

NATURAL RESOURCES COMMISSION
Meeting Minutes, January 18, 2022

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Dan Bortner, Secretary
Brian Rockensuess
Laura Hilden
David Holt
Marc Milne
Bart Herriman
John Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Scott Allen
Billie Franklin

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Chris Smith	Executive Office
Ryan Mueller	Executive Office
Kirsten Haney	Executive Office
David Bausman	Legal
Steve Hunter	Law Enforcement
James B. Brindle	Communications
Linnea Petercheff	Fish and Wildlife
Ronald Hellmich	Nature Preserves
Brandt Baughman	State Parks
Terry Coleman	State Parks
Todd Wilson	Engineering
Megan Abraham	Entomology and Plant Pathology

GUESTS PRESENT

None

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:01 a.m., ET, on January 18, 2022, at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of nine members, the Chair observed a quorum.

APPROVAL OF MINUTES

The Chair asked for a motion for the approval of the Commission's September 21, 2021, meeting minutes. Bart Herriman moved to approve the minutes as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

ELECTION OF OFFICERS

Bart Herriman made a motion to slate the officers now standing for the 2022 term: Bryan Poynter as Chair, Jane Ann Stautz as Vice Chair, and Daniel Bortner as Secretary. Marc Milne seconded the motion. Upon a voice vote, the motion was unanimously carried.

REPORTS OF THE DNR DIRECTOR, DEPUTY DIRECTORS, AND THE CHAIR OF THE ADVISORY COUNCIL

Dan Bortner, Director of the Department of Natural Resources (Department), provided his report. He noted the retirements of Sandra Jensen and Dawn Wilson from the Commission's Division of Hearings, and the hiring of Elizabeth Gamboa as the new Director. Bortner said Mike Smith retired and in the short-term the Department will operate without a Chief of Staff. Bortner introduced the Department's new Chief Financial Officer and Director of Administration, Kirsten Haney. He noted Haney was most recently with the Indiana State Budget Agency (SBA) before coming to the Department.

Bortner stated the third round of the Next Level Trails Program began in November 2021, and the Department is reviewing the grant applications so the awards can be announced later in 2022. Bortner said the Governor has invested \$90 million to date with another \$60 million pledge in the Next Level Trails Program.

Bortner said the Governor pledged \$100 million in deferred maintenance funding to get the Department's maintenance caught up.

Bortner stated the Department is preparing for construction of the new Inn at Potato Creek State Park, making it the Department's eighth Inn after its 2024 completion. It will be the first Inn built since the Spring Mill Inn in 1939.

Bortner stated that Senate Bill (SB) 186 is being considered by the Indiana General Assembly that will codify the Department's reorganization changes approved at the March 16, 2021, Commission meeting. He noted the change eliminates and renames divisions and bureaus that have been merged by the Department. Bortner said SB 186 also establishes the Indiana State

Park Inns Authority as a body corporate and politic for the operation, management, and administration of inns and associated facilities by the Department.

Bortner noted the passing of retired Department employee, Robert Vollmer at the age of 104, and stated Vollmer was 102 years old when he retired 2 years ago, making him the oldest state employee. Bortner stated “Bob was not only an institution, but he was also a legend” and the Department will feel the loss for years to come. He offered condolences to the Vollmer family.

The Chair asked how many rooms the Potato Creek Inn would have and if construction had started.

Bortner responded there would be over one hundred rooms at the Potato Creek Inn. At least one hundred places to stay are needed in the lodging industry to operate in the black. Bortner said that construction has not started, and the Department has not selected a developer.

Holt asked if the Potato Creek Inn would be managed by an outside vendor.

Bortner replied the Department will manage the Potato Creek Inn operation.

Chris Smith, Deputy Director of the Land Management Bureau, provided his report. He reported that on January 1, 2022, Department properties hosted hikes, and, despite rainy weather, 1,300 hikers participated, including the First Lady.

