

NATURAL RESOURCES COMMISSION
Meeting Minutes July 19, 2016

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Cameron Clark, Secretary
Carol Comer
Patrick Early
Phil French
Doug Grant
Laura Hilden
Mark Newman
Donald Ruch
Robert Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen
Dawn Wilson
Jennifer Kane
Scott Allen

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Shelley Reeves	Executive Office
Danny East	Law Enforcement
Terry Hyndman	Law Enforcement
Cheryl Hampton	Land Acquisition
Tom Laycock	Land Acquisition
Dan Bortner	State Parks and Reservoirs
Terry Coleman	State Parks and Reservoirs
Ginger Murphy	State Parks and Reservoirs
Brian Pavlik	State Parks and Reservoirs
Karen Hinton	State Parks and Reservoirs
Ihor Boyko	Legal
Joe Hoage	Legal
Ed Harcourt	Legal
Megan Abraham	Entomology and Plant Pathology
Steve Weinzapfel	Reclamation
Marty Benson	Communications

GUESTS PRESENT

Patricia Hellmers	Debbie Heishman
Norman Hellmers	Erin Baird
Dennis White	Heather Ennis
Lori Torres	Katelyn Edward
Heather Setzer	Dan Schmidt
Kathy Norris	Steve Wenning
Chad Sullivan	Erin Huang
Jamalyn Sarver	Tyler Starkey
Vicki Andershock	

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., EDT, on July 19, 2016, at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis, Indiana. With the presence of eleven members, the Chair observed a quorum.

The Chair asked for a motion for the approval of the Commission's May 12, 2016 minutes.

Cameron Clark moved to approve the May 12, 2016 meeting minutes. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

REPORTS OF THE DNR DIRECTOR, DEPUTIES DIRECTOR, AND THE CHAIR OF THE ADVISORY COUNCIL

Director Cameron Clark provided his report. The Director stated that the state's fiscal year ended June 30, 2016. In this last fiscal year, the Department of Natural Resources (Department) was involved in the conservation and protection of over 4,300 acres. The protected acres were through land purchase, conservation easements, or other mechanisms permanently protecting the land.

The Director announced the names of a few of the end of the year award winners. The Department divisions Employee of the Year winners were Ralph Unversaw, Division of Forestry; Megan Abraham, who was recently appointed as the new Director of the Division of Entomology and Plant Pathology; and Jessica Sparger, Division of Communications. Dawn Slack, Division of Fish and Wildlife, was awarded the Colonel Richard Lieber Award (Department Employee of the Year). Dustin Whitehead, Division of Law Enforcement, was awarded Conservation Officer of the Year, as well as honored as the Conservation Officer of the Year from the Midwest Association of Fish and Wildlife Agencies.

The Director reported that the International Bowhunting Organization National Championship was held at Fairfax State Recreation Area on June 10 through June 12. He stated that the event

was well received with approximately 850 competitors. He noted that the 2017 National Championship is expected to bring in more than 1,000 participants.

The Director noted that on June 3, 2016, the Division of Law Enforcement graduated its 35th Class of 12 officers who are now serving in the field. He announced that the Indiana State Fair begins August 5 and runs through August 21. The Director said the Department staff is setting up displays and preparing the facilities at the State Fair grounds to ensure the hall, pavilion, and fishing pond are ready for visitors. He noted that the Division of State Parks and Reservoirs will host the National Association of State Park Directors' Annual Meeting in early September at French Lick, Indiana. Representatives from all 50 states and Canada, federal agencies, and vendors will be in attendance.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. He reported that approximately 500 people attended the Wyandotte Cave reopening ceremony. Approximately 2,000 people toured the cave on the first day with 3,000 touring on the second day.

Davis introduced Tom Laycock as the newly appointed Director of the Division of Land Acquisitions.

Davis reported the Fish and Wildlife Conservation Committee met on July 16, 2016 at the Atterbury Fish and Wildlife Area. The meeting was an outreach and communication event for the users of the properties.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, provided his report. He noted that after a 5-year process the Great Lakes – St. Lawrence River Basin Water Resources Regional Body approved the City of Waukesha's request to divert eight million gallons of water per day from Lake Michigan for municipal use. Smith also noted that a petition for a rule change was filed to amend 312 IAC 6.2, rules implementing IC 14-25-1-11 governing diversions of water outside the Great Lakes–St. Lawrence Seaway Basin. Proposed rules have been drafted and will be considered by the Advisory Council at its next meeting.

