

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes of May 19, 2015**

**COMMISSION MEMBERS PRESENT**

Bryan Poynter, Chair  
Jane Ann Stautz, Vice Chair  
Cameron Clark, Secretary  
Carol Comer  
Patrick Early  
Phil French  
Doug Grant  
R. T. Green  
Laura Hilden  
Jake Oakman  
Robert Wright

**NRC, DIVISION OF HEARING STAFF PRESENT**

Sandra Jensen  
Dawn Wilson  
Jennifer Kane

**DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT**

John Davis	Executive Office
Chris Smith	Executive Office
Cheryl Hampton	Executive Office
Shelley Reeves	Executive Office
Sam Hyer	Executive Office
Mike Smith	Executive Office
Monique Riggs	Water
Steve Hunter	Law Enforcement
Danny East	Law Enforcement
Dan Bortner	State Parks and Reservoirs
Ginger Murphy	State Parks and Reservoirs
Carl Lisdell	State Parks and Reservoirs
John Bacone	Nature Preserves
Linnea Petercheff	Fish and Wildlife
Mark Reiter	Fish and Wildlife
Brian Schoening	Fish and Wildlife
Mitch Marcus	Fish and Wildlife
Phil Marshall	Entomology and Plant Pathology
Jeff Saucerman	Budget

## **GUESTS PRESENT**

Barb Simpson	Jack Corpuz	Paul Arlinghaus
Tammy Mebane	Debbie Kulwicki	Greg Furry
Tom Sherlot	Paul Arlinghaus	Herb Higgins
Andy Williamson	John Montgomery	Bruno Pigott
Mike Hufhand	Brian Holzhausen	Connie Schmucker
Erin Huang	Steve Renaker	

Bryan Poynter, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., EDT, on May 19, 2015 at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of eleven members, the Chair observed a quorum.

The Chair asked for a motion for the approval of the Commission’s January 20, 2015 minutes.

Phil French moved to approve the minutes for the meeting held on January 20, 2015, as presented. Vice Chair Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

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

Director Cameron Clark provided his report. He introduced Sam Hyer, the Department’s Legislative Director. Clark said Hyer served as a Legislative Assistant for a couple of Legislators before Hyer “came on board in October. I’m really happy with Sam’s work. He has fit in very well with DNR.”

Clark said the Department’s properties are up and running for the season, and noted that there are key weekends throughout the outdoor season that can “really make or break our seasons. Let’s pray for some good weather this weekend as we host a lot of people back to our state parks and other properties.”

Clark noted that this was a Budget Session, but from the Department’s perspective, the budget came through as expected. The Department’s budget will be approximately 3% less than the prior biennium, but the budget allowed about a \$4 million inclusion in the State Parks budget to fund projects at the Whitewater Memorial-Brookville Lake and Wyandotte Cave areas. He announced that the Department’s Omnibus Bill, HB 1452, passed with very little change. Clark said the HB 1453, the “high-fenced hunting” legislation, did not pass the Senate.

Clark said the Division of Law Enforcement will begin its recruit school in early June. “What makes this class somewhat unique is that the interest in applicants for this class was about as high as it has ever been.” He noted that 312 IAC 4-5-2 was amended last year to include as a qualification an applicant’s four years of full time military service with an honorable discharge. “That really made a difference, we think, in the quality of applicants, generally.” He noted that approximately 33% of the applicants were a result of this rule change, and four of the final 20 applicants meet this qualification.

John Davis, Deputy Director of the Bureau of Lands and Cultural Resources, reported some controversy and public conversation surrounding the development and improvement of the pavilion at the Dunes State Park. He also said the Department is preparing for the Bicentennial, and noted Rose Hulman students have drafted a design for a Centennial Shelter, which the Department may build in several locations. “It’s pretty sparse, but some symbolism” of the 100<sup>th</sup> Year of the state parks system and Indiana’s 200<sup>th</sup> Anniversary. Davis said the shelter would be built in its most basic form for under \$200,000, “so it’s a practical thing that we can do in-house.” He said the Department is entering into the last \$5 million of the \$30 million Bicentennial Nature Trust, and a report would be presented at a future meeting of this Commission.

The Chair asked Davis to provide an update on the improvements of the pavilion at the Dunes State Park. Davis said that the pavilion has been gutted and the interior is in the process of being refurbished in order to provide space for the snack bar, vending, and restaurant opportunities. He said the contractor is building a new restroom facility next to the pavilion. Davis said there was not much controversy regarding the new restroom facility; however, there is controversy and conversation about the proposed addition east of the pavilion to be located on the cement pad that situated between the pavilion and Dunes Creek. He noted that the building has not yet been designed, and there have been two public meetings regarding the development. Davis noted that there has been an open conversation with many of those that attended the public meetings, from Save the Dunes, Izaak Walton League, and local interested persons, about the design. “The concerns are lighting, sound, and bird deaths through collision.” He said some are concerned about any disturbance of the beach, but he noted that the new addition would be placed on the cement pad with no beach disturbance. Davis said that construction of the new addition would begin this winter.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, reported that there was an archaeological find at the IndyGo Transit Center construction site. Staff with the Division of Historic Preservation and Archaeology continues to work with IndyGo’s contract archaeologist to assess the situation. Since there are federal transit funds involved in the construction project, the National Environmental Policy Act (NEPA) process would need to be completed. He said Department staff is scheduled to meet with IndyGo tomorrow morning.

Smith said the Division of Reclamation, with the assistance of the Finance Section, completed a federal audit of the Abandoned Mine Lands Program. He thanked Jeff Saucerman and staff for their assistance, and noted that it has been some time since the Inspector General’s Office had audited the program. “Everything appears to have come out well, and we look forward to getting the report.”

Smith noted that May 17 through May 23 is Emerald Ash Borer Awareness Week. He said most Indiana counties are infested with emerald ash borer, but the designated week is used as a mechanism to keep awareness of how humans move the beetles around. The Department continues to restrict movement of firewood on its properties.

Patrick Early, Chair of the Advisory Council, provided his report. He said the Advisory Council met in April and approved the report regarding the Brookville Lake water sale contract, which is on today's agenda. Early said he would defer discussion until the item is considered.

