

NATURAL RESOURCES COMMISSION
Meeting Minutes, March 19, 2019

MEMBERS PRESENT

Bryan Poynter, Chair
Cameron Clark, Secretary
Bruno Pigott
Laura Hilden
Misty Weisensteiner
Phil French
Patrick Early
Bart Herriman
Bruce Walkup

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen	Dawn Wilson
Scott Allen	Billie Davis

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Tara Wolf	Communications
Andrew Cruez	Communications
Elizabeth Gamboa	Legal
Dan Bortner	State Parks
James Teel	State Parks
Beth McCord	Historic Preservation
David Bausman	Legislative
Steve Hunter	Law Enforcement
Mark Basch	Water
Brock Mayes	Reclamation
Steve Weinzapfel	Reclamation

GUESTS PRESENT

Glen Salmon	Sadie Newman	Kerry Hoffer
Barrett Kyle	Kayla Eicholtz	Mitch Latta
Sarah Mutt	Clint McGill	Bryan McFadden
Noelle Szydlyk	Emily Wood	Erin Huang

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 9:59 a.m., ET, on March 19, 2019, 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 January 15, 2019 meeting minutes.

Bart Herriman moved to approve the minutes, as presented. Bruno Pigott, seconded the motion. Upon a voice vote, the motion carried.

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

Cameron Clark, Director of the Department of Natural Resources (Department) provided his report. Clark noted changes in the Division of Law Enforcement including the promotion of Jason Lee to Lieutenant Colonel, Tim Beaver to the new Major in charge of Operations replacing Lee, and Jet Quillen to the Captain of Public Relations.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. Davis stated that the Department is in the process of hiring employees in anticipation of the upcoming season. Davis said that the Department is considering the many candidates who applied for the Division of Nature Preserves Director position that was vacated by John Bacone's retirement.

Davis noted that there would be walleye egg rootstock collecting from March 28, 2019 until April 13, 2019 at Brookville Lake and that people interested in participating could contact him directly.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, provided his report. Smith stated that the divisions are currently finishing their annual meetings. Smith noted that on March 12, 2019 the Division of Communications held the Communications Summit to discuss and educate the other divisions on Communications policy.

Smith said that the Division of Historic Preservation and Archaeology, along with partners from Indiana University and Indiana Landmarks, are preparing for an annual preservation conference in Evansville, Indiana. Smith stated there would be over 250 conference attendees, from around the state, who work in the historic preservation field. Smith noted that May is Historic Preservation month.

Smith stated that the Division of Entomology and Plant Pathology are transitioning from inspections of grains and commodities shipments to nursery and nursery grower's inspections.

Patrick Early, Chair of the Advisory Council, provided an update and stated that the Advisory Council (Council) met on January 22, 2019. He noted the election of officers at the Council meeting.

The Chair welcomed back Tara Wolf, Director Division of Communications. The Chair introduced new Commission member, Misty Weisensteiner, Director of the Office of Tourism and Development.

Weisensteiner said that she is from southern Indiana close to the French Lick area. Weisensteiner stated that for ten years she was the Director of Orange County Convention and Visitors Bureau before becoming the Executive Director of the Orange County Economic Development Partnership, where she was involved in tourism. Weisensteiner said she is enjoying her new role and has a good team at the Office of Tourism and Development who have helped to acclimate her.

The Chair introduced Billie Davis as the new Paralegal for the Commission's Division of Hearings and asked her where she had worked previously.

Davis thanked the Chair and offered that she came to the Commission from the Indiana Office of the Attorney General.

The Chair recognized Glen Salmon, who was a former Director of the Division of Fish and Wildlife.

Salmon stated that he brought his class from Indiana University's O'Neill School of Public and Environmental Affairs to observe the Commission meeting and to participate in a presentation and a question and answer period with the Commission's Division of Hearings staff following the meeting. Salmon stated that he was with the Department's Division of Fish and Wildlife for 32 years and then with the U.S. Fish and Wildlife Service for 7 years before he retired. He said that he is now an Adjunct Professor at Indiana University. Salmon noted that he has good memories of his work with the Department and at the Garrison. He thanked the Commission for the opportunity.