Smith introduced Megan Abraham, the newly appointed Director of the Division of Entomology and Plant Pathology. He stated that Abraham had been with the Department for ten years. Smith also introduced Steve Weinzapfel, the Director of the Division of Reclamation, and noted that Weinzapfel has been serving as the Director for three years.

Patrick Early, Chair of the Advisory Council, reported that the Advisory Council has not met since January 16, 2016. He noted that a meeting has been scheduled for October 12, 2016.

The Chair noted that Laura Hilden, proxy for Indiana Department of Transportation Commissioner, would be recusing herself from the discussion and vote regarding Agenda Item 3.

The Chair introduced Mark Newman, the Director of the Indiana Office of Tourism Development.

Newman explained that the Office of Tourism Development serves as the consumer marketing arm for the State of Indiana, which promotes a “wide array of assets and attraction’s across our state, foremost of which are our natural assets in our State Park system. It serves as a really important marker for us as we move into markets across the Midwest. We attempt to elevate the image and profile of our state parks so that they become true destinations for visitors from across our region as well as from within our state.” Newman announced that on September 9, 2016 the Office of Tourism Development will kick off the Bicentennial Torch Relay, a 3,200-mile journey that will begin in Corydon, travelling through all 92 counties in five and a half weeks, and ending at the State House grounds in Indianapolis. Purdue University School of Engineering created the state-of-the-art Torch, which is powered by Indiana biofuel. He noted that there will be approximately 2,300 torchbearers who will pass the torch as they cross the state including going through state parks and recreational areas.

The Chair stated, “I think it shows testimony to the work this Commission does that we have folks like you who personally come to these [meetings]. I appreciate you making the effort to do so as with the Department of Environmental Management and the Department of Transportation. Thank you all for being here and thank you for the update.”

The Chair recognized Dan Schmidt, the Energy, Environment, Transportation, and Gaming Policy Director of the Office of the Governor. The Chair thanked Schmidt for his attendance and serving as the Department’s Policy Liaison.

CHAIR, AND VICE CHAIR

Updates on Commission and AOPA Committee

Vice Chair Jane Ann Stautz, Chair of the Commission’s AOPA Committee, reported that the AOPA Committee has not met since the Commission’s May meeting. She noted that the AOPA Committee is scheduled to meet August 16, 2016.

DNR, EXECUTIVE OFFICE

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

No items were identified for referral to the Advisory Council.

DNR, DIVISION OF RECLAMATION

Consideration of the Department’s recommendation regarding the approval of a permit in accordance with IC 14-35-1 for the extraction of coal under rights of way located in Knox and Sullivan Counties that are under the authority of the Indiana Department of Transportation

Lori Torres, Deputy Commissioner and Chief Legal Counsel of the Indiana Department of Transportation (INDOT), presented this item. She explained that before the Commission is a

request to approve a coal mining permit. She noted that Ihor Boyko, Legal Counsel for the Department, and that Chad Sullivan and Jamalyn Sarver representing Sunrise Coal were also present. Torres said, "This has been a joint effort...a couple years in the making that we've been working on this coal permit." She said the agenda packet includes the governing statutes (IC 14-35-1), which provide the requirements if the state is going to lease any of its mineral rights to any private entity. She said the permit would allow coal mining under State Road 48 and U.S. 41 as part of a larger mining project in Sullivan and Knox Counties. Torres stated that the Governor's Office favors the issuance of the permit to Sunrise Coal, LLC. "We've worked hard coming to an agreement with [Sunrise Coal] that has terms that are favorable to the State of Indiana, both monetary and [that includes] protections for our public facilities." Torres explained that all notice and publication requirements in IC 14-35-1 were followed. Sunrise Coal, LLC submitted the only bid for the mining project, which "makes sense because Sunrise [Coal] is already active in mining in this particular area."

Torres noted that agenda packet also includes a lease, which was amended. One particular provision was amended regarding critical structures (INDOT bridges and culverts on the mining pathway). She noted that two executed coals permits (signed by both INDOT and Sunrise Coal) have been tendered to the Commission Chair for his signature, if approved by the Commission. She noted that once the permits have been reviewed and approved by the Commission the permits would go to the Governor's Office for signature.

Ihor Boyko, Staff Counsel for the Department of Natural Resources, stated that IC 14-35-1 does not get much use. "Probably the last time the Commission had occasion to consider a similar permit was probably back in 2011..., which involved a sand and gravel operation at Prophetstown." Boyko explained that the required notice was published in Knox and Sullivan Counties where the mining will take place, but also a publication was made in a Marion County, in the *Indianapolis Star*. Notice was also sent out to coal mining operators by email and by 1st Class Mail as required by IC 14-35-1-3. Boyko stated that Steve Weinzapfel was present to answer any technical questions. Boyko stated that the Department recommends the permits be approved.

