

ADVISORY COUNCIL
Minutes of April 14, 2010

ADVISORY COUNCIL MEMBERS PRESENT

Patrick Early, Chair
AmyMarie Travis Lucas, Vice Chair
Bill Freeman
Jim Trachtman
Richard Cockrum
David Lupke
Ross Williams
William Wert

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Jennifer Kane

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Cheryl Hampton	Executive Office
Shelley Reeves	Executive Office
Laura Minzes	Indiana State Museum and Historic Sites
Mark Reiter	Fish and Wildlife
Linnea Petercheff	Fish and Wildlife
John Bergman	State Parks

GUESTS PRESENT

John Goss	Mike Phelps	Charles Lassiter
John van Hattum	Kristen Heitman	Diana Shaffer
Anne Sterling	Deb Smart	Laura Nirenburg
Ken Foreman	Priscilla Herochik	Ce Ann Lambert
Beth Breitweiser	Carl Kelle	Judith Cieslak
Doug Allman	Susan Davis	Jan Turner
Alyza Estridge	Jack Corpuz	Jennifer Cunningham

Call to Order by Chairman, Patrick J. Early

The Chair called to order the meeting of April 14, 2010 at 10:37 a.m., EDT, at The Garrison, Fort Harrison State Park Inn, Lawrence Room, Indianapolis, Indiana. With the presence of eight members, the Chair observed a quorum.

Approval of minutes of meeting held on December 9, 2009

Vice Chair Travis Lucas observed the December minutes correctly reflected the 2010 meeting dates as originally scheduled. These were set for Tuesdays, but subsequently changed to Wednesdays. She asked that a notation be made in the December minutes to reflect the change.

Jim Trachtman moved to approve the December 9, 2009 minutes with a notation to reflect the revised 2010 meeting schedule. William Wert seconded the motion. Upon a voice vote, the motion carried.

Election of Officers

Richard Cockrum moved to re-elect the current slate of officers for the year 2010. He nominated Patrick Early as Chair and AmyMarie Travis Lucas as Vice Chair. No other nominations were offered. William Wert seconded the motion. Upon a voice vote, the motion carried.

Consideration for recommendation of approval of a new nonrule policy governing prospecting in Indiana that will provide guidelines to prospectors and DNR staff; Administrative Cause No. 09-171A

Linnea Petercheff, Staff Specialist with the Division of Fish and Wildlife, presented this item. She provided the Advisory Council with an amended draft of a proposed nonrule policy document printed on yellow paper. She said comments on the original draft were received recently, and the amended version makes several changes in response to those comments.

Petercheff said last year new rules became effective which govern prospecting in Indiana. The rules establish a general license for prospecting on both navigable and nonnavigable waterways. She said prospecting groups additionally requested clarification regarding portions of the rule language. As a subsequence, the proposed nonrule policy document considers “effected riparian owners”; discusses the proper disposal of lead, mercury, and other contaminants; clarifies the permission required for prospecting on a “DNR property”; and, generally locates areas where endangered species or mussels are likely to be encountered. The proposed rule clarifies the need for agency permission to prospect on a waterway that is within a DNR property. “As an affected riparian owner, the DNR property would also need to be contacted for prospecting in the agency’s riparian area of navigable waterways.”

Carl Kelle of Mooresville said he was “very concerned” about some of the language within the proposed nonrule policy document. “We all know how this all started three years ago. I think it was with some poor interpretation of what the intent of the rules were.” Kelle said it was his understanding that the Division of Law Enforcement would use the nonrule policy document as

“guidance to determine whether we are breaking the rules or not.” He said the language used to describe the purpose of the nonrule document to “conduct prospecting on waterways that run through a DNR property” could be interpreted several different ways. “For instance, Morgan-Monroe State [Forest], if you were on a private property outside of [the State Forest] that waterway runs through that property. Is it okay to prospect there if you are on private property and have permission from the riparian landowner to be on that property?” He said, “There are some ambiguous statements throughout this thing... We really need to consider how this thing is written.”

Mike Phelps of Brookston said, “I was just handed the marked-up version.... It appears from looking at it that most of our concerns have been addressed.” He pointed out that under Section 3 it reads, “written permission must be obtained from the property manager, or property manager’s designee, before prospecting in waterways.” He recommended the word “nonnavigable” be inserted to modify “waterways”. Phelps added, “It’s already established above that that navigable streams are treated differently.” Phelps said he was “more curious than anything” regarding the definition of that riparian owner’s rights extending $\frac{1}{4}$ of the width of a waterway or 50 feet into the waterway from the ordinary high water mark. “I suppose that would be reasonable for some reason, but I was curious if there was going to be...some explanation of that. I don’t understand where you come up with the ‘50 feet’...because originally in August 2008...they were talking 15 or 20 feet”.

Stephen Lucas, Director of the Natural Resources Commission’s Division of Hearings, stated that the “50” was a “consensus number” between the Division of Fish and Wildlife and the Division of Law Enforcement.