CHAIR, AND VICE CHAIR

Updates on Commission and AOPA Committee

The Chair noted that Jane Ann Stautz, Chair of the Commission's AOPA Committee, was not present at the Commission meeting and that there was an AOPA Committee meeting held on March 11, 2019.

Information: Consideration of 2019 meeting dates (Indianapolis):

The Chair noted that the 2019 Commission meeting dates are May 21, July 16, September 17, and November 19 and announced that the meetings are scheduled to take place at the Fort Harrison State Park Garrison in Indianapolis.

DNR, EXECUTIVE OFFICE

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

Chris Smith and John Davis identified items for referral to the Advisory Council.

Smith recommended for consideration of a Water Sale Contract Application of the Golf Club at Eagle Pointe, LLC.

Davis recommended the Advisory Council's consideration of administrative rule proposals governing fish and wildlife in 312 IAC 9 before that proposal is presented to the Commission for consideration on preliminary adoption.

Information Item: Legislative Update

David Bausman, Legislative and Public Policy Director, presented this information item. Bausman said that legislative committee meetings are in full swing for the last half of the legislative session and bills that passed out of their respective legislative chambers are now in the other chamber. He noted that because 2019 is a budget year, the legislative session is longer.

Bausman stated that after presenting the budget to the House Ways and Means Committee the Department was authorized to present the Department's budget on March 11, 2019 and the Department has \$16 million dollars appropriated in the Governor's budget for the Division of Fish and Wildlife hatchery plan.

Bausman said that the Department's agency bill, HB1513, included provisions to adjusted Department fees and changed the Lake and River Enhancement Program (LARE) fees to be stand-alone fees on boater registrations. He added that the fee would still be charged but the amendment to include the fee as part of the boat registration fee is necessary to bring the Department into compliance with amended United States Coast Guard regulations. Bausman said that HB1513 would have allowed the Division of Entomology and Plant Pathology to have emergency rulemaking provisions, repealed mussel licenses, and provided that an employee drug-testing plan is not required to be submitted at the time of a bid for a public works contract. Bausman stated that HB1513 would also have extended the duration of a Construction in a Floodway Permit in quarry and aggregate sites.

Bausman explained that a committee amendment caused the reassignment of HB1513 to the Committee on Environmental Affairs where, due to procedural deadlines HB1513 did not pass out of the House. He explained that the Department is working with the Bureau of Motor

Vehicles (BMV) to add the LARE and some other Department portions of HB1513 into the BMV bill, HB1506, which is scheduled to be heard in a Senate committee on April 2, 2019. Bausman noted that because natural resource legislation was light and only three bills passed out of chambers there are no bills for the second half of the session before the Senate Natural Resource Committee.

Bausman noted SB336 would have reduced all of the Department's Title 14 violations to civil infractions, which was a concern to the Division of Law Enforcement. He noted that the Department was able to work with Senator Glick to have the amendments to Title 14 stripped out of SB336.

Bausman said that HB1223 establishes the Office of Administrative Law Proceedings within the State Personnel Department to hear certain administrative proceedings but noted that the Commission was one of the entities excluded from the bill.

The Chair asked if Bausman thought that there would be any change to HB1223 that might impact the Commission's Administrative Law Judges.

Bausman replied that he did not believe there would be any changes to HB1223 expressed confidence that the Commission would continue to be excluded from the bill.

Bausman said that SB363 began as a hunting guide license bill but after several amendments now provides that an individual may not provide hunting guide services without a hunting guide license issued by the Division of Fish and Wildlife and other provisions related to the Division of Forestry and the Division of Water on permitting and mitigation.

Bausman said SB442 relates to underground storage of carbon dioxide and it has been amended to include language for the framework on carbon dioxide pipelining. Bausman said that the Division of Oil and Gas will need to create a program and adopt rules related to underground carbon dioxide storage if SB442 moves forward. He noted that SB442 would likely end up in conference committee to determine whether the bill goes to summer study or if a pilot program moves forward.

