

**NATURAL RESOURCES COMMISSION**  
Meeting Minutes, September 19, 2017

**MEMBERS PRESENT**

Bryan Poynter, Chair  
Jane Ann Stautz, Vice Chair  
Cameron Clark, Secretary  
Jeffrey Holland  
John Wright  
Brian Rockensuess  
Trevor Mills  
Bart Herriman  
Bruce Walkup

**NATURAL RESOURCES COMMISSION STAFF PRESENT**

Sandra Jensen  
Dawn Wilson  
Scott Allen

**DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT**

John Davis	Executive Office
Chris Smith	Executive Office
Shelley Reeves	Executive Office
Michael Portteus	Law Enforcement
Libby Gamboa	Legal
Samantha DeWester	Legal
Linnea Petercheff	Fish and Wildlife
Scott Johnson	Fish and Wildlife
Steve Donabauer	Fish and Wildlife
Mark Reiter	Fish and Wildlife
Dan Bortner	State Parks
Phil Bloom	Communications
Marty Benson	Communications
John Bacone	Nature Preserve
Greg Schrader	Oil and Gas
Beth Hernly	Oil and Gas
Brian Royer	Oil and Gas
Russell Retherford	Oil and Gas
Cheryl Hampton	Land Acquisition

## **GUESTS PRESENT**

Fred Philips  
Charlie Masheck  
Barb Simpson  
Linda Candler  
Bob Hammerle

Erin Huang  
Justin Jett  
Kristin McIlwain  
Anne Sterling

Bowden Quinn  
Cheryl Strong  
Rebecca Kaiser  
Tim Maloney

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:03 a.m., EDT, on September 19, 2017 at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of nine<sup>1</sup> members, the Chair observed a quorum.

## **APPROVAL OF MINUTES**

The Chair asked for a motion for the approval of the Commission's July 18, 2017 minutes.

Cameron Clark moved to approve the minutes of the meeting held on July 18, 2017, as presented. Vice Chair, Jane Ann Stautz, seconded the motion. Upon a voice vote, the motion carried. Bart Herriman abstained from voting for the reason that he was not a member of the Commission in July, 2017.

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

Director Clark provided his report. The Director stated that the Division of State Parks had a good summer in tourism with good weather and 16 million people visiting state parks. The Director reported that emergencies were minimal.

The Director introduced Russell "Rusty" Retherford as the new Director of the Division of Oil and Gas. He noted that Retherford replaced Herschel McDivitt. The Director stated that the Department's Legislative Director, Sam Hyer, took a new position with the Bureau of Motor Vehicles. The Director recognized Phil Bloom, the Department's Director of Communications and announced that Bloom would be retiring on September 22, 2017. The Director thanked Bloom for his service.

The Director recognized the Division of Law Enforcement for their assistance in Texas after Hurricane Harvey. The Director stated that the Division sent two swift water rescue teams of 14 people with 20 John boats, 4 air boats, and a command center trailer. He stated that the teams were in Texas for more than a week, and the Texas residents praised and thanked them for the good work.

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<sup>1</sup> Commission member, Bruce Walkup, arrived after the commencement of the meeting.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. Davis stated that Steve Morris, the Director of the Division of Outdoor Recreation, had retired. Davis stated that Mike Molnar, the Lake Michigan Coastal Program Manager, had also resigned and moved to the Washington D.C. area. Davis stated that they will be working to fill those positions as well as the State Land Office Director's position.

Davis stated that, with the recreation season coming to a close, the Division of State Parks will begin its off-season projects, such as replacing Turkey Run Inn's roof. He noted that the current roof is old and has been added onto a few times, which will present a challenge.

