

**NATURAL RESOURCES ADVISORY COUNCIL**  
**Minutes of the August 15, 2007**

**MEMBERS PRESENT**

Patrick Early, Chair  
Donald Van Meter  
John Bassemier  
David Lupke  
Jim Trachtman  
Rick Cockrum  
Phil French  
Tom Rethlake

**DEPARTMENT OF NATURAL RESOURCES STAFF**

Ron McAhron	Executive Office
John Davis	Executive Office
Charles White	Executive Office
Ryan Hoff	Executive Office
Jim Hebenstreit	Water
Glen Salmon	Fish and Wildlife
Bill James	Fish and Wildlife
Bruce Plowman	Fish and Wildlife
Steve Hunter	Law Enforcement
Zach Matthews	Law Enforcement
John Cannarella	Law Enforcement
Corey Norrod	Law Enforcement

**NATURAL RESOURCES COMMISSION STAFF**

Jennifer Kane

**GUESTS**

Jerry Moll	Don LeCount
Jack Hyden	Chris Powell
Dick Mercier	James Heasley
Jack Corpuz	Doug Allman
John Goss	

**Call to Order**

Patrick Early, Chair, called the meeting to order at 10:30 a.m., EDT in the College Avenue Branch Public Library, 4180 North College Avenue, Indianapolis, Indiana. With the presence of eight members, the Chair observed a quorum.

The Chair welcomed Rick Cockrum and Phil French, the two newest members, to the Natural Resources Advisory Council.

John Basssemier moved to approve the minutes of the meetings held on March 13, 2007, April 10, 2007, and June 13, 2007. Jim Trachtman seconded the motion. Upon a voice vote, the motion carried.

### **Information Item – Status of Paddlefish on the Ohio River**

The Chair announced that the Advisory Council would deviate from the posted agenda in order to “not hurry” through the discussion of the rule proposal to extend the dog running season. The Chair indicated that the DNR’s Division of Law Enforcement would make a presentation on the paddlefish issue on the Ohio River. The Chair asked John Davis, Deputy Director for the Bureau of Lands, Recreation, and Cultural Resources, to update the Council.

John Davis explained the Division of Law Enforcement and the Division of Fish and Wildlife would provide the details and recommendations concerning the paddlefish issue. He indicated that Director Carter, upon recommendations from staff, would “exercise his ability to issue” a temporary rule, which would be effective for one year. Davis explained a temporary rule would be a “stop gap” to implement rule amendments “that we feel need to be made right now, and give us time in the following months to write a permanent rule.” Davis said the Department is cooperating with other states, and “we are presenting our position and hoping that their position mirrors ours.”

Bill James, Chief of Fishery, Division of Fish and Wildlife, noted that Director Carter requested a presentation be made to the Council regarding the “emerging emergency paddlefish issue on the Ohio River.” He said the paddlefish is an “ancient fish; it has been around a long time.” James said that the paddlefish is a “cartilaginous” filter feeder, can mature to five feet long, and weigh 100 pounds. “The sports fishermen don’t normally catch [the paddlefish] on baited hook. The commercial fishermen have been targeting [the paddlefish] for a long time for the meat, but in more recent years [paddlefish] has come to be highly valued for their eggs.” James said there is a “growing caviar market” for paddlefish because the “global caviar market has really changed.” He explained the global caviar sources are in Eastern Europe in the Caspian Sea Region, and “pollution and over fishing has depleted” the fishery. “The pressure is on North American fish to find substitute caviar”, which includes the paddlefish in the Mississippi Drainage and in the Ohio River. He said that Indiana, Ohio, and Kentucky allow paddlefish to be taken with a commercial fishing license.

James said commercial fishing rules for paddlefish exist, “but we believe that with the increasing pressure, those regulations are inadequate.” He said DNR has been working with “our partner states to better understand the life history, the population status, and the use of paddlefish.” James said that amendments to the permanent commercial fishing rules were to be proposed within the next couple years; however, the results of a two year

undercover investigation “triggered...an emergency status.” Bill James then invited Detective Sergeant John Cannarella with the Division of Law Enforcement to make presentation to the Council regarding the investigation.