Robert Wright moved to approve the permit in accordance with IC 14-35-1 for the extraction of coal under rights of way located in Knox and Sullivan Counties that are under the authority of the Indiana Department of Transportation. Carol Comer seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF LAW ENFORCEMENT

For consideration is the preliminary adoption of amendment to 312 IAC 4-5-4(a) to increase the required years of service from three years to five years before a conservation officer would be eligible to apply for promotion; Administrative Cause No. 16-069L

Danny East, Director for the Division of Law Enforcement, presented this item. East explained that the Division of Law Enforcement has been reviewing all parts of its operation for the past three years. "We have actually set enhanced planning teams to look at every facet of what the Law Enforcement Division does." He said the teams reviewed the Division's promotion

opportunity for the officers and recommended that before an officer becomes eligible for promotion, the officer would need to have served five years. East noted that the five-year eligibility standard is a national trend, and law enforcement agencies recognize five years of service is “about the point in time that a law enforcement officer actually has their legs under them and are ready to put themselves in a promotion opportunity.”

East noted that currently at an officer’s three year mark, an officer may participate in the promotion process in as much taking written exams from the Institute of Public Safety Personnel, an outside agency. He noted that the officers must also invest in themselves, “because we are in the process of developing task lists, job related tasks that officers must demonstrate and convince...or show documentation...and practical demonstrations to their supervisor that they understand a particular component of law enforcement, job duties or conservation law enforcement.” The written exams are valid for two years. East then recommended preliminary adoption of amendments to 312 IAC 4-5-4(a) to increase the required years of service from three year to five years before a conservation officer would be eligible to participate in the promotion process.

Patrick Early moved to approve preliminary adoption of amendment to 312 IAC 4-5-4(a) to increase the required years of service from three years to five years before a conservation officer is eligible for promotion as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

DNR, STATE PARKS AND RESERVOIRS

Information Item: Department of Natural Resources’ intention for the service of alcohol at certain state park properties

Dan Bortner, Director of the Division of State Parks and Reservoirs, presented this item. He explained that IC 7.1-3-17.8 allows the Department to apply for a three-way alcohol permit for one or more state parks. He said the Department intends to apply for permits for nine of its state parks, and noted that the permit applications will identify certain areas within the state parks where alcohol may be possessed or consumed. Bortner stated that the Division of Law Enforcement was also consulted to ensure that any enforcement concerns were addressed. He noted, however, that alcohol would not be allowed at swimming beaches or other areas listed at 312 IAC 8-2-5. The Department intends to apply for three-way alcohol permits for portions of the state parks as follows:

1. **Brown County State Park** - The Abe Martin Lodge complex, which include the amphitheater, the lodge building, the court yard, the porches, the lawn, the fire pit, all of which currently have alcohol permits. The Department would be looking at the possibility of applying for alcohol permits for the upper and lower shelter houses at the north end of the property, the Strahl Shelter by Strahl Lake, the pool parking area, because of an event each area where the Department would like to be able to have wine tastings for that event, the nature center complex, because of a connected vista that is popular for weddings, and a small shelter close to the nature center.
2. **McCormick’s Creek State Park** – The Canyon Inn complex, which includes the lodge building, the lawn, the fire pit, the recreation center and the amphitheater. The Department would be looking at the possibility of applying for alcohol permits for the Redbud Shelter, Hillcrest Shelter, Echo Shelter, the CCC Recreation Hall, and the pool parking area.

3. **Clifty Falls State Park** – The Clifty Inn complex, which include the hillside, the lodge building, the court yard, the porches, and the fire pit or areas that face the Ohio River. The Department would be looking at the possibility of applying for alcohol permits for the shelter house at the north end of the park, and the pool parking area.
4. **Fort Harrison State Park** – The lodge building, fire pit, and the filed and gazebo by the pond, the Garrison Restaurant and Conference Facilities and the veranda, the golf course, and the shelter with the fire pit.
5. **Spring Mill State Park** – Spring Mill Inn, the lodge building, the lawn, the Pioneer Village complex, the concession area, the Butternut Shelter, the CCC Picnic Area, the Grissom Memorial Complex, and the Nature Center Complex, which includes the parking lot, the lawn, and the amphitheater.
6. **Turkey Run State Park** – The lodge complex, including Turkey Run Inn, the lawn, fire pit, Sunset Point, the Lieber Cabin, the Log Church, and the Lieber Memorial. The Department would be looking at the possibility of applying for alcohol permits for the Big Log Shelter, the pool recreation field, and the Lusk Home.
7. **Pokagon State Park /Trine SRA** – The Potawatomi Inn complex which includes the lodge building, the courtyard, the lawn and boathouse area, the Warming Center, the CCC Shelter. Across the street at the Trine State Recreation Area the locations the Department would be looking at the possibility of applying for alcohol permits for the Trine Welcome Center, the Swenson Lodge area, and the Wild Turkey Shelter.
8. **Falls of the Ohio State Park** – Interpretive Center, which includes the atrium and the outside deck, the Clark Cabin area.
9. **Indiana Dunes State Park** – The Pavilion area, which includes 100 feet of the leased area into the parking area, excluding the beach.

