

**Minutes of the February 18, 2004 Joint Meeting of the  
Advisory Council for the Bureau of Water and Resource Regulation  
and the  
Advisory Council for the Bureau of Lands and Cultural Resources**

**Members Present for the Advisory Council for the Bureau of Water and Resource Regulation**

Raymond McCormick  
Thomas Fischer  
Ellen Jacquart  
Don VanMeter  
Donald Mann  
William Pippenger  
Charles Amlaner  
William Wert

**Members Present for the Advisory Council for the Bureau of Lands and Cultural Resources**

Lester Ponder  
Robert Scherle

Meredith Richmond

**Call to Order**

Raymond McCormick, Chair of the Advisory Council for the Bureau of Water and Resource Regulation, called the meeting to order at approximately 10:08 a.m. With the presence of eight members of the Advisory Council for the Bureau of Water and Resource Regulation, he observed a quorum. A quorum was not present for the Bureau of Lands and Cultural Resources.

**Approval of Minutes of Joint Meeting of December 16, 2003**

Lester Ponder moved to approve the minutes of the December 16, 2003 joint meeting of the Advisory Councils. William Pippenger seconded the motion. Upon a voice vote, the motion carried.

**Report of Proceedings of the Natural Resources Commission**

Raymond McCormick reported upon key agenda items considered during the January 20, 2004 meeting of the Natural Resources Commission.

### **Election of Chair and Vice Chair of the Advisory Council for the Bureau of Lands and Cultural Resources**

This item was deferred because a quorum of the members was not present.

### **Election of Chair and Vice Chair of the Advisory Council for the Bureau of Water and Resource Regulation**

Donald Mann nominated Raymond McCormick as Chair and Donald VanMeter as Vice Chair. Charles Amlaner seconded the motion. There were no further nominations. Upon a voice vote, the two officers were elected unanimously.

### **Consideration of Recommendation for Preliminary Adoption of New Rule to Assist with the Registration of Off-Road Vehicles and Snowmobiles; Administrative Cause No. 04-007A (LSA Document #04-3)**

Major Samuel Purvis of the Division of Law Enforcement presented this item. He said for consideration was a recommendation to adopt 312 IAC 6.5 to govern the registration of off-road vehicles and snowmobiles. Included was a proposed fee schedule. Purvis indicated this program is being administered primarily through the Division of Accounting and employs the Internet to achieve registration with the aid of retailers. Currently, an emergency rule approved by the DNR Director is the legal basis for the program, and this rule amendment would make the emergency rule permanent.

Meredith Richmond moved to recommend that the Natural Resources Commission give preliminary adoption to 312 IAC 6.5. Ellen Jacquart seconded the motion. Upon a voice vote, the motion carried.

### **Consideration of Recommendation for Preliminary Adoption of Lake Manitou, Fulton County, Watercraft Ecozones Rule; Administrative Cause No. 03-069L**

Major Samuel Purvis introduced this item. He said the proposal would establish a zone of approximately 43 acres within Lake Manitou to protect a significant reed bed. Within the zone, watercraft would be restricted to those without motors or with trolling motors. In addition, amendments would establish a 100-foot idle zone, along a wetland on the south side of the lake, which is a dedicated nature preserve.

Purvis praised the efforts of local citizens in advancing the cause of environmental protection within and along the lake. He said former DNR biologist, Jill Hoffman, had a major role in developing the concept, and he thanked John Bacone, Lee Casebere, and Bob Robertson for their efforts. The latter employees also spoke in favor of the proposal.

Steve Coplen, Vice President of the Lake Manitou homeowners association, spoke in favor of the concepts. He said there was great local interest in protecting Lake Manitou from water quality degradation, and he said efforts were underway to accomplish this end in the watershed as well as the lake itself.

Members of the Advisory Council questioned the wisdom of allowing the use of trolling motors within the reed bed. Thomas Fischer noted his boat has a trolling motor, and the motor can cause serious disturbance to aquatic plants. Several other members indicated their agreement with this concern.

Thomas Fischer moved to recommend the Commission give preliminary adoption to a new rule section that would establish (1) a 43-acre protection zone for the reed bed in which all motors were prohibited; and (2) a 100-foot idle speed zone adjacent to the wetlands on the south side of the lake. He included a provision that the 43-acre zone would be terminated after three seasons unless extended by the Commission. Ellen Jacquart seconded the motion. Upon a voice vote, the motion carried.

#### **Consideration of Recommendation for Preliminary Adoption of Rule Amendments for Oil and Gas Fees to Comply with 2002 Statutory Amendments; Administrative Cause No. 04-022G**

Michael Nickolaus, Director of the Division of Oil and Gas, presented this item. He said the amendments would conform rules governing the drilling of petroleum production wells to recent statutory changes regarding fees. In addition, the site survey for a drilling permit would require well location using UTM coordinates.

Don Van Meter moved to recommend Commission approval to amendments to 312 IAC 16 regarding fees and the required use of UTM coordinates as sought by the Division of Oil and Gas. William Pippenger seconded the motion. Upon a voice vote, the motion carried.