Davis stated that the Indiana Monarch Conservation Summit is scheduled for September 19 and 20, 2017, at the Indiana Wildlife Federation Office. Davis stated that the Summit brings together key partners from across the state including the Department, Indiana Department of Environmental Management (IDEM), Indiana Department of Transportation (INDOT), Indiana State Department of Agriculture (ISDA), and various land trusts to discuss conservation efforts surrounding the monarch butterfly and other pollinators. He stated that the Summit will explore best practices; identify habitat challenges in the state; share current initiatives; aim to leverage resources; and build the foundation for a coordinated, collaborative statewide plan.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, reported that the Department is close to announcing the new Director of the Division of Water. Smith stated that the Division of Reclamation received the Mid Continent Abandoned Mine Land Program Award from the federal Office of Surface Mining and Reclamation Enforcement. He stated that the award recognized the Sugar Ridge Fish and Wildlife Area project, which fixed dangerous high walls and an eroding gob pile, enhancing water quality and wildlife habitat on former surface mine land. Smith noted that Indiana is among five winners of the 2017 Abandoned Mine Land Reclamation Awards for reclamation excellence.

The Chair stated that Patrick Early, Chair of the Advisory Council, was not present to provide an update on the activities of the Advisory Council.

## **CHAIR, AND VICE CHAIR**

### **Updates on Commission and AOPA Committee**

Jane Ann Stautz, Chair of the Commission's AOPA Committee, recognized R.T. Green for his prior service on the AOPA Committee. Stautz welcomed and introduced Bart Herriman as the new member of the AOPA Committee. She noted that the AOPA Committee has not met since its last meeting on May 16, 2017.

The Chair introduced and welcomed the Proxy members for the Commission, Brian Rockensuess from IDEM, and Trevor Mills from INDOT

Mills stated that he is Deputy Commissioner of Engineering and Asset Management at INDOT, and manages INDOT's technical staff, including 9 directors and approximately 320 engineers and other professionals. Mills stated that he supervises engineering, environmental services, and right of way acquisition.

Rockensuess stated that he is the Chief of Staff for IDEM and manages several departments including government affairs, media, and budget.

The Chair introduced the new members of the Commission, Bart Herriman, Bruce Walkup, and John Wright. He noted that Walkup was not present, but would be in attendance later in the meeting.

Wright stated that he is from Terre Haute and works for an independent insurance agency.

Herriman stated that he is an attorney from Indianapolis, and has worked in both state and local government. Herriman stated that he has previously served on the Natural Resources Advisory Council.

Sandra Jensen, Director of the Commission's Division of Hearings, announced that the State Ethics Commission would be rolling out ethics training for Commission's appointees. Jensen noted that the ethics training is conducted biennially and advised that she would pass along enrollment information as soon as it is received.

The Chair also recognized and thanked Phil Bloom for his service as the Department's Director of Communications.

#### **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 NATURE PRESERVES**

##### **Consideration of the dedication of the Pond 'Lil Nature Preserve in LaGrange County**

John Bacone, Director of the Division of Nature Preserves, presented this item. Bacone stated that the Pond 'Lil Nature Preserve is within Dallas Lake County Park in Lagrange County. He stated that the proposed nature preserve is owned by the LaGrange County Board of Parks and Recreation and the LaGrange County Commissioners, under the administration of LaGrange County Department of Parks and Recreation.

Bacone stated that the proposed nature preserve is a wetland area with a large natural pond surrounded by a boggy margin. He stated that the plant life contains habitat appropriate for nest sites for sandhill crane, star-nose mole, and Eastern massasauga.

Cameron Clark moved to approve the dedication of the Pond 'Lil Nature Preserve. Vice Chair Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

### **DNR, DIVISION OF FISH AND WILDLIFE**

#### **Consideration of preliminary adoption of biennial wildlife rule amendment package (312 IAC 9); Administrative Cause No. 16-161D**

Linnea Petercheff, Division of Fish and Wildlife, presented this item and highlighted some of the proposals in the rule amendment package. She stated that the Division of Fish and Wildlife (Division) and law enforcement officers review the administrative rules related to hunting, fishing, trapping, and other fish and wildlife associated permits. She stated that the Division initiated a number of rule ideas and topics for public comment in 2016 to start the biennial rule change process. She stated that over 1,600 comments were received both on-line and by regular mail during the months of April and May of 2016. As a result, a few ideas submitted by the Division were dropped.