Consideration of preliminary adoption of new rule adding 312 IAC 8-1.5-21.5 to define “state park”; Administrative Cause No. 16-056P

Dan Bortner also presented this item. Bortner explained that the proposed rule adding 312 IAC 8-1.5-21.5 to define “state park” was a direct result of the passage of HEA 1386 (P.L. 214-2016) during the 2016 legislative session. HEA 1386 added IC 7.1-3-17.8 allowing the Department to apply for a three-way alcohol permit from the Alcohol and Tobacco Commission (ATC) for one or more state park properties. IC 7.1-3-17.8 became effective July 1, 2016. Bortner explained that the rule proposal defines “state park” and identifies 24 properties. He said the Division of State Parks and Reservoirs manages 32 properties, but define 24 of those properties as parks and the balance as reservoirs. He then recommended the Commission give preliminary adoption to the proposed new rule, 312 IAC 8-1.5-21.5, defining “state park”.

Ruch asked, “As I understand it, we’re defining ‘state park’ as just a list, rather than giving a definition of what a state park is, is this correct?” The Chair answered in the affirmative.

Carol Comer moved to approve for preliminary adoption the proposed rule adding 312 IAC 8-1.5-21.5 defining “state park” as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of preliminary adoption of rule amendment to 312 IAC 8-2-5 to allow the possession or consumption of an alcoholic beverage at Indiana Dunes State Park as authorized by IC 7.1-3-17.8; Administrative Cause No. 16-080P

Dan Bortner also presented this item. Bortner noted that currently under rule 312 IAC 8-2-5 a person must not possess or consume an alcoholic beverage at the Redbird State Recreation Area, Interlake State Recreation Area, a swimming beach or pool on any property, a shooting range on

any property, and a designated youth tent area on any property. “With the exception at the Indiana Dunes State Park, you may possess or consume alcohol anywhere within our properties minus the prohibitions that I just noted. Bortner said that currently at the Indiana Dunes State Park (“Dunes”) an individual may not possess alcohol anywhere on the property with the exception of a leased premise of the pavilion authorized by IC 14-18-2-3.

Bortner stated that due to a change in IC 7.1-3-17.8, the Department may apply for a three-way alcohol permit with the ATC for state park properties. He noted that as a result of the statutory amendment there is a need to amend 312 IAC 8-2-5 in order to make the rule consistent with the statute. Bortner explained that the rule makes it clear that within the Dunes property an individual cannot consume or possess alcohol at the swimming beach or youth tent area. “The Dunes will continue to have the most stringent alcohol restrictions of any property managed by the DNR.” He then recommended preliminary adoption of the proposed rule as presented.

The Chair opened the floor for questions by the Commission.

Grant asked, “Why do the Dunes have the most stringent regulations?”

Bortner explained, “Years ago, the Dunes, just to be honest, was not a nice place to be. We had a lot of trouble with gang activity and some issues up there.” Bortner stated, however, that steps have been taken to correct the issue. He noted that the issues were not necessarily alcohol related. Bortner said that 1,000 parking spaces were removed from the Dunes and the campground size was reduced by half. He noted that the gate house was moved so that a car would be unable to speed from the gate house to the beach. 75% of the property is a designated nature preserve; the footprint is much smaller; a water tower was removed and replaced with bird tower; and a waste water treatment facility was replaced with a natural treatment facility. Bortner said that “a lot of steps...have been taken to change the dynamic of the property. It has been very successful and is now...one of the premiere destinations in the Midwest.”

Bortner explained that alcohol is served in the state park lodges during family gatherings, weddings and other functions. He said that allowing alcohol to be served at the Dunes pavilion would provide event space for similar family gatherings and events.