Smith stated the Division of Forestry held its annual open house to inform of the last year’s accomplishments and upcoming projects. Smith said the Division went through a certification process where two independent auditing agencies spent two weeks on Department properties and private state forests to review practices and give opinions on the forestry work being done. He noted a report from the audit should be available in February.

Smith stated the Department’s gift packs were extremely successful again this year. The pack included an annual pass, a gift card for the campground or inns, and a subscription to Outdoor Indiana magazine. Smith said gift pack sales ended on December 31, 2021, with over 11,400 packs sold, which is over 1,000 more than were sold the prior year.

Smith stated Next Level Trail Program received over sixty applications that are being reviewed by the Department and grant recipients are anticipated to be announced in the Spring of 2022.

Smith said the new fish and wildlife fees approved by the Commission at the September 21, 2021, meeting went into effect and the staff have been doing a great job with outreach and answering fee-related questions. Smith stated a public hearing is scheduled for January 20, 2022, regarding fish and wildlife and law enforcement rule amendments.

The Chair asked Commission staff how the public hearing on January 20th would proceed.

Franklin replied she will conduct the public hearing virtually. She will be located at the Fort Harrison State Park Inn. The public can call or log in to WebEx to participate and offer comments at the public hearing.

The Chair, Vice Chair, and Smith thanked the Commission's Division of Hearings staff for their hard work during the time of transition and operating without a director or an administrative law judge.

Ryan Mueller, Deputy Director of the Regulatory Bureau, provided his report. Mueller stated the Division of Entomology is participating in more than twelve education and outreach events in the next several months focusing on invasive species. He noted some of the events include the Indiana Home and Garden Show, Indiana Hardwood Lumbermen's Association, and the National Invasive Species Awareness Week.

Mueller said the United States Congress passed an infrastructure law that would reauthorize the Abandoned Mine Land (AML) Program for another fifteen years. Mueller stated the law allocates \$11.3 billion for states and tribes to remediate public and environmental safety hazards remaining from pre-law mining activities. He noted that Indiana will receive approximately \$25 million per year for the next fifteen years. Mueller also stated there is an additional \$4.7 billion available to states and tribes to plug orphaned oil and gas wells. Mueller said he anticipates the Division of Reclamation using all the funds available to address the 1,500 orphaned oil and gas wells in Indiana.

Mueller said Dave Knipe became the new Director for the Division of Water in November 2021. He noted Knipe has thirty years of experience with the Department, is a licensed engineer, and a certified floodplain manager. Mueller stated the Indiana Information Floodplain Portal (INFIP) was updated in January 2022 to provide floodplain information from both Federal Emergency Management Agency (FEMA) and Department sources, including mapped floodplains and flood elevation points along waterways. He added INFIP allows for quicker and more efficient processing times.

Mueller said the Division of Historic Preservation and Archaeology received fifteen proposals and recommendations for funding that were approved through the Historic Preservation Fund Grant Program, a federal program of the National Park Service. He noted the 2022 grant-funded projects include a national register nomination, eleven building rehabilitations, and three archeological surveys at state properties totaling \$620,000 in funding.

Kirsten Haney, Deputy Director of the Bureau of Administration, provided her report. Haney introduced herself and said she previously worked at the Department of Corrections for five years, working on program rehabilitation with incarcerated individuals. She then worked with the SBA in the Public Safety Division, working on fiscal policy, and was promoted to the position of Assistant Director of Public Safety and Environmental Affairs with SBA. Haney said she has a passion for natural resources and loves hiking.

Haney reported that funds from round two of the deferred maintenance projects were released in June of 2021 and the Department, along with the Indiana Department of Administration, is doing

site visits to ensure the projects are deferred maintenance and ensuring the projects are compliant with the American with Disabilities Act (ADA). Haney said the Department is working with the Indiana State Fair Commission to ensure upgrades are made to the Department's building at the State Fairgrounds.