Petercheff stated that 312 IAC 9-2-16 prohibits the release of captive-bred native and exotic species of mammals, reptiles, amphibians, crustaceans, mussels, and other animals that did not come from the wild in Indiana except as authorized by permit. She stated that 312 IAC 9-3-14.5 allows the hides and carcasses of legally harvested furbearers taken during the season to be kept year-round by hunters and trappers without a special authorization or permit. She stated that the proposed rule amendment to 312 IAC 9-3-14.5 was primarily due to the price of hides and would allow for greater flexibility for hunters and trappers to sell the hides when the sale yields the best price.

Petercheff stated that the deer control permit rule is currently governed by a temporary rule and the Division is requesting that it be made a permanent rule. She stated that 312 IAC 9-10-25 establishes a separate rule for the deer control permit that would specify the requirements for obtaining a permit, the time frame in which the deer could be taken, methods that could be used, and disposition of the deer, including the antlers.

Petercheff stated that 312 IAC 9-10-11, which governs nuisance wild animal control permits, would require raccoons, opossums, and coyotes captured under a nuisance wild animal control permit to be euthanized. She stated that an exception to the permit would be landowners protecting their own land from nuisance animals. She stated that the proposal would allow the capture and release of an endangered species. She stated that from a scientific standpoint the habitats are overpopulated in suburban and rural areas around the state. Petercheff stated that each area of property has a carrying capacity in which a certain number of animals can exist and the Department is considering the welfare of the animals in relationship to people as part of the rule amendment process.

Petercheff stated that 312 IAC 9-3-18.1 authorizes a bobcat hunting and trapping season. There would be a bag limit of one bobcat per person and a statewide quota. She stated that the season would be open in a restricted number of counties in Southern Indiana. She stated that the counties and the quotas would be set in a temporary rule each year.

Petercheff stated that 312 IAC 9-4-11 would add Elkhart, Kosciusko, and Noble Counties to the fall wild turkey firearms season. Amendment to 312 IAC 9-3-19 would add three species of bats to the state's list of endangered species. She stated that because some of the bats can be found in buildings there are provisions that would allow for the safe removal, due to health concerns. She stated that 312 IAC 9-4-14 adds the rufa red knot to the state's list of endangered species of birds and removes the osprey from the list. She stated that the osprey meets the criteria for delisting since 50 or more nesting territories have been documented for more than three years. Ospreys are still protected by state and federal law under the Migratory Bird Treaty Act.

Davis noted that the turkey hunting season is similar to how the otter hunting season started as to opening limited counties and establishing quotas. Davis asked whether Elkhart, Kosciusko, and Noble Counties are the first or the last of the counties to open up for fall wild turkey firearms season.

Petercheff answered that the fall wild turkey firearms season is not open to all counties in the state. There would potentially be more counties that could be added in the future. She stated that the three counties identified are areas where the population of wild turkeys are sufficient to support a firearms season. Petercheff noted that Elkhart, Kosciusko, and Noble Counties are already open for fall archery season and all counties are open statewide for the spring wild turkey firearms season.

Stautz noted that some farms and other areas experiencing issues with woodchucks, and asked whether the Department has received any inquiries.

Petercheff stated that the Department has authority regarding groundhogs and woodchucks, but the animals are classified as "exempted wild animal", which are unprotected and may be taken or possessed at any time without a permit. Chipmunks, mice, and voles are also considered exempted wild animals. She noted that the Department receives calls about groundhogs most frequently from homeowners.

Stautz asked for additional background on 312 IAC 9-2-2, which would allow the hunting of squirrels and other furbearers from a motorized boat as long as the boat is not under power when taking the animal.

Petercheff stated that the amendment summary paragraph for 312 IAC 9-2-2, on page one of the agenda item, is incorrect. She noted that the language "furbearers" was initially added as an amendment, but was then removed to only add "and squirrels". She stated that the Division received a lot of comments against taking furbearers from a boat so that specific language was stricken from the rule amendment package. Petercheff stated that someone hunting from a boat would need consent of the landowner to take a wild animal on a person's property.

Herriman asked whether the Commission will discuss each rule amendment individually, or adopt the rule amendment package in its entirety.

The Chair explained that the Commission would give preliminary adoption to the rule amendment package as a whole. He stated that the biennial rule package is a consensus and consolidation of issues that have been brought forth to the Department.