Cannarella explained that in October 2005 the Department received information that “we had a lot of commercial fishermen from Tennessee and Arkansas coming up to Indiana to fish the Ohio River. A lot of these commercial fishermen had lengthy criminal records as far as in the fish and wildlife violation arena.” He noted that Tennessee enacted “more strict” paddlefish regulations causing the commercial fishermen to “take the opportunity” to fish “in a state” with less strict rules, such as Indiana and Kentucky, which do not have size or season limits. Cannarella said that the Division of Law Enforcement initiated an undercover investigation, and through this investigation “20 defendants were charged with various penalties for wildlife violations.”

Cannarella said that depending on the equipment used and the time of the year the take of paddlefish can be “pretty successful. The average price that is paid to a fisherman is anywhere from \$80 to \$100 per pound” of roe. He noted that an average size paddlefish can hold about three to four pounds of roe. “By the time [the roe] makes it to the midlevel dealer and the retail market” it is \$300 to \$500 per pound. “It is a very lucrative trade.” Cannarella noted that there is a “large amount” of both legal and illegal paddlefish taken from the Ohio River. “Because there is a ‘legal market’ for [the roe], it is very easy to launder the illegal take into the market.” He said that some commercial fishermen in Indiana are “making upwards to \$500,000 to \$600,000 just in a couple months.”

Cannarella noted that the undercover investigation has transitioned to an overt investigation with “interviews and follow ups.” He added, “We have compiled a lot of information and a lot of suspects.” Cannarella said that anglers, particularly in Indiana and Kentucky, reported to be engaged in supposed “recreational snagging” of paddlefish, which is the taking of paddlefish for recreational purposes rather than for a commercial purpose. “We found that not be the case. There was more than just a recreational aspect to the snagging.”

Cannarella explained that typical gear used in taking paddlefish is a surf casting rod with a treble hook and a two to four ounce attached weight. Particularly in the spring, paddlefish congregate at dams to spawn. “The dams stop migration so the fish stack up. It’s pretty easy to snag a fish during these times.” He noted that the areas located near dams are closed to commercial fishing. “What we found is that most of these recreational snaggers are licensed commercial fishermen or licensed sports fishermen illegally supplying licensed commercial fishermen with paddlefish caviar.”

Cannarella noted that paddlefish congregate near river obstructions, and there “you are going to find people snagging paddlefish. This is one of the things we want to address with the emergency rule.” He explained that the dam areas and other places where the paddlefish congregate by regulation are “closed” to commercial fishermen. He also noted that recreational snagging produces a “large amount” of fishing line, waste, hooks, and sinkers in the waterway.

Cannarella noted that “the money” in paddlefish is the “caviar”. He said that snaggers and commercial fishermen are mutilating paddlefish with pin knives in order to check for roe. “If the fish doesn’t have any caviar, back in the water it goes.” He said some paddlefish survive the mutilation, but “a lot of them do not.” The emergency rule would also prohibit this practice. Cannarella noted that the emergency rule would allow the use of a ten to twelve gage needle to be used to check a fish for roe, which would be minimally invasive. He said the emergency rule would prohibit recreational snagging and establish size limits and seasons in the expectation of a “more renewable, more viable” fishery.

Bill James said that in 2006 of the seven states that allow the taking of paddlefish, Indiana’s reported harvest is “second only to Arkansas.” David Lupke inquired whether the allowance of commercial fishing of paddlefish could be eliminated. Cannarella explained that the legal commercial industry is “too large” to be eliminated. “The [paddlefish] is a renewable resource if managed properly and effectively.”