Haney stated as of January 15, the Department had 1,188 regular positions filled and 209 regular positions vacant. She continued that the Department currently has 96 openings in the "request to hire queue" and are still having difficulty hiring people but the state has offered a salary adjustment that could impact job retention.

Haney stated Al Schumacher is the new Director of Management Information Systems and Todd Wilson is the Director of the Division of Engineering.

The Chair noted the Advisory Council has not met since the last Commission meeting.

CHAIR AND VICE CHAIR

Information: Consideration of 2022 meeting dates:

The Chair noted the 2022 Commission meeting dates are March 15th, May 17th, July 19th, September 20th, and November 15th. The Chair noted the May 17th meeting would be held at the Pavilion at Indiana Dunes State Park and the September 20th meeting being held at another Department property. The details of the location and other information will be forthcoming.

Updates on Commission and AOPA Committee

Jane Ann Stautz, Vice Chair of the Commission and Chair of the AOPA Committee, reported the Committee last met on October 6, 2021, to consider Findings of Fact and Conclusions of Law with Nonfinal Order in the matter of *Robert L. Myers, et al v. Boydston Mill Association, Inc.*; Administrative Cause No. 19-022W and in the matter of *Bontrager v. Department of Natural Resources*; Administrative Cause No. 18-123W, as well as other agenda items. Stautz said she anticipates an AOPA Committee meeting later in the quarter.

Stautz welcomed the new Commission Director and Chief Administrative Law Judge of the Division of Hearings, Elizabeth Gamboa, and stated she looks forward to working with Gamboa and that it was a privilege to be part of the hiring committee.

The Chair introduced new Commission member David Holt, Chief Operating Officer (COO) for the Indiana Destination Development Corporation (IDDC).

Holt stated IDDC is the state tourism agency doing marketing for the Department. He said prior to becoming the COO of IDDC, he was a real estate developer and is part owner of several hotels. Holt said prior work included working for Conexus Indiana as a federal lobbyist in Washington D.C. for the Indiana Chamber of Commerce, and he also worked for President Bush.

The Chair introduced new Commission member Brian Rockensuess, Commissioner for the Indiana Department of Environmental Management (IDEM).

Rockensuess said prior to becoming the Commissioner he was the Chief of Staff and before that the Legislative Director for IDEM.

The Chair thanked Amanda Foor, Chris Smith, Jane Ann Stautz, and Bart Herriman for their service on the hiring committee to appoint a new Director and Chief Administrative Law Judge (ALJ) for the Commission's Division of Hearings. The Chair stated that Elizabeth Gamboa was chosen and has accepted the offer. He noted Gamboa could not be present at the meeting because of a preplanned vacation and, she will be at the March 15th Commission meeting. The Chair said Gamboa has already met with the Division of Hearings staff and has begun the process to fill the other open ALJ position.

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.

Smith noted the Advisory Council will meet on January 28, 2022, and the agenda is still being finalized by the Department.

DNR, DIVISION OF ENTOMOLOGY AND PLANT PATHOLOGY

Request for preliminary adoption to amend 312 IAC 18-3-14 to add Lake and Whitley counties to the Gypsy Moth Quarantine; Administrative Cause No. 19-042D

Megan Abraham, Division of Entomology and Plant Pathology presented this item. Abraham stated the gypsy moth is an invasive insect that has been in Indiana for thirty years and, the United States Forest Service spends \$7 million a year to slow the spread of gypsy moth. She said large populations of caterpillars could defoliate an entire forest and the 4.5 million acres of Indiana forests are at risk from the gypsy moth. Abraham said part of the management includes placing over ten thousand traps to monitor the population every year, then, the Department treats certain areas to reduce the caterpillars or the ability of the moths to mate.

Abraham said there are nine counties currently quarantined for gypsy moth and this proposal would increase that number to eleven quarantined counties as well as link the counties, so they are all under the same blanket quarantine. She stated without this rule amendment, the entire state would be placed under the United States Department of Agriculture (USDA) quarantine for gypsy moth; thereby, restricting movement and interfering with trade.

Abraham stated the Department Gypsy Moth Management Program's goal is to slow the spread of this forest defoliator that could impact 80% of Indiana's forest resources, primarily oak, maple, and hickory. She noted to date, the program goal of a spread rate at or below 6 miles per year has successfully been met. One of the management tools to achieve the goal is the gypsy moth quarantine, which is used to manage artificial spread of gypsy moth by man.

Abraham said the proposed rule amendment would add Lake and Whitley Counties to the already nine counties. The last addition was in 2015.

Brian Rockensuess moved to approve the preliminary adoption to amend 312 IAC 18-3-14 to add Lake and Whitley counties to the Gypsy Moth Quarantine. Laura Hilden seconded the motion. Upon a voice vote, the motion was carried.

DNR, DIVISION OF FISH AND WILDLIFE

Consideration of amendments to Information Bulletin #2, the Roster of Indiana Animals, Insects, and Plants that are Extirpated, Endangered, Threatened, or Rare (also described as Special Concern); Administrative Cause No. 21-FW-039

Linnea Petercheff, Division of Fish and Wildlife, presented this item. Petercheff explained language has been added in Section I to indicate IC 14-9-2-5 that authorizes the locations of threatened and endangered species to be kept confidential and corrections have been made to the list of birds to correct one genus and remove duplicates. Petercheff said the non-rule policy amendments are for insects and plants to reflect changes made by the Division of Nature Preserves and recommendations from taxonomy experts.

Marc Milne stated the listed organisms are not in the correct categories and gave an example of mites and pseudoscorpions listed under spiders. He said the spider list could be corrected by listing it as arachnids instead of spiders or by creating subcategories under the groups.

Petercheff said the Division of Fish and Wildlife will work with the Division of Nature Preserves to get the list corrected and the species in the correct categories.

John Wright moved to approve the preliminary adoption of amendments to Information Bulletin (IB) #2 with recommended modifications. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion was carried.

NRC, DIVISION OF HEARINGS

Consideration of Hearing Officer report on rule processing, public hearing, and hearing officer analyses with recommendation regarding final action to amend 312 IAC 8-2-3, and 312 IAC 8-2-10, property rule amendments; LSA #21-341(F); Administrative Cause No. 21-FW-018

Billie Franklin, Hearing Officer, presented this item. Franklin stated the proposal to amend 312 IAC 8 is the result of meetings with staff from the Divisions of Fish and Wildlife, State Parks, Forestry, Nature Preserves, and Law Enforcement.

Franklin stated the Commission granted preliminary adoption to the proposed rule amendments on July 20, 2021, and on that same date the commenting period was opened on the Commission's rulemaking docket. She said the Notice of Intent to adopt this rule was published in the Indiana Register on August 11, 2021. Franklin stated a Public Hearing was conducted virtually at the Commission's Division of Hearings on December 9, 2021. One member from the public signed on but did not identify herself or provide a comment before ending the call.

Franklin noted the online comments were not extensive, but most comments received had shown some concerns specific to game cameras. She said the Department's response suggested additional language to clarify 312 IAC 8-2-3 to help relieve some concerns and those changes will not cause any fiscal impact. Franklin stated her opinion is the revision is a logical outgrowth of the rule as proposed and there were enough comments to support the change, but ultimately the final determination is made by the Office of the Attorney General.

Franklin said a copy of the rule language is provided as "Exhibit C" of the report and she recommends the Commission grant final adoption to the revised rule amendments as provided in the report.

Brian Rockensuess moved to give final adoption to amend 312 IAC 8-2-3 and 312 IAC 8-2-10, governing property rules, as presented. Daniel Bortner seconded the motion. Upon a voice vote, the motion carried.

Consideration of Hearing Officer report with recommendations to amend Articles of Dedication and amend the master plan for the Chinquapin Ridge Nature Preserve; Administrative Cause No. 21-NP-035, and the Section Six Flatwoods Nature Preserve; Administrative Cause No. 21-NP-033

Franklin also presented this item. Franklin stated the Chinquapin Ridge Nature Preserve was originally dedicated by the Commission in September 2011, and the original Master Plan has an incorrect reference to "Warbler Woods Nature Preserve" under Section 1. She said the proposed amendment corrects this reference to the Master Plan for Chinquapin Ridge Nature Preserve.

Franklin stated the Section Six Flatwoods Nature Preserve was originally dedicated by the Commission in July 2003, and the original Master Plan refers to "Bone Bank Flatwoods Nature Preserve." She said the proposed name of the preserve was in flux for a while, and the final documents did not get all the name references correct. Franklin added the Division of Nature Preserves requested an amendment to the dedication to correct an inaccurate reference in the Master Plan by removing the reference to Bone Bank Flatwoods Nature Preserve and replacing it with Section Six Flatwoods Nature Preserve.

Franklin was appointed by the Director of Hearings to be the hearing officer following a request for assistance by the Department, in compliance with IB #72. Franklin said after publication of the notice, a public hearing was conducted on October 13, 2021, for both amendments. No members of the public attended, and no comments were received.

Franklin said IC 14-31-1-13 requires an amendment to the articles of dedication include specific findings by the Commission and the Commission must find that the proposed amendments to the Articles of Dedication and the Master Plan will not permit an impairment, disturbance, use, or development of the area that is inconsistent with the purposes of the Nature Preserves Chapter.

Franklin recommended to the Commission to approve the proposed amendments to correct the Master Plans by removing the reference to Warbler Woods Nature Preserve and replacing it with Chinquapin Ridge Nature Preserve and by removing the reference to Bone Bank Flatwoods Nature Preserve and replacing it with Section Six Flatwoods Nature Preserve.

David Holt moved to accept the Hearing Officer's report with recommendations to amend Articles of Dedication and amend the master plan for the Chinquapin Ridge and Section Six Flatwoods Nature Preserves. Brian Rockensuess seconded the motion. Upon a voice vote, the motion carried.

Consideration of the repeal of Information Bulletin #54; Hunting, Fishing, and Trapping License Fees; Administrative Cause No. 19-091A

Franklin also presented this item. Franklin said the repeal of IB #54 is the result of the comprehensive fee list that was presented and approved during the September 21, 2021, Commission meeting. She noted the Department fees list has been posted on the Commission's website.

Franklin recommended the Commission repeal IB #54, as it is no longer necessary.

David Holt moved to approve the repeal of Information Bulletin #2. Bart Herriman seconded the motion. Upon a voice vote, the motion was carried.

Consideration to approve amendments to the retention schedule process of the Natural Resource Commission, Division of Hearings; Administrative Cause No. 21-AD-046

Scott Allen, Division of Hearings, presented this item. Allen stated that the Division of Hearings began moving towards an electronic file system during the last two years by using a paperless file system in SharePoint while maintaining the original paper system.

Allen said the Division of Hearings has gone paperless first with the Adjudication files. He noted the Indiana Archives and Records Administration Agency (IARA) would need approval to adjust the records retention schedule to include the process for archiving electronic formats.

Allen stated the Division of Hearings is requesting approval of amendments on the Transmittal of Proposed/Approved Records Retention and Disposition Schedule document to allow the Division to add the option to archive electronic formats, as well as keep the current policy in place for paper files.

Jane Ann Stautz moved to approve the amendments to the retention schedule process of the Natural Resource Commission, Division of Hearings. Brian Rockensuess seconded the motion. Upon a voice vote, the motion was carried.

The meeting was adjourned at approximately 10:42 a.m., ET.