The Chair opened the floor to public comment, but limited comments to five minutes. He then recognized Dennis White

Dennis White, Crown Point, Indiana, stated, “We’re being told that alcohol on the beach at Indiana Dunes State Park will be prohibited. To the contrary, if the current alcohol plan is approved, alcohol will be on the beach, simply because that’s where the Pavilion is.” White read statistics from the National Institute of Alcohol Abuse and Alcoholism that stated that one in two water recreation deaths of teens and adults involved the use of alcohol. “I also have signatures of nearly 10,000 people who couldn’t be here today that also oppose at the park.”

The Chair recognized Heather Ennis.

Heather Ennis, Porter, Indiana, stated she was the President and Chief Executive Officer of the Norwest Indiana Forum. She cited Rich Cohen's August 2015 article in the *New York Times*, entitled "A Tour of Lake Michigan, My Inland Sea." Ennis stated that Cohen wrote about his trip around Lake Michigan. Ennis stated that she was saddened by Cohen's depiction of Northwest Indiana. "It talks about smoke stacks, blighted areas, industry, and decay of the environment. Any of you who have been up to Northwest Indiana know that is not our story; our story is so much more." She stated that unfortunately the article writes about all the beautiful places around Lake Michigan, but then negatively portrays Northwest Indiana.

Ennis said, "The opportunity for us is to be able to welcome more people to that beach; to introduce more people to this beautiful place that we call home." She explained that attracting visitors and business to the area is critically important. She noted that quite a few people visit the parks, but do not stay long. "We do not give them an opportunity to interact for more than a day or half a day. The opportunity with the changing of this rule will open up more opportunity for people to interact with our beaches; to get to know our communities; to stay a little bit longer; and perhaps spend some of their dollars in Northwest Indiana, creating a destination, like destinations we see all over in state and national parks." Ennis also noted that having beer and wine sales at parks is not unprecedented. Ennis concluded, "I would welcome the opportunity to be able to have more visibility and more interaction for those that visit our community."

The Chair recognized Norman Hellmers.

Norman Hellmers, Valparaiso, Indiana and representing Dunes Action, requested additional time to speak stating that he represented 10,000 people that could not be present.

The Chair declined to allot additional time to Hellmers.

Hellmers explained that he worked for 34 year in the field of parks and recreation, and tourism. Hellmers noted that he was employed with the Nebraska Game and Parks Division for three years and subsequently, 31 years with the National Parks Service. Hellmers said there are other groups, besides Dunes Action, that oppose the rule proposal, such as Save the Dunes, Hoosier Chapter of the Sierra Club, Indiana Division of the Izaak Walton League of America, Hoosier Environmental Council, Citizens Action Coalition, the Dunes-Calumet Audubon Society, and Public Employees for Environmental Responsibility (PEER).

Hellmers stated that Dunes Action opposes alcohol returning to the park in the Pavilion, and in the areas close to the Pavilion, as well as the construction of the new banquet facility located next to the Pavilion. Hellmers stated that he would provide his written remarks to the Commission after his presentation.

Hellmers stated that there was legislation passed in 2012, 2015, and 2016 "all of it aimed at restoring alcohol in the park, especially to the Pavilion. In the last 2016 legislation has the DNR working with the General Assembly to have this legislation passed, and we think that was inappropriate and we have no opportunity to comment on that."

Hellmers stated that there has been a lack of transparency throughout this process. “We did not have an opportunity to know anything about what was going on.” He noted that the DNR began working with the developer in 2010. “And then it wasn’t until 2015 that we finally learned about the...we had no opportunity to comment on anything in the lease prior to that time.” He noted that two public hearings were held, but held after the lease was signed.

Hellmers stated that Dunes Action is working with PEER, which is a national group that monitors natural resource management agencies by serving as a “watchdog” for the public interest. He said PEER has an issue with the lease, which fails to include information required by the Land Water Conservation Fund (LWCF) manual. He explained that LWCF has strict regulations about procedures that need to be followed involving leases. Hellmers said the current lease does not mention the LWCF requirements. He said the Department has opened itself to legal action, because the Department has not met the LWCF requirements regarding the consideration of the project’s potential impacts on resources.

Hellmers stated that the Department has not received the required approval of the National Park Service (NPS). He said that the Regional Director of the NPS sent a letter dated June 14, 2016 to Director Clark informing the Department that “work may not continue until the IDNR submits the project for approval to the NPS.” Hellmers said the Department was also informed that changes to the lease with Pavilion Partners would be necessary to ensure compliance with LWCF program. He said, “Right now, the Dunes Action believes, PEER believes...that the DNR and the National Park Service, frankly, ... are in violation of the LWCF.”

