

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:01 a.m., ET, on November 15, 2022, at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. 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 20, 2022, meeting minutes. Jane Ann Stautz moved to approve the minutes as presented. Brian Rockensuess 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 the following report:

The Department properties had high levels of attendance in the fall season.

The State of Indiana recently implemented a compensation study that will provide state employees competitive compensation. Better compensation should attract new highly motivated employees and retain current employees. The new classifications and wages were effective October 16, 2022.

The Division of Reclamation completed the Sugar Ridge Fish and Wildlife Area (FWA) project in Pike County. Sugar Ridge received the Interior States award from the Office of Surface Mining, Reclamation and Enforcement (OSMRE), representing the nation's highest achievements in abandoned mine land reclamation. Sugar Ridge was a coal mine abandoned between 1934 and 1935 leaving acid mine drainage water issues and a dangerous highwall. Sugar Ridge now has improved accessibility, more diverse vegetation and topography. Sugar Ridge now has a pistol range in addition to the existing rifle range. Sugar Ridge contributes to the local economy by providing a safe environment for recreation and sport.

The Division of Law Enforcement graduated its fortieth class of fifteen recruits at a ceremony held at the Indiana Statehouse. Those graduates will go to the Indiana Law Enforcement Academy to finalize their training. This is the second law enforcement class the Department has graduated in 2022.

The U.S. Supreme Court declined to hear *Pavlock v. Holcomb*, an appeal from property owners who challenged Public Trust Doctrine for Lake Michigan established by the Indiana Supreme Court decision *Gunderson v. State of Indiana*, 90 N.E. 3d 1171 (Ind. 2018). The Indiana General Assembly codified the *Gunderson* decision with the passage of House Enrolled Act 1385.

The Spring Mill Inn closed on November 12, 2022, for renovations and will reopen in 2024. The Spring Mill Inn was built in 1939. Many modern amenities did not exist when the Inn was originally built. The renovation will address those issues and restore the lodge to its original beauty.

The Next Level Trails Program continues to progress with projects in Greenfield, Kendallville, and Brown County. The Next Level Conservation Trust program is moving forward with the funded projects.

The Division of Forestry planted trees at Green Sullivan State Forest and continues to work on the Governor's million tree initiative.

Winter season activities on state properties include ice fishing, the toboggan run at Pokagon State Park, cross-country skiing, and snowmobiling.

Steve Hunter, Director of the Division of Law Enforcement, added there are currently seventeen openings for Conservation Officers. Bortner shared some Conservation Officers will be retiring within the next 12 to 18 months. Another recruit class is planned for 2024.

Stautz complimented the compensation study and the Department's efforts to attract and retain quality state employees. Bortner stated the average increase in salary statewide was 7%. The lowest increase for Department employees was 5%. The Department has already seen an increase of employment applications and the increase will help retain employees.

Chris Smith, Deputy Director of the Land Management Bureau, provided his report as follows:

The deer firearm hunting season started on November 12, 2022. The number of deer checked in appears to be slightly more than in the last few years. The Deer Harvest data website on the Department's webpage provides real-time overall statistics with a county-by-county breakdown of check-ins.

Hunters may donate harvested deer to help feed the hungry through the Sportsman's Benevolence Fund administered by the Division of Law Enforcement, through grants to Hoosiers Feeding the Hungry, through the Dubois County Sportsmen Club, and through Hunters and Farmers Feeding the Hungry. The grants pay the processing fees for hunters who donate legally harvested deer. In 2021, hunters donated 879 deer or over 45,000 pounds of venison. More information can be found at www.sbf.IN.gov.

Deer reduction hunts are occurring on several park properties including Brown County, Chain O'Lakes, Charlestown, Fort Harrison, Harmonie, Lincoln, McCormick's Creek, Ouabache, Pokagon, Potato Creek, Prophetstown, Shades, Shakamak, Summit Lake, Tippecanoe River, Whitewater, Trine, and Cave River Valley. The reduction hunts help to manage and maintain a proper balance in the deer population while protecting the unique botanical resources located within the parks. There will be a second round after the Thanksgiving holiday.