Herriman asked if the Commission members would be able to provide input on some of the proposed rules and if preliminary adoption starts the process.

The Chair provided a brief explanation of the rule adoption process. He then invited Commission members to ask questions regarding the individual proposed amendments.

Herriman noted that it was mentioned that the bobcat hunting season is being proposed similar to the otter hunting season, which was established to address nuisance otters. He asked whether bobcats have become a nuisance anywhere in Indiana.

Petercheff stated the reason for the proposed bobcat hunting and trapping season is not due to the any nuisance type situation. She explained that there have been some conflicts reported between bobcats and landowners who own chickens, lambs, or other small farm animals.

Herriman noted that Kentucky and Michigan have a bobcat hunting season, but asked whether Ohio and Illinois have similar hunting seasons.

Petercheff stated that Ohio does not have a bobcat hunting season, but she stated that Iowa, Illinois, Kentucky, and Michigan have a bobcat hunting season. She said most states start with a quota system, but noted that Iowa has since lifted its state quota. Petercheff stated that Kentucky established its season in 2010 and allows the taking of 2,000 bobcats annually. Michigan has a bobcat season with a bag limit of two bobcats and about 700 bobcats are taken each year. Illinois established a bobcat season in 2016 with 141 bobcats harvested. Petercheff explained that Illinois has a lottery system and issued 500 permits. She noted that Ohio is the only surrounding state that does not have a bobcat season.

The Chair opened the floor for comments and recognized Kristin McIlwain.

Kristin McIlwain, a resident of Marion County, stated that she is an attorney and a volunteer advocate for the Humane Society of the United States (HSUS), but noted she was offering comments on her own behalf. McIlwain stated that she is opposed to a hunting season for bobcats. She said that wildlife is held in the public trust and that it should be managed for the benefit of all and not just for a few people who want to profit from the hunting. She stated that commercializing an entire species of wildlife is wrong, considering that there is no scientific information to support the action. She questioned the necessity of a bobcat hunting season. She stated that trapping and hunting bobcats is not a time honored tradition in Indiana; has been illegal for 50 years; and should remain illegal. McIlwain stated that bobcats are not overpopulated; they do not cause conflicts with humans; they do not threaten public safety; and conflicts with livestock are extremely rare. She also noted that legal measures can currently be

taken when bobcat conflicts do occur. She stated that there is no reason to open a recreational hunting season on Indiana's only native wild cat and requests that there not be a season to hunt bobcats.

The Chair recognized Rebecca Kaiser.

Rebecca Kaiser stated that she was with South Bend Animal Care and Control and a volunteer with the HSUS. Kaiser stated that for the last three years she has written local ordinances for South Bend and St. Joseph County. Kaiser stated, "before anyone thinks 'tree hugger,' I'm probably the most logical animal advocate...I'm a carnivore...I have also hunted." She stated that she follows three rules when writing an ordinance: (1) is the ordinance for the greater good of the majority or does it just help a small minority of people? (2) is the ordinance a step forward or is it a step backward? (3) "If I'm going to kill it, am I going to eat it?" She opined that opening a bobcat hunting season is a step backwards, and "we all know that there probably hasn't been bobcat stew served in Indiana since the early 1800s." She requested that bobcats should be protected a little longer until a scientific study has been completed. Kaiser stated that she is adamantly opposed to traps that involve foot cages or snares. She asked the Commission not to give preliminary adoption to the proposed bobcat hunting season.

The Chair recognized Anne Sterling.

Anne Sterling introduced herself as the Midwest Regional Director for the HSUS, but noted she was not speaking on behalf of the HSUS. She asked the Commission to vote against the preliminary adoption of the rule amendment package that would allow a bobcat hunting season. She stated that there is a strong outcry against the hunting of bobcats. She noted that comments against a bobcat hunting season outweighed the comments received in favor of a bobcat hunting season four to one. Sterling stated that according to the U.S. Fish and Wildlife Service's 2016 study the number of wildlife watchers has increased while the number of hunters has decreased. She stated that individuals should not be able to profit while depriving the greater public of the bobcat. Sterling stated that she and her family are hikers and trail riders who spend a lot of time at the parks but have never seen a bobcat. She stated that the bobcat is not dangerous and adds to the experience of nature.