Hellmers stated that Dunes Action requests the Commission to prohibit the possession and consumption of alcohol at the Dunes. “We also want to make sure we have an appropriate restoration of the Pavilion.” He stated that Dunes Action is in favor of restoration of the Pavilion, but would like it restored to how it was originally. He noted, however, Dunes Action is not in favor of the additions that are not part of the original historical design. Hellmers concluded and asked the Commission not to give preliminary adoption to the proposed rule.

The Chair explained to Hellmers that some of Hellmers comments “overstepped the Commission’s authority and what we are addressing here today.... In deference to those who wish to speak behind you, I would like to give them an opportunity to speak.”

Director Clark provided a brief explanation of the rule adoption process. He noted that there will be a public hearing scheduled at a later date. He also noted that there will be an opportunity to submit comments online in the next few months. Clark explained that the proposed amendment to 312 IAC 8-2-5 further clarifies the allowance of alcohol consumption at the Pavilion, as designated in a lease and contract authorized under IC 14-18-2-3. He stated the existing language already allows alcohol possession and consumption at the Pavilion. The Director explained that the proposed rule amendment bring the existing rule into compliance with the statutory change.

Comer asked, “This is not actually approving or related whatsoever to the actual Pavilion lease or the construction of the Pavilion, or of any of that?” The Chair answered in the negative.

The Director stated that although he does not agree with statements made by Hellmers relative to what the Department has done and is doing, “we do have the right to disagree and from our standpoint DNR has kept up a question and answer... section dealing with this particular issue on our website if anybody wants to take the time to go through it.”

John Davis noted that under IC 14-18-2-3 the Department is required to approach the Commission to get permission to negotiate a lease with a specific entity. The Commission gave permission for the Department to negotiate with Pavilion Partners at a meeting held on May 15, 2012.

The Chair recognized Katelyn Edward.

Katelyn Edward stated that she currently lives in Carmel, Indiana, but is originally from Chesterton. She said that allowing alcohol with the new construction would allow the Pavilion Partners to be profitable. “So, yes, this is just about alcohol, but it also does facilitate this present development at the Dunes, which is directly related.... I would just like to state that I do adamantly disagree with allowing alcohol at the Dunes.” She noted that the Dunes was not a safe place before, but agreed that the Dunes is now a safe and beautiful place. Edward stated that she does not wish to see a digression. “I know that we are talking about a private facility, but then, again, it is public land, so who is really benefitting from that? I think up to this point the public has felt very neglected, and the local alcohol board has denied this twice. It is unfortunate that we’re relying on an alcohol permit to be a new driver of tourism in Northwest Indiana. Northwest Indiana has a lot to offer and we should not be relying on this alcohol permit to drive that.”

The Chair asked Dan Bortner if he had any additional comments. Bortner indicated that he did not have any other comments. The Chair recognized Tyler Starkey

Tyler Starkey, representing the Northern Indiana Tourism Development Commission (NITDC) and 1816, Inc., stated that he would be speaking regarding Agenda Items 5 and 7. He explained that NITDC is a regional partnership with the Convention of Visitors Bureaus of seven northern counties including Lagrange, Elkhart, Kosciusko, St. Joseph, Marshall, La Porte, and Porter. The NITDC works in cooperation with the Indiana Toll Road Division of the Indiana Department of Transportation, the Indiana Tourism Division, and local businesses to increase tourism spending in the region. Starkey stated, “We rise in support of allowing alcohol sales in state parks, in particular in this case, the Dunes.” He stated that NITDC’s data shows that the increase visitation to the parks allow for Indiana “to not only show off our natural resource assets and the quality of our facilities, but puts all the venues in that area on the same playing field when providing opportunities to Hoosiers and to visitors alike.”

Starkey stated, “With every dollar we invest in tourism we are able to generate and return \$200.00 into our spending and \$15.00 into tax revenue.” He stated that this is an additional way to attract visitors that will generate return visitors to the Dunes or other state parks. Starkey said the Indiana Dunes National Lakeshore, which attracts approximately two million visitors annually and the Indiana Dunes State Park, which attracts approximately one million visitors annually. He noted that it is legal to drink alcohol in a non-glass container at the Indiana Dunes

National Lakeshore on certain beach areas. “We are excited for the public to discover our natural resources at the Dunes and explore all the state parks have to offer.”

The Chair said, “I do appreciate everyone’s patience. I know there are a lot of things to be said and have been said on this matter.” He then asked Commission members for a motion.