#### **Consideration of Recommendation Regarding a Request by James R. Pate, Jr. for an Easement for an Access Road across Morgan-Monroe State Forest**

John Friedrich of the Division of Forestry introduced this item. He said James Pate, Sr. has had oral permission from the Division, for several decades, to use a roadway across Morgan-Monroe State Forest for access to an otherwise landlocked parcel of real estate. James Pate, Jr. and his siblings now seek to formalize the agreement with a written document. Friedrich said the Division of Forestry opposes the request because (1) the NRC guidance seeks compensation for such a transaction (and Pate was offering none), and (2) upgrading the road would require an archaeological survey and clearance.

James Pate, Jr. asked the Advisory Councils to recommend approval of his request. He said if the request were not granted, the DNR would be damaging the value of his property. He said he did not wish to obtain a legal description of the easement, hire an attorney to assist him, pay for an archaeological survey, or pay the DNR to obtain a written easement.

Raymond McCormick observed that for the recordation of a written easement, a legal description would be required. John Davis, Deputy Director, reflected that the Pates own real estate that is landlocked, and there are limitations to its value for this reason. He suggested the Pate family needs to either negotiate for the sale of the land, negotiate to acquire firm access rights, or work within the current informal consensual arrangement.

Thomas Fischer moved to recommend denial of the request by James Pate, Jr. and to require, as a prerequisite for consideration of a formal easement across Morgan-Monroe State Forest, that Pate: (1) offer appropriate compensation for the easement; (2) obtain a legal survey of land to be included in the easement; and, (3) obtain an archaeological survey for any land that might be disturbed by activities associated with the easement. William Wert seconded the motion. Upon a voice vote, the motion carried.

### **Consideration of Recommendation for the Declaration of Surplus Land and Buildings at the Bailey Tract**

John Bacone, Director of the Division of Nature Preserves, explained this item. He said the DNR had entered into an arrangement with the Little Calumet River Basin Commission to develop, in conjunction with the U. S. Army Corps, a site for wetlands mitigation. Located on the site is the Bailey home that dates to the 1840s and is viewed as historically significant. Paul Ehret noted that Jon Smith, Director of the Division of Historic Preservation and Archaeology, stated his belief that the home would readily qualify for listing on the National Register of Historic Sites. The DNR seeks to have the site declared surplus so that it can be sold and managed, with covenants to assure its historic preservation, as an historic building.

Meredith Richmond moved to recommend to the Commission that the Bailey home and contiguous historically significant improvements be declared surplus, for sale to a buyer, with restrictive covenants as appropriate to the protection of this historic site. Don Van Meter seconded the motion. Upon a voice vote, the motion carried.

### **Consideration of Recommendation for Approval of Invasive Species Nonrule Policy Document for DNR Property Holding Divisions; Administrative Cause No. 04-021E**

Robert Waltz, Director of the Division of Entomology and Plant Pathology, presented this item. He said for consideration was a proposed nonrule policy document to help guide DNR property managers concerning monitoring, control, and use of invasive or

potentially invasive species on DNR properties. Waltz then distributed a version of the document that was amended from the version in the Advisory Councils' packet.

Donald Mann praised the effort but noted that historically a primary participant in the introduction of invasive species has been the DNR. He pointed out several exotic species in the golf course adjacent to the meeting room. Waltz responded that a purpose for this document was to help assure that invasive species were not introduced by the DNR in the future. Ellen Jacquart added that a distinction should be made between invasive and non-invasive exotic species.

After an extended discussion by the Advisory Council, Don VanMeter moved to recommend approval of the nonrule policy document to the Commission but with the following modifications:

- (1) In the comment on the last line, the word "should" is replaced by the word "shall".
- (2) In enumeration 7), the word "may" is replaced by the word "must".
- (3) An approved list of species and a prohibited list of species are developed to aid in the consistent administration of the document.

William Pippenger seconded the motion. Upon a voice vote, the motion carried.

### **Information Item: Invasive Species Initiative Department Review Update**

Robert Waltz updated the Advisory Councils on the broad-based initiatives to address efforts to control invasive species within Indiana. He noted there were separate tracks for properties under DNR control and for those under private control. Paul Ehret, Deputy Director, underlined the importance of these initiatives and reflected upon the problem as one of growing intensity.

### **Information Item: Dog Running on DNR Properties**

John Davis, Deputy Director, introduced this item. He said dog running or dog training has taken place for many years on Reservoir, Forestry, and Fish and Wildlife properties for many years. The agency is considering to what extent these activities should be limited, and this subject has been considered in three legislative study committees. Davis said the agency is seeking input from the Advisory Councils as to how this important topic should be addressed, although this item is primarily to help broaden understanding and is not an action item. He said he had suggested that seven or eight properties, geographically dispersed, could be reserved for dog running during spring and summer months. This number is out of 27 properties potentially available, and the restrictions would occur beginning with the 2005 season.

Glen Salmon, Director of the Division of Fish and Wildlife, emphasized the sensitivity of the discussions to user groups and in terms of resource protection. He introduced Mark

Reiter, Wildlife Staff Specialist, and expressed the hope that the day's discussions would ultimately assist the agency with rule adoption.