The Chair asked, “It is the lesser of $\frac{1}{4}$ or 50 feet?” Lucas answered in the affirmative.

Phelps said, “Originally, when we were discussing that I was pretty sure that an example was used that...it’s been that these riparian rights are not spelled out anywhere, but have been decided in a number of court cases.” He said one of the court cases involved a dock and requirement to be “20 feet from a riparian owner’s dock or beach so they have access”.

Lucas explained that “a lot of what we are talking about in terms of riparian rights has to do with the level of ‘intrusion’, for lack of a better term. A rule was reviewed by this Advisory Council and approved by the Commission with respect to piers. In that context, on navigable waters, it’s $\frac{1}{4}$ of the width of the waterway, or 100 feet, whichever is less.” The Department’s perspective was that prospecting is “not as much of an intrusion as a pier so 100 feet seemed excessive for prospecting activities, and 50 feet was a consensus number.” He expressed the opinion that the number 50 “was not carved in stone”.

Ron McAhron, Deputy Director, Bureau of Resource Regulation, said, “This is a difficult issue for me. We have hand prospecting, and we have mechanical prospecting, which are two different levels of intrusion.” He added, “Throughout this whole thing, it has been a difficult thing to find a balance of what we need to do to be protective.” His recollection was that “50 feet was used because we had some other precedent where we had put a 50-foot buffer on riparian usage. But we were really trying to find a way to not get into a hard number.”

The Vice Chair said, “I tend to think that the reason that we wanted to come up with a number was so that there was some reasonable expectation by the people that were taking part in prospecting activities, that they would do it right. Also we wanted to give some clear guidance for the conservation officers and so the person with riparian rights would have some reasonable expectation.”

Phelps said, “The 50 feet, with the addition of ‘or ¼ width of the stream, whichever is smaller’ is probably fair and reasonable.” He concluded, “For our purposes, we can work with this. It will certainly give the officers something to go by, but just as long as we don’t have to go to the river and ask 15 people in ¼ mile for permission in order to get in there.”

Rick Cockrum asked whether the proposed nonrule policy document would be considered by the Natural Resources Commission. The Chair answered that it would. Cockrum then noted there would be further opportunity for review and input from the prospecting community and other interested persons before Commission action.

Lucas suggested amending the language under “Purpose” to read “that runs within” in order to address Carl Kelle’s concern. Kelle reflected that this change would be responsive.

John Davis, Deputy Director of the Bureau of Lands and Cultural Resources, said, “I’m fine with the word ‘within’.” But he urged that permission from the property manager should be required in a navigable or nonnavigable stream if the waterway is within our property.

Lucas said, “There was a point there that has some validity at least as discussion.” He suggested striking the word “waterways” and insert “within a nonnavigable waterway or within the riparian area of a navigable waterway.” Davis agreed.

Lucas said for navigable waters, “It is not different for a DNR property than it is for private property.” For example, at Prophetstown State Park, the DNR “as a riparian owner, has a legitimate interest in the riparian zone, but it doesn’t have an interest any different from any other private property owner would have, say, 200 feet out into the Tippecanoe River.”

Davis said, “What about Sugar Creek at Turkey Run State Park where we own on both sides?” Lucas answered the DNR has a separate responsibility as the agency with “general charge” of navigable waters, but as a riparian owner, its standing was “no different than any other adjacent property owner.”

The Chair noted the concerns voiced by Kelle and Phelps. “We will try to make sure we clarify this before we post it. Again, this still has to go to the Commission.” He then called upon John Van Hattum for comments. Van Hattum responded that his concerns were effectively addressed through the comments by Mike Phelps and Carl Kelle. Charles Lassiter said, “I think most of my concerns have been addressed, also.”

The Chair said, “What we need is—subject to amendments that have been offered at this point in time—approval to move this nonrule policy on to the full Commission”.

David Lupke asked, “Are we moving it forward with the changes that Steve recommended?”

The Chair said, “I would think for clarification purposes, they don’t hurt it any, so I would suggest that we do. Would you not agree?”

Lupke answered, “Yes.”

Jim Trachtman moved to recommend Commission approval of the proposed nonrule policy document governing prospecting in Indiana (Information Bulletin #62) with inclusion of the following amendments:

- In §1., delete “through”, and insert “within” to read:
...require a permit for a person to conduct prospecting on a waterway that runs **within** a DNR property. ...
- In § 3. In the first sentence, delete “waterways””, and insert, “**within a nonnavigable waterway or within the riparian area of a navigable waterway**”; and delete “by the Department” to read:
Written permission must be obtained from the property manager or the property manager’s designee before prospecting in **a non-navigable waterway or in a riparian zone of a navigable waterway** that ~~are~~ **is** located along or through ~~properties managed by the Department~~ **a DNR property**. ...

David Lupke seconded the motion. Upon a voice vote, the motion carried.