Grant asked whether firearms are allowed in those areas proposed for alcohol sales. Davis explained that individuals, if properly licensed, may carry firearms in the state parks.

Jensen commented that she was uncertain as to whether an individual would be able to possess a firearm in the Pavilion.

The Chair noted that there are statutes and rules governing carry of firearms, and noted that with a personal protection carry permit a person is allowed to carry a gun in the state parks.

Carol Comer moved to approve for preliminary adoption of rule amendment to 312 IAC 8-2-5 to allow the possession or consumption of an alcoholic beverage at Indiana Dunes State Park as authorized by IC 7.1-3-17.8, as presented. Mark Newman seconded the motion. Upon a voice vote, the motion carried.

NRC DIVISION OF HEARINGS

Consideration of Report of Hearing Officer, including Proposed Findings and Proposal to the Natural Resources Commission as to its recommendations to the U.S. Army Corps of Engineers in the matter of the Petition for rate increase by Patoka Lake Marina, Inc.; Administrative Cause No. 15-140P

Jennifer Kane, Hearing Officer, presented this item. She explained that following Information Bulletin #20 guidelines, Patoka Lake Marina, Inc. (“Patoka”) filed its Petition on December 8, 2015 with the Natural Resources Commission, Division of Hearings seeking rate increases for facilities operated on Patoka Lake. Kane noted that Patoka last filed for rate increase in 2008. The Petition sought rate increases for the 2017 season on most slips and buoys within the marina. Kane said the opportunity for the renters to submit written comments and to request a public hearing extended until March 3, 2016. Comments were submitted between February 17 and March 3, 2016.

Kane said that in determining whether to recommend a rate increase be granted the Department of Natural Resources’ Division of State Parks and Reservoirs (“Division”) is tasked with analyzing similar facilities and compare rates with those sought by the Patoka. The use and analysis of comparable marinas are fundamental to determining the propriety of proposed rate increases to marina slips and mooring buoys. Kane said the Division completed its comparative review of slip rates associated with the Petition. The Division’s evaluation included comparison of Patoka’s proposed rates to those marinas as provided by Patoka in its Petition.

Kane noted that comments received contend that Patoka is not comparable to Four Winds Marina or Hoosier Hills Marina, and that other marinas should have been included in the comparable

analysis. She explained that the comparable analysis was expanded to include several marinas located in surrounding states and as used in the comparative analysis associated with the petition filed by Patoka in 2008. Kane said the expanded comparative analysis resulted in showing Patoka's proposed rate increases fell within the averages calculated in by Patoka and the Division.

Kane said the information in the record evidences that the rate increases sought by Patoka are within the average range of slip rates for comparable facilities. She explained that Information Bulletin #20 provides that a hearing officer's or the Commission's recommendation for rate increase shall not be withheld unless the rates proposed exceed the fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area. Kane concluded by recommending that the Commission approve rate increases for Patoka lake Marina, Inc. as set forth in "NRC proposed Recommendations" Column of Exhibit E of her report.

Phil French noted that the Commission reviewed rate increase several years ago, and asked whether Patoka Lake Marina filed a petition along with the petitions from other lake marinas.

Kane said Patoka last filed a petition for rate increase in 2008.

The Chair recognized Debbie Heishman.

Debbie Heishman, a slip holder at Patoka, stated that she had concerns about the rate increase, but understood the need for a rate increase. She noted that other slip holders are not opposed to an increase, but that the proposed increase for some would be as high as 78%. She stated that the Patoka sent out a letter on February 18, 2016 to slip holders that indicated there would be no more than a 15% increase in rates for the 2017. Heishman stated that the updates to the facility do not benefit the slip holders, but generate income for the Patoka. She reflected that Patoka is not completing routine maintenance on the docks. "The dock is horrendous at this time." She continued, and said, "No one comes to talk with the slip holders about issues; the boats are not getting waste pumped out properly; and there are problems with the pump out station on a weekly basis." Heishman concluded, and stated that the rate increase is not necessarily opposed, but that the slip holders would like to see something done to resolve the ongoing maintenance issues.

The Chair asked Kane and the Department regarding the process to address issues at marinas under lease with the Department.

Kane stated that the Division has indicated that it has not received negative comments or complaints regarding the Patoka operation. She then deferred to the Division staff.

Brian Pavlik, the Concession Program Director with the Division indicated that he has not received comments or complaints from slip and buoy holders at Patoka Lake.