Bausman noted that SB553 and SB581, dealing with Lake Michigan issues, are getting a lot of attention. Bausman said that SB553 defines "Lake Michigan shore" as the land along the edge of Lake Michigan between the water's edge and the ordinary high water mark based on *Gunderson v. State*, while SB581 defines "Lake Michigan shore zone" as the land between the ordinary high water mark of Lake Michigan and the lakeside property line of a privately owned lot or tract of land. Bausman added that SB581 would authorize the Department to issue permits for any maintenance, construction, or another similar activity in the Lake Michigan shore zone related to beach grooming, sea walls, revetments, secondary erosion control, and retaining walls along the 45 miles of Indiana lakeshore.

The Chair asked what bill the deferred maintenance fund was put into.

Bausman stated that the deferred maintenance fund is still in the state budget bill, HB1001 and is not part of the Department's budget.

The Chair asked how many hunting guide licenses might be needed.

Bausman stated there could be 25 to 50 guides that would need to be licensed that are currently providing guide services, especially in the southeast area of the state.

Information Item: 2019 Department goals and R3 Program

Director Cameron Clark presented this information item. Clark stated that R3 program stands for recruit, retain, and reactivate and the Division of Fish and Wildlife invited constituents from the state to attend the R3 Summit to help with the understanding and implementation of the R3 initiative. Clark stated that the Department had a speaker from the Wildlife Management Institute and representatives attended the R3 Summit from the Council to Advance Hunting and the Shooting Sports, and the Recreational Boating and Fishing Foundation.

Clark stated that the Pittman-Robinson Act and the Dingell-Johnson Act are two federal acts that were instrumental in conservation through state fish and wildlife agencies and there is a trend where there are fewer people buying hunting, fishing, and trapping licenses. He noted that many state agencies are funded by the purchase of those licenses along with the federal match that comes from the Pittman-Robinson Act and the Dingell-Johnson Act money. Clark said that the R3 program helps conservation constituent groups find ways to engage more people in recreational outdoor activities. Clark noted that the program does not just work to recruit or engage people interested in hunting and fishing but it includes many other types of outdoor recreational activities and a larger demographic of people.

Clark noted that the R3 initiative is the primary objective of the Department in 2019 and the goal is to increase the number of people who are engaged in outdoor recreation.

The Chair noted that the First Lady Janet Holcomb spoke at the Departments' R3 Summit.

Clark elaborated that the First Lady spoke about her participation in competitive shooting sports and noted that the First Lady is a National Rifle Association certified shooting instructor. Clark said that the First Lady's discussion focused on women in shooting sports.

The Chair asked what would follow now that the R3 Summit has taken place.

Clark stated that part of the discussion was how the Department measures the success of the R3 initiative. Clark said, "It's not just is there going to be an uptick in license sale because there is a churn rate. The idea is to follow those who are purchasing licenses for multiple years not just a one-year observation of whether [the Department] has sold more licenses. From the standpoint of the non-consuming outdoor recreationist, it's just a matter of getting groups to follow through with not only holding events to introduce them to whatever the outdoor recreation is, but find a

way to follow up with them after words.” Clark said surveys can measure if a person is still engaged an activity or if a person has picked up a new activities.

He noted that purchases would be tracked for multiple years and finding a way to follow up with people who are engaging in outdoor recreational activities.

Clark noted that the Department’s goal is to make people aware of the outdoor activities available in the state and to get people engaged.

French asked if there was a way to compare the number of people engaged in outdoor activities in Indiana with other states.

Clark said that the R3 initiative is based on hunting, fishing, and trapping license sales, but the Outdoor Recreation Adoption Model gets statistics from the states on where the trends and demographics are in the sale of individual licenses. Clark said that at the R3 Summit, there was a graph of the historical trends of national hunting and fishing license sales, but the other outdoor recreational activities do not track as well because of the lack of data. Clark stated that one way to track other outdoor activities is through retail sales. Clark stated that the Outdoor Industry Association put together a report on the economic impact of outdoor recreation to get an idea of how money is spent to help the Department understand where the trends are.