The Chair recognized Erin Huang.

Erin Huang, HSUS State Director, stated that the HSUS is opposed to a hunting season for bobcats in Indiana. She stated that the bobcat was once plentiful in Indiana, but was nearly wiped out due to hunting and trapping laws. Huang stated that bobcats were granted protection in 1969 when they were placed on the endangered species list and were protected until 2005. She stated that the bobcat population is still recovering, and bobcats are a treasured and rare addition to the landscape of Indiana. Huang stated that the commercialization of the bobcat and private profiting from the taking of bobcats would deprive the public from seeing the bobcat in the wild.

Huang stated that bobcats are small in size and go out of their way to avoid contact with humans. She stated that according to the Department's own information there is no evidence that bobcats have preyed on pets and conflicts with livestock are rare. Huang stated that the Department

should focus on appealing to non-consumptive users instead of creating an economy for trappers who want to exploit wildlife for personal gain. Huang stated that bobcats are not killed for their meat, but primarily to obtain a trophy or sell the pelts for profit. She stated that a hunting season for bobcats would result in undue pain and suffering for the bobcat. She stated that using traps or dogs to chase bobcats is unsporting. She stated that there is not enough scientific data on the bobcat and it is not reasonable to call for a hunting season. Huang stated that the HSUS is urging the Commission to reject a proposed hunting season for bobcats, which are Indiana's only native wild cat.

The Chair recognized Cheryl Strong.

Cheryl Strong stated that she is a resident from Lafayette Indiana who loves wildlife. She stated that killing animals for fun is violent, morally disturbing, and trophy hunting is a cowardly act of entertainment where animals die a slow and painful death. She noted that society was outraged over the death of Cecil the lion in the Hwange National Park in Matabeleland North, Zimbabwe. Strong stated that society would prefer to see animals in the wild instead of a trophy on a wall.

The Chair recognized Bob Hammerle.

Bob Hammerle stated that he is resident from Indianapolis and a historian. Hammerle stated that protecting the bobcat means that Indiana is protecting part of history. He noted that the first explorers killed species of animals to extinction or near extinction to eat or for their fur. He also noted that the last passenger pigeon died in a zoo in Cincinnati, Ohio in 1927. Hammerle said that beaver and the buffalo were also killed to near extinction, and history is repeating itself in regards to the proposed bobcat hunting season. Hammerle stated that if there is a hunting season for bobcats, then a museum will be the only place someone will be able to take their children to see the bobcat.

The Chair recognized Tim Maloney.

Tim Maloney, Senior Policy Director of the Hoosier Environmental Council (HEC), stated that the HEC supports the proposed addition of 312 IAC 9-3-18.8, which would recognize the black bear as a native species in Indiana. Maloney stated that HEC also supports the unfortunate need to list more native species of bats to the State's list of endangered species at 312 IAC 9-3-19. "For example, the little brown bat...used to be one of our most abundant bats and it is evidence of the toll white nose syndrome has taken on bats." Maloney stated that bats are important to the environment and our economy. He noted that studies estimate the value of bat species to American agriculture, in terms of pest control, anywhere from \$4 billion to \$53 billion annually, which does not include bats' impact on forest pests.

Maloney stated that the HEC opposes a bobcat hunting and trapping season at 312 IAC 9-3-18.1. He stated that the HEC urges the proposal be withdrawn from the rule amendment package. Maloney stated the information on the recovery of the bobcat is anecdotal and there is still more that needs to be studied and learned about the bobcat. He stated that there needs to be a more comprehensive study on bobcats, their habitat, and prey availability. He stated that there is more

value to viewing a bobcat than there is to be gained from hunting the bobcat. Maloney said there is no supporting evidence that the bobcat is ready to be returned to game hunting status.

The Chair recognized Fred Philips.