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

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

The Chair introduced himself, and then invited the other members to make introductions. He noted that at January's meeting he introduced Sandra Jensen as the new Director of the Commission's Division of Hearings. He thanked the Commission members who participated in the hiring process of a new administrative law judge. The chair then deferred to Jensen to introduce the new Administrative Law Judge, Dawn Wilson.

Jensen also thanked Commission members for their assistance in the hiring process. She then invited Dawn Wilson to provide a brief background.

Dawn Wilson said she spent the last nine years as the Chief Administrative Law Judge for the Department of Child Services. "I am very much looking forward to the opportunity to serve in this capacity as an administrative law judge" for the Commission.

Vice Chair Stautz, Chair of the Commission's AOPA Committee, reported that the AOPA Committee met this morning. She said that the Committee discussed the requirement regarding having legal representation for corporate entities who appear before the Commission. She noted that at the request of the AOPA Committee, Judge Jensen will proceed with requesting opinion from the Office of the Attorney General to receive clarity regarding the situation of requirements for representation of corporate entities. The Vice Chair also noted that the Committee also established a workgroup to proceed with the amendment or development of a nonrule policy regarding the process for adding negotiated orders to CADDNAR. "We will be seeking a couple volunteers...Jennifer Jansen, who is on the AOPA Committee, is one of the volunteers...and we will be looking for somebody [from] the Advisory Council as well."

#### **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 NATURE PRESERVES**

### **Consideration of the dedication of the Black Rock Nature Preserve in Warren County**

John Bacone, Director of the Division of Nature Preserves, presented this item. He said the proposed nature preserve is located in Warren County along the Wabash River. The preserve is named for a “very interesting geologic feature known as ‘black rock’”. The preserve has a long cultural history. Tecumseh’s warriors were stationed in the area to await General Harrison’s troops before the Battle of Tippecanoe, and in 1838, the Potawatomi Trail of Death camped near this location. The Wabash and Erie Canal goes through the property. “It’s pretty interesting from a geologic, historical, and natural feature perspective.” He said the tract is owned and managed by NICHES Land Trust and was acquired with assistance from the Indiana Heritage Trust license plate fund. Bacone recommended the property be dedicated as a nature preserve.

Jake Oakman moved to approve the dedication of the Black Rock Nature Preserve. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

### **Consideration of the dedication of the Weiler-Leopold Nature Preserve in Warren County**

Bacone also presented this item. He said the proposed Weiler-Leopold nature preserve, owned by NICHES Land Trust, is also located in Warren County and near the proposed Black Rock nature preserve. He noted that the property was acquired with funding from the Indiana Heritage Trust and many other partners. Bacone also noted that the proposed dedicated nature preserve is named for two of the former owners, Emanuel Weiler and A. Carl Leopold. Bacone recommended dedication of the property as a nature preserve.

Jake Oakman moved to approve the dedication of the Weiler-Leopold Nature Preserve. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

## **DNR, DIVISION OF LAW ENFORCEMENT**

### **Consideration of preliminary adoption of amendments to 312 IAC 4-5-2 to clarify that a conservation officer applicant’s four years of full-time active duty United States military service with honorable discharge satisfies as a prerequisite; Administrative Cause No. 14-144L**

Col. Danny East, Director of the DNR, Division of Law Enforcement, presented this item. He explained that 312 IAC 4-5-2(3)(c) currently provides that “four years of honorable United States military service” would satisfy the education prerequisite. East said the proposed amendment to 312 IAC 4-5-2 is “clean-up language” to clarify that a conservation officer candidate’s four years of full-time active duty United States military service with honorable discharge satisfies as a prerequisite for a conservation officer application. He said the DNR Director approved an emergency rule, LSA Document #14-449(E), which is similar to the “cleanup language” and will be in effect until the instant rule proposal becomes permanent.

Robert Wright moved to approve for preliminary adoption amendments to 312 IAC 4-5-2 to clarify that a conservation officer applicant's four years of full-time active duty United States military service with honorable discharge satisfies as a prerequisite for a conservation officer application. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

#### **DNR, DIVISION OF ENTOMOLOGY AND PLANT PATHOLOGY**

#### **Consideration of the withdraw of the proposed repeal of 312 IAC 18-3-12 governing larger pine shoot beetle quarantine, and 312 IAC 18-3-20 governing Brazilian elodea; LSA Document #14-400; Administrative Cause No. 14-076E**

Sandra Jensen, Director of the Commission's Division of Hearings, presented this item and the following item (Item 7) together. She noted that in September 2014 the Commission granted preliminary adoption of the repeal of 312 IAC 18-3-12 governing larger pine shoot beetle quarantine and 312 IAC 18-3-20 governing Brazilian elodea. The Notice of Intent for these repeals was published in the Indiana *Register* under LSA Document #14-400. Jensen explained that LSA Document #14-400 has not moved forward in the rule adoption process.

Additionally, the Division of Entomology and Plant Pathology has subsequently requested to repeal 312 IAC 18-3-18 governing the emerald ash borer quarantine. As a result, the DNR is requesting the withdraw LSA Document #14-400, and would seek preliminary adoption (as referenced in Item 7) for the repeal of all three rule sections, 312 IAC 18-3-12, 312 IAC 18-3-18, and IAC 18-3-20.

Doug Grant moved to withdraw LSA Document #14-400, the proposed repeal of 312 IAC 18-3-12 and 312 IAC 18-3-20. Jake Oakman seconded the motion. Upon a voice vote, the motion carried.

#### **Consideration preliminary adoption of the repeal of 312 IAC 18-3-12, 312 IAC 18-3-18, and 312 IAC 18-3-20, governing the control of larger pine shoot beetle quarantine, emerald ash borer, and the regulation of Brazilian elodea, respectively; Administrative Cause No. 15-055E**

[See discussion in previous agenda item.]