Clark stated that a focus objective for the Department in 2019 is to improve customer service and the Division of Communications will determine what the customers want and how to provide it.

Clark explained that Native American Graves Protection and Repatriation Act (NAGPRA) impacts archeological studies and permits related to Native American remains or objects. Clark noted that the federal government has determined that states are responsible for compliance with NAGPRA so the Department will determine, through issued permits, the status of the collection of remains and objects from Native American archeological sites. He stated that the Department will make sure that archeological items are inventoried, published, and that the appropriate Native American tribes have been contacted.

Clark said that the National Archery in Schools Program administered through the Department’s hunter education program, with the help of the Indiana Hunter Education Association, was adopted in Indiana in 2005. Clark explained that the program, which is designed to include archery in the school curriculum, had nearly 500 schools, and over 2,700 students participating in the most recent state archery tournament. He noted that approximately 1,600 more interested students were not able to participate because state tournament participation was limited by space and approximately.

Clark said that the National Archery in Schools Program was not originally adopted as a R3 program but that it has become one because of the program’s success. Clark said that the program is inclusive, doesn’t require the best athletes to be on a team, and it is co-ed. Clark noted that there have been competitors that are confined to wheelchairs, legally blind, and an amputee that shot with one arm. Clark stated that the tournament has a 2D and 3D portion in the

competition, the top two scores in 2D and 3D were posted by young ladies, the top score of the day was a 296 out of 300, and there was a sixth grade student that posted a score of 292.

The Chair noted that one of the schools from Indiana won the state, national, and world tournaments in archery. Clark added that Castle High School team from Evansville won all three tournaments in 2018 and won the 2019 state archery tournament. Clark said that Indiana is second in the nation in the National Archery in Schools Program.

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 5-8-2, to extend the no boating zone adjacent to the Whihala Beach County Park in Whiting, Indiana; LSA Document #18-515(F); Administrative Cause No. 18-010L

Dawn Wilson, Hearing Officer, presented this item. Wilson stated that LSA #18-515 is to amend 312 IAC 5-8-2 by changing the no-boating zone near Whiting, adjacent to the Whihala Beach County Park at the site known as the East Swimming Beach from, 200 feet lakeward to 300 feet lakeward and perpendicular to the shoreline.

Wilson said the proposed rule was determined by Office of Management and Budget (OMB) to qualify for an exception to the prohibition against rulemaking on July 11, 2108 and was presented and preliminarily adopted by the Commission on November 13, 2018.

Wilson stated that Notice of Intent to adopt the new rule was published in the Indiana Register on November 21, 2018, that all required approvals were obtained throughout the process, and the Division of Hearings has maintained all appropriate documentation as required and executive order on the Commission's web based internet online rulemaking docket. She noted the Legislative Service Agency (LSA) posted the proposed new rule on January 30, 2019.

Wilson said that on February 25, 2019, a public hearing was held in the Lake County Public Library, Merrillville Branch. She noted that Lieutenant Shawn Brown appeared at the public hearing, on behalf of the Department and three members of the public also attended. She stated that oral comments presented during the public hearing were summarized within the hearing officer report.

Wilson said that there were no public comments received through the online rulemaking docket and no comments were submitted through written correspondence. Wilson noted that the Department did not provide a response to the copies of the public hearing oral comments.

Wilson recommended final adoption of the proposal to amend 312 IAC 5-8-2 without revision as presented as "Exhibit A" to the hearing officer's report.