Rick Cockrum noted that seven states allow paddlefish harvest, but inquired of the status of the other 43 states. James explained that in most states the paddlefish is not present, is endangered in other states, and some states do not allow the harvest of paddlefish. Cannarella said that the paddlefish has been lost in four states and Canada, and ten of 22 states within the remaining species range now list the paddlefish as endangered, threatened, or a species of special concern. Cockrum then asked, “Given that information, does the emergency rule go far enough?” John Davis said, “That’s where we are heading.” James said that the temporary rule would establish a season to protect the spawn and allow a 36-inch size limit, which is about a 23 pound paddlefish, to support a renewable resource. “We are not looking to eliminate commercial fishing at this time, but trying to sustain a viable fishery.”

The Chair thanked the Division of Law Enforcement for a “very informative presentation”.

**Consideration of a Rule Proposal to Extend the Dog Running Season for Raccoons and Opossums to Start at Noon on January 31 and Extend through November 7 of Each Year, Adding 40 Nights to the Season; Administrative Cause Number 07-164D**

Glenn Salmon, Director of the Division of Fish and Wildlife, presented this item. He explained that Jerry Moll, representing the American Kennel Club, approached the Division to propose an amendment to extend the dog running and dog training season for raccoons and opossums. He indicated that Bruce Plowman, the Division’s furbearer biologist, was consulted regarding any potential environmental impact.

Salmon said that the Department “remains neutral” on the proposed amendment. He said that the Fish and Wildlife Conservation Committee, which is made up of representatives from approximately 18 sporting groups, discussed the issue without reaching a

consensus. “The next logical step, I thought, was to go ahead and have the discussion before the Advisory Council to let you decide to move it ahead, table it, or send it back.”

Rick Cockrum asked, “The Department has no opinion, but is there data showing a growth in raccoon population that this would help address?” Salmon said that the proposal is to increase the running and training of dogs, but would not change the hunting season for raccoons and opossums. Bruce Plowman reported that there is an increase in raccoon population.

David Lupke noted the South Carolina brochure, which was included in the Advisory Councils’ comments packet, indicates there are no impacts found with the additional running. “Are you aware of any real impact on game or nongame species by the additional running?” Salmon said that both Plowman and Dr. Jim Mitchell, the Division’s deer biologist, reviewed the research cited in the brochure.

Plowman said, “It’s hard to compare [the South Carolina] study to Indiana. There are some extreme differences, for one the habitat differences.” The South Carolina study looked at whether raccoon hunting impacted deer movement. “It’s hard to say, from that study, [dog running] will or will not impact Indiana.” He also noted that Indiana’s deer density differs from South Carolina’s deer population and density.

Jennifer Kane, Paralegal for the Natural Resources Commission’s Division of Hearings, explained that the comment packet provided to Advisory Council members was a compilation of comments received by the Division of Hearings prior to today’s meeting.

The Chair reminded guests who wished to address the Advisory Council to provide their full name and places of residence. He then opened the floor for comment.

Jerry Moll (Batesville, Indiana) noted that he has been a hunter and trapper for “many years.” He said he has been involved in competition raccoon hunting and pleasure raccoon hunting for many years. Moll said he served for six years on the Executive Board of the Professional Kennel Club, which is a “coonhound registry and event club.” Moll said that he is currently employed by the American Kennel Club, which is the second largest registry in the world. “We register about one million dogs a year comprising of about 160 breeds.”

Moll noted that the Hoosier Tree Dog Alliance, an Indiana organization concerned with the future of tree dog sports, initiated the current rule proposal. He also noted that he was the Director of the Alliance. Moll explained that, historically, the raccoon population was “not that good,” and each pelt was “worth an extreme amount of money on the market comparable to the dollars that were available in those days. There needed to be some restrictions within both sides of the taking season so there was less opportunity to violate laws.”

Moll said that the raccoon population has “extremely” increased, and “at the same time the fur prices are very low.” Raccoon hunting has become “more of a sport” rather than

to “put food on the table and dollars in the bank.” Moll said “every” sporting dog group in Indiana—rabbit hunters, squirrel hunters, fox hunters, coyote hunters—can begin “working their dogs” the day after the taking season is over up to the day before the season begins. “They have 365-day access; we don’t. All we are asking for is a level playing field.” Moll said he was aware that trappers and deer hunters have a concern about the rule proposal; however, he said that other sport hunters are running their dogs as well as farm dogs running loose during the 40 days that are “off limits” to the running of coonhounds. “As you add to that, the [Department] issues licenses for competitive night hunts, which are in the classification of night trials, but it’s actually night hunts run six out of seven nights all year round.” Moll said the impact in the woods in extending the running season is “imperceptible. It’s not going to make much difference.”