Doug Grant moved to approve for preliminary adoption of the repeal of 312 IAC 18-3-12, 312 IAC 18-3-18, and 312 IAC 18-3-20, governing the control of larger pine shoot beetle quarantine, emerald ash borer, and the regulation of Brazilian elodea, respectively. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

## **DNR, DIVISION OF FORESTRY**

### **Consideration of approval of a nonrule policy document, Information Bulletin #75, providing guidelines for improvements on classified forests and wildlands; Administrative Cause No. 15-013F**

John Davis presented this item on behalf of Jack Seifert, State Forester and Director of the Division of Forestry. He explained that the nonrule policy document clarifies the improvements allowed on classified forests and wildlands. The allowable improvements are listed in Section IV.E of the policy document. He noted that there are several internal rules for the Classified Forests and Wildlands Program that provide standards for the amount of woods and the basal area required to be classified forest, and the amount of cover and vegetation for classified wildland.

Phil French moved to approve the nonrule policy document providing guidance for improvements on Classified Forests and Wildlands (Information Bulletin #75). Bob Wright seconded the motion. Upon a voice vote, the motion carried.

Barbara Simpson, Conservation Policy Director of the Indiana Wildlife Federation, noted that nonrule policies are important, but stated that she had concerns regarding the list of improvements allowed on the classified lands. “All those things that are listed, that’s all great...The private landowners should get to do what they can with the property. I do have some concerns around making more detailed guidance. ...We’ve seen plans for cell phone towers, [which] are a revenue generator. There ought to be some guidance where these towers go...” Simpson recommended that there should be a guideline addressing the percentage of land area that may be impacted by an improvement. “If you had a ten-acre parcel, we would not want to see [a] one acre [improvement] go right in the middle of it. 1% or 50%—some type of guidance there, because we are putting an awful lot in the hands of the judgment of individual foresters. Professionally, they are excellent, but with these financial pressures we are seeing throughout the [State] budget that affects natural resources and the environment, I think it is important to have more guidance.”

Davis agreed with Simpson that the guidelines need to be sufficiently detailed, but noted that there are internal guidelines that provide for the amount or percentage of land area that may be impacted by constructed improvements.

## **DNR DIVISION OF STATE PARKS AND RESERVOIRS**

### **Consideration of fee changes for the Division of State Parks and Reservoirs and the Division of Forestry**

Dan Bortner, Director of the State Parks and Reservoirs, presented this item. He explained that since 1960, funding for the Division of State Parks (“SPR”) has been through a partnership between the Legislature, the tax payers, and those who utilize the facilities. “Col. Lieber had the foresight to make us a user fee based system, and I think a lot of that has to do with our success.

Around the country, Indiana is known for excellence in this business.” The SPR is 70% funded by user fees, and the other 30% from the Legislature. Bortner noted that the last SPR fee re-organization was in 2006; however, there have been minor fee adjustments throughout the intervening years. Bortner reported that SPR is operating at a \$4.8 million deficit. “We don’t want to charge more than what we absolutely have to, and we try to make due in the short-term.” He also noted that SPR has 43 full-time positions that have not been filled due to the lack of funding.

Bortner said the fee structure will be implemented in three phases. Phase 1 was the implementation of fee increases that fell within the Commission’s approved fee range. These fees became effective May 13, 2015. Phase 2 will go into effect July 1, 2015, and Phase 3 will become effective November 1, 2016. He explained that if Phase 2 and Phase 3 fee increases are approved, the SPR may bring in approximately \$5 million to \$5.5 million. He said the increased funding is “a guessing game, because you don’t know what your visitation is going to look like. But that should fund our operation going forward.”

Bortner said the fee proposal that has prompted the most discussion is the new annual and daily mountain bike permit. He said the SPR has been coordinating with the Indiana Mountain Bike Association (“IMBA”) and other user groups regarding the proposed new permit “in trying to find the best way to bring that onboard.” He said the proposed permit has received resistance from off-road cycling groups, which caused SPR staff to re-evaluate the proposal. Bortner said the SPR has made a few amendments to the version of the proposal that was provided in the Commission’s agenda packet. He provided a supplemental information sheet to Commission members, which enumerated the amendments to the new permit. The supplemental information sheet provided the following:

- 1) The annual Permit would be renamed “Off-Road Cycling Permit” rather than “Mountain Bike Permit”. This allows for a distinction in how the bike is used.
- 2) Any trails identified as “Beginner” using IMBA standards will be exempt from the permit requirement.
- 3) SPR will add opportunities to earn DNR use tags and passes as part of an incentive for all volunteers.
- 4) The Off-Road Cycling Permit will not become effective until the 2016 season, with an anticipated availability of November 1, 2015.

Bortner explained that a person would not be required to have a permit on trails listed as “beginner trails’. That does two things—it allows people to try the sport without getting fully invested in it; and it if is something they do want to move forward with, then certainly that opportunity is there.” He also explained that the mountain bike community “comes in and installs these trails. They are the ones that, by and large, maintain these trails...The mountain bike community does a real good job of not only building these [trails] to sustainable standards, but also coming in and working on those [trails] as well.” He noted, however, there is a cost to the DNR. “You are conducting recreation on public lands. Somebody has to pay for the road to get there. Somebody has to pay for the labor to bring you out when things don’t go as planned. Somebody has to pay to clean the restrooms...\$1.39 of everybody’s taxes goes to state parks, so we’ll just kind of help offshore some of the [operating] expense.” Bortner said that in order to

provide an adjustment period, the permit would not be implemented until November 1<sup>st</sup> for the 2016 season. He said SPR will coordinate with the Division of Law Enforcement to use the first year as an educational process to remind users of the required permit.

John Davis noted that the last five pages of the agenda item relate to the Division of Forestry's permit fee increases for primitive self-registration camping, gun ranges, firewood cutting, nursery seedlings, and timber buyers licenses. Davis said the Division of Forestry requests the approval of an increase in property use and entry fees and a fee for assisting landowners in plan preparation and management of a Classified Forest. He said the Division of Forestry is working with interest groups to determine for what services to charge, and to ultimately develop consensus regarding the fees prior to implementation. Davis noted that entry and user fees are currently collected at three of the 14 state forestry properties. The fee expansion would allow fees to be implemented in appropriate places on other forest properties. He asked the Commission for approval of the fee expansion, but noted that the Division of Forestry would also provide information regarding the fee implementation at its annual open house forum.

The Chair explained that the proposed fee increases and the proposed new fees are shown in red font in the agenda item's backup materials.