Fred Philips, President of the Indiana State Trappers Association, Inc. (ISTA), stated that he is a veterinarian in Rush County and has stitched up wounds on several dogs who have been in contact with bobcats. He stated that the hunters and trappers pay the fees that support the Department and similar organizations in the United States. Philips stated that the ISTA is in support of 312 IAC 9-3-18.1 that would authorize a bobcat hunting and trapping season. Philips stated that logical thinking would suggest that if there are more accidental incidents of bobcats getting caught in traps that there have to be more bobcats. Philips stated that the ISTA offer several classes to educate people on correct trapping methods, and does everything it can do for the welfare of the animal being trapped. He noted that because of a 24-hour check law animals do not go for long periods of time caught in traps. Philips stated that bobcats are caught in box traps, which means the bobcat could be released back into the wild unharmed. Philips stated that those walking, hiking, and biking on public lands pay no user fee. He stated that the trappers in the 1980s worked hard to bring otters back into Indiana and that the trappers should be able to benefit from their work in animal conservation. Philips stated that the ISTA members who buy licenses and pay fees would like the bobcat hunting and trapping provision included in the proposed rule amendment package.

The Chair recognized Charlie Masheck.

Charlie Masheck, owner of Hoosier Trapper Supply, stated that his company works with hunters and trappers, and noted that the hunters and trappers have reported an increase in the number of sightings and encounters with bobcats. "Rarely a day goes by during the hunting season where someone doesn't come in and say that they have seen a bobcat." Masheck stated that what is being proposed is a regulated hunting season and not the extermination of a species, which no one would want. He noted that a good example would be the otter season that has a sustainable harvest. Masheck stated that trapping methods and training have improved over the years, and the traps are not devices that cause undue pain and suffering. Masheck stated that he supports a bobcat hunting and trapping season.

The Chair recognized Barb Simpson.

Barb Simpson stated that she is a current volunteer and past Executive Director of the Indiana Wildlife Federation (IWF). Simpson indicated she was speaking on behalf of the IWF, and that the IWF supports hunting, trapping, and fishing. She stated that the IWF Policy Committee has not had a chance to review the proposed rule amendment establishing a bobcat hunting and trapping season.

Simpson stated that the IWF has a concern about the proposed rule amendment at 312 IAC 9-11-2, which would remove the reference to compliance with IC 14-11-4. She explained that due to the statutory change in 2016 notice is no longer required to adjacent landowners to possess a Class III wild animal. Simpson stated that IWF's primary concern involves the possession of

venomous reptiles. Simpson stated that dropping the notification requirement causes a public safety concern. She stated that this amendment is not in the public's safety and best interest. Simpson stated that the IWF would like to see the language in proposed rule 312 IAC 9-11-2 further amended.

The Chair thanked all those who spoke. The Chair reminded the Commission that the biennial wildlife rule amendment package is being considered for preliminary adoption. He stated that rule adoption process provides avenues for additional input from the public.

Bruce Walkup asked whether the Department had an accurate estimate of the number of bobcat in Indiana.

Scott Johnson, Wildlife Science Program Manager with the Division of Fish and Wildlife, stated that the Division does not conduct population counts for most animal species (including bobcats) in Indiana. He noted that there is no accurate data on the bobcat population.

Cameron Clark moved to approve preliminary adoption of biennial wildlife rule amendment package as presented. Brian Rockensuess seconded the motion. Upon a voice vote, the motion carried with Bart Herriman dissenting.

#### **NRC DIVISION OF HEARINGS**

#### **Consideration of report on rule processing, public hearing, and Hearing Officer analyses with recommendations regarding final action of rule amendments adding 312 IAC 29 governing oil and gas well activities and repealing 312 IAC 16; LSA Document #16-531(F); Administrative Cause No. 15-073G**

Sandra Jensen, Hearing Officer, presented this item. She stated that the proposed rule amendment would repeal 312 IAC 16, which provides standards governing oil and gas, and add 312 IAC 29 to govern the same subject matter.

Jensen stated that the Department was granted an exception from the moratorium on rulemaking allowing the Commission to give preliminary adoption of the rule amendment package on May 12, 2016. Jensen stated that the Notice of Intent was posted on June 15, 2016 and since that time all statutorily required processes have been completed. She stated that both the Office of Management and Budget and the Indiana Economic Development Corporation have approved of the rulemaking.