Rick Cockrum asked, “What’s the history on the 40-day limit? Was it strictly because it disturbed the deer hunt?” Moll explained that the restriction was established due to the low population of raccoons “plus the high value of the pelt price.”

John Goss (Zionsville, Indiana), representing the Indiana Wildlife Federation, said that he received emails from Tom Morlock from the Trappers Association, Gene Hawkins, Indiana Bow Hunters Association, and Lyn Berry, Indiana Wildlife Council, stating opposition to the proposed rule. Goss said there is “no consensus” amongst the sporting groups regarding the proposed extension. “There is a difference of opinion with several of the affected groups.

Doug Allman, representing the Indiana Deer Hunter’s Association, said the Association is “opposed” to the extension of the dog running season. “Primarily, the deer hunters are opposed to it especially in the early part of the season because the dogs are going to move deer out.” He said the South Carolina study was conducted over a “vast acreage of managed timberland with high deer density.” Allman noted that in the northern two-thirds of Indiana “where you have woodlots, fence rows, and croplands, and the coon dogs come in there at night, those deer are going to be blown out of there.”

Allman said that the “problem with coon dogs, even with some other dogs, but mainly coon dogs, is they run a big area. A coon dog is going to strike, and it’s going to search until it finds something.” Because of the distances involved, the hunter and the trainer “would not be in connection” with the dog. Allman explained that with bird dogs, the dog is always in the hunter’s sight. “With a coon dog, [the dog] goes out and until [the dog] strikes a track and starts baying, you don’t know where that dog is.” He noted that coon hunters use tracking collars in order to locate their dogs.

Allman said that bird dog hunters are training in fields rather than in wood lots, and he said he “rarely runs across squirrel hunters” after deer season begins. He said he opposed extending the running season into the early archery season.

David Lupke asked, “How many days of overlap are there?” Allman said that there is an overlap of approximately one week. “We don’t care if they run the dogs on the back end” of the restriction.

Rick Cockrum asked, "Is there a number of days that would be acceptable to the deer hunters?" Allman said, "You can do the 20 days in the back, and nobody cares." Cockrum then asked, "So you are opposed to the 20 days on the front?" Allman answered in affirmative. "It's in the early archery season. That's when the rut comes in and that's the primetime for archery hunters."

James Heasley (Marion, Indiana), a member of the Indiana Beagler's Alliance, said that he has hunted raccoon and hunted deer with bow and firearm since the early 1980s. He noted that he runs his beagles on his own 88 acres and on 175 acres east of Marion. "When the dogs are pursuing rabbits...I don't think there is a whole lot of difference" between coon dogs and other sporting dogs "because both are tracking game and they are disturbing areas just like a coon dog would." When deer are in the area where he is running his beagles, "the deer sidestep that area, move into the timber area sometimes, and sometimes not. They don't go out of there sporadically unless they are pursued by dogs." Deer will return "later that evening or early that next morning. I don't see the deer totally evacuating the area and not coming back."

Heasley said his beagle club owns approximately 85 acres, of which 65 are enclosed. "The dogs are in that area running multiple times a day." This year and in past years, does have raised twins and triplets in the enclosed area. "Year after year, the deer come into this area and choose that particular place as a refuge area and raise their young...still with the dogs that are around them constantly.... With all this pressure, there are six to eight adult deer who choose to stay right in that 65 acres on a regular basis to have their young." He noted that conflicts do arise when dogs pursue the deer. "Otherwise, I have never really seen the dogs affect the deer when they are running."

Dick Mercier represented the Indiana Sportsmen's Roundtable. "Because we have organization members on both sides of the issue, I'm going to stay neutral on it." He noted, however, "I think there is room for compromise here."

Chris Powell (Dillsboro, Indiana), president of the Hoosier Tree Dog Alliance, thanked the Advisory Council for discussing the Alliance's rule proposal. He noted that the issue was "not complicated". Powell commented on the issues raised regarding interference with hunting deer and coyote trapping. "You have got hounds out there that are running the coyotes and foxes in the same areas that the guys are going to be trapping for [coyotes and foxes], yet that doesn't seem to be an issue. I'm not sure how that can be when you have a dog that is targeting the species the trappers are trying to trap yet there doesn't seem to be a conflict. So, if you take a hound that is trained to run a raccoon and put him out there all of the sudden that's going to be an issue?"

Powell said that "a lot of the time," the same breeds of hounds used to run coyotes and foxes are also used for running raccoon. As the rule is currently written, "We're saying that we are going to exclude that breed from running a raccoon that day. We do not, as raccoon hunters, want our dogs around coyotes or foxes, and we also don't want them running deer." Powell noted that tracking collars and electric training collars are used to

make sure the dogs are not “running off game.” He added, “With the increased raccoon population, it doesn’t take my dog very long to find a raccoon to strike and tree.” Powell said that coonhounds are allowed to be run on November 8, and “that is the peak time of rut for deer.” Powell concluded, “If every sporting dog in the state can be run during that amount of time, then we would like the same opportunity.”

Jack Hyden (Warsaw, Indiana), president of the Indiana Beagler’s Alliance, stated, “The issue is: should we remove a rule that is basically unfairly disallowing a group to have the opportunity to train, work with and enjoy their dogs when everyone else in our state, not just sporting dogs...can be on state property or other property 24 hours a day, seven days a week any way they want to...adhering to the hunting regulations”. He said that the reason for the adoption of the existing rule “has passed, and it’s time to change the rule.”

Jack Corpuz (Indianapolis, Indiana), member of the Division of Fish and Wildlife’s Conservation Committee, said he was representing himself at today’s meeting. He also agreed that there is “room for compromise” regarding the rule proposal. Corpuz said that the Advisory Council should “look elsewhere” for direction. Illinois has a dog running restriction ten days before hunting season and ten days after, and Michigan has a restriction of approximately 100 days. “It’s not like we are the most restrictive area in the country. I think we can give them some more [days].”

The Chair noted that the “one buck rule” was a similar issue presented to the Advisory Council “in that there was no biological issue...but there were social issues involved.” He said that there is no scientific evidence to support whether or not deer are impacted by running of dogs. “We are trying to be managers of the resource the best we can or at least advise as best we can, which means we have to take every group in mind.” He noted that with the social issues it is “difficult” to make a recommendation, because the stance is “usually ‘for’ or ‘against’”.

The Chair proposed that the Advisory Council report testimony received to the Commission for the Commission’s deliberation. He noted that the Advisory Council is “not a decision-making body anyway.” The Chair said that it was “not appropriate” to vote and move the proposal forward “not having read all of the public comments”.

David Lupke observed that those who spoke in opposition to the proposal “were only opposed to lifting the ban on the front end. So, perhaps there is some room for compromise here that would benefit the [raccoon] hunters and would not offend the deer hunters.”

Rick Cockrum addressed the Chair saying, “Having served in a similar capacity, as the chair of the Commission, I’m intrigued in a lot of ways. It was an easier task than yours, because at that point the compromises have been worked out, the negotiations have gone on, the public testimony and the public hearings have occurred.” He suggested either that the item be tabled or that the agency continue discussion on “extending the harvest season in a trade off in cutting out some of the front end days, or any of those types of things.” He said, “I don’t know what happens if we send it to the Commission without a



recommendation. Obviously, we can do that, and I am willing to do that.” He concluded by saying, “My inclination is to vote ‘no’ to send a signal, ‘you’ve got some work to do. You have some groups that have some very legitimate points.’” The Chair agreed that there is still “work to be done.”