Bruno Pigott moved to give final adoption to amend 312 IAC 5-8-2, to extend the no boating zone adjacent to the Whihala Beach County Park in Whiting, Indiana. Cameron Clark seconded the motion. Upon a 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 18-3-23, to add two species to the published list of prohibited invasive aquatic plants and to repeal 312 IAC 18-3-21; LSA Document #18-508(F); Administrative Cause No. 18-068E

Wilson also presented this item and said that LSA #18-508 is to amend 312 IAC 18-3-23 to add two plants, starry stonewort and water soldier, to the published list of prohibited invasive aquatic plants. She added that also proposed is the repeal of 312 IAC 18-3-21, regarding the control of Hydrilla verticillata because of its regulation through other rules.

Wilson said that the proposed rule was determined by OMB to qualify for an exception to the prohibition against rulemaking on October 5, 2018 and was presented and preliminarily adopted by the Commission on November 13, 2018.

Wilson said the Notice of Intent to adopt the new rule was published in the Indiana Register on November 21, 2018, all required approvals had been obtained throughout the process, and the Division of Hearings maintained all appropriate documentation as required by rule and executive order on the Commission's web based internet online rulemaking docket. She said that LSA posted the proposed new rule on January 30, 2019.

Wilson stated that the Economic Impact Statement, prepared by the Department, was transmitted to the Indiana Economic Development Corporation Small Business Ombudsman as required under IC 4-22-2.1-5 and on January 24, 2019, the Ombudsman responded with her conclusion that the proposed rule would not impose an additional burden on small businesses in Indiana.

Wilson said, on February 21, 2019, a public hearing was held in the offices of the Division of Hearings and Megan Abraham, Division Director of the Department's Division of Entomology and Plant Pathology and the Small Business Regulatory Coordinator (SBRC) attended the public hearing. She stated that no member of the public attended the public hearing and no comment was submitted through written correspondence mailed or hand delivered to the Division of Hearings.

Wilson stated that approximately 28 public comments were received through the online rulemaking docket before the February 21, 2019 deadline and that copies of all comments submitted were forwarded to Megan Abraham who provided a response to the comments on behalf of the Department. Wilson noted that the Department's response included the consideration of the addition of species to the currently proposed list but that no change in the proposed rule language was recommended by the Department.

Wilson recommended final adoption of the proposal to amend 312 IAC 18-3-23 to add two plants to the published list of prohibited invasive aquatic plants and to repeal 312 IAC 18-3-21, without revision, as noted in “Exhibit A” to the hearing officer’s report.

Bruce Walkup moved to give final adoption to amend 312 IAC 18-3-23, to add two species to the published list of prohibited invasive aquatic plants and to repeal 312 IAC 18-3-21. Cameron Clark seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation for final action on readoption of 312 IAC 20, governing the Historic Preservation Review Board; LSA #19-2(F); Administrative Cause No. 19-005H; 312 IAC 21, governing archaeological review and recovery; LSA #19-3(F); Administrative Cause No. 19-006H; 312 IAC 22, governing human remains, burial objects, and artifacts; LSA #19-4(F); Administrative Cause No. 19-007H; 312 IAC 28, governing the State Land Office; LSA #19-5(F); Administrative Cause No. 19-009K; 312 IAC 1, providing definitions applicable to Title 14 of the Indiana Code and Title 312 of the Indiana Administrative Code; LSA #19-6(F); Administrative Cause No. 19-001A; 312 IAC 11.8, governing surface water disputes; LSA #19-10(F); Administrative Cause No. 19-004W; 312 IAC 25, governing coal mining and reclamation operations; LSA #19-11(F); Administrative Cause No. 19-008R

Sandra Jensen, Hearing Officer, presented agenda items 8 through 14 on the rule readoptions. Jensen explained that for consideration is the final readoption of rules that are set to expire. She explained that without amendments, the Commissions Division of Hearings Director is authorized to grant preliminary adoption, but the Commission retains authority for final readoption. Jensen stated that preliminary adoption was granted on January 2, 2019 for each of these rules that are proposed to be readopted without amendments. Jensen noted that moratorium exception under Executive Order 13-03 does not apply to and budget approval is not necessary for readoptions.