Davis stated that it would be beneficial for the Patoka slip and buoy holders to submit complaints in writing to the Department; and then the Department staff could meet with and help to facilitate a resolution.

Bortner stated, "I'll make sure we have a conversation."

The Chair recognized Heather Setzer.

Heather Setzer stated that she and Harvey Edwards are the owners of the concessionaire at Patoka. Setzer noted that she has been in contact with Heishman regarding Heishman's concerns, one being Internet usage and Wi-Fi capability. Setzer indicated that the partners are discussing the increasing the band width. "We are continuing changing dock boards...and addressing electrical problems....We do take our dock customers and slip customers and our transient customers very seriously."

The Chair stated, "I think the benefit of having this type of dialogue is making sure everybody is happy."

Setzer replied, "And that's what we want. We do want to give our customers the best marina and that they are happy with."

The Chair noted that Patoka has not had a rate increase since 2008, but also noted that Heishman's comments indicated there "probably wouldn't be too much pushback for an increase of some sort. As is common sense, where there is an increase there should be dialogue back and forth." The Chair then thanked the Department staff for agreeing to meet with the Patoka staff and its slip and buoy holders to resolve any issues.

Pat Early asked for clarification regarding the action of the Commission.

Kane explained that Patoka Lake Marina submitted a petition for a rate increase for slips, buoys, and room rates. She said the Division of State Parks and Reservoirs reviewed the proposed rate increases and found the proposed rate increases comparable to other similar marinas. Kane said the Commission is asked to consider the Hearing Officer's proposed findings and recommendation, approve the findings and recommendation, and then forward the recommendation to the U.S. Army Corp of Engineers for final approval.

Davis commented that the Department is in constant contact with marina owners and slip holders to ensure that everyone is fully aware of any issues.

Jane Ann Stautz moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers in the matter of the Petition for rate increase by Patoka Lake Marina, Inc. Cameron Clark seconded the motion. By a voice vote, the motion carried.

Consideration of Hearing Officer Analysis with Recommendation regarding final adoption of the repeal of 312 IAC 18-3-12, 312 IAC 18-3-18, and 312 IAC 18-3-20 governing larger pine shoot beetle, emerald ash borer, and Brazilian elodea, respectively; LSA Document #15-383(F); Administrative Cause No. 15-055E

Dawn Wilson, Hearing Officer, presented this item. She explained that for consideration is the repeal of 312 IAC 18-3-12, governing the quarantine of larger pine shoot beetle, 312 IAC 18-3-18, governing the control of the emerald ash borer, and 312 IAC 18-3-20, governing the regulation of Brazilian elodea. She explained that the original proposal to repeal 312 IAC 18-3-12 and 312 IAC 18-3-20 was given preliminary adoption by the Commission in September 2014 under LSA Document #14-400 (Administrative Cause Number 14-076E). However, the proposal was withdrawn; and subsequently, the Commission gave preliminary adoption for the repeal of all three rule sections on May 19, 2015 under the Administrative Cause Number 15-055E.

Wilson said that all required approvals have been obtained through the rule adoption process and the Commission has maintained the appropriate documentation as required. Following the Notice of Intent on November 11, 2015, LSA posted the proposed repeals. She said that the comment period closed at midnight on May 20, 2016, but noted, however, no public comments were received. On May 20, 2016, a public hearing was held in the offices of the Commission's Division of Hearings. No member of the public attended. DNR appeared by Megan Abraham.

Wilson explained that in 2012, the Commission gave final adoption to 312 IAC 18-3-23, which declares Brazilian elodea as a pest or pathogen and a prohibited invasive aquatic plant, making 312 IAC 18-3-20 obsolete. She stated that the repeal of 312 IAC 18-3-12 (larger pine shoot beetle) and 312 IAC 18-3-18 (emerald ash borer) are no longer needed due to the current infestation levels of these pests. Wilson explained that Indiana's infestation levels are such that imposing a state regulatory quarantine will no longer assist in the management or control of these pests. All Indiana counties are currently subject to a regional federal quarantine of these pests. She said surrounding states are included within the regional quarantine, for the emerald ash borer imposing no restriction with moving materials to any state adjoining Indiana and that emerald ash borer has now been found in every county in Indiana.

Donald Ruch moved to give final adoption to the repeal of 312 IAC 18-3-12, 312 IAC 18-3-18, and 312 IAC 18-3-20 governing larger pine shoot beetle, emerald ash borer, and Brazilian elodea, respectively. Carol Comer seconded the motion. Upon a voice vote, the motion carried.

Adjournment

The meeting adjourned at approximately 11:22 a.m., EDT.