The Vice Chair noted that the annual commercial photography fee is higher than the annual state park entrance permit, and asked for additional information regarding how the commercial photography fee was determined. She also asked whether a guest or assistant to the commercial photographer would require a daily pass or annual pass in addition to the commercial photography fee.

Bortner explained that commercial photographers are conducting business on state land. "If you were going to come to a horseback riding event and you wanted to sell t-shirts or you wanted to shod horses, you would have to get a permit from [the DNR] to do that. . . The main thing is that we want to know who is conducting business, what they are selling, and be able to have some control over that." He said the commercial photography permit would be required for those that are photographing weddings, senior pictures, and other instances where portions of the state park are being monopolized. Bortner said that an annual entrance pass would be issued as part of the commercial photography fee permit. He noted that those persons being photographed would be required to hold an annual pass or pay the daily entry fee.

The Vice Chair noted that Scout groups and other user groups and organizations visit the Morgan-Monroe State Forest. She asked whether the Division of Forestry has had discussions regarding the impact of the new entry fees on those user groups and whether an annual entrance fee would be assessed per group.

Bortner explained that the Division of Forestry will follow the SPR regarding charging entrance fees for state forest properties. He said the SPR has a group charge of \$2 per person, and if the group is camping overnight, there is a rally camp fee rather than the overnight camp fee. "Those groups, the Scouts [and other groups], the work that they do for us, Eagle Scout Projects. . . we want to create a partnership." He said the Division of Forestry will have unique challenges in the

locating its property entrance points for collecting fees. “This is going to be a long-term change in culture for [Division of Forestry’s] guests.”

The Vice Chair indicated she was supportive of the entrance fee approach, but wanted to make sure that the DNR takes into consideration its stakeholders.

Paul Arlinghaus, President of the Hoosier Mountain Bike Association (“HMBA”), stated that HMBA has 553 members with average membership dues of \$47.50. “We talk about trails...we are big on quality over quantity so we want our members to be engaged...We want folks that not only pay to join, but then also to come and volunteer and participate in our organization.” He said HMBA realizes there is very limited space in state parks and that state parks provide other services besides build mountain bike trails. Arlinghaus said HMBA has built trails that people from all over the country come to ride and has built a trail that is “worth paying money for and the folks of Indiana should be proud of; and that’s kind of how we’ve operated.” He stated that HMBA also realizes that DNR has budget constraints. HMBA has built approximately 94 miles of trail in state park and forest properties, the value of those trails being \$1.7 million with about \$600,000 in trail maintenance. He noted that if a tree falls on a trail in Brown County State Park, HMBA members volunteer to remove the tree from the trail even before the property manager is aware. “We are there not just on occasional big work days; we’re there every week imbedded with park staff working on those trails.”

Arlinghaus said the proposed Off-road Cycling Permit is a “good deal for serious mountain bikers...It’s going to allow the State to help us build more trails.” He said HMBA wants to be a partner and continue to build great trails in Indiana. He commented that there is a wide range of financial ability among mountain bikers. “We want to make sure that new riders can get engaged in the sport and in our parks.” He thanked the DNR for working with the HMBA, and stated that the HMBA supports the proposed Off-Road Cycling Permit.

Tammy Mebane spoke on behalf of HMBA and the statewide organization, Indiana Mountain Bike Association (“IMBA”). She thanked SPR staff for “coming to the table and compromising and working with us to come up with the supplement...There’s some good compromises there.” She noted that there is a concern that there is little data to represent the tipping point or price elasticity that the proposed fee will actually increase revenue at state parks. “We helped put Indiana on the map for mountain biking. So we are seeing people from other states across the country; tourism in our state parks. They are coming here to mountain bike. We would just like to make sure that this fee is actually increasing revenue and not decreasing [SPR] revenue, but also tourism.” Mebane noted that, regarding the equestrian and boater fees, there are facilities associated with horseback riding trails and boating activity. “In order to really move forward and support this fee we would like at least...facilities that represent this fee. Better facilities for mountain biking since we are sharing the trails with other user groups that are not paying a fee.”

Cameron Clark thanked Mebane and Arlinghaus, and the IMBA and HMBA membership for their partnership. “I think it was bit of an understatement when Tammy said ‘Helped put Indiana on the map.’ They have brought really international recognition to some of the trails that they put in on our properties.” He noted that the trail in Brown County State Park has received national recognition. Clark said that IMBA and HMBA “really get the science of trail development,

putting in sustainable trails. I appreciate your willingness to work with us and the acceptance of the new fee.” He explained that the DNR conducts extensive discussion and evaluation when it proposes to increase a fee or implement a new fee. “The last thing we want to do whether it’s mountain bikers or fishermen is turn away potential users of the outdoors...That is a big part of any decision we make across the board in terms of outdoor recreation.”

Jack Corpuz, Secretary for the Pheasants Forever, stated that his organization supports the proposed fee increases. “We need to make our entire DNR, if you will, self-sufficient. It would be nice if we could get some legislation or a funding bill that would find a way to fund DNR without the General Fund.”

Barb Simpson, representing the Indiana Wildlife Federation (“IWF”), stated that the IWF supports the proposed user fee increases, but noted that there needs to be a more comprehensive review of all DNR fees particularly hunter and angler license fees. She said the IWF is also “particularly concerned about the rationalization between recreational fees and commercial fees.” Simpson said a sport angler pays \$17 annually to fish, but the commercial fishermen pays \$4 annually for a hoop net “to scoop out all the fish they can.” She noted the commercial fee is set by the Legislature and the recreational fee is set by the Commission. “I think all that needs to be rationalized, reviewed. I don’t know that I would agree...that we need to get completely away from General Fund funding and that the DNR should be totally a for-profit break even enterprise. But I do think it’s really quite a bargain, and you can see there are a lot of partners...making tremendous contributions.” She concluded that the IWF supports the proposed fee increases as a first step.