Consideration of recommendation of approval for preliminary adoption of amendments to 312 IAC 9-10-9 that govern wild animal rehabilitation permits; Administrative Cause No. 10-015D

Linnea Petercheff also presented this item. She explained the proposal would amend the rules governing wild animal rehabilitation. Last year, the DNR formed an advisory group that consisted of four licensed rehabilitators, a veterinarian with the State Board of Animal Health, a DNR wildlife biologist, a conservation officer, a nuisance wild animal control operator, and her to “discuss some of the issues pertaining to wildlife rehabilitation.” She said the DNR also received input from other rehabilitators who attended the meetings, but were not formally part of the advisory group. In November, she wrote to all licensed rehabilitators requesting input. “Many changes were made as a result of those comments.” She said the “majority of the proposed rule amendments” were requested by the advisory group, which also requested amendment to require testing for new rehabilitators. A wild animal rehabilitation permit authorizes a qualified individual to take in wild animals (potentially including mammals, birds, reptiles, and amphibians) to provide care until the animals can be returned to the wild. “Many of the animals are orphan young, but other animals may be sick or injured. While rehabbers have good intentions and can save some animals, we have had to take legal action on some permit holders within the past years for multiple violations.”

Petercheff provided a brief overview of the proposed amendments. She said amendments are proposed regarding wild animal rehabilitator licensing. Proposed amendment would require annual testing for new applicants and those who have had a permit for less than ten years and taken in at least twelve animals. Clarification would be provided for who can serve as a reference or provide training. An inspection from a conservation officer would be required for all new license applicants. Housing requirements would be amended to prohibit domesticated or other animals from being housed with a wild animal. A wild animal could not be used for public display. The rehabilitator would be required to keep housing clean and sanitary and to minimize of human contact. Amendments would clarify the use and activity of rehabilitator assistants. Amendments would require that a wild animal must be released within a specific time period (usually 180 days) unless approval is given due to time of year and extensive injuries. The rehabilitator must have permission from the landowner where animals are released, and restrictions are added on where animals can be released. A rehabilitator could not spay, neuter, or otherwise alter the reproductive function of a wild animal that is going to be released. A rehabilitator would be required to tag or mark an animal if given a pharmaceutical or other chemical as a tranquilizer or anesthetic, unless the product was labeled as being safe for human consumption and released outside the clearance period. For a non-releasable animal, amendments would clarify an animal could be kept as a foster parent or as an education animal but not as a pet. A limit would be placed on the number of non-releasable animals a rehabilitator could keep, and it would require non-releasable white-tailed deer to be euthanized. Amendments would clarify the proper disposition of dead animals. Proposed amendments would prohibit rehabilitation of adult raccoons and coyotes. Juvenile raccoons, coyotes, and foxes could be released only under specified conditions and must otherwise be euthanized. White-tailed deer could be released only under specified conditions and must otherwise be euthanized.

Petercheff said information regarding diseases and parasites was included in the Commission packets to support some of the proposed amendments. Other information included related to animal predation, nuisance animal situations, and population concerns. Absent its express approval, “The U.S. Fish and Wildlife Service requires release within 180 days for migratory birds.” Petercheff said DNR has granted extensions for species such as squirrels that are taken in the fall and cannot be released until the spring, but agency “does not grant extensions” for the release of a white-tailed deer for the reason that a rehabilitator “does not want to release the deer during hunting season.”

Petercheff said 890 raccoons were released in 2008, and in 2009 approximately 1,000 raccoons were taken with 67% of them being subsequently released. “The Department receives a lot of calls about wild animals, particularly raccoons that are a nuisance animal for a lot of homeowners.” Only four coyotes were taken in for rehabilitation in 2009, five in 2008, and two in 2007. She said 170 white-tailed deer were taken in for rehabilitation in 2009, with 94 being released and 74 dying in captivity. “The majority of the proposed changes were made by an advisory group that consisted of a diverse membership—a trapper, a conservation officer, wildlife biologist, certified veterinarian, and several wild animal rehabilitators. The majority of the changes were agreed upon by consensus of the group.” Trained certified wildlife biologists “believe these changes will not necessarily result in a significant impact to these populations, but instead help provide for healthier populations and reduce predation on other species that are in peril.” Petercheff concluded by saying the proposed amendments were needed to “insure that

wild animals are being held and cared for properly and not affecting the welfare of other wild animal populations,” which the “DNR is required to protect”.

David Lupke asked when the agency “planned changes to the rules on bats regarding the whitenose syndrome.”

John Davis said the Department is “still conferring” with the U.S. Fish and Wildlife Service and other persons regarding whitenose. A meeting was held recently with rehabilitators regarding the issue. The DNR is “taking comments now” to prepare for a public meeting at Spring Mill State Park on April 21, 2010.

Petercheff said non-endangered species of bats are not legally protected “so they are allowed to be taken and possessed at anytime without a permit.” She said the rehabilitation of non-endangered bats is done without a permit. The Department is reviewing possible rule amendments in light of white nose syndrome and in light of rabies concerns which the Indiana State Department of Health has raised.

