

**NATURAL RESOURCES COMMISSION**  
Meeting Minutes, July 19, 2022

**MEMBERS PRESENT**

Bryan Poynter, Chair  
Dan Bortner, Secretary  
Parvonay Stover  
Jennifer Jansen  
David Holt  
Marc Milne  
Patrick Early

**NATURAL RESOURCES COMMISSION STAFF PRESENT**

Scott Allen	Elizabeth Gamboa
Billie Franklin	Aaron Bonar

**DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT**

Chris Smith	Executive Office
Ryan Mueller	Executive Office
Kirsten Haney	Executive Office
Steve Hunter	Law Enforcement
Terry Coleman	State Parks
Christie Sorrels	State Parks
Tessa Manuel	State Parks
Brandt Baughman	State Parks
James B. Brindle	Communications

**GUESTS PRESENT**

Kent Reineking	Paula Reineking
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Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:04 a.m., ET, on July 19, 2022, at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of seven members, the Chair observed a quorum.

**APPROVAL OF MINUTES**

The Chair asked for a motion for the approval of the Commission's May 17, 2022, meeting minutes. David Holt moved to approve the minutes as presented. Patrick Early seconded the motion. Upon a voice vote, the motion 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. Bortner noted busy Fourth of July and Memorial Day weekends at Department properties that continue to see high levels of attendance.

Bortner said the Division of Forestry is taking a break from planting trees and will resume planting in the fall for the Governor's ForestIN initiative. The goal is to plant one million trees in five years. Bortner stated the Next Level Conservation Trust is open for proposal submissions and grant recipients of phase three of the Governor's Next Level Trails Program initiative have all been notified.

Bortner said in June 2022 the Indiana Destination Development Corporation announced a new marketing strategy called "IN Indiana" to provide businesses, municipalities, and destinations with resources to help tell the state's story.

Bortner stated the Department is getting ready to welcome more than eight-hundred thousand visitors that will walk past the DNR Building at the Indiana State Fair that will take place from July 29, 2022, to August 21, 2022.

Bortner noted the Department will be hosting the Commission meeting at the Indiana Dunes State Park on September 20, 2022, and the Department is looking forward showing the Commission members the property.

Chris Smith, Deputy Director of the Land Management Bureau, provided his report. Smith stated the Commission meeting at Indiana Dunes State Park will take place the evening of September 20, 2022, at the newly renovated Dunes Pavilion, with other activities to follow the meeting. He noted one of the agenda items will be the dedication of the SS Muskegon as Indiana's second shipwreck nature preserve and a presentation by the Lake Michigan Coastal Program which is celebrating its 30-year anniversary. Smith said on September 21, 2022, there will be an opportunity to tour the Willow Slough Fish and Wildlife Area to learn about the J.C. Murphey Lake renovation project.

Smith stated the end of the fiscal year occurred at the end of June. He said the Department compares historical information, and there continues to be heavy property use. He noted that in 2022 Division of State Parks generated \$43.7 million in revenue, \$4 million less than 2021, but that is still the second highest revenue year with 2021 being a record-breaking year, far exceeding previous revenue years.

Smith said hunting license sales are strong with 380,000 sold last year. He noted a drop in the sale of fishing licenses and Department staff is evaluating the data for an explanation and solution.

Smith said the Department is working on fish stocking efforts around the state. They have stocked 29,000,000 walleyes statewide. He noted a full list of fish stocking by species, lakes, and county can be found on the Department's website. Smith noted the first set of reserve hunt applications opened on July 1, 2022, with dove, youth deer, and Indiana Private Lands Access (IPLA) hunts. The reserve hunt applications close on August 1, 2022. Waterfowl draws, Fish and Wildlife deer hunts, State Park deer hunts, and game bird applications begin on August 22, 2022, to September 23, 2022, with applications submitted through the Division of Fish and Wildlife online license sales portal.

Smith said the Division of Fish and Wildlife is asking for public assistance in turkey poult sightings for the brood survey. The brood survey is used to provide useful estimates about annual production by wild turkey hens and the survival of young turkeys through the summer brood-rearing period.