Cockrum asked whether there was a time limit for Advisory Council action. Glenn Salmon indicated that there was “no particular timetable.” He said that the Division of Fish and Wildlife “would be happy” to facilitate discussions between the interested groups.

John Davis explained that the Fish and Wildlife Conservation Committee (FWCC) is a group populated by many of the persons present at today’s meeting. He said the FWCC is used as a venue to discuss “a lot of different” fish and wildlife issues. “It is true also that the biological question is very important to us and so is the social question. We are charged with managing the people as much as we are charged with managing the resources that we are protecting.”

Doug Allman noted that the Department “keeps extending” seasons, and “rarely do we hear about the biological aspect” of the impacts to the target animals and the nongame species. “Now it seems we are only talking about the targeted animals like deer and raccoons.” He requested the biologists “to come back” and review the impacts of the extensions. “Biologically, you can hunt deer and raccoon all year round.” He reiterated that he “did not have a problem” with extending the dog running on the “back end”, but he is concerned about “what we are doing out there with the whole picture.”

The Chair noted that the Department is neutral regarding the rule proposal. “What we have done basically is we had a public hearing here today to listen to the arguments.” He said that the Advisory Council is not in a position where “we are ready to move a motion forward.” The Chair said that it was “apparent” from the testimony received that the rule proposal requires further discussion.

Rick Cockrum suggested that the Advisory Council recommend that the rule proposal be tabled and recommitted to Department staff to work with the FWCC and “come back with a recommendation.’

John Bassemier moved to table the rule proposal to extend the running season for raccoons and opossums and to recommit the proposal to Department and the Fish and Wildlife Conservation Committee for further discussion with a recommendation to be presented at a future Advisory Council meeting. David Lupke seconded the motion. Upon a voice vote, the motion carried.

The Chair thanked the sporting groups for attending today’s meeting and participating in past discussions and future discussions in order to achieve a “solution. We appreciate taking the time out of your day.”

## **Discussion of Proposal to Amend “Marina” Definition to Clarify the Regulatory Relationship between “Group Piers” and “Marinas” and of Proposal to Develop Standards for “Group Piers”**

Ron McAhron, Deputy Director, Bureau of Water and Resource Regulation, presented this item in two parts. The first part was directed to clarifying the relationship of “group piers” to “marinas”. The second part was directed to developing standards for the regulation of “group piers”.

With respect to “group piers” and “marinas”, McAhron noted that in a nonfinal order from an adjudicatory proceeding, an administrative law judge found a contested “group pier” on Lake Wawasee was also a “marina” under the rules of the Natural Resources Commission. The Commission’s Administrative Orders and Procedures Act Committee (commonly called the “AOPA Committee”) amended the nonfinal order to delete the discussion of group piers relative to marinas, but the AOPA Committee also recommended the DNR suggest rule revisions to better define the regulatory structure. The AOPA Committee consists of five Commission members or their designees, appointed by the Commission Chair, and hears adjudicatory disputes where a party files objections to the nonfinal order of an administrative law judge. He said in response to the AOPA Committee’s recommendation, the DNR’s Division of Water drafted a proposed amendment to the definition of “marina”.

McAhron said “marina” is currently defined at 312 IAC 11-2-12 to include a structure that can simultaneously service at least five boats, and, for a fee, provide at least one of the four services listed in the rule section. The amendment would require a facility provide at least two of the services, rather than one, in order to qualify as a “marina”. He said, “This is the simplest, most straightforward way we could think of to make the distinction.” McAhron then introduced Jim Hebenstreit, the Division of Water’s Assistant Director.

Hebenstreit explained that rules exist that authorize most piers on the public freshwater lakes for individual property owners. He noted that in the last couple years there has been an increase in the number of condominium projects constructed on the lakes. Hebenstreit said that longer piers were then built on the lake frontage to accommodate all the condominium residents. He explained that the “group pier” rule was adopted to govern these situations giving the Department permitting authority and discretion how the piers are placed and orientated. “When we created [the ‘group pier’] definition we didn’t recognize that if we had five people, and they paid a fee as a condominium owner, [the pier] could be called a ‘marina’.” The proposed amendment to the definition of “marina” would “solve that outcome.”

