

NATURAL RESOURCES COMMISSION
Meeting Minutes, November 17, 2020

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Dan Bortner, Secretary
Bruno Pigott
Laura Hilden
Noelle Szydlyk
Phil French
Patrick Early
Bart Herriman
John Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen	Dawn Wilson
Billie Davis	Scott Allen

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Terry Coleman	State Parks
Steve Hunter	Law Enforcement
Terry Hyndman	Law Enforcement
Ron Hellmich	Nature Preserves
Amanda Wuestefeld	Fish & Wildlife
Linnea Petercheff	Fish & Wildlife
Joe Caudell	Fish & Wildlife
Rod Edgell	Fish & Wildlife
James B. Brindle	Communications

GUESTS PRESENT

None

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., ET, on November 17, 2020, at the Fort Harrison State Park, Garrison, 6002 North

Post Road, Blue Herron Ballroom, Indianapolis, Indiana. With the presence of ten members, the Chair observed a quorum.

APPROVAL OF MINUTES

The Chair asked for a motion for the approval of the Commission's September 15, 2020 meeting minutes. John Wright moved to approve the minutes, as presented. Phil French seconded the motion. Upon a voice vote, the motion carried.

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

Dan Bortner, Director of the Department of Natural Resources (Department), provided his report. Bortner praised the commitment of the Department and noted the challenges related to COVID and recognized Department staff for rising above and adjusting. He said that Department properties are seeing record attendance throughout the state as people are spending more time outdoors. Bortner noted trail usage is up 52%, fishing license sales are up nearly 20%, hunting license sales are up 21%, daily gate entrance is up 27%, annual pass sales are up 56%, and camping and shelter rental is up 41% from last year. He said that in 2019 the Division of State Parks had record revenue, but currently they have already exceeded last year's revenue by 4.7 million dollars. Bortner noted that the holiday gift packs include the 2021 annual entrance permit and as of November 4, 2020 sales of the holiday gift packs are up 282%. Bortner thanked the Department staff for their hard work in making life better for Department guests.

Bortner stated that Conservation Officer Jarred Coffing was named the 2020 Operation Dry Water Officer of the Year by the National Association of State Boating Law Administrators for making a difference in boating safety. Bortner congratulated the Division of Fish and Wildlife on being selected by the Congressional Sportsman Foundation to receive its award for assisting in state and federal issues.

Bortner announced that Terry Coleman has been selected to serve as the next Director of the Division of State Parks. Bortner noted that Coleman began his career as a seasonal worker at Pokagon State Park in 1979 and is well respected among his peers for making Indiana's state parks what they are today.

Coleman stated that he is thrilled and honored to be serving as Director of State Parks. He noted the great leadership team in the division and advised that there will not be any drastic changes to the division. Coleman said Deputy Director Ginger Murphy headed the effort to put in place a strategic initiative to keep the Department moving forward.

Bortner said deer reduction hunts have been taking place and more are scheduled for November 30 and December 1, 2020, with the production numbers looking promising.

Bortner said that on November 27, 2020, the Department properties will host OptOutside by waiving entrance fees and encouraging people to participate in outdoor activities on Black Friday.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. Davis congratulated Terry Coleman and noted his leadership in the Department. Davis stated that moving into a budget year it is important to be mindful of revenue and staff. He noted that a full staff is needed with the increased visitors to Department properties.

Davis said that deer gun season has opened, and online license sales were spread out to help people get registered easier. He said the Department staff encouraged people to buy licenses earlier so that there was less congestion with last minute on-line sales. Davis said Department staff continue to monitor COVID restrictions and adjust as needed to county-by-county restrictions.

Davis stated it is time to lift more than five million trees from the nursery and the Division of Forestry has no assistance from the Department of Corrections.

Davis said the Dunes State Park Pavilion is set to open in the spring of 2021 and although the inside is not finished the outside looks beautiful.

Davis stated the Department is working on the Brown County State Park (BCSP) water supply which was closed for several weeks due to a failure of the system that resulted from flooding. He said the BCSP is looking at the possibility of purchasing water from a local water company which will offer more reliability.

Davis stated that the In-Lieu Fee Mitigation Program that has been active for two years and now has 30 million dollars in the bank has just submitted its first two mitigation projects to the United States Army Corps of Engineers for approval by the Interagency Review Team (IRT). He noted the IRT consists of federal and state agencies that review the mitigation projects. Davis stated that one of the projects is a cooperative project between the Department and Hamilton County Parks and Recreation that will protect the upper watershed of a park in Hamilton County.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, provided his report. Smith noted all the permitting divisions have seen an increase in permit applications and the staff are staying busy with the application process.

Smith said the Division of Historic Preservation and Archeology (DHPA) is working with the City of Indianapolis to relocate remains found on a construction site at the former Central State Hospital.

Smith said the Division of Water staff are meeting with 25 south-central water utilities in Charlestown, Indiana on an upcoming water availability study to consider available resources, future growth, and where the demand will be for water resources. He noted the well facility that was part of the Army Ammunition plant at Charlestown State Park has just started construction and will take three years to complete.