Priscilla Herochik of Crown Point said she is a wildlife rehabilitator at Raccoon Woods. She said she has “a lot of problems” with the rule proposal. “There is really no rational basis for the rules to be changed in four specific areas, the first being the killing of adult raccoons and adult coyotes.” She inquired of the proposed rule’s impact to euthanize adult coyotes if only five coyotes were taken in the last year. “Most rehabbers” recognize the diseases in wild animals. “If an animal comes in with a neurological symptom that could indicate rabies or distemper, those animals are going to be euthanized.” Herochik said the proposed rule “is not euthanasia.... This is basically asking the wildlife rehabilitators to become exterminators of a species that the Division of [Fish and] Wildlife has decided is a pest.” She also expressed concerns regarding the proposed requirement to euthanize adult raccoons. “Only 30% or so raccoons that come in are adults, and generally they are injured or they are very sick. If they are very sick, they are going to be euthanized. If they are injured, they should have the opportunity to be treated. This is a direct attack upon the autonomy of rehabilitation itself.” She said “maybe two or three years down the road,” the Department will “ask rehabilitators to start exterminating baby raccoons and coyotes.” Herochik said the Department advisory group was a “group of people who hated raccoons and hated coyotes.” The proposal to euthanize adult raccoons and coyotes is going to “drive out the rehabbers...who provide a valuable service.”

Herochik said the proposed requirement to release a wild animal in the county of origin was “a real problem, particularly for coyotes.” Coyote puppies from different counties that are raised together “need to be released together. If you separate them, you might as well just euthanize... them because they are not going to survive.” She stated opposition to the proposed requirement to release a white-tailed deer within 180 days. The proposal would not allow a young deer to acclimate if it is released during hunting season. “There’s no fair chase involved. They’re just a sitting target for any hunter to kill them.” She urged that it would “not be harmful to release a white-tailed deer until after hunting season and to give them one year, which would actually be beneficial to the hunters.” She said 24% of the deer taken last season were fawns.

Herochik said she was “very much for” good education for wildlife rehabilitators. “I would like to see the best care to be rendered to all of these animals, but the problem we have with the testing is we don’t know from whence the questions would come so we wouldn’t know how to study.” She said the rule proposal is unclear concerning continuing education.

Herochik said the Department provided three justifications for the rule proposal, “none of which mandate the killing of raccoons.” Released raccoons are inoculated for canine distemper. “If we release raccoons into the wild, be they adult or babies that have been raised to juvenile status, they are healthier and less likely to cause disease in the wild.” Indiana has not had a raccoon with rabies in 30 years. Experts state raccoon rabies has “really been controlled in Ohio through the oral bait vaccine drops.” She recommended Indiana begin a bait program on the Ohio border “if Indiana really feels...that rabies might be coming our way.” She said trappers are at the “greatest risk for rabies”.

Herochik concluded by urging that the proposed rules “are not rational. They came about in a group that really was biased against mammals. You had a lot of people who are rehabbing birds.” There is “tension between the mammal rehabilitators and the bird rehabilitators.” She suggested that another group be formed “to try to work out some of these problems where we could actually have a group that understands wildlife rehabilitation as it pertains to mammals.”

Judith Cieslak of Valparaiso said she was not an animal rehabilitator but represented a “broad spectrum” of citizens who signed a petition opposing the proposed rule amendments to euthanize adult raccoons and coyotes brought in for rehabilitation. “Asking rehabbers to exterminate animals that are treatable is, in our minds, simply unreasonable. You are asking rehabbers to act in a very completely opposite way to their reasons for being a rehabber. You are also asking those who are veterinarians...to break their oath.” Euthanasia should be reserved for animals that are suffering and have no chance of recovery. Those who signed the petition are “quite frankly, deeply disturbed by this proposal.” She concluded, “I have often wondered why the State often seems to make the job or the work of the rehabber so difficult. It’s almost as if the State believes it is doing them a favor by allowing them to rehabilitate the animals.”

Beth Brietweiser, a wildlife veterinarian and owner of the All Wild Things Exotic Animal Hospital, said she was “neither for nor against the proposed rule amendments. I come from all sides. I love my rehabbers. I don’t charge my rehabbers. A huge amount of my salary—my personal money—goes to rehabilitation.” She considers herself an “animal advocate”, and she holds an undergraduate degree in forestry and wildlife Management. She said she understands the population management that the Department “needs to maintain”. Portions of the proposal would be “beneficial with more discussion and more input.”

Brietweiser said she has seen rehabbers using their own money, time, and life dedicated to wildlife rehabilitation. “I have also seen rehabbers who have abused the situation. They’ve had neurologic raccoons that they have slept with. They’ve kept them way too long.” Some wild animal rehabilitators have allowed “animals to get greatly obese...becoming a medical risk to themselves. It is cruel to keep an animal that has been wild in confinement for a very extended period of time. The limits on that are helpful, although I also understand becoming attached to these animals.” She expressed “concern that not enough” rules for rehabilitation involving

medical care are in place. “Most rehabilitators have veterinarians, but some licensed rehabilitators are setting fractures, administering medication they don’t understand and are buying it at K-Mart or Wal-Mart.” There is “not enough monitoring” of medical treatment by rehabilitators. “Unless you have a medical license, you should not be pinning a bone.”

Brietweiser said she is concerned with the use of rehabilitator assistants. The assistants can become “overwhelmed and have very little training,” and the assistants are the persons that “end up calling me because they don’t know what they are doing, and the animals suffer.” There are not enough guidelines for when animals need to be euthanized and when animals should be released. “We do need to be considering what we do with the populations of wildlife when we release them. . . . In too many situations, too many irresponsible people are not doing appropriate hack outs for the animals, and they are not getting [the animals] equipped to hunt before they are released. It’s not their fault. It’s just because there aren’t guidelines.” She said, “Some things being proposed would help hone the skills of individuals that are doing a good job.”

Brietweiser said she has been “forced, I guess” to perform euthanasia, usually for rabies concerns, on “way too many” adult animals kept as pets by unlicensed persons because an animal has bitten someone. People typically do not understand the State rabies policies. “If people are going to work with these animals, they need to be rabies vaccinated. That’s the bottom line.” If rehabilitation permits are going to be granted, permit holders and their employees need to be vaccinated so it “protects the animal”. A person cannot tell whether a rehabilitated animal has rabies by looking at it. “You protect the animal by protecting yourself.”

Ce Ann Lambert, a coyote rehabilitator from Bringham said “coyotes are under assault all over the U.S. They are shot, trapped, and killed by kill-dogs in running pens and in the wild.” Coyote habitat is being destroyed, causing the coyote to be “more vulnerable”. The proposed rules that “attempt to exterminate and eradicate the coyote from Indiana using rehabbers is appalling.” She added that “forcing rehabbers to be complicit in this attempted extermination and eradication should not be allowed.” Wild animal rehabilitators should not be forced to euthanize animals for population control. “We need to be sure that the DNR removes the coyote from [its] hit list.” The Department lengthened the coyote hunting season to March 15, and that date is “close to the time that females are going into their dens to get ready for pups. During that time they depend on the males to provide them with food. . . . The males play a crucial role in keeping her healthy for her mothering duty.” She said the proposed rules make rehabilitators “complicit in controlling small predators that feed on the eggs of the ground nesting birds of Indiana,” which is the Department’s “agenda hidden behind the rhetoric about disease and being nuisance animals.” She said the proposal would also make it “harder in the future to rehabilitate other animals,” such as fox, skunks, and opossums, because they eat the eggs of ground nesting birds.

Anne Sterling spoke as the representative for the Indiana Chapter for the Humane Society of the United States. She said the Indiana Chapter has 183,000 constituents and members. “We appreciate the work that the Department has put into this and that the committee took the time to look at these issues.” But the Indiana Chapter has concerns which are “pretty much consistent” with the previous comments, including “primarily the mandatory euthanasia” of adult animals. “Forcing rehabilitators to kill animals that they are trained and licensed to rehabilitate is not only cruel and financially burdensome but will also discourage many licensees from responding to

situations where sick or injured wild animals are exposed to the public.” She said no other State has euthanasia standards based on an animal’s weight. “This standard is counterproductive and would allow rehabbers to care for overly thin or sick animals, but those that have been better fed or healthy and have proven that they can survive in the wild would have to be exterminated. This requirement flies in the face of all basic nationally recognized rehabilitation standards and forces the rehabilitator to unnecessarily euthanize healthy animals. By any standard, this provision is punitive and destructive.”

Sterling said the Indiana Chapter is concerned with the 180-day maximum holding period for fawns. “This arbitrary time period demands that late-born fawns that may lack some necessary survival skills, such as fear of humans, be released during hunting season.” The failure to properly acclimate the fawns and releasing them at a “too young of age during hunting season is detrimental to the fawns survival and forces the rehabilitator to not comply with basic nationally recognized rehab release standards.”

Sterling said the Indiana Chapter is also concerned with the proposed requirement to release a rehabilitated animal to the county of origin. Requiring singles and animals that have been merged into social groups and to later be split up and released individually “forces rehabilitators to break apart any foster family unit, which is not only detrimental to their natural behavioral ecology and survival, but again forces the rehabilitator into a position where they are unable to meet basic rehabilitation standards such as releasing animals in appropriate social groups, family units, as would be normal for that species growth and development.”

Sterling said the Indiana Chapter understands the disease transmission concerns. But “by the time rehabilitated mammals have been released, they have been through a significant holding period and given vaccine against rabies and distemper.” Many rehabilitators “could certainly comply” with the restriction, but “there needs to be a waiver for animals that have been merged into social groups.”

Laura Nirenburg of LaPorte said she “agreed wholeheartedly” with Sterling’s comments. “I also do approve of what the DNR is trying to do...and I do realize that there are some rehabbers doing things on a questionable level. There is no doubt about that.” As a rehabilitator, she is concerned about the populations, the diseases, and the nuisance threat, which has been highlighted in Governor Daniels’ response letter to individuals commenting on this proposed rule. But in the letter is a “very disconcerting” argument that the animals are overpopulated and disease-ridden. “We have to question that if these animals are so diseased and they are dying how the population can be high?” She observed the Department reports it “has no way to monitor the populations of these animals, so I have to question if we really know what the populations are.” If the Department’s concerns are valid, “we have to step back and have to see how the DNR reconciles that the same agency allows for game breeders to breed these animals in captivity. ... That doesn’t sit well with me nor does it sit well with other rehabbers.”

Nirenburg said discussions concerning the threat of rabies have been “going around” since 1998. “If, in fact, rabies is a serious concern, why are trappers allowed to import these animals from States that have rabies?”

Nirenburg said she has received an extension to hold a deer for more than 180 days. “I don’t think asking for another 30 or 60 days is going to have an impact on anybody including the hunters.” Rehabilitators are “not the cause” of wildlife diseases in deer “as evidenced by the canned deer facility with tuberculosis. The game breeder and deer farmers...have caused taxpayers thousands of dollars. We are not the burden. We actually are providing an invaluable service. I really need to stress that, because I want to work closely with everyone so that we can come up with some consensus as to what can be done to minimize the problem, yet still allow people to do this service with some discretion.”

Doug Allman of Fishers said the Department’s justification for the proposed rule amendments is a “pretty strong document with pretty strong biological and scientific evidence. I support the way the DNR is moving. Personally, I don’t think it’s strong enough. I want to see wild animals kept wild.... I don’t think people need to take possession of animals.” The Department is charged with managing wildlife species on a “macro level. We need to focus on DNR’s task, with management on a macro level, and the interaction that occurs. Nothing is wasted in nature. Even dead animals are not wasted.... We need to move towards keeping animals wild. We kind of let the genie out of the bottle, and I want to see the genie put back in the bottle.”

Richard Cockrum observed, “This is obviously very controversial, but I do take exception to the comments made about hidden agendas and eradicating species. I have been in the rule making process...for probably almost 15 years, and I have never had a conversation with anybody on staff or anybody at the decision making level of that nature. Every question is what’s in the public interest? What’s public safety? What is species diversity? What is best in the habitat? All the meetings and discussions are put out in the public and open to discussions.... I applaud the groups for being here, but I just felt compelled to at least to set the record straight.”

The Chair said, “I think that you all did a very good job of representing your point of view, but I do also take exception to the fact that there is some hidden conspiracy theory to eradicate animals.” Members of the Advisory Council are “doing this on their own time to try to make sure that the natural resources that we have in Indiana are here for our grandchildren and their grandchildren, and so on. There is no targeted species to eliminate from the face of the earth. Everything that is done, rightly or wrongly, whether you agree with it or you don’t agree with it, is done in taking into consideration what are good management practices.”

William Wert, Advisory Council member, asked about the availability of extensions for releasing wild animals.

Linnea Petercheff responded that the rehabilitator would contact her or a conservation officer to request an extension. “It’s fairly easy.”

Nirenburg reflected that the proposed rule would “solidify that an extension cannot be provided during hunting season. The risk of walking deer out slowly to acclimate them to the wild, and if we do it according to the way the rule is written, if we let them out early that’s when those animals become a nuisance.... Making it from 180 [days] to 240 isn’t a big leap, and it will protect all of these concerns that the DNR has vocalized.”

Petercheff said there are approximately 180 licensed rehabilitators, with some specializing in certain species and others covering a multitude of species. She indicated there were several raccoon rehabilitators on the advisory group formed to review the issues.

The Chair observed, “As we move this forward to the Commission, there will be opportunity to take into consideration the suggestions you made today. There will also be a consideration of other public comment. There will be opportunities for that. I think it’s important that we do continue to move forward with the rule proposal, and if there are things that need to be worked on, we will have the opportunity to tweak them as we go forward with this process.” He said any other comments could be forwarded to the Division of Fish and Wildlife.

William Wert moved to recommend that the Natural Resources Commission give preliminary adoption to amendments to 312 IAC 9-10-9 regarding wild animal rehabilitation. Jim Trachtman seconded the motion. Upon a voice vote, the motion carried. Bill Freeman abstained.

Consideration of recommendation for guidance regarding the statutory directive that the Natural Resources Commission and the Department of Natural Resources seek repayment of costs expended regarding the reviews of conservancy districts; Administrative Cause No. 10-028W.

Ron McAhron, Deputy Director, Bureau of Resource Regulation, presented this item. He said the Indiana Conservancy District Act (IC 14-33) requires the Commission to recoup Department and Commission expenses incurred for hearings and other expenses associated with the development of conservancy districts. The conservancy district is to repay up to a maximum of 30% of the amount paid by the district to independent private engineers for the preparation of plans. At its January meeting, the Commission directed the Department and the Commission’s Division of Hearings to draft guidelines regarding this statutory directive. He said the proposed guidelines “explain the basis in how we would calculate those costs”.

McAhron said the items (1) through (7) of the proposed guidance document are “pretty much self-explanatory.” There are two major agency functions regarding conservancy districts. The Division of Water “looks at the proposals,” and the Commission’s Division of Hearings reviews the “legal aspects of the formation.” Under the proposed guidance, costs for personnel training would not generally be eligible for repayment. “If there is a unique aspect of a formation [of a conservancy district], we may need to get engineering or legal counsel, but we are not looking at loading this up with training expenses.” McAhron provided examples of costs associated with a “fairly simple” conservancy district formation compared to a “more complex” formation. The calculations used average staff salary reimbursements of slightly under \$30 an hour and executive salary reimbursements of slightly under \$40 an hour. *Per diem* is set by the Indiana Department of Administration for overnight expenses of \$89 plus tax, \$26 a day for meals, and \$0.41 per mile travelled. Using these calculations, repayment for a “fairly standard and simple” conservancy district formation would be about \$2,200, and repayment for a “fairly complex” formation would be about \$5,600. “Both of these would be well less than the 30%” cap.

Bill Freeman asked, “Who are you going to send a bill to? How are you going to get payment out of something that fails?” McAhrn responded, “As a practical matter, it would almost have to be limited to successful” conservancy district establishments.

Steve Lucas added, “The guidance would only apply to prospective conservancy districts.” There are approximately 100 existing conservancy districts, but the reimbursement requirements would apply exclusively to conservancy districts where referrals for establishment are made by a Circuit Court to the Commission after March 31, 2010.

McAhrn said, “We are trying to lay out the parameters and the considerations that we would look at in determining the charges. We think we have given you a fairly full list of things that we would consider”.

Davis said, “I think we’re answering part of the question that was asked at the Commission meeting.”

The Chair asked, “So, if we take action, we are just recommending that your methodology is reasonable?”

McAhrn said, “We specifically didn’t want to give the example numbers in hardcopy. We wanted to understand the range that we work from—the salaries and the IDOA business—but we don’t want someone think that it will always be \$2,200 if they pass some kind of simple test. It’s going to be site specific.”

David Lupke asked, “Do we have a sense of how much annual revenue this is going to generate?”

McAhrn said that approximately three to four conservancy district petitions are received per year.

Lucas suggested said a review of Commission records suggested that in recent years, the average was about five annually. Not every conservancy district referred to the Commission is actually formed, however

Lupke said, “Five of these a year that would average \$3,000”.

The Chair said, “It’s not a major revenue source. It already exists in the statute so we are just trying to say how” the expense reimbursement would be implemented.

Richard Cockrum moved to recommend that the Natural Resources Commission adopt the proposed standard operating procedure for the Commission and the Department of Natural Resources to receive repayment of costs associated with the development of conservancy districts. William Wert seconded the motion. Upon a voice vote, the motion carried.

Consideration and evaluation of the Ernie Pyle State Historic Site for deaccession

Laura Minzes, Assistant Director of the Indiana State Museum and Historic Sites, presented this item. She passed out a sheet identifying the factors used to evaluate the proposed deaccessioning of Ernie Pyle State Historic Site, located in Dana. She said there are approximately eight factors that are considered. Concerns regarding the economic viability of the Ernie Pyle Historic Site came to light five to seven years ago. “This is a very serious issue, and we don’t undertake this move lightheartedly.”

Rick Cockrum asked about the annual costs associated with the historic site.

Minzes responded that the annual operation costs are about \$13,000, with \$30,000 additionally in annual capital costs. Revenue generated from the site is approximately \$7,200 a year.

John Davis said the Department analyzes the state historic sites and is “constantly looking at the inventory of assets and try to make sure they meet the standards. Those standards...include the integrity of the site, importance, and what the fiscal impact is.... We aren’t in the business to only do things that make money, but that is a consideration, and it is more important sometimes than it is others.” He said the integrity of the Ernie Pyle Historic Site and the visitation level “takes us to this place—the same place we were in about 1992 with the Wilbur Wright Memorial in Henry County.” The Department cooperated with a Wilbur Wright “friends group, which was interested in the property and willing to take over.” The Department also works with several friends groups that assist in the management of other historic sites, such as T.C. Steele, Pigeon Roost, and Levi Coffman. Davis said the Department would like to enlist a friends group to assist with the Ernie Pyle Historic Site. The deaccessioning of this historic site is not meant to “reduce the importance Ernie Pyle, but it’s just a fact of management, visitors, and integrity of the site.”

The Vice Chair observed, “Obviously, holding onto our history is not something that is profitable often, and it’s sad any time we think about not being able to hold on to every single piece of history. However, I was heartened by the part of the report that established how many more people could visit if these artifacts were kept in the State Museum where we do have more visitors.... There is an opportunity to keep the artifacts in a place where they can ultimately be more viewed and maybe where we can promote more recognition of the important contribution that Ernie Pyle made to not only to Indiana, but to the United States, with his work”.

David Lupke added, “If the people in Dana really felt passionate about this, and felt that this was an important [historic site] to retain, I think we would have to look at that very carefully.” He was “a little concerned” regarding the argument that moving the artifacts to a place with more visitation, “because in Fort Wayne, that was one of the arguments we heard about the Lincoln collection when it was being moved out of Fort Wayne, was that perhaps Philadelphia or Washington, D.C. was a better location for it because more people would see it. Luckily, Indiana got to keep [the collection], and objects are in Indianapolis and Fort Wayne.” He asked whether there would be protective covenants put on the property at deaccession.

Davis responded that there is local interest in the historic site, and the Department is trying to work with the interest group. The “majority of the historic site’s objects are objects the Department would be “willing to turn over along with the visitor’s center, which is a Quonset hut that has been nicely redone.” Davis said the house would have restrictive covenants.

Minzes added that as the deaccession process proceeds, the Department’s Division of Historic Preservation and Archaeology would review the house for architectural significance and would determine whether there are covenants. Covenants for other deaccessioned historic sites have been established.

Davis said Dana is located near the southern border of the Newport Chemical Depot, previously known as the Newport Army Ammunition Plant. The Department is working with the Reuse Authority regarding a desire to secure approximating 7,000 acres of the site which contains “pretty unique natural areas”. The Reuse Authority is interested in an historical interpretative program regarding the production of RDX gas, as well as the production of “heavy water for the Manhattan Project” from wells along the Wabash River. The Reuse Authority is reviewing possible sites for these interpretive programs with Dana as a possible location. “Maybe there is a partnership. I have been working with the friends group and the Reuse Authority in Vermillion County. We are hoping there is a solution other than just closing it down.”

Minzes added, “I think we are all hopeful for that no matter what.”

Jim Trachtman commented upon the proposed deaccession. “It just seems completely logical to me. It’s a site that gets sometimes ten visitors a week. It’s nice that another group is interested, but if we can move some of the artifacts to Indianapolis, there’s no part of it that doesn’t make sense to me.”

Davis noted representatives from Dana were not present at today’s meeting. He said he would invite members of the Friends of Ernie Pyle and the Vermillion County Reuse Authority representative to the May Commission meeting.

David Lupke moved to recommend that the Natural Resources Commission approve deaccessioning of the Ernie Pyle Historic Site, Dana, Vermillion County. William Wert seconded the motion. Upon a voice vote, the motion carried.

Information Update: Partnering with Local Governments to provide reduced entrance fees for special events

John Davis reflected that during the December 9, 2009 Advisory Council meeting, James Snyder requested the Department to consider partnering with a city or town to establish a reduced group fee for entrance to a state park when the city or town hosts an event on one of the Department’s properties. He said the Division of State Parks and Reservoirs conducted an internal review, and he introduced John Bergman, Assistant Director of the Division of State Parks and Reservoirs.

John Bergman provided Advisory Council members a brief memorandum describing the fireworks displays on DNR property. He said that there are eight DNR properties where

firework displays are held on or near the DNR property. At Pokagon State Park, Indiana Dunes State Park, fireworks displays are held on adjacent public waters. “So we really have no involvement other than a venue. People come and pay a gate fee and watch the fireworks.” The fireworks display held at Cecil M. Harden (Raccoon State Recreation Area) is “a little bit different.” The Department has a partnership with the Bellmore Fire Department and the local property owner’s association that conducts fundraising and permitting. A gate fee is charged until 5:00 pm the day of the event, and after 5:00 pm there is a “free will donation,” which is used to fund the fireworks.

Bergman said previously the Fourwinds Inn and Marina sponsored and filed permits for fireworks displays on Lake Monroe, and the Department charged a gate fee. At Versailles State Park, the Department works with a local group and assists in raising donations using the Hassmer Trust Fund. This event is the “only one that probably has direct involvement” by the Department. Donations given at the gate help offset the costs. He said the DNR property serves as a venue for the fireworks display on Patoka Lake. When a fireworks display is held on a DNR property, the requesting group is required to apply for a DNR special event permit, which includes liability insurance, as well as to apply for a permit through the local fire department.

Information Update: Chasing coyotes and foxes

The Chair provided an update on discussions by the Natural Resources Commission concerning rule proposals pertaining to chasing coyotes and foxes in enclosures. He said the Commission was continuing to seek an appropriate regulatory balance to help implement the philosophy of “fair chase”.

Adjournment

At 12:40 p.m., EDT, the meeting adjourned.