Greg Furry, with the Northern Indiana Mountain Bike Association (“NIMBA”), stated that NIMBA represents five trails, one in Potato Creek State Park, and others in Elkhart County, St. Joseph County, South Bend, and in Cass County park in Michigan. He said NIMBA does not support the Off Road Cycling Permit. He said volunteerism is a “big key to making this work.” He noted that the Potato Creek trail is designated a beginner trail, but “we’ve had a number of volunteers to say they are against this and they will no longer help build the trails, which is a necessity.” Furry said NIMBA members have provided a tremendous amount of feedback regarding the proposed new permit. “We’ve met with the [Property] Manager and we are very concerned and they understand that if we do leave that within a year the trail will be gone.” He said that a family of five would have to pay \$32 to go mountain biking at Potato Creek State Park, but a county park, may charge at most \$4. “If I’m looking at \$32 versus \$4, it’s not even a choice.” Furry said the existing trail at Potato Creek is eight miles, but doubling or tripling the length of the trail, the trail then would become a destination for those in surrounding states. Furry also noted that individuals from surrounding states are not going to travel to Potato Creek State Park for a beginner trail. “I understand there is a budget constraint, but I think the volunteers you’ll lose will be a big detriment to the trail. It has already created a lot of hostility and bitterness towards the DNR as far as the park...in our group. ...We don’t want to see the parks as a place where they are getting nickel and dimed. They will go elsewhere.”

Debbie Kulwicke, from South Bend and member of NIMBA, stated she was against the proposed Off-Road Cycling Permit. She is an active mountain biker, volunteers, and coordinates the trail volunteers at Potato Creek State Park. “Our members have worked hard to raise the money to

buy equipment” in order to maintain the trail. She said that three volunteers have quit volunteering due to the proposed fee. “How am I supposed to take care of over half of the trail by myself? I can’t do it. I’ve tried before and I can’t do it. It takes 40 hours to trim that trail one time, and we have to trim that trail at least three or four times a year.” Kulwicke said the volunteers are proud and take ownership in the trail. She noted that some volunteers have commented that “if they have to pay to ride, they are not going to come out. We already buy gate passes.”

Kulwicke commented, “The concession that was made that you can work 125 hours and earn a bike tag—125 hours is very unrealistic. It’s not going to happen. 125 hours is a lot of hours and running heavy machinery out there...you’re pushing it up hills and down hills. You are trying to control it; and you’ve got obstacles out there. It’s a lot of work. ...The most I’ve ever had in a year’s time is 80 hours, and that just about killed me.” Kulwicke noted though that she is glad to volunteer and glad she has the time and opportunity to work on the trail.

The Chair noted that since the Potato Creek State Park bike trail was designated a beginner trail, the proposed permit fee would not apply.

Kulwicke stated, “I just wanted to voice my opinion so that if anybody ever thinks that they are going to reclassify the trail or if we are ever allowed to build additional trail, that then a fee be imposed.” She noted that NIMBA’s partnership has benefitted both the DNR and NIMBA. “The park has a free mountain bike trail; it’s beautifully maintained; and I don’t think the park has any problem with any of the work we do out there. Things get done before the park is even aware that there is anything that needs to be done. ...We have a good reputation with the park.” Kulwicke requested the Commission not approve the proposed Off-Road Cycling Permit. She also requested that the number of volunteer hours required to earn a park entrance permit or bike tag be lowered.

The Chair thanked the individuals representing mountain bike groups for attending today’s meeting. He also thanked the SPR staff for responding to the concerns of the sport groups.

Clark asked Kulwicke whether she would lose trail volunteers at Potato Creek State Park even though the permit fee would not apply.

Kulwicke answered, “The volunteers said they are willing to kind of be on the fence and see what happens. If we are going to have a fee, they are definitely out of there. But I think we are all hurt that you would consider such a thing. We put a lot of sweat equity in that trail...Just the idea that we would have to pay for that privilege to come out and work on the trail, to us, it’s ludicrous.”

Bortner noted that the SPR has a Volunteer Recognition Program, and approximately 80,000 volunteer hours are logged annually. “If I had to pay even minimum wage for the work that they do, it would never get done.” He said certificates are issued to volunteers, but “there’s no meat to it other than a ‘thank you’ and a pat on the back.” The Program is not exclusive to the mountain bike volunteers. He agreed that 125 volunteer hours are “a lot, but we sign [certificates] for 400 hours sometimes.” Bortner said SPR appreciates the partnerships and

understands the concerns. He also noted that through grants, the State of Indiana has contributed over \$600,000 towards mountain bike trails.

The Vice Chair noted that the entry fee for state forests is not included in the fee increase proposal.

John Davis explained that the Division of Forestry has not yet set entry fees for those additional state forest properties. Bortner also noted that the entry gate infrastructure has not been constructed.

The Vice Chair noted that the fee range for entry into state forest properties is not included in the fee proposal. She asked whether Division of Forestry would seek Commission approval of a fee range at a future meeting.

Davis noted that the Division of Forestry is proposing property entry fees of \$5 for a day permit and \$25 for an annual permit, which are within the entrance fee range approved in 2005. He noted, however, if there was installed an “iron ranger” for a particular property and for a certain use, then “I’m not sure that’s an entrance fee as much as a parking fee.”

The Vice Chair said, “It’s a use fee instead of an entry fee.”

Davis said, “If it ends up [Division of] Forestry charges an entry fee, we are covered. If they charge a use fee, we have no range and we’ll come back before the Commission.”

Cameron Clark moved to approve the user fee increases as amended (and set forth immediately following). Patrick Early seconded the motion. Upon a voice vote, the motion carried.