Jensen stated that the One-Year Requirement notice was posted in the Indiana Register on February 15, 2017 granting the Commission until February 9, 2018 to complete the rulemaking process. She stated that in this instance it was necessary to extend the time to complete the rulemaking process.

Jensen stated that public comments were received in writing between May 12, 2016 and June 9, 2017. She stated that two public hearings were conducted, one on April 24, 2017 and the other

on April 25, 2017. Jensen noted that the Commission's current rules governing oil and gas (312 IAC 16) have been essentially unchanged for at least 25 years. She explained that during that intervening time industry specific technology has significantly advanced. She also noted that there have been statutory amendments and enactments that are not addressed in 312 IAC 16. Jensen stated these enactments highlight the need for additional regulations in the Administrative Code to provide the Department with implementation standards.

Jensen stated that the Division of Oil and Gas carefully considered all the public comments and agreed that certain revisions were appropriate. She stated that the public comments are found at Exhibit B and the Department's responses are included as Exhibit C of her report. Jensen stated that once the rule language is posted by the Legislative Services Agency (LSA) the rule language cannot be revised except in a limited way. She stated that the Commission may adopt a revised version of the rule in accordance with IC 4-22-2-29(b)(4), but the revised version cannot substantially differ from the published version unless the revision is a logical outgrowth of the proposed rule as supported by any written comment submitted during the comment period.

Jensen noted that certain LSA recommended revisions are non-substantive and should be made to the rule. These revisions include alterations for consistent word usage, punctuation, and formatting correction identified. The non-substantive amendments are listed on page seven of the Hearing Officer's Report.

Jensen stated that she also does not view the revisions resulting from public comments as significant, but, in any event, the revisions are a logical outgrowth of the original rule, as published, and are supported by written comments. Jensen stated that she would offer the proposed rule amendments, as revised, attached as Exhibit D, for final adoption.

Smith emphasized that the proposed rule amendments offered because there has not been a comprehensive change to the oil and gas rules for over 25 years. He stated that in 2005 the State Review of Oil and Natural Gas Environmental (STRONGER) conducted a review of Indiana's oil and gas program. Smith stated that STRONGER found most rules are in compliance. He noted that STRONGER indicated areas of noncompliance, which have been addressed in the proposed rule package. He stated that STRONGER is a peer review, of which the Hoosier Environmental Council is a part. Smith stated that other amendments are attributed to the advancement of technology, such as horizontal oil drilling and hydraulic fracturing, which were under emergency rules. He noted that the propose rule amendment would make permanent those temporary rules. Smith stated that with the adoption of 312 IAC 29, the Division of Oil and Gas hopes to establish clear guidelines and regulations.

Cameron Clark moved to give final adoption to 312 IAC 29 governing oil and gas well activities, as revised and presented in Exhibit D, along with the repeal of 312 IAC 16. Jane Ann Stautz seconded the motion. Upon voice vote, the motion carried.

**Consideration of report on rule processing, public hearing, and Hearing Officer analyses with recommendations regarding final action of rule amendments governing fisheries (312 IAC 9); LSA Document #17-262(F); Administrative Cause No. 16-145D**

Dawn Wilson, Hearing Officer, presented this item. She stated that the biennial amendment to the Division of Fish and Wildlife fisheries rules would amend general fishing rules, and the rules governing sport and commercial fishing. She stated the proposal includes the addition of a definition for “aquatic life” (312 IAC 9-1-3.2) and an amendment to the definition for “minnow trap” (312 IAC 9-6-1). She explained that the rule amendments, if adopted, would also require the tagging of fishing equipment left unattended (312 IAC 9-6-5), open a section of Trail Creek and the Little Calumet River for fishing year-round (312 IAC 9-6-6), and restrict the gifting of fish to a pay lake (312 IAC 9-6-12).

Wilson stated that on May 16, 2017, the Commission granted preliminary adoption of the proposed rule amendment. Wilson stated that all required approvals have been obtained throughout the process, and the Division of Hearings has maintained the rulemaking docket, accessible on the Commission’s Web site, to include the appropriate documentation as required by rule and executive order.