Jensen said that between January 8, 2019 to January 10, 2019 the SBRC for each rule readoptions submitted the required fiscal analyses, which she submitted to the Legislative Council through the portal, on (insert date) but advised to resubmit them by email, which was done on January 22, 2019. Jensen stated that Notice of Intent to readopt the rules was published in the Indiana Register on January 16, 2019, which provides notice that a person is entitled to seek, within 30 days, to have an individual rule in an article adopted separately. No such request was received with respect to any of the readoptions.

Chris Smith presented an overview of 312 IAC 20. Smith stated that the National Historic Preservation Act defines and sets the Federal statutory framework for the State Historic Preservation Review Board (Review Board). Smith said that the Review Board has nine members that are appointed by the Governor with three citizen members, five appointees who have expertise in archeology, architecture, architectural history, or history, with the Department’s Director or designee serving as the chair and the Division of Historic Preservation and Archaeology Director serving as a nonvoting advisor. Smith noted that the Review Board reviews property nominations for inclusion on the National Register of Historic Places or the

Indiana Register of Historic Sites and Structures based on historic event, historic person, and archeological importance. Smith added that the Review Board considers projects to receive funding under a federal grant program and applications for state funded projects that alter historic properties. Smith said the Review Board also provides advice and recommendations to the Department and the State Historic Preservation Officer.

Beth McCord, Division of Historic Preservation and Archaeology Director, provided an overview of 312 IAC 21 explaining that it provides uniform guidelines for professional and scientific investigations and treatment of human remains and artifacts. She stated the rule also provides standards for participation, archaeological project plans, personnel qualifications, project facilities, analysis, curation, and project documentation and reporting.

McCord also provided an overview of 312 IAC 22. She offered that 312 IAC 22 expands upon 312 IAC 21 by requiring permits and plans for investigations for the disturbance of the ground to discover or remove artifacts, burial objects, grave markers, or human remains. McCord stated that 312 IAC 22 was created to stop the desecration of Native American burial sites.

McCord noted that 312 IAC 22 also addresses instances where there are accidental discoveries of artifacts and human remains and the rule provides an expedited process for cemetery restorations.

John Davis offered a summary of 312 IAC 28 stating that the State Land Office has been in existence since before Indiana became a state. Davis said that the State Land Office tracks land owned by all agencies in the state with the exception of the Department of Transportation and state universities. Davis noted that the State Land Office is involved with the cooperative digital mapping technology, including public web map interfaces that all the agencies share on land data.

Sandra Jensen observed that 312 IAC 1 provided definitions applicable to Title 14 of the Indiana Code and Title 312 of the Indiana Administrative Code definitions and was generally self-explanatory.

Mark Basch, Section Head, Water Rights/Use Section of the Division of Water, explained that 312 IAC 11.8 specifies that the Commission's, Division of Hearings shall administer and coordinate application of IC 14-25-1, including the use of mediation under IC 4-21.5-3.5 for a dispute that arises between the users of surface water in a watershed area. Basch stated the Division of Water administers and coordinates the professional and technical functions under IC 14-25-1 and may provide professional and technical assistance to parties to assist in achieving a resolution of a surface water dispute.

Basch updated the Commission that no administrative petitions have yet been filed under 312 IAC 11.8, but that there have been people who have called inquiring about the rule.

Jensen noted that 312 IAC 11.8 has, in all probability, resulted in cases resolving themselves prior to filing with the Division of Hearings. Jensen said that the Division of Hearings did receive calls from people living around water supplies who are concerned about water withdraw

impacts offered that possibly the existence of the rule has been helpful to people in resolving matters on their own.

Basch said the Division of Water have been involved with surface water rights and the Surface Water Emergencies on Lakes under 312 IAC 11.5 and IC 14-25-5. Basch said that 312 IAC 11.5 provides protection against the substantial lowering of a public freshwater lake by a significant water withdraw facility. Basch said that the Division of Water is authorized to conduct an investigation and declare a surface water emergency if it is determined there has been a substantial lowering of a lake. He noted that since 1995 the Division of Water has conducted under the authority of this rule. In most cases it has been determined that the lake is less than 10 acres in size and the rule is not applicable, but in a couple situations the facility voluntarily agreed to pump water back into a lake.