Reiter said the primary concern for wildlife biologists was with the adverse impact believed caused by dog running on upland game species (birds and small mammals) where those activities take place between mid-April and mid-August, the "peak breeding and nesting seasons". He said the intuitive view of DNR biologists was that allowing dog running during this period did have an adverse impact on upland game species, and he said neighboring states prohibited the activities during this period. Reiter said he hoped the Advisory Councils would support efforts of the wildlife biologists to "do their jobs" and prohibit dog running between mid-April and mid-August.

Charles Amlaner said he believed data could be found in Indiana or in other jurisdictions to support the proposition presented by Reiter. He said the agency needed to have more than "what is intuitive" to act. "We have to be data driven."

William Wert asked what fraction of the total wildlife habitat on the mentioned properties was available for dog running. Reiter said he did not have specific statistics but made a rough estimate of 10%.

Paula Yeager, Executive Director of the Indiana Wildlife Federation, spoke in favor of limiting dog running on these DNR properties. The primary purpose for these properties was to support wildlife populations, and a secondary activity that could have adverse impacts on wild animals should be controlled.

Dick Mercier of the Sportsmens Roundtable said he was "not sure there is any proof that running dogs has a negative impact" on wildlife. He said dog-running enthusiasts were only asking for the ability to use seven or eight properties for dog running between mid-April and mid-August, and even on these properties, only a small fraction would be used for this purpose. He emphasized that field trials on horseback were not included in the proposal because of concerns for the impacts of horses on wildlife habitats.

Several other sportsmen and sportswomen addressed their concerns. Bob Shipley said he believed there should be scientific data to support a limitation on dog running, and that data had not been demonstrated. Carla Bare, a high school science teacher with a Masters in natural resources, emphasized the importance of dog running for youth in the community. She recommended a pilot study on dogs that trail birds. Carly Searles, a high school senior who will attend Vincennes next year, said she hoped the dog running opportunities would continue. She noted that she took her dogs running about three times weekly in the summer. Jack Hyden of the Indiana Beagles Alliance said he doubted the existence of data that would support a prohibition on dog running in the spring and summer. Of 176,000 acres of state lands in Indiana, only 5,000 were available for dog running, and he asked that this number not be reduced. At a minimum, eight properties should be kept open as discussed with the DNR during the summer study meetings. Susan Steffey said she trains dogs as a hobby, but does not hunt, and the months being considered for closure are essential to her preparation of dogs for showing. Mike

Jackson, a bird dog enthusiast, said he believed Dr. Rick Carlisle, a noted wildlife expert, would have pertinent data. Scott Langohr, Elkhart County Beagle Club, said his experience is that dog running serves as a deterrent to predators such as coyotes and raccoons that exceeds the adverse impact to wild animals.

Charles Amlaner said that, before the agency takes any action concerning restrictions on the current practices regarding dog running, he believed data should be developed:

- (1) From all sides of the discussion concerning the impact of dog running on wildlife.
- (2) As to whether rotating the areas available for dog running would lessen any adverse impacts.
- (3) To clarify whether the period of mid-April to mid-August was truly the sensitive period for wildlife impacts.
- (4) The extent to which the activity of dog running resulted in habitat damage, including damage to plants.
- (5) To balance the increase in damage that might result by focusing usage in particular geographic areas rather than having dispersed usage of a greater option of areas.
- (6) To identify the impact dog running may have on non-consumptive users of the properties.

Don VanMeter said he believed it was important to identify the value to be served by depriving dog runners of a usage they have enjoyed for many years. He said it was entirely appropriate for wildlife biologists to require serious inquiry where their intuition caused them to believe an activity was damaging wildlife resources. That intuition should form the basis for data collection and analysis in anticipation of possible actions, rather than a basis for actions themselves. Supporting small game species is a laudable goal, but there needs to be a showing of cause and effect.

Meredith Richmond urged that all the interested parties work together. Having good habitat and viable wildlife populations was in the best interests of all concerned. Decision-making needed to be based upon good science.

Ellen Jacquart expressed an interest in understanding the impacts on non-game species of wild animals. She said focusing studies on species that were at risk would likely provide a better test of the consequence of dog running than on species that were already in reasonably good shape.

John Davis and Glen Salmon thanked the citizens who took time from their workdays to offer perspectives and to the Advisory Councils for their insights on possible future directions.

### **Citizen Comment regarding Development at Tillery Hill, Patoka Lake**

Bernie Fallon reflected that the Natural Resources Commission had previously authorized the development of Tillery Hill at Patoka Lake. The development was not ultimately

pursued. He said that with the authorization of casinos in Orange County, and with the improvement of state highways to Patoka Lake, the time was now appropriate for revisiting a development at this site. He urged the Advisory Councils and the Commission to take up this subject.

### **Adjournment**

At approximately 3:15 p.m., the meeting was adjourned.

### **Next Meeting**

The next meeting was scheduled for April 22, 2004 at 10:00 a.m. at the Park Office, Fort Harrison State Park, Lawrence.