Hebenstreit said that the “battles over piers on the lakes are becoming more and more difficult to deal with, so we anticipate we will be coming back in the next couple years” with other rule amendment proposals.

The Chair requested clarification on the Advisory Council's role in the rule proposal. "What you are requesting is that we take action on staff recommendation that a [structure] has to provide at least two of the defined services to be considered a marina?" McAhron answered in the affirmative, and said that preliminary adoption would be sought at the Commission's September meeting.

Jim Trachtman observed, "All this seems to do is distinguish marinas from group piers. It seems like it's something that's necessary for us then to do any additional rule making on either type of structure...you have to be able to distinguish between the two. This seems to do that."

Rick Cockrum asked if the definition of "marina" applies only to "public freshwater lakes". Hebenstreit answered in the affirmative. Cockrum then asked, "What about on rivers? I think there may already be existing situations and violations, if this is an existing rule." Hebenstreit answered that the proposed amendment to 312 IAC 11-2-12 were adopted under the statute that regulates public freshwater lakes. Cockrum asked, "I know this is very contentious, but does this grandfather in some of the existing ones that might be in conflict?" Hebenstreit explained that a proposed rule on lawful nonconforming use, which was currently under review by the Attorney General, would apply to "what amounts to grandfathering."

The Chair noted that at the Advisory Council's last meeting David Lupke and Donald Van Meter agreed to serve on a subcommittee with Steve Lucas and Department staff to "deal with a lot of these issues." Because there was not full attendance at the previous Council meeting, the Chair again opened the invitation to Council members to volunteer to serve on the subcommittee. Rick Cockrum and Phil French volunteered to serve on the Council's subcommittee. Lupke said that his summer schedule had not allowed for an initial meeting, but he hoped to schedule a meeting in September or October.

The Chair said that the proposed rule amendment was a "fairly simple differentiation. Certainly there needs to be further development. Before we can approach rules, there are a lot of issues that need clarified." Rick Cockrum said, "My inclination, because of the complexity of it, would be to vote "no" or to abstain. I would volunteer to work with others on continuing to flesh out the details."

The Chair explained, "Really all we are doing is sending to the Commission at this point is to get the process started for some differentiation between a marina and a group pier. In the year that follows, there will be much discussion occurring." David Lupke moved to recommend Commission give preliminary adoption of amendment to the definition of marina at 312 IAC 11-2-12. Donald Van Meter seconded the motion. Upon a voice vote, the motion carried.

McAhron said that the second part of this agenda item pertains to issues being discussed by the Council's subcommittee. "There are a myriad of pier issues out there that are much more complex than the differentiation we are trying to make here." He said there is a rule that requires a permit for a group pier; however, there is no "clear standard" on

how to judge the application. McAhron provided the Council members with a spreadsheet that included pier standards from Midwestern states. The spreadsheet “shows that we are not the only ones wrestling with these issues.” McAhron said that a rule proposal would be forthcoming regarding standards for group piers.

Rick Cockrum said that the spreadsheet was “very helpful.” He noted the spreadsheet indicates that Indiana has jurisdiction on public freshwater lakes and navigable waterways, and he asked for clarification. Hebenstreit said that the Department has permitting authority over piers on navigable waterways, “but these particular rules have not been promulgated under the statute that deals with navigable waterways.” He noted that the Division of Water uses the rules adopted under the Public Freshwater Lakes Act as guidelines when processing applications for piers on navigable waterways. Hebenstreit said that rules would also need to be adopted under the Navigable Waterways Act.

### **Adjournment**

The meeting was adjourned at 12:09 p.m., EDT.

### **On-Site Inspections of Projects or Programs of the DNR and NRC**

Following the meeting, the Natural Resources Advisory Council members toured the Department of Natural Resources facilities at the Indiana State Fair.