## 2015 Requested Fee Changes or New Fees

Description	DNR Division	Existing Fees	New Proposed Fees	Tentative Effective Date	Range Approved in 2005	Additional NRC Approval Needed
Abe Martin Lodge	Parks	Varies	<del>\$79.99 - \$499.99</del> (Includes Aynes House)	2015	\$39 - \$199	Yes
Canyon Inn	Parks	Varies	<del>\$62.99 - \$179.99</del>	2015	\$35 - \$159	Yes
Clifty Inn	Parks	Varies	<del>\$89.99 - \$289.99</del>	2015	\$49 - \$229	Yes
Fort Harrison Inn (and Garrison)	Parks	Varies	<del>\$79.99 - \$689.99</del> (Includes Harrison House)	2015	\$49 - \$359	Yes
Potawatomi Inn	Parks	Varies	<del>\$69.99 - \$259.99</del>	2015	\$39 - \$259	Yes
Spring Mill Inn	Parks	Varies	<del>\$79.99 - \$189.99</del>	2015	\$35 - \$159	Yes
Turkey Run Inn	Parks	Varies	<del>\$69.99 - \$259.99</del>	2015	\$39 - \$259	Yes
Annual Commercial Photography Fee	Parks	Varies	<del>\$100.00</del>	07/01/15	N/A	Yes
Annual Mountain Bike Permit	Parks & Forestry	N/A	<del>\$20.00</del>	07/01/15	N/A	Yes
Daily Mountain Bike Permit	Parks & Forestry	N/A	<del>\$5.00</del>	07/01/15	N/A	Yes
CRS Reservation Fee	Parks & Forestry	N/A	<del>\$5.00</del>	11/01/15	N/A	Yes
Camping Equestrian Primitve	Parks & Forestry	\$13.00	<del>\$15.00</del>	07/01/15	\$5 - \$12	Yes
Self-Registration Horse Primitve	Forestry ONLY	\$13.00	<del>\$14.95 (\$16 after taxes)</del>	06/01/15	\$5 - \$12	Yes
Self-Registration Primitve	Forestry ONLY	\$10.00	<del>\$12.15 (\$13 after taxes)</del>	06/01/15	\$5 - \$12	Yes
Annual Gun Range Fee	Forestry	N/A	<del>\$25 - \$50</del>	07/01/15	N/A	Yes
Daily Gun Range Fee	Forestry	N/A	<del>\$5.00</del>	07/01/15	N/A	Yes
Firewood Cutting Permit	Forestry	\$3.00	<del>\$10.00 (or 3 for \$25.00)</del>	07/01/15	N/A	Yes
State tree nursery seedling price	Forestry	\$0.32	<del>\$0.35</del>	07/01/15	N/A	Yes
Classified Forest Mgmt Assistance and Plan Preparation	Forestry	N/A	<del>up to \$10 / acre</del>	2016 or later	N/A	Yes
Timber Buyers' Licensing Fee	Forestry	License \$125 (Agent \$5)	<del>License \$150 (Agent \$20)</del>	2016 or later	N/A	Yes

## 2015 Implemented Fee Changes

Description	DNR Division	Existing Fees	New Fees	Effective Date	Range Approved In 2005	Additional NRC Approval Needed
Daily Resident Entrance	Parks & Forestry	\$5.00	\$7.00	05/13/15	\$4 - \$15	No
Daily Resident Prophetstown	Parks	\$6.00	\$8.00	05/13/15	\$4 - \$15	No
Daily Non-Resident Entrance	Parks & Forestry	\$7.00	\$9.00	05/13/15	\$5 - \$18	No
Daily Non-Resident Prophetstown	Parks	\$8.00	\$10.00	05/13/15	\$5 - \$18	No
Daily Non-Resident IN Dunes	Parks	\$10.00	\$12.00	05/13/15	\$5 - \$18	No
Annual Resident Permit (AEP)	Parks & Forestry	\$40.00	\$50.00	05/13/15	\$26 - \$60	No
Annual Non-Resident Permit (NRAEP)	Parks & Forestry	\$60.00	\$70.00	05/13/15	\$30 - \$80	No
Golden Hoosier Permit (GHP)	Parks & Forestry	\$20.00	\$25.00	05/13/15	1/2 of resident annual park pass	No
Camping Full Hook-Up (AA)	Parks & Forestry	Sun - Wed \$26, Thurs - Sat \$36, Holiday \$40	Sun - Wed \$30, Thurs - Sat \$40, Holiday \$44	05/13/15	\$20 - \$60	No
Camping Electric (A)	Parks & Forestry	Sun - Wed \$19, Thurs - Sat \$26, Holiday \$29	Sun - Wed \$23, Thurs - Sat \$30, Holiday \$33	05/13/15	\$15 - \$50	No
Camping Non-Electric (B)	Parks & Forestry	Sun - Wed \$12, Thurs - Sat \$15, Holiday \$18	Sun - Wed \$16, Thurs - Sat \$19, Holiday \$22	05/13/15	\$10 - \$40	No
Camping Primitive (C)	Parks & Forestry	\$10.00	\$12.00	05/13/15	\$5 - \$12	No
Camping Equestrian Electric (A)	Parks & Forestry	Sun - Wed \$22, Thurs - Sat \$29, Holiday \$32	Sun - Wed \$26, Thurs - Sat \$33, Holiday \$36	05/13/15	\$15 - \$50	No
Camping Equestrian Non-Electric (B)	Parks & Forestry	Sun - Wed \$15, Thurs - Sat \$18, Holiday \$21	Sun - Wed \$19, Thurs - Sat \$22, Holiday \$25	05/13/15	\$10 - \$40	No
Camping Equestrian Electric DEAM LAKE NON-WATERFRONT ONLY	Forestry	Sun - Wed \$22, Thurs - Sat \$29, Holiday \$32	Sun - Wed \$26, Thurs - Sat \$33, Holiday \$36	05/13/15	\$15 - \$50	No
Camping Equestrian Electric DEAM LAKE WATERFRONT ONLY (includes 2 mandatory horse stalls at \$7.00 each per night)	Forestry	Sun - Wed \$36, Thurs - Sat \$43, Holiday \$46	Sun - Wed \$40, Thurs - Sat \$47, Holiday \$50	05/13/15	\$15 - \$50	No
Cabin (Rent-A-Camp)	Parks & Forestry	\$35.00	\$40.00	05/13/15	\$40 - \$160	No
Annual Motorized Lake Permit (MLP)	Parks & Forestry	\$22.00	\$25.00	05/13/15	\$20 - \$40	No
Daily Swimming (Prohetstown & O'Bannon Aquatic Centers Only)	Parks	\$3.00	\$5.00	05/13/15	\$1 - \$5	No
Premium Campsites/Cabins Establishment	Parks & Forestry	N/A	additional \$2.00 per night	11/01/15	All fall within range approved in 2005/06	No

### DNR Off-Road Cycling Permit Supplement (May 18, 2015)

- 1) The Annual Permit will be called an Off Road Cycling Permit, which allows for a distinction in how the bike is used.
- 2) Any trails identified as "Beginner" using Indiana Mountain Bike Association standards will be exempt from the permit requirement.