Smith stated, “the Great Lakes Commission’s annual meeting starts today.” He noted climate resiliency being the main focus of the meeting and observed that the Indiana Department of Environmental Management Commissioner, Bruno Pigott, would be moderating a panel discussion at the meeting.

Smith noted the retirements of John Carr, Team Leader of Structures Review in DHPA and, George Bowman, Assistant Director in the Division of Water.

Patrick Early reported that the Advisory Council has not met since the last Commission meeting but are scheduled to meet on January 12, 2021.

The Chair asked for an update from the Division of Hearings

Jensen reported that the Division shares a suite with two other agencies and a schedule has been worked out so there is office coverage every day. She said the Division of Hearings covers the office on Mondays and Fridays and customer service is working well. Jensen said the Division of Hearings was well prepared for the process of electronic filing and was better prepared than she realized in terms of maintaining electronic files of historic information which improved the Division’s ability to located and share material and documents quickly. She noted that the Division is transitioning to the use of a SharePoint site for better document sharing and collaboration.

Jensen advised that the Division has several ongoing projects with various divisions within the Department. Particularly, Jensen noted an effort to standardize fee setting to make the process easier for concessionaires, leaseholders, and the Department development of a special events permitting process. She observed that the team anticipates having a draft special event permitting nonrule policy for consideration at the upcoming Advisory Council meeting.

CHAIR, AND VICE CHAIR

Information: Consideration of 2021 meeting dates:

The Chair noted that the 2021 Commission meeting dates are January 19, March 16, May 18, July 20, September 21, and November 16 scheduled to take place at the Fort Harrison State Park Garrison in Indianapolis.

Updates on Commission and AOPA Committee

Jane Ann Stautz, Chair of the Commission’s AOPA Committee, stated that the AOPA Committee met following the Commission meeting on September 15, 2020 and that no current meetings are scheduled.

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 LAW ENFORCEMENT

Report to the Natural Resources Commission on citizen petition requesting an extension of the no boating zone immediately downstream from the Twin Branch Dam on the St. Joseph River in Mishawaka, Indiana; Administrative Cause No. 19-132L

Steve Hunter, Division of Nature Law Enforcement Director, presented this item. Hunter stated the primary reason for the current no boating zone is to restrict boats near the turbulent water around the dam. Hunter stated the Department is opposed to the extension of the no boating zone because the current zone addresses the safety concern around the dam and recommended that the Department should not restrict one navigable waterway user in favor of another user.

Bruno Pigott moved to accept the report on citizen petition requesting an extension of the no boating zone immediately downstream from the Twin Branch Dam on the St. Joseph River. Bart Herriman seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF FISH AND WILDLIFE

Request for preliminary adoption of amendments to 312 IAC 9 related to hunting deer and wild turkeys and trapping beavers. Administrative Cause No. 20-FW-043

Linnea Petercheff, Division of Fish and Wildlife presented this item. Petercheff stated the change to 312 IAC 9-3-3 would allow powder used in muzzleloaders to be loaded from the breech end for deer hunting. She said the change to 312 IAC 9-3-11 would remove the start and end times on the first and last days of the beaver trapping season. Petercheff stated that changes to 312 IAC 9-4-11 would allow certain changes to turkey hunting equipment including allowing a 28-gauge, 16-gauge, or 10-gauge shotgun, the number nine tungsten super shot, and a .410 shotgun to hunt wild turkeys. Petercheff noted the Department had received petitions regarding using the .410 shotgun and the use of the tungsten super shot. Petercheff said the proposed language restricts shot compositions to those shot sizes and densities that remain effective at forty yards or less to assure a quick kill on a wild turkey while reducing the severity of accidental shooting of humans.

Pigott asked why the times for trapping fur animals were originally put into place originally.

Petercheff stated the times were originally added for all the trapping seasons because at one time there were conflicts between hunters and trappers on opening day but there is no need to have the restriction in place anymore.

Jane Ann Stautz moved for preliminary adoption of amendments to 312 IAC 9, related to hunting deer and wild turkeys and trapping beavers. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Consideration of amendments to Information Bulletin #2, Roster of Indiana Animals, Insects, Spiders, and Plants that are Extirpated, Endangered, Threatened, or Rare; Administrative Cause No. 20-FW-049

Petercheff also presented this item. Petercheff stated that after review by the technical advisory committees the Department is proposing adding the Long-eared Owl, Grasshopper Sparrow, Black-billed Cuckoo, and Hudsonian Godwit to the Roster of Indiana Animals, Insects, Spiders, and Plants that are Extirpated, Endangered, Threatened, or Rare (Special Concern List), as well as removing the Bald Eagle from the list. She noted that Bald Eagles are still protected under federal law, they are monitored, they nest in 85 counties in the state, and there have been 396 Bald Eagle nests documented.

Petercheff said the amendments would add two reptiles, the Boreal Chorus Frog and False Map Turtle, to the Special Concern List and two fish, the Cisco and Western Sand Darter, to the Endangered Species List. The amendment would also move the Northern Brook Lamprey to the Special Concern List from the Endangered Species List. She also noted some additional technical changes to several species' names.