Holiday Gift Packs are available to purchase online or through customer service. The packs include an annual entrance pass, gift card, and a subscription to Outdoor Indiana. The price for the packs starts at \$79.

On November 14, 2022, the Division of Forestry partnered with employees from Clif Bar Company and the Natural Resources Foundation to plant 2,000 trees at Green Sullivan State Forest as part of the million-tree initiative. To date, over 667,000 trees have been planted in the million-tree initiative. Two years remain in the program. The Division of Forestry held their annual public open houses at each state forest and completed their annual certification audits.

The Forest Stewardship Council and Sustainable Forestry Initiative certification ensure wood products from state forests are grown in a sustainable and well-managed manner. The ability to offer “green-certified” wood products is becoming increasingly important, especially in overseas markets.

James Brindle left the Division of Communications for other employment. The Department is searching for a new Director for the Division. Interviews began on November 14, 2022.

Amanda Wuesterfeld, (Director of the Division of Fish and Wildlife) reported has received positive feedback on the fee increase. License sales are up across the board by 25-26%.

Ryan Mueller, Deputy Director of the Resource Regulatory Bureau, provided his report as follows:

The Sugar Ridge FWA received the OSMRE 2022 Interior Region Abandoned Mine Land Reclamation Award. This coal mine project mitigated almost 2,200 feet of dangerous highwall ranging from 30 to 55 feet high on Sugar Ridge FWA and addressed acid mine drainage water issues. Since completion, an increase in wildlife activity has been observed.

The Division of Reclamation was awarded \$19 million to plug orphaned and abandoned oil and gas wells. This is part of the initial phase of funding authorized by the federal infrastructure bill which awarded \$25 million to states. The Division continues to seek additional bids to award the remaining \$6 million in federal funding. The initial funding will hopefully address between 300 and 400 of the 1,400 orphaned and abandoned wells statewide.

Kirsten Haney, Deputy Director of the Administrative Bureau, provided her report as follows:

The Department, along with the Indiana Department of Administration, continues to work on deferred maintenance projects. The Department received approval from the Budget Committee in October 2022 to use \$18 million in deferred maintenance funding. The third-round projects include purchasing emergency generators for the inns, renovations to the Spring Mill water wheel and flume, the parking garage at Spring Mill State Park, renovations to the Potawatomi Inn at Pokagon State Park, renovations to

twelve family cabins at Brown County State Park and upgrading or replacing the air handlers at Turkey Run State Park.

As of November 15, 2022, the Department had 1,186 regular positions filled and 211 regular positions vacant. The Department is in the process of filling 90 of those regular positions. Applications have increased and more qualified candidates are applying.

A budget hearing is scheduled in early December to review the Department's fiscal year 2024 to 2025 biennium budget submission by the Budget Committee.

Patrick Early, the Chair of the Advisory Council, reported as follows:

The Council met on October 24, 2022 and addressed fish and wildlife issues. The Council advises the Department on possible solutions to matters that may be controversial before the matter is presented to the Commission. At the October meeting, the Council heard statements from catfish anglers on proposed rule changes submitted by the anglers to address a perceived reduction in the catfish population. The Council will consider those requests. The council heard presentations on proposals for deer regulations and on the fiscal impact of lifetime licenses.

The Council has three vacancies out of seven total members. With only four members, scheduling meetings is challenging. The Department is working to get more members appointed.

CHAIR AND VICE CHAIR

Consideration of 2023 meeting dates:

The Chair noted the Commission meeting dates for 2023 are January 17, March 21, May 16, July 18, September 19, and November 21, scheduled to take place at the Fort Harrison State Park Garrison in Indianapolis.

The Chair recognized the Outdoor Indiana Magazine, which won the "Best Calendar" award for the 2022 calendar.

Updates on Commission and AOPA Committee

Jane Ann Stautz, Vice Chair of the Commission and Chair of the AOPA Committee, reported the Committee met last on October 4, 2022, and reviewed a couple of items, including the Policy for Electronic Participation in Commission meetings. Stautz noted the possible legislative matter that could remove riparian rights cases from the jurisdiction of the Commission.