- 3) Opportunities will be available to earn DNR use tags and passes as part of an incentive for all volunteers. Volunteers who contribute 125 hours may earn an off-road cycling permit, an equestrian permit, or a lake permit.
- 4) To allow for additional time to review the policy, logistics, and volunteer documentation for 2015, the Off-Road Cycling Permit will not be implemented until the 2016 season.

## **DNR, DIVISION OF WATER**

### **Consideration of Hearing Officer Report in Preparation for Advisory Council Summarizing Public Meetings and Making Recommendations to the Natural Resources Commission Regarding Request by Brook Hill Golf Club, Inc. for a Water Sale Contract from Brookville Lake under IC14-25-2 and 312 IAC 6.3; Administrative Cause No. 15-041Vd**

Monique Riggs, Water Resource Specialist with the Division of Water, presented this item. She explained that the proposal is for the renewal of a water sale contract for water supply from Brookville Lake to Brook Hill Golf Club. Riggs stated that the Brook Hill Golf Club, Brookville, Indiana is requesting a renewal contract to continue its seasonal purchase of water from Brookville Lake to irrigate its 18-hole golf course. Brook Hill has withdrawn water under its initial contract since 1994 with renewal in 2005. She noted that under IC 14-25-2 the Commission may enter into contracts to sell water on a unit price basis for available water supply storage in reservoirs that were financed fully or in part by the State. The unit price of \$33 per million gallons is set by statute. The new Brook Hill contract would allow for the total annual withdraw of 25 million gallons. "This is the same maximum withdraw as the previous two contracts." Riggs said the Department's maximum annual revenue from the contract would be approximately \$825, but actual annual revenue over the last ten seasons has ranged anywhere from \$100 to \$820 maximum.

Riggs explained that the firm yield at Brookville Lake is about 82 million gallons of water per day. Brook Hill's average daily use, calculated using the total annual use over the number of days in a typical irrigation season, has not exceeded .046 million gallons. She said maximum use occurs on hot, dry days. She noted that the Department has one other contract with Brookville Enhancement Partners, Harbor Links Golf Course, to sell water from Brookville Lake for the withdraw of 35 million gallons maximum per year. Summer use through both contracts is estimated to be less than one million gallons per day with total committed at less than 1% of the available storage volume in Brookville Lake. Brook Hills's new contract, as with previous contracts, will be in effect for ten years from the date of approval. The contract does, however, allow for Brook Hill to seek Commission approval for larger withdraws should that become needed sometime over the course of the contract. Brook Hill has not requested an increase withdraw under the previous two contracts. She noted that the Department's contracts with other golf courses are also effective for ten years.

Patrick Early reported that the Advisory Council, at its last meeting, approved the Hearings Officer's Report as presented.

Patrick Early moved to approve the Hearing Officer's Report, as presented, and to authorize entry of the contract with Brook Hill Golf Club, Inc. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

### NRC, DIVISION OF HEARINGS

#### **Consideration of report on rule processing, written comments, public hearings, DNR responses to public comments and hearing officer analyses, and recommendations regarding final adoption of amendments to 312 IAC 9, governing fish and wildlife; LSA Document #14-453(F); Administrative Cause No. 14-095D**

The Chair explained that LSA Document #14-453(F) is part of the Division of Fish and Wildlife's comprehensive biennial rule review process. He noted that three public hearings were held and has been open for public comment since the fall of 2014. The Chair noted that a few persons have indicated their intention to speak before the Commission, but announced that with the lengthy comment period he would not take additional comment at today's meeting.

Sandra Jensen, Hearing Officer, provided Commission members with a copy (on pink paper) of the *Addendum to Report on Rule Processing, Consideration of Public Comments, Analysis, and Recommendation Regarding Final Adoption* ("Addendum") of LSA Document #14-453(F), which is identical to the addendum contained in the Commission's agenda packet. She noted that the version of the addendum printed on blue paper is missing every other page and should be disregarded. Jensen noted that this rule proposal has been challenging and has required a lot of teamwork. "I can only say 'thank you' to everyone that has been involved in this." Jensen explained that the pink copy of the *Addendum* was provided in order to make certain that all members of the Commission were reviewing the same document and final rule proposal.

Jensen said public hearings were held in Spring Mill State Park, at Fort Harrison State Park, and in Columbia City. She noted that the public comment period was open from September 2014 and closed March 25, 2015. The Division of Fish and Wildlife (the "Division") provided its initial response to those public comments on April 2015, and the Hearing Officer's Report was distributed on May 6, 2015. The Division realized additional clarification was needed for proposed rule amendments at 312 IAC 9-7-12, and subsequently filed an addendum of its response on May 14, which precipitated the Hearing Officer's *Addendum*. Jensen explained that the rule package proposes to amend various sections of the article governing fish and wildlife (312 IAC 9). She said the proposed rule amendments that garnered the most public interest were in regards to muskellunge size limits, blue gill bag limits, and expansion of center-fire rifles for taking deer.

Jensen said the proposed amendment at 312 IAC 9-3-12 would allow for landowners to orally grant permission to a person to take a coyote on the landowner's property. She explained the rule proposal would have been a convenience to the hunter and the landowner; however, the authorizing statute (IC 14-22-6-12) requires the permission be granted in writing. "We cannot, by rule, establish something that is contrary to what's required by statute." She recommended withdraw of the proposed amendment at 312 IAC 9-3-12.

Jensen said the proposed amendments to 312 IAC 9-7-10 and 312 IAC 9-7-14 involve including blue gill within the species of fish with an established bag limit of 25 fish per day per person. She noted that through public comment, it was discovered that these rule amendments may have unintended fiscal consequences, of which the Division was unaware and were not included in the fiscal analyses reviewed by the State Budget Agency's Office of Management and Budget. She said the Division has requested additional time for review and to consider additional contemporaneous changes that would eliminate or reduce those fiscal impacts. Jensen recommended withdraw of the proposed amendments at 312 IAC 9-7-14 and revise the proposed amendment to 312 IAC 9-7-10. 312 IAC 9-7-10 would be amended to read:

Sec. 10. **Except on the Ohio River**, an individual may take or possess not more than twenty-five (25) redear sunfish per day.

Jensen explained that the proposed rule amendment at 312 IAC 9-7-12, governing the size limit for walleye taken north of State Road 26 requires additional clarification. She recommended subsection (c) read as follows:

- (c) An individual must not take or possess a walleye from: ~~the St. Joseph River in St. Joseph County or Elkhart County or from the Elkhart River from its confluence with the St. Joseph River to the first dam in Elkhart County~~
- (1) ~~unless the walleye~~ **Lake George in Steuben County unless it is at least fifteen (15) inches long; and**
  - (2) **Bass Lake in Starke County and Wolf Lake in Lake County unless it is at least fourteen (14) inches long.**

Jensen said the proposed rule amendments at 312 IAC 9-3-3(d)(4) would have allowed for the use of center-fire rifles to take deer. She explained that the rule proposal was initiated by the filing of three separate citizen petitions. Jensen noted that that there was extensive comment and discussion regarding this rule proposal, and "there are valid points on both sides. There is no consensus whatsoever. ... There's not even consensus within the deer hunting community" with regard to favor or opposition to the rule proposal. She said several issues were raised through public comment indicating that further consideration of the allowance of the use of center-fire rifles to take deer, such that contemporaneous amendments with respect to "hunter orange" may be required, imposition of maximum magazine limits or geographic or acreage restrictions. Jensen concurred with the Department's recommendation that the amendments at 312 IAC 9-3-4(d)(4) be withdrawn; however, the prohibition of the use of full metal jacketed bullets would be retained.

Jensen noted that Exhibit B of the Hearing Officer's *Addendum* contains the final recommendations of the Hearing Officer and as supported by the DNR. She recommended that the Commission give final adoption to the amendments as presented in Exhibit B of the *Addendum* (on pink paper) and as contained in the Commission's agenda packet.

The Chair thanked Jensen for her comprehensive summary. He suggested the Commission members review the proposal in a "linear progression offering some motions of withdraw and certain other aspects." The Chair invited response from the Division staff.

Mark Reiter, Division of Fish and Wildlife, noted that the Division views the rule proposal to allow for the use of center-fire rifles strictly as a social issue. “We do not use equipment choices to manage the deer herd; we use antlerless permits. We don’t believe that allowing center-fire rifles to be used for deer hunting makes the deer woods dangerous. . . .It’s pretty much a social thing. We did exactly what we should do with reviewing a social issue [by] asking the public what [it] thinks about it, and there just wasn’t overwhelming support.” Reiter said that in regards to proposal governing blue gill, “we still believe that there are some regulations to limit the take of blue gills in order to protect the resource, but what we ran up against there was a possession limit. . . .that would make it not possible for people to have fishing vacations where they. . . .want to take three or four days’ worth of bag limit home with them. They wouldn’t be able to do that, because that possession limit only goes away when they get to their primary residence so they couldn’t have that number of fish in the camp. We didn’t want to get in the way of a good fishing vacation.” He said the Division would further review the possession limit for blue gill for possible amendment in the future.

The Chair then asked for a motion regarding proposed LSA Document #14-453(F).

Cameron Clark stated that rather than make a single motion, he suggested the Commission make separate motions regarding the proposed amendments in LSA Document #14-453(F). The Chair agreed.

Cameron Clark moved to approve withdraw of proposed amendments to 312 IAC 9-3-12, which would have allowed landowners to orally grant permission of to individual to take a coyote on the landowner’s property. Phil French seconded the motion. Upon a voice vote, the motion carried.

Cameron Clark moved to approve withdraw of proposed amendments to 312 IAC 9-7-14 and to approve revised amendments to 312 IAC 9-7-10, as presented in Exhibit B of the *Addendum*. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

The Vice Chair moved to approve the revised amendments to 312 IAC 9-7-12(c), as presented in Exhibit B of the *Addendum*. Robert Wright seconded the motion. Upon a voice vote, the motion carried.

Patrick Early moved to withdraw the proposed amendments to 312 IAC 9-3-3(d)(4), which would have expanded the use of center-fire rifles to take deer. Jake Oakman seconded the motion.

Linnea Petercheff, Staff Specialist with the Division of Fish and Wildlife, asked whether the proposed language at 312 IAC 9-3-3(d)(4), which prohibits the use of full metal jacketed bullets, would also be withdrawn.

Jensen explained that the DNR requested to withdraw proposed amendments that would have allowed the use of center-fire rifles to take deer at 312 IAC 9-3-3(d)(4) except for the

proposed language that reads “Full metal jacketed bullets are unlawful.” She noted, however, Exhibit B in the *Addendum*, reflects the correct rule amendment proposal.

The Chair asked for a revised motion.

Patrick Early revised his motion and moved to withdraw the proposed amendments at 312 IAC 9-3-3(d)(4), except for the proposed language, “Full metal jacketed bullets are unlawful.” Phil French seconded the revised motion. Upon a voice vote, the motion carried.

The Chair moved to approve for final adoption various amendments to 312 IAC 9 as recommended and presented in Exhibit B of the *Addendum* Hearing Officer’s Report. Robert Wright seconded the motion. Upon a voice vote, the motion carried.

### **Other Matters**

Doug Grant noted that the front page of the May 18 issue of the *Wall Street Journal* contained an article regarding wave running, wave boards, and wave surfing. “It’s an issue that we looked at in here. I don’t think we have the scientific knowledge to have a position.” He noted that the article related that several states’ department of natural resources have disallowed the activity. “It’s seems like it’s happening more, because of the erosion of the waves of the shoreline. In northern Indiana...the issue there is the down-thrust of these heavy boats. ... We are going to be asked to take a position on this some way or another sometime.”

The Chair said the issue could be deferred to Department staff and subsequently to the Advisory Council.

The Chair announced that the Commission will next meet on July 21, 2015 at the Fort Harrison State Park Inn.

### **Adjournment**

The meeting was adjourned at approximately 11:46 a.m., EDT.