for the one that hasn’t taken a turkey yet. I think that was in the previous group. All these recommendations from the Department, we support.”

Patrick Early moved to approve amendments to the Commission’s Nonrule Policy on Hunting, Fishing and Trapping License Fees (Information Bulletin 54) as recommended by the Division of Fish and Wildlife. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration for approval of amendments to the Roster of Indiana Animals, Insects, and Plants that are Extirpated, Endangered, Threatened, or Rare (Information Bulletin 2); Administrative Cause No. 11-210D

Linnea Petercheff, Staff Specialist with the Division of Fish and Wildlife, presented this item. She said amendments were recommended to the nonrule policy document that provides the Indiana roster of animals, insects and plants that are extirpated, endangered, threatened or rare. The amendments would provide consistency with lists of endangered species of birds, reptiles, and amphibians already in Commission rule. Changes were made recently to the list of endangered species of reptiles and amphibians, and the bald eagle was removed from the State’s endangered species list “a couple of years ago.” Species removed from the endangered list have been moved to the special concerns list. “Additionally, some changes are being made to the scientific names of some reptiles and amphibians to be consistent with the names now used in the rule.” She said the proposal also incorporated changes to the list of extirpated, endangered, threatened, and rare insects and plants as recommended by the Division of Nature Preserves.

Donald Ruch said he believed many of the scientific names for listed plants were not current botanical designations. They were synonyms but outdated. John Bacone responded the Division of Nature Preserves was willing to work with Dr. Ruch to update terms for inclusion in a subsequent amendment to the nonrule policy document.

Doug Grant moved to approve the amendments to the Roster of Indiana Animals, Insects, and Plants that are Extirpated, Endangered, Threatened, or Rare (Information Bulletin 2). Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

NRC DIVISION OF HEARINGS

Consideration of the recommended report of the Natural Resources Commission with respect to the Petition for the Establishment of the Je-To Lake Conservancy District (Hendricks Circuit Court 32C01-1108-MI-157); Administrative Cause No. 11-175C

Steve Lucas presented this item on behalf of the Hearing Officer, Jennifer Kane. He said the proposed conservancy district is located in Hendricks County and would provide for (1) developing forests, wildlife areas, parks and recreation facilities, if feasible, in connection with beneficial water management; (2) operation, maintenance, and improvement of works of improvement including Je-To Lake and the Je-To Lake dam and spillway; and (3) improving

drainage. He said the Petitioners' attorney, Alan Hux, and professionals from the Division of Water were present to answer questions.

Alan Hux addressed the Commission briefly. He commended Jennifer Kane and Terri Price of the Division of Water for their "quick action in preparing the report." He said two days after the public hearing, the dam developed a sinkhole "so it's been very important to move forward. They really did a good job in getting the report out over the Holidays. This is a dam that needs repair." Hux then urged the Commission to adopt the hearing officer recommendations.

Doug Grant moved to approve the hearing officer's report as the Commission's recommendations regarding the petition to establish the Je-To Lake Conservancy District in Hendricks County. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration of report of rule processing, consideration of public comments, analysis and recommendation regarding final adoption of amendments to 312 IAC 9 governing wild animal possession limits; LSA Document # 10-470 (F); Administrative Cause No. 11-053D

Sandra Jensen, Hearing Officer, presented this item. She said for consideration was a proposal to amend 312 IAC 9-2-8 governing possession restrictions for wild animals, except for white-tailed deer and turkeys, and 312 IAC 9-4-7.5 governing possession restriction for nonmigratory game birds. The proposed amendments to 312 IAC 9-4-7.5 would also establish a taking period and would clarify limits on the number of reptiles and amphibians that may be taken from the wild, as well as clarify possession restrictions for reptiles and amphibians. The amendments would add definitions for "possession limit", "primary residence", and "processed". She said the primary purpose for the proposal was to more clearly define possession limits by identifying when a taken wild animal counts toward "possession limit" and when it no longer counts towards a possession limit. She said the need for the rule was demonstrated by hunter inquiries, as well as a determination that among Conservation Officers the rule was interpreted differently.

Jensen reported the Department maintains the proposal would not alter the existing "possession limit" of two times the daily bag limit. The proposal would clarify that once a wild animal has been processed and stored at the hunter's primary residence, it no longer counts towards the possession limit. The Commission granted preliminarily adopted the proposal in July. Public hearings were held in December at the Spring Mill Inn at the Peru Public Library. Public comments were received at both hearings. She said two comments were of particular note.

The Indiana Wildlife Federation contended the proposed rule amendment redefines what "possession limit" means. The IWF asserted the possession of wild game ends when an animal is either consumed or given to another person. The Department responded that it is daily bag limits that are used to manage wildlife populations, and the agency modifies bag limits as management needs change. Possession limits are intended primarily to assist law enforcement officers with monitoring compliance with those bag limits. The DNR response was persuasive.

Jensen said the second comment of note involved the tagging requirements. Individuals urged the tagging requirements in 312 IAC 9-2-8(f) are "too restrictive and technical" and suggested that those requirements be removed. Jensen explained that the revisions to subsection (f)

decreased the technicalities and restrictions noting that the comment suggests a lack of awareness of tagging requirements that already exist. Jensen said, “Again, the tagging requirements serve as an enforcement tool necessary for enforcing both daily bag limits and possession limits. In any event, Jensen noted that abolishing the tagging requirements would be beyond the scope of this particular rule package. Jensen then recommended final adoption of the rule as published for preliminary adoption.

The Chair commented, “Col. Wilson, you gave us a nice presentation on this topic. The amendments will obviously help your officers in the field; and, hopefully, will clarify a lot of the rules for our citizens. I think it’s a great step forward.”

Thomas Easterly moved to approve final adoption of amendments to 312 IAC 9 governing wild animal possession limits. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration of report of rule processing, public hearing, written comments, and Hearing Officer analyses, and recommendation regarding final adoption of amendments to 312 IAC 8-1-3, standards for entrance and use requirements of firewood on DNR property; LSA Document #11-421(F); Administrative Cause No. 10-204A

Steve Lucas, Hearing Officer, presented this item. He said the proposal would carry forward a “fairly extensive DNR initiative”, which included Commission participation, for the approval of a nonrule policy document previously on the same subject matter. Unlike the nonrule policy document, the rule would have the force of law.

Lucas said “the design was to place reasonable controls on bringing firewood into DNR properties and had application mostly to State Parks. When restrictions on firewood were first discussed, the Division of Hearings received negative citizen comments. Through extensive efforts by DNR staff, Ginger Murphy and others, they undertook an education campaign. The campaign took. Following preliminary adoption, we received very little comment, and mostly we received positive comment.” He recommended final adoption of the proposed amendments.

Amy Vaughan moved to approve final adoption of amendments to 312 IAC 8-1-3 providing standards for entry and use requirements for firewood on DNR property. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

The Chair acknowledged Ginger Murphy for her work and involvement. “You guys do a nice job with this, and I spend a lot of time at our State Parks. I think it’s a good thing that you guys got ahead of the curve, so good work.”

Consideration of report of rule processing, public hearing, written comments, and Hearing Officer analyses, and recommendation regarding final adoption of amendments to 312 IAC 2 and 312 IAC 8 governing activities on DNR properties; LSA Document #11-442(F); Administrative Cause No. 11-052A

Steve Lucas, Hearing Officer, presented this item. He said the proposed amendments were “for the most part housekeeping measures. They bring forward some things on which the

Commission has already made policy determinations and incorporate them into rule. The most important amendments are to 312 IAC 8 that has to do with DNR property management. This proposal also applies to 312 IAC 2, which, technically, governs Commission delegations.”

He said with the transfer of J. Edward Roush Lake from management by the Division of State Parks and Reservoirs to management by the Division of Fish and Wildlife, amendments to 312 IAC 2-4-12 would remove the lake from among those subject to standards governing fishing tournaments. An amendment in 312 IAC 8 would clarify standards pertaining to hunting blinds on DNR properties. A more uniform approach would be taken to the licensure of “airborne human transportation devices”. Provisions for taking turtles and frogs would be updated and coordinated with amendments made recently in 312 IAC 9.

Lucas said the proposed amendment that “drew the most interest,” although interest was “fairly modest,” was a prohibition on the possession of lead shot while hunting mourning doves on a DNR property. There was some opposition, but he believed the Department’s response was persuasive. He recommended final adoption of the amendments in the same form as the Commission’s preliminary adoption.

Thomas Easterly moved to give final adoption to amendments to 312 IAC 2 and 312 IAC 8 as published following preliminary adoption. Mark Ahearn seconded the motion. Upon a voice vote, the motion carried.

Adjournment

The meeting was adjourned at approximately 12:15 p.m.