Ron Hellmich added that the Division of Nature Preserves has been working with Marc Milne, the Indiana Academy of Science Appointee to the Commission, to identify spiders that should be included on the roster. Hellmich said there were some spider and insect species added to the Special Concern List and some other name or technical changes to insect and plant species'.

Pigott commented that he loves the additions to the Special Concern List but expressed concern about the removal of the Bald Eagle from the Special Concern List and the unintended message that it could send. He questioned whether because of the Bald Eagle's significance as a national symbol it would be best to leave the Bald Eagle on the Special Concern List even though it qualifies for removal.

Davis responded that the removal of the Bald Eagle from the Special Concern List does celebrate the recovery of the bird that used to be of concern. He said the federal protections are still in place, but it is important to move species off of a list so that a message is not sent that species are kept on the list that are no longer in need of protection.

Petercheff stated that there are still federal laws and protections so that Bald Eagles cannot be taken from the wild without a special permit and there are strict guidelines for possessing the species.

Patrick Early moved to amend Information Bulletin #2, Roster of Indiana Animals, Insects, Spiders, and Plants that are Extirpated, Endangered, Threatened, or Rare. Noelle Szydyk seconded the motion. Upon a voice vote, the motion 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 5; to create special boating zones on Prairie Creek Reservoir; LSA #20-286(F); Administrative Cause No. 20-LE-022

Dawn Wilson, Hearing Officer, presented this item. Wilson stated that the proposed rule amendment would add the embayment's known as Campground Cove and Sailboat Cove as locations on Prairie Creek Reservoir where a person must not operate a boat over idle speed.

Wilson stated that the rule amendment was originated by a citizen's petition submitted by the City of Muncie requesting two idle zones on Prairie Creek Reservoir and was granted preliminary adoption by the Commission on May 19, 2020. Wilson said the State Budget Agency (SBA) recommended approval, a notice of public hearing was published, and no member of the public attended the public hearing. Wilson noted the Division of Hearings maintained all required documentation on the Commission's rulemaking docket and no written comments were received.

Wilson recommended final adoption of the proposed amendment to 312 IAC 5-9-4 without revision.

Jane Ann Stautz moved to give final adoption to amend 312 IAC 5, to create special boating zones on Prairie Creek Reservoir. Bruno Pigott seconded the motion. Upon voice vote, the motion carried.

Consideration of Hearing Officer report on rule processing, public hearing, and hearing officer analyses with recommendation regarding final action to amend 312 IAC 5-6-5.6; Lake Manitou Ecozone; LSA #20-287(F); Administrative Cause No. 19-145D

Wilson also presented this item. Wilson stated that the proposed rule amendment would reduce the size of Lake Manitou special boating zone.

Wilson stated that the rule amendment was originated by a citizen's petition and was granted preliminary adoption by the Commission on May 19, 2020. Wilson said the SBA recommended approval, a notice of public hearing was published, and public comments are summarized in the Hearing Officers report. Wilson noted the Division of Hearings maintained all required documentation on the Commission's rulemaking docket and no written comments were received. Wilson recommended final adoption of the proposed amendment to 312 IAC 5-6-5.6 without revision.

Bruno Pigott moved to give final adoption to amend 312 IAC 5-6-5.6, Lake Manitou Ecozone. Bart Herriman seconded the motion. Upon voice vote, the motion carried.

Consideration of Hearing Officer report on rule processing, public hearing, and hearing officer analyses with recommendation regarding final action to amend 312 IAC 5-6-11; Simonton Lake special boating zones; LSA #20-288(F); Administrative Cause No. 20-FW-018

Billie Davis, Hearing Officer, presented this item. Davis stated when the rule was adopted in 2015, the Commission included an expiration date of January 1, 2021 to allow sufficient time for the rule to be in place for the impacts to be evaluated and to expire without further Commission action if the negative impacts outweighed the benefits. Davis stated the rule's benefits have outweighed any negative impacts and the boating zone should be retained. She noted the proposed rule amends 312 IAC 5-6-11 to remove the expiration date of the special boating zone on Simonton Lake in Elkhart County.

Davis stated the Office of Management and Budget granted an exception to the moratorium on rulemaking for this rule on March 5, 2020, the Commission granted preliminary adoption on May 19, 2020, and the rulemaking was identified on the Commission's rulemaking docket.

Davis said the Notice of Intent was published by the Legislative Services Agency (LSA) on June 3, 2020, the fiscal analyses was forwarded to SBA and the Legislative Council on June 4, 2020, and approval was given by LSA on July 10, 2020.

Davis stated a public hearing was held at the Simonton Lake Sportsman Club on September 9, 2020 with four members of the public in attendance. She noted that no one opposed the rule amendment.

Davis stated the rule language is provided as Exhibit A of the Hearing Officers report and recommended for final adoption.

John Wright moved to give final adoption to amend 312 IAC 5-6-11, Simonton Lake special boating zones. Bart Herriman seconded the motion. Upon voice vote, the motion carried.

Adjournment

The meeting was adjourned at approximately 10:46 a.m., ET.