

NATURAL RESOURCES COMMISSION
Minutes - March 21, 1996

MEMBERS PRESENT

Michael Kiley, Chair
Patrick Ralston, Secretary
John Goss
Joseph Siener
Jodi Perras
Steve Cecil
Sherman Anderson
Mary Titsworth

NATURAL RESOURCES COMMISSION STAFF PRESENT

Bill Teegarden Hearings
Cheryl Hampton Hearings

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Jack Costello Executive Office
David Herbst Executive Office
Paul Ehret Executive Office
Louise Krick Executive Office
John Bergman State Parks/Reservoirs
Glen Salmon Fish and Wildlife

GUESTS PRESENT

Nat Noland

MONTHLY REPORTS

Michael Kiley, Chair, called to order the regular meeting of the commission at 10:05 a.m., EST, in the Indiana State Museum, 202 North Alabama, Indianapolis, Indiana. With the presence of eight commission members, the chair observed a quorum.

Joe Siener moved to approve the minutes of the February 21, 1996 meeting. The motion was seconded by Patrick Ralston and approved by voice vote of the commission.

Patrick Ralston gave the Director's Report. He introduced the new "Fishing Guide" and was pleased to have Steve Cox on the front cover, who represents several fishing groups around the state.

The Director has met with the army at Ft. Harrison on working out a few problems, which he indicated is down to a short list and is getting closer. The Director also noted the golf course construction is moving along great.

Ralston noted that he has attended several division meetings. He also added that there were 512 DNR employees who received additional raises beside the cost of living raises granted by legislature. Also, this past week about another 30 employees were included to cover the naturalists. Ralston noted for the professional employees since 1991, reclamation included, 80 - 85% have received additional raises beside the cost of living raise.

The Director met with the Porter County Commissioners on the Coastal Coordination Program. The Director indicated that the agency is working very well with them. The commissioners were originally opposed to the concept but great progress has been toward resolving their concerns.

Ralston also reported that he spoke at the congressional breakfast for the Great Lakes Commission this past week. He indicated there were eight congressman and over 100 citizens were in attendance.

Jerry Miller, Chairman of the Advisory Council for Lands and Cultural Resources, was not present.

Jack Costello, Deputy Director for the Bureau of Lands and Cultural Resources, announced the "Recreation Guide" was arriving today and the guide would be sent out as quickly as possible.

Costello also noted the problems the winter storm has created. He spoke briefly about the snow being so heavy on the evergreens and how that has caused many trees to fall. Costello indicated, at the request of the governor's office, the field offices were organized to assist people to clear roadways and perform similar services.

Joe Siener, Chairman of the Advisory Council for the Bureau of Water and Resource Regulation, reported his council is set to meet March 28.

David Herbst, Deputy Director for the Bureau of Water and Resource Regulation, distributed a handout entitled "Hunting Indiana Wild Turkey." He noted how he could remember years ago when the State of Indiana did not have turkeys.

Herbst announced the turkey season for this year opens April 24 and runs through May 12, and there will be hunting in 52 counties. With the repopulation program being so successful, the hope is to have 15 more counties open next year.

Herbst briefly reported on how hectic the short session of the general assembly was and how the department's authority was under attack for managing floodways. He indicated "we've won the short term battles", but the long term consequences are in doubt.

Paul Ehret, Deputy Director for the Bureau of Mine Reclamation, reported he attended an award banquet last month in which the division of reclamation received an engineering design award from the Engineering Association. Ehret indicated it was a very nice banquet and the division of reclamation was the chief award winner for the State of Indiana. The design from the Tecumseh AML Project will represent the State in a national engineering award competition.

Ehret distributed a brochure about the Interstate Oil and Gas Compact Commission and the program announcement for the mid-year meeting to be held in Indianapolis on May 5th through the 7th. The division of oil and gas is excited about having firm commitments by three Governors to attend. They are Governor Nelson of Nebraska, Governor Geringer of Wyoming, and Governor Schafer of North Dakota. Also, there is a strong possibility Governor Johnson of New Mexico will attend. They also have a commitment from Congressman Lee Hamilton and Congressman Glenn Poshard from southern Illinois. Ehret noted it will be quite an interesting program and he is expecting 300 to 400 people to attend. He also welcomed any commission member who would like to attend.

BUREAU OF LANDS AND CULTURAL RESOURCES PERMANENT APPOINTMENTS AND PERSONNEL INTERVIEWS

Personnel Interview

Joe Siener reported upon two personnel interviews for the March 21, 1996 meeting. He stated the decision was very hard because both applicants are very competent, and they are very dedicated to the department. He hoped the persons not hired will keep "plugging away" and apply for other positions that come available. The committee recommended the following:

Tom Meyer for the Assistant Property Manager for the Fawn River Hatchery; and Michael Linderman for the Assistant Property Manager of J.F.D. Lanier State Historic Site.

Joe Siener moved to approve Tom Meyer as Assistant Property Manager at Fawn River Hatchery and to approve Michael Linderman as Assistant Property Manager of J.F.D. Lanier State Historic Site. The motion was seconded by Steve Cecil. Upon voice vote, the motion carried.

Michael Kiley commented on the personnel interview situation. He stated that, almost without exception, the unsuccessful candidates are usually chosen by the department for a position pretty much of their choice later on. The department looks very favorably upon the retention of dedicated and experienced people. Kiley then stated, "if you do your job,

it's very likely you will be ending up doing something with this department that you like very much, and that's why we have such a dedicated and loyal staff and are able to retain people."

Permanent Appointments

John Bergman of the division of state parks introduced Jason Lee. He indicated Jason has spent the last year at Minnehaha Fish and Wildlife and Fort Benjamin Harrison State Park. Jason is a graduate of Purdue University, was Manager at Brown County State Park, laborer and naturalist for Parks.

Patrick Ralston moved his appointment be made permanent. The motion was seconded by Joe Siener. Upon voice vote, the motion carried.

DIVISION OF STATE PARKS

Consideration of a Request from the Brookville Regional Waste District for a Lift Station Easement on a Apportion of Whitewater Memorial State Park.

John Bergman of the division of state parks presented this item. He explained the Brookville Waste Water Sewage District would wished to extend a sewer line to the entrance of Whitewater Memorial State Park, providing the funding will be available in the next budget. To provide an easement for an area of land 100 feet by 60 feet for that purpose, plus providing ingress and egress, will actually reduce expenses later when the division connects.

Joe Siener recommend approval from the Brookville Regional Waste District for a lift station easement on a portion of Whitewater Memorial State Park. The motion was seconded by Sherman Anderson. Upon voice vