

NATURAL RESOURCES COMMISSION
Meeting Minutes, November 13, 2018

MEMBERS PRESENT

Bryan Poynter, Chair
Cameron Clark, Secretary
Bruno Pigott
Laura Hilden
Patrick Early
John Wright
Jeff Holland
Phil French
Noelle Szydlyk

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen	Dawn Wilson
Scott Allen	Jennifer Kane

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Marty Benson	Communications
Elizabeth Gamboa	Legal
Dan Bortner	State Parks
Anthony Sipes	State Parks
Megan Abraham	Entomology & Plant Pathology
Mark Reiter	Fish & Wildlife
Mitch Marcus	Fish & Wildlife
Scott Johnson	Fish & Wildlife
Linnea Petercheff	Fish & Wildlife
Nancy Boedecker	Fish & Wildlife
Beth McCord	Historic Preservation

GUESTS PRESENT

Denise Derrer	Steve Lucas
Paul Arlinghaus	Kathy Lucas
Herb Higgins	

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:00 a.m., ET, on November 13, 2018, 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 July 17, 2018, meeting minutes.

Cameron Clark moved to approve the minutes of the meeting held on July 17, 2018, as presented. Patrick Early, seconded the motion. Upon a voice vote, the motion carried.

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

Director Cameron Clark provided his report. He said that Governor Holcomb announced the Next Level Trails initiative that directs ninety million dollars towards trail development. He noted that the Department will be the program administrator. Clark said that the formal announcement of the trail development processes will be in December 2018.

The Chair asked what type of trails would be included in the Next Level Trails initiative.

Clark said that the trails would be focused on regional and local significance, noting that all types of trails would be considered.

Clark stated that the Department's Lake Michigan Coastal Program unveiled the seventh poster in the Ecosystems of the Indiana Coastal Region series. He said a new poster has been unveiled every two years for the last fourteen years, with the most recent poster created by local artist Barb Labus. Clark explained that the poster, focusing on marsh and wetland ecosystems, was unveiled at an event held at the Red Mill County Park in LaPorte, Indiana.

Clark said that in October the Indiana State Department of Agriculture organized a two day hardwood tour in northern Indiana and the Department was invited to attend. He said that the tour included observing the process of lumber manufacturing facilities which included Amish furniture manufactures, pallet manufactures, and a business that manufactures doors and windows for RVs.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report, noting the deer reduction taking place on November 12 and 13, 2018. He stated that there will be two more deer reduction days in December 2018 in over 20 state parks, which will restore the understory in the forests. Davis noted that gun season begins November 17, 2018 and that most of the deer harvested will be taken during the first weekend of gun season. Davis said that there are only archery hunts in Fort Harrison State Park.

Davis said that Steve Morris is no longer the Director of the Division of Outdoor Recreation and that the new Division Director is Dale Brier. He noted that Dale Brier had previously been the head of streams and trails section of the Division of Outdoor Recreation.

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, provided his report. Smith stated that the west Toledo suburbs currently use water from Lake Erie and the City of Toledo. He said that the Toledo suburbs are looking at installing a well field in the Michindoh Aquifer, which is an underground water source positioned in Michigan, Indiana, and Ohio. Smith stated that there are not a lot of details currently. He stated that once they put in a series of test wells to do a test pump that will draw potentially fourteen million gallons of water a day that more will be known about how the aquifer will react. Smith said that the Department and Indiana Department of Environmental Management have been in close contact with Ohio agencies. Smith stated that they will update the Commission as the Department receives more information.

Smith stated that the Division of Water has been working with the City of Indianapolis and Citizens Energy Group on issues with the 16th Street Dam on the White River. He noted that the 16th street dam is close to 100 years old and in need of emergency repairs. He stated that because of a hole in the dam there has been a six foot drop in water. He said that the dam has been stabilized and a long term solution is being considered, which would come before the Commission for approval.

Smith introduced Beth McCord as the new Director of the Division of Historic Preservation and Archeology. Smith said that Tara Wolfe, the Department's Director of Communications, will be on leave until January 2019.

Patrick Early, Chair of the Advisory Council, stated that the Advisory Council has not met since the last Commission meeting.

The Chair introduced Noelle Szydyk as the Commission's proxy member from the Indiana Office of Tourism Development (IOTD.) The Chair noted that Szydyk will be representing IOTD until a replacement for the former Director, Mark Newman, is selected.

The Chair introduced and recognized Steve Hunter as the new Director for the Division of Law Enforcement.

Hunter stated, "I'm just excited for the opportunity, we have a lot of good people and I'm really excited about providing better services for the Department."

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 were no items for the AOPA Committee.

Information: Consideration of 2019 meeting dates (Indianapolis):

The Chair noted that the 2019 Commission meeting dates are January 15, March 19, 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

No items were identified for referral to the Advisory Council.

DNR, DIVISION OF STATE PARKS

Consideration of establishment of a fee for the new Centennial Cabin at McCormick's Creek State Park

Dan Bortner, the Division of State Parks' Director, presented this item. Bortner stated that the Centennial Cabins are to honor the Luetkemeier family's 70 year tradition of vacationing at McCormick's Creek State Park. He noted that the Luetkemeier family provided much of the funding for the Centennial Cabin that opened in July 2018.

Bortner said that the Department needs to establish rates for the Centennial Cabin, which is a first of its kind being a three bedroom state parks facility. He noted that the proposed rates for Sunday through Wednesday would be \$199 a night plus tax, Thursday through Saturday would be \$209 a night plus tax, and for holidays \$219 a night plus tax. Bortner said the Centennial Cabin overlooks McCormick's Cove Nature Preserve and is in a beautiful location.

The Chair asked if there were plans to have more cabins like the McCormick's Creek Centennial Cabin.

Bortner replied that there were no current plans, but if there were financial donations that the Department would build more similar cabins. Bortner noted that overnight stays are the leading source of revenue for the Department and that people are interested in the higher end cabins. He said there is a market for both the rustic cabins and the high end cabins.

Cameron Clark moved to accept the establishment of a fee for the new Centennial Cabin at McCormick's Creek State Park. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF ENTOMOLOGY AND PLANT PATHOLOGY

Request for preliminary adoption of amendments by adding species to 312 IAC 18-3-23, which lists prohibited invasive aquatic plants; Administrative Cause No. 18-068E

Megan Abraham, State Entomologist and Director of the Division of Entomology and Plant Pathology, presented this agenda item. Abraham noted that the amendments to 312 IAC 18-3-23 and the repeal of 312 IAC 18-3-21, which governs the control of hydrilla, would be combined for final adoption. Abraham sought preliminary adoption of amendments to 312 IAC 18-3-23, to add two species of invasive plants, starry stonewort and water soldier, as prohibited aquatic plants.

Abraham stated that starry stonewort is a macro algae that is typically introduced during discharge of ballast water in ships transporting goods across oceans and has spread to at least 20 lakes in Indiana. She said that in excess of \$200,000 was spent to control or eradicate the species in 2017, and advised the projected amount of \$250,000 will be spent in 2018.

Abraham said that water soldier is a species native to Europe and Asia and typically inhabits sheltered water sources where it creates dense stands. She stated that water soldier has a high capacity to disperse over long distances in water and has been found in Canada. Abraham noted that water soldier is a fast growing species that crowds out native vegetation and is highly likely to move to Indiana via trailered boats.

Abraham stated that when an invasive species escapes into a lake or stream, it displaces native aquatic plants, causing imbalances in fish populations and reducing recreational opportunities in that body of water. Prohibiting the two species will allow the Division to better protect the natural resources in Indiana. Abraham noted that eliminating invasive species from lakes and streams is difficult and expensive. Conversely, she noted that marinas and businesses specializing in watercraft repair, removal and storage are likely already inspecting boats for prohibited invasive aquatic plants so adding starry stonewort and water soldier as prohibited aquatic species will not impose an additional burden on those business.

Cameron Clark moved for preliminary adoption of amendments adding species to 312 IAC 18-3-23, which lists prohibited invasive aquatic plants. Phil French seconded the motion. Upon a voice vote, the motion carried.

Consideration of request for preliminary adoption of the repeal of 312 IAC 18-3-21, which governs the control of hydrilla, a prohibited invasive aquatic plant; Administrative Cause No. 18-026E

Megan Abraham, also presented this agenda item together with the agenda item above. Abraham requested preliminary adoption of the repeal of 312 IAC 18-3-21, addressing hydrilla. She stated that the 2012 adoption of 312 IAC 18-3-23 listed hydrilla as a prohibited invasive aquatic plant and since that time the hydrilla has been eradicated. Abraham said the repeal of 312 IAC 18-3-21 is to eliminate the redundancy in having two separate regulations controlling hydrilla. She stated that 312 IAC 18-3-23 is less restrictive and less burdensome than 312 IAC 18-3-21.

Cameron Clark moved for preliminary adoption of the repeal of 312 IAC 18-3-21. Phil French seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF LAW ENFORCEMENT

Consideration of preliminary adoption of amendments to 312 IAC 5-8-2 to extend the no boating zone on the East Swimming Beach located in Whihala Beach County Park in Whiting, Indiana, from 200 feet to 300 feet; Administrative Cause No. 18-010L

Elizabeth Gamboa, Staff Counsel for the Department, presented this item. Gamboa requested preliminary adoption of an amendment to 312 IAC 5-8-2(2)(C) to increase the restriction on watercraft from 200 feet to 300 feet in the area of Lake Michigan known as East Swimming Beach for safety of the participants on the “Whoa Zone.” She noted that the Whoa Zone is an in-water fitness challenge course.

Gamboa said that the proposed amendment would make permanent a 2017 emergency rule, LSA Document Number 17-220(E), that was renewed in 2018. She noted that the Department has authority to adopt rules governing the safe operation of watercraft and to establish zones where the use of watercraft may be limited or prohibited under IC 14-15-7-3(a). Gamboa stated that the Department’s authority extends to adopting rules concerning the safe operation of watercraft upon public waters “where unusual conditions” such as “beach... or other recreational facility on or adjacent to public water is present.” She noted that 312 IAC 5-8-2 originally became effective on January 1, 2002 and was readopted in July of 2014.

Gamboa said that the City of Whiting Indiana has invested several million dollars in developing its Lake-Front Park and Whihala Beach into a destinations for visitors. She said that in 2017 the Whoa Zone was anchored in the water adjacent to Whihala Beach and depending on the depth of water is generally in the area approximately 50 to 150 feet lakeward of the Lake Michigan shoreline. She stated that in 2017, its first year of operation, over twenty thousand patrons from 34 states visited the Whihala Beach County Park and the Whoa Zone was expanded in 2018 to accommodate more patrons.

Gamboa stated that restricting watercraft operation within 300 feet lakeward of the shoreline provides a sufficient buffer between the Whoa Zone and watercraft.

The Chair asked if there was a cost to use the Whoa Zone.

Gamboa stated there is an hourly charge to use the Whoa Zone.

Bruno Pigott moved for preliminary adoption of amendments to 312 IAC 5-8-2 to extend the no boating zone on the East Swimming Beach located in Whihala Beach County Park in Whiting, Indiana, from 200 feet to 300 feet. Jeff Holland seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF FISH AND WILDLIFE

Request for approval of amendments to Information Bulletin # 2, Roster of Indiana Animals, Insects, and Plants that are Extirpated, Endangered, Threatened, or Rare (also described as Special Concern), Administrative Cause No. 18-112D

Linnea Petercheff, Division of Fish and Wildlife, presented this item. Petercheff sought approval of amendments to Information Bulletin # 2 to reflect changes that have been made to 312 IAC 9 and changes recommended by nongame technical advisory committees. She stated that in 1984 the Division of Fish Wildlife established the nongame technical advisory committees to serve as an advisory body in fulfilling its statutory responsibility for nongame and endangered species conservation in Indiana. Included in the effort is an annual review of the state's list of endangered and special concern species.

Petercheff noted that earlier in 2018 three bats, the little brown bat, northern long-eared myotis, and tri-colored bat, were added to the endangered species list. She said some changes to birds on the endangered species list include the rufa red knot that was added and the osprey that was removed from the list and moved to the list of special concern. Petercheff said the ospreys are still protected by state and federal law.

Petercheff stated there were six species of mussels removed from the list of endangered species because they are considered extirpated from the Indiana. Petercheff said the Department is recommending the Northern leopard frog be removed from the list of species of special concern noting that researchers and field workers are seeing them in higher frequency and it is believed their numbers are stabilizing.

Petercheff said that the proposed amendment would include adding the plains gartersnake to the species of special concern. She said the plains gartersnakes were previously identified in eight northwest Indiana counties but in the past 15 years have been documented only in Lake and Porter counties.

The Chair opened the floor for questions.

Holland stated that there is an error of two of the beetles' common names in the roster. Holland stated that the common name for dynastes tityus is listed as "unicorn beetle" and it should be the "eastern Hercules beetle." Holland said that the common name for dryobius sexnotatus should be the "maple dryobius."

Petercheff stated that the Division of Fish and Wildlife has asked the Division of Nature Preserves to review the roster of plants and insects and that the Division of Nature Preserves is still working on the list.

Holland said that the "history" section on page 24 of the proposed amendments to Information Bulletin # 2 states that it was republished April 1, 1991 when the initial roster was published

February 1, 1992. He noted that there appears to be a problem with the dates since the proposed amendments states that it was republished before it was published.

The Chair made note of the error.

Petercheff stated that the history section of the document had been moved from the beginning to the end of the proposed Information Bulletin # 2.

Jeff Holland moved to accept the amendments, as revised, to Information Bulletin # 2, Roster of Indiana Animals, Insects, and Plants that are Extirpated, Endangered, Threatened, or Rare. Patrick Early seconded the motion. Upon a voice vote, the motion carried.

Information Item: Chronic Wasting Disease (CWD) Update from the Division of Fish and Wildlife

Nancy Boedecker, Wildlife Veterinarian with the Division of Fish and Wildlife presented this item. Boedecker offered a Power Point presentation on Chronic Wasting Disease (CWD). She stated that CWD has not yet been identified in Indiana but has been identified in Michigan, Ohio, and Illinois.

Boedecker said that CWD is a transmissible spongiform encephalopathy type disease that affects cervid species caused by misfolded prion proteins and results in damage to the brain. She stated that CWD has a prolonged incubation that could take years to detect while an infected deer is capable of transmitting the disease. Boedecker said that clinical signs could include loss of body condition, lowered head, droopy ears, excessive thirst and urination, neurologic signs, behavioral changes, depression, listlessness, stumbling, tremors, excess salivation. Ultimately, CWD is fatal in deer.

Boedecker noted that no cases of CWD have been found in humans, but that Center for Disease Control and Prevention has updated recommendations to include testing deer from known CWD positive areas and instructions not to consume positive testing deer. Boedecker said that CWD is transmitted through deer to deer contact through saliva, feces, and urine, or contaminated soil. She noted that CWD is diagnosed through post mortem testing of lymph nodes in the head and there is no treatment or vaccination.

Boedecker said that CWD was first identified in Colorado in the 1960s and has now been identified in 25 states, 3 Canadian provinces, South Korea, Norway, and Finland. She stated that CWD has been identified in Illinois, 25 miles from Newton County Indiana, and in Michigan, 35 miles from Steuben County Indiana. Boedecker stated that during the 2018-2019 hunting season the Department began voluntary surveillance in Newton and surrounding counties and in Steuben County.

Boedecker stated that CWD is a concern because, based on evidence from other states, CWD can lead to declines in deer population that would cause a decline in hunting resulting in a decline in revenue for the Department. Boedecker noted that the Department has been conducting annual state wide surveillance testing of over 20,000 animals since 2002 with no detections of CWD.

She stated that the Department is working with the Indiana State Board of Animal Health (BOAH) to update the CWD response plan and improve the cost effectiveness of surveillance.

Boedecker said that if CWD is found in Indiana that the Department and BOAH would have a meeting to determine what the next step should be based on the specifics of the situation. She noted that part of a response to a positive CWD case would include keeping the public informed and engaged, identifying management zones, surveillance, and options to minimize the spread. Boedecker said that the Department has been staying informed on what is being done in surrounding states and learning from other states experiences. She said the Department is communicating and collaborating with external partners and has created a wildlife veterinarian position.

Information Item: Bovine Tuberculosis Update from the Division of Fish and Wildlife

Boedecker also presented this item. Boedecker offered a Power Point presentation on Bovine Tuberculosis (bTB). She stated that bTB is a bacterial disease that affects the respiratory tract primarily of cattle, but she noted that deer and humans are also susceptible to infection. Boedecker said that bTB surveillance is occurring in Fayette, Dearborn, and Franklin Counties that is accomplished by testing lymph nodes from harvested deer. She noted that over 4,000 deer have been tested from 2009 to 2018 and that bTB is at a low prevalence, with one deer and two raccoons showing positive results in 2016.

Boedecker noted that transfer from cattle to other mammals is a risk and in Michigan bTB is established in wild deer herds. She said in the northeast Michigan surveillance zone that bTB prevalence in deer has reduced from 5% to 1% through surveillance and management. Boedecker stated that Indiana does not want to end up in a similar situation to Michigan regarding bTB and that the Department recognizes the need for vigilance.

Boedecker noted that the first case of bTB was identified on two cattle farms and a cervidae farm in Franklin and Dearborn Counties between 2008 and 2011 that resulted in the depopulation of those farms. She said that the Department, Indiana State Board of Animal Health, and National Veterinary Services Lab initiated bTB surveillance and management in Franklin, Fayette, and Dearborn Counties. Boedecker said it was thought that bTB was resolved and deer surveillance could end but in 2016 more positive cases of bTB were identified. Boedecker explained that one of the positive farms in Franklin County identified in 2016 was not immediately depopulated but was managed with animals being tested and removed. She noted that in 2018 the farm was ultimately depopulated. Since the bTB positive cases were identified in 2016 there has been increased surveillance with 2,500 deer being tested and all of the tests negative.

Boedecker stated that the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Wildlife Services are removing wildlife with the approval of the land owner in areas with the highest risk of bTB and those tests are pending. Boedecker stated that the Department is continuing the wildlife removal effort around the infected area every six months until there have been two consecutive negative tests.

Boedecker said that currently there is voluntary hunter harvest surveillance around the Franklin County area and there is a proposal to repeat bTB surveillance in three to five years. She noted that the Department has been encouraged to apply to federal funding to manage bTB problem.

Pigott asked how bTB is transmitted from livestock to deer.

Boedecker replied that bTB is transmitted by direct contact, respiratory secretions, or possibly the fecal-oral route.

The Chair asked if the only way to test an animal for bTB is after they are dead.

Boedecker replied that cattle testing can be achieved while the animal is alive, but that wild deer are primarily tested post mortem. She noted that there are some blood tests that can be done for captive deer.

NRC, DIVISION OF HEARINGS

Consideration of approval of amendments to the nonrule policy document, Information Bulletin #36, Procedural Guidelines for the Interpretation of the Conservancy District Article (IC 14-33), Administrative Cause Number 18-035C

Jennifer Kane, Hearing Officer, presented this item. Kane explained that Information Bulletin #36 outlines the Commission's role regarding conservancy districts and the proposed amendments would provide additional clarification as to the notification of other state agencies.

Kane stated that the Commission is required to request technical assistance from a state agency and give full weight to that agency's input in making a report to the court if a proposed purpose or existing purpose of a conservancy district is within the administrative jurisdiction of another state agency. Kane noted that the Commission currently notifies the Department of Natural Resources, the Department of Environmental Management, the State Department of Health, the Indiana Department of Agriculture, and the Indiana Utility Regulatory Commission (IURC) regarding conservancy district petitions. Kane explained that the state agencies are notified regardless of the statutory purpose or purposes of the conservancy district as described in IC 14-33-1-1.

Kane said the proposed amendment would clarify that the IURC is notified in instances where the purposes of the existing or intended conservancy district is for providing water supply, including treatment and distribution, for domestic, industrial, and public use or providing for the collection, treatment, and disposal of sewage and other liquid wastes. Kane stated that the IURC regulates Indiana utilities and is authorized to administer the regulatory program to ensure that public utilities provide constant, reliable, and efficient services. Kane noted that the IURC reviewed and approved of the changes.

Kane said that the other proposed amendments to Information Bulletin #36 are technical changes with the history section of the non-rule policy being relocated to the end of the document. Kane

noted that another non-substantive proposed amendment clarifies instances where the Commission has delegated authority to the Department to report to the court, that the Commission's Division of Hearings would be responsible for filing the report with the court. Kane stated that the recommendation is that the Commission approve the proposed amendments to Information Bulletin #36.

Patrick Early moved to accept the amendments to the nonrule policy document, Information Bulletin #36, Procedural Guidelines for the Interpretation of the Conservancy District Article. Cameron Clark seconded the motion. Upon voice vote, the motion carried.

The Chair recognized Jennifer Kane with the Commission's Division of Hearings and noted her upcoming retirement. The Chair thanked Kane for her years of service.

Adjournment

The meeting was adjourned at approximately 10:59 a.m., ET.