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.

DNR, DIVISION OF NATURE PRESERVES

Consideration of the Dedication of the Clemens Place on Clifty Creek Nature Preserve in Greene County

Andrew Reuter, Division of Nature Preserves, presented this item. Reuter reported:

The proposed nature preserve is owned and managed by Sycamore Land Trust. It was identified as a significant natural site by the DNR Natural Areas Registry. The 58-acre site features towering sandstone cliffs, a karst sink, and an oak forest within the Clifty Creek canyon.

The Division of Nature Preserves recommends dedication of this site as a State Nature Preserve.

Dan Bortner moved to approve the dedication of the Clemens Nature Preserve in Greene County. Brian Rockensuess seconded the motion. Upon a voice vote, the motion was carried.

Consideration of the Dedication of the Bluffs of Beaver Bend Nature Preserve Addition in Martin County

Reuter also presented this item and reported:

The proposed nature preserve adds more than 200 acres to the previously dedicated Bluffs of Beaver Bend Nature Preserve, further extending the protected area. The site has Mesic and Dry-Mesic upland forests, sandstone and limestone cliffs, and includes a portion of the riparian corridor of the East Fork of the White River. It is owned and managed by the Division of Nature Preserves.

The Division of Nature Preserves recommends dedication of this site as a State Nature Preserve.

David Holt moved to approve the dedication of the Bluffs of Beaver Bend Nature Preserve Addition in Martin County. Brian Rockensuess seconded the motion. Upon a voice vote, the motion was carried.

DNR, DIVISION OF FISH AND WILDLIFE

Report to the Natural Resources Commission on Citizen Petition Governing Blow Gun Fishing in Indiana; Administrative Cause No. 22-FW-013

Linnea Petercheff, Division of Fish and Wildlife presented this item. Petercheff reported:

The citizen petition requested blow gun fishing be authorized in the administrative code for sport fishing for rough fish and invasive species such as Asian carp.

The Department committee that reviewed the petition had concerns about the effectiveness and efficiency of the method of blow gun fishing. The dart can be pulled out when trying to retrieve the fish and the air pressure behind the dart varies from person to person, which could result in injury to the fish. There are a number of legal methods of fishing these species. Other states have made blow gun fishing illegal.

The Department is not recommending blow gun fishing be added as a legal means of sport fishing.

John Wright moved to accept the Committee's Report and recommendation regarding the citizen petition governing Blow Gun Fishing in Indiana. Pat Early seconded the motion. Upon a voice vote, the motion was carried.

Report to the Natural Resources Commission on Citizen Petition Governing Fishing on North Twin Lake; Administrative Cause No. 22-FW-020

Petercheff also presented this item and reported:

The citizen petition requested a slot limit for black bass and a daily bag limit for bluegill be established at North Twin Lake in LaGrange County.

North Twin Lake and South Twin Lake are connected by a channel through which fish travel between the two lakes. Fishing regulations should be the same on both lakes. The last fisheries survey was in 2013 and showed 20% of bluegill were 7 inches or larger. A 2016 spring sampling showed an average stock size of eight inches or larger for bass. Based on this information for the lake, establishing a slot limit for black bass would have little impact on the overall size structure and current bass population.

The district fisheries biologist contacted the petitioner regarding the biology and the Department's decision. The Department does not recommend a slot limit for black bass or bluegill bag limit be set by administrative rule for North Twin Lake.

Phil French moved to accept the Committee's Report and recommendation regarding the citizen petition governing Fishing on North Twin Lake. Brian Rockensuess seconded the motion. Upon a voice vote, the motion was carried.

DNR, DIVISION OF WATER

Request for Preliminary Adoption to Amend 312 IAC 1-1-26, Governing the Ordinary High Watermark on the Lake Michigan Coastline; Administrative Cause No. 21-AD-034

Rebecca McClain, Division of Legal Counsel, presented this item. McClain reported as follows:

The adoption to amend 312 IAC 1-1-26 and 312 IAC 5-7-5 was due to codification of IC 14-26-2.1-2 and removes all references to the Lake Michigan shoreline being 581.5 feet. The emergency conditions reference in 312 IAC 5-7-5 is higher than the ordinary highwater mark and a change is needed to comply with the statute.