Wilson stated that the Economic Impact Statement was submitted to the Indiana Economic Development Corporation Small Business Ombudsman as required under IC 4-22-2.1-5. She noted that the Ombudsman’s response is incorporated on page six of the Report.

Wilson stated that following the publication of the Notice of Intent on May 24, 2017, LSA posted the proposed amendment. She stated that thereafter, a deadline was set to submit public comments through the rulemaking docket or by regular mail by the end of day August 18, 2017. She stated that six comments received through the rulemaking docket and a single written comment that was presented during the public hearing are included in the Report as Exhibit A. Wilson stated that no written comments were received by the Division of Hearings through U.S. First Class mail.

Wilson stated that on August 17, 2017, a public hearing was held at the Plainfield Public Library. Summaries for both of the oral comments presented during the public hearing are included in the Report beginning on page 12. Wilson stated that minimal comments were received concerning this proposed rule amendment, with multiple comments supporting approval of the proposal generally or supporting the revision of specific rule sections, as proposed.

Wilson stated that the Department’s Division of Fish and Wildlife responded to comments and the response is included in the Report as Exhibit B. She stated that the Division’s response offered research and data to support the elimination of the closure of two streams in 312 IAC 9-6-6 for fishing resulting in year round fishing in those streams.

Wilson stated that in response to one written comment the Division recommended a revision to the language proposed in 312 IAC 9-8-6 to provide clarity regarding the requirements of the monthly harvest reports for Ohio River commercial fishing license holders. She stated that the revision is recommended as a logical outgrowth of the proposal.

Wilson stated that, for accuracy, the Division response recommended further revision to the proposed rule amendment to change the location to “Fidler Pond”, rather than “Fidlers Pond” within 312 IAC 9-7-3(e)(1), 312 IAC 9-7-6(i)(8), and 312 IAC 9-7-14(e)(2).

Wilson stated that the LSA also recommended minimal revisions to the proposed rule amendments for stylistic alignment with the Administrative Rules Drafting Manual and internal consistency within the rule itself.

Wilson stated that the Hearing Officer's Report includes all recommended revisions within the rule proposal as attached Exhibit C. She then recommended final adoption of the proposed rule amendments. Wilson stated that Linnea Petercheff with the Division of Fish and Wildlife, was appointed as the Small Business regulatory Coordinator and was present at today's meeting.

Herriman asked regarding the science supporting the elimination of the slot limit for largemouth bass in certain areas and amending the limit to 14 inches slot limit in other areas.

Steve Donabauer, the Fisheries Management Program Manager with the Division of Fish and Wildlife explained that the largemouth bass slot limit was eliminated on lakes located in the Hoosier National Forest and Shakamak State Park to address the introduction of gizzard shad in these lakes. Donabauer said that gizzard shad disrupt the echo system, and the increase in the largemouth bass population is needed to help reduce the gizzard shad population by predation, which in turn will benefit the bluegill population by reducing interspecies competition. He also explained that increased gizzard shad predation is the Department's only feasible method to support bluegill fisheries at these lakes. He stated that the idea is to protect smaller Largemouth Bass.

John Wright moved to give final adoption of rule amendments to 312 IAC 9 governing fisheries, as presented. Cameron Clark seconded the motion. Upon voice vote, the motion carried.

**Consideration of approval of amendment to nonrule policy document, Information Bulletin #23, governing personal property found on Department of Natural Resources properties; Administrative Cause No. 17-066A**

Sandra Jensen also presented this item. She stated the Incident Report Form that is used by Department properties was amended and as a result has a different form number. She stated that on page three of the information bulletin the form number is amended to reflect the updated form. She noted that the nonrule policy document is being amended to reflect the accuracy of the applicable form.

Brian Rockensuess moved to approve the amendment to nonrule policy document, Information Bulletin #23, governing personal property found on Department of Natural Resources properties. Bruce Walkup seconded the motion. Upon voice vote, the motion carried.

**Adjournment**

The meeting was adjourned at approximately 11:21 a.m., EDT.