Basch also discussed Significant Water Withdrawal Facility (SWWF) Registration under IC 14-25-7-15. He said that SWWF has the capability of withdrawing more than 100,000 gallons of ground water, surface water, or ground and surface water combined in one day, equivalent to 70 gallons of water per minute. He said the facilities are registered but only the facilities in the Lake Michigan Basin are required to have a permit. Basch stated that the Water Rights and Use Section currently maintains records of approximately 4,140 active SWWFs, representing about 7,300 ground-water wells and 1,300 surface water intakes.

Brock Mayes, Assistant Director, Support Services, Division of Reclamation offered that the Division of Reclamation is a regulatory program governing coal mining under 312 IAC 25. Mays said that the U.S. Congress adopted the Surface Mining Control and Reclamation Act (SMCRA) in 1977, establishing national standards for coal mining and reclamation, and SMCRA created the federal Office of Surface Mining, Reclamation, and Enforcement (OSM) as part of the Department of Interior. Mayes said that Indiana is required to comply with IC 14-34 and the regulations under 312 IAC 25 to maintain Indiana's state primacy from the OSM, which Indiana received in 1982.

Mayes stated that the two programs under the Division are the Regulatory Program provided by Title V federal grants through the OSM and the Abandoned Mine Lands Program (AML). Mayes said that the Regulatory Program supervises more than 75 mining permits in southern Indiana with over 65 of those permits inspected monthly as required by state and federal law.

Mayes said that the Division protects citizens and the environment from potentially adverse impacts of surface coal mining and observed that the Division has a regulatory responsibility for the mining of clay, shale and oil shale. Mayes added that the Regulatory Program Inspections and Enforcement Section ensures compliance with the regulations and the return of land a condition similar to its original condition. Mayes offered that the Technical Services Section is responsible for reviewing the technical aspects of permit applications for an area to be mined. Mayes noted that a decision on a permit application could take six months to one year and observed that currently there are approximately 30,000 new acres waiting for a decision.

Mayes stated that half the cost of the Regulatory Program is funded through a federal grant and the other half is through \$0.055 per ton fee levied on surface coal and \$0.03 per ton fee on

underground production of coal. Mayes noted that the Division is self-sufficient having no funds coming from general funds.

Mayes said that Indiana ranked ninth in national coal production with 33 million tons of coal produced in 2018. He noted that the underground mining has increased in the last several years observing that now approximately half of coal production comes from surface mining and half from underground production. .

Mayes said the purpose of the AML Program is to alleviate the safety, health and environmental hazards of coal mining practices occurring prior to 1977. Mayes noted that the AML is completely funded through an OSM Title IV federal grant. Mayes stated that AML addresses dangers with abandoned structures and equipment, erosion, high walls, shaft openings, subsidence from underground mines, acid mine drainage, and coal refuse fires. He noted that since 1982, the AML Program has spent over \$169 million dollars reclaiming abandoned sites.

Herriman asked if the 30,000 acres under review for mining permits was from a small amount of applicants.

Mayes stated that the 30,000 acres that are currently under review are from approximately five or six applicants that have submitted amendments or new permit applications. He noted that an amendment would be a major revision to a permit.

Herriman asked if inspections of mining sites were announced or not announced by the Division.

Mayes stated that typically inspections of mines are unannounced and that the Division is required to do a complete inspection of the mines once every quarter. Mayes noted that partial inspections are also done. Mayes added that there is federal oversight to ensure the Department is enforcing the rules and statutes as intended.

Bruno Pigott moved to readopt 312 IAC 20, 312 IAC 21, 312 IAC 22, 312 IAC 28, 312 IAC 1, 312 IAC 11.8, 312 IAC 25 without amendment. Bruce Walkup seconded the motion. Upon a voice vote, the motion was carried.

Adjournment

The meeting was adjourned at approximately 11:24 a.m., ET.