The Chair said one of the highlights of the Commission meeting on September 20, 2022, was being on Lake Michigan and the presentation by Jenny Orsburn on Indiana's Lake Michigan Coastal Program.

Jane Ann Stautz moved to approve the preliminary adoption of amendments to 312 IAC 1-1-26, governing the Ordinary High Watermark on the Lake Michigan Coastline. David Holt seconded the motion. Upon a voice vote, the motion was carried.

DNR, DIVISION OF LAW ENFORCEMENT

Request for Preliminary Adoption to Amend 312 IAC 5-6-3.5, Special Boating Zones, and Temporary Structure Standards on Clear Lake; Administrative Cause No. 22-LE-009

McClain also presented this item and reported as follows:

In June 2021, the Clear Lake Association filed a petition requesting special boating zones, piers out to a greater distance, an exception from the permitting requirement for placing buoys, and navigational distancing. The Commission approved the Department's report in favor of the petition at the March 15, 2022. The report also included changes to the original request for safety reasons.

The pier and boat lifts on Clear Lake must meet several conditions under 312 IAC 11-3-1(b)(1-4) and (7-9). The amended rule would allow 150 foot piers in water not more than six feet deep and 250-foot piers in water not more than three feet for properties between 430 to 456 Point Park Drive. The committee recommended a special boating zone of idle zone 300 feet from shore where qualifying temporary piers may be placed out to 250 feet. The Committee recommended permits be required for placing buoys but did not recommend additional distance a boat may operate at slow or no wake speed other than what is already allowed under Indiana Code and Indiana Administrative Code.

Brian Rockensuess moved to approve the preliminary adoption of amendments to 312 IAC 5-6-3.5, Special Boating Zones, and Temporary Structure Standards on Clear Lake. John Wright 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 Analysis with Recommendation Regarding Final Action to Amend 312 IAC 18-3-14 Governing Gypsy Moth; LSA #22-183(F); Administrative Cause No. 18-109E

Billie Franklin, Hearing Officer, presented this item as follows:

The proposed amendments to 312 IAC 18-3-14 add Lake and Whitley Counties to the list of counties declared to be infested with and subject to the gypsy moth quarantine. Also, the definition of the program manual has been updated to reflect the newest edition.

A virtual Public Hearing was conducted at the Commission's Division of Hearings on September 28, 2022. No one attended, and no comments were received. The rule language is provided as Exhibit A to the Hearing Officer's Report.

Jane Ann Stautz moved to give final adoption to amend 312 IAC 18-3-14 governing Gypsy Moth as presented. Marc Milne seconded the motion. Upon a voice vote, the motion carried.

Consideration to Approve Amendments to the Retention Schedule Process of the Natural Resource Commission, Division of Hearings; Administrative Cause No. 22-AD-024

Franklin also presented this item and reported as follows:

The change to the adjudication files retention schedule removes the Division of Hearing's microfilm copy of the records because a CD copy is provided. The Division of Hearings moved to electronic files at the beginning of 2022.

Brian Rockensuess moved to approve the amendments to the retention schedule process of the Natural Resources Commission. John Wright seconded the motion. Upon voice vote, the motion carried.

Consideration for the Adoption of Natural Resources Commission Policy for Electronic Participation in Natural Resource Commission Meetings

Elizabeth Gamboa, Division of Hearings Director, presented this item as follows:

A Commission policy for electronic participation in Commission meetings when members are not able to attend in person, in compliance with Indiana Code § 5-14-1.5-3.6 governing public meetings is presented.

The AOPA Committee reviewed and made changes to the policy before it was presented to the Commission. If adopted the policy would be posted on the Commissions webpage.

The Chair noted the policy is needed when personal attendance at Commission meetings is an issue.

John Wright moved to approve the adoption of Natural Resources Commission Policy for Electronic Participation in Natural Resource Commission Meetings. Marc Milne seconded the Motion. Upon voice vote, the motion carried.

The meeting was adjourned at approximately 10:47 a.m., ET.