Smith said the Department is accepting applications for the Next Level Conservation Trust (NLCT) program until August 1, 2022. The projects are reviewed by the President Benjamin Harrison Conservation Trust (PBHCT) Committee. The Department anticipates the project applications will exceed funding.

Smith said on July 21, 2022, there will be a dedication for the renovated Nature Center at Pokagon State Park. The Nature Center features new exhibits exploring the Civilian Conservation Corps, the Miami Indian, and the Potawatomi Indian history.

Ryan Mueller, Deputy Director of the Resource Regulatory Bureau, provided his report. He said the Division of Entomology and Plant Pathology has completed the Btk treatments for gypsy moth. Mueller said the pesticide treatment for the spotted lanternfly is ongoing in southern Indiana. The Division of Entomology and Plant Pathology received \$168,000 in additional federal funding to manage the spotted lanternfly.

Mueller said the Chief Apiary Inspector for the Division of Entomology and Plant Pathology, Kathleen Prough, has retired after 20 years with the state. Division staff have attended apiary training to assist in beehive and beekeeper's inspections.

Mueller said the Division of Historic Preservation and Archaeology will lead trolley tours at the Indiana State Fair. Division staff will guide history and architecture tours that highlight some of the historic buildings and activities that occurred during the history of the fair. Mueller noted Division staff will present certificates to property owners and local officials in recognition of their efforts and stewardship of historic properties at the National and State Registers Certificate Presentation Ceremony which will take place in the Department Amphitheater on Thursday, August 11, 2022.

Mueller announced that Jennifer Ware and Moumita Mukherjee were both promoted to Assistant Directors with the Division of Water. He noted that Ware is overseeing the regulatory programs and Mukherjee is overseeing the technical programs. David Knipe has been appointed to represent the Department on the drainage task force.

Kirsten Haney, Deputy Director of the Administrative Bureau, provided her report. The Department, along with the Indiana Department of Administration, are continuing work on deferred maintenance projects. She noted some projects are nearing completion, such as vault toilets, an above ground fuel tank, card readers at Lieber State Recreational Area, and the renovated exhibits at the Pokagon State Park Nature Center. Round three of the deferred maintenance of \$18 million is anticipated to go to the budget committee in the fall of 2022.

Haney stated that as of July 15, 2022, the Department had 1,182 regular positions filled and 215 regular positions vacant. The Department currently has 92 openings in the “request to hire queue.” The Department faces challenges with unfilled vacancies and especially with intermittent positions as school will be starting back. The Department continues to meet customer service priorities.

Haney stated the Department is in the process of developing the 2024 and 2025 budget.

Patrick Early, the Chair of the Advisory Council, reported the Council last met on February 21, 2022. He noted there will likely be a meeting scheduled for October 2022 and possibly another meeting scheduled by the end of 2022 depending on the items referred for review.

The Chair welcomed back Jennifer Jansen representing the Indiana Department of Transportation and welcomed Parvonay Stover representing the Indiana Department of Environmental Management on the Commission.

#### **CHAIR AND VICE CHAIR**

##### **Information: Consideration of 2022 meeting dates:**

The Chair noted the remaining two Commission meeting dates are September 20 and November 15, 2022. The Commission meeting scheduled for September 20 will be held at Indiana Dunes State Park and the meeting on November 15 will be held at the Fort Benjamin Harrison – Garrison in Indianapolis.

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

Jennifer Jansen of the AOPA Committee, reported the Committee has not met since January 18, 2022, and there was nothing to report.

#### **DNR EXECUTIVE OFFICE**

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

No new items were identified for referral to the Advisory Council.

## 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 3-1-7 to allow initial filings sent by electronic mail and to remove the deadline requirement for filings sent by electronic mail. Adds 312 IAC 3-1-7.5 governing a party's time to file a response or reply. Repeals 312 IAC 3-1-8; LSA #22-76(F); Administrative Cause No. 21-AD-028**

Billie Franklin, Hearing Officer, presented this item. Franklin stated proposed amendments to 312 IAC 3 relate to adjudicatory proceedings and are due to statutory changes. The amendments remove the requirement that request for administrative reviews be filed by hand-delivery or by U.S. mail and allows requests for administrative review to be filed by email. The amendments also remove previous timelines for filings that occurred outside business hours. Filings received outside of business hours will now be considered filed on the date of submission. The amendments were presented to the AOPA committee in October 2022. The AOPA committee approved the amendments pending approval of the moratorium exception. Approval of the moratorium exception was received in March 2022, and a virtual public hearing was held June 22, 2022. No members of public attended and there were no public comments. Franklin recommended the Commission grant final adoption of the rule amendments as provided in the report.

Jennifer Jansen moved to give final adoption to amend 312 IAC 3-1-7 governing electronic filing, adding 312 IAC 3-1-7.5, governing a party's time to file a response or reply, and repealing 312 IAC 3-1-8 as presented. Dan Bortner seconded the motion. Upon a voice vote, the motion carried.

**Consideration of Hearing Officer report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Kent's Harbor ratemaking petition; Administrative Cause No. 21-SP-045**

**Consideration of Hearing Officer report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Two Herons Marina ratemaking petition; Administrative Cause No. 22-SP-007**

**Consideration of Hearing Officer report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Fourwinds Resort Marina ratemaking petition; Administrative Cause No. 21-SP-044**

Billie Franklin, Hearing Officer, presented these three agenda items together. Kent Reineking, on behalf of Kent's Harbor and Sagamore Resorts (Kent's Harbor), Brent Pearson, on behalf of Fourwinds Resort and Marina (Fourwinds), and Tom Greemann on behalf of Two Herons filed their petitions with the Commission and the Department. Franklin noted the petitions are attached as Exhibit A on the Kent's Harbor and Fourwinds reports and as Exhibits A and B on the report for Two Herons.

Franklin noted that all the marinas notified the slip renters of the proposed rate increases as required by Information Bulletin #20. No qualifying comments were received with regard to Kent's Harbor and Two Herons. The public comments received with regard to Fourwinds are attached to the hearing officer's report as Exhibit B. No public hearing was held.

After reviewing the comparables, considering the information received, and after discussion with the Department, Franklin recommended that the findings and recommendations be approved.

Patrick Early moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers, in the matter of rate making Petitions by Kent's Harbor and the Sagamore Resort, Fourwinds Resort Marina, and Two Herons Marina. Jennifer Jansen seconded the motion. Upon voice vote, the motion carried.

**Consideration of Hearing Officer report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Hoosier Hills Marina ratemaking and establishment petition; Administrative Cause No. 21-SP-043**

Scott Allen, Hearing Officer, presented this item. Allen stated Victor Polen, on behalf of Hoosier Hills Marina Inc., filed a Petition with the Department and Commission on November 24, 2021, seeking a rate increase on 319 slips of 361 slips at the marina and rate establishment on 42 slips. The Petition is attached as Exhibit A.

Allen said Hoosier Hills is requesting an overall increase of 2.6% increase which amounts to .97% to 8.11% increase overall on the 319 slips. Hoosier Hills requested a rate establishment of the remaining 42 slips at the marina. The slips were added due to a fire in 2021. It was noted that Polen had filed a petition in 2020 with regard to the additional slips but withdrew that petition in 2021 due to a fire. The slips affected by the fire were removed and replaced with 42 slips that are the subject of the request. Allen noted the comprehensive rate list for the 42 slips is included in the hearing officer's report.

Allen noted that Polen filed an affidavit on March 3, 2022, confirming slip holders were notified of the proposed rate increase as required by Information Bulletin #20, No comments were received, and no public hearing was required.

Allen stated that after reviewing the comparative rates, the Department, through the Division of State Parks, found the requested rates to be reasonable and justified. After reviewing the petition and the comparable information, Allen recommended the proposed increase be approved according to the proposed findings and recommendations, as shown in Exhibit C.

Milne asked if there was comparative data on what similar marinas rates were. Allen explained that the comparative data is provided in the petition, but not in the hearing officer's report. Chris Smith asked how the rates compared, and Allen responded that they were comparable.

Patrick Early moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers, in the matter of the Petition for rate making and establishment by Hoosier Hills Marina. David Holt seconded the motion. Upon voice vote, the motion carried.

The meeting was adjourned at approximately 10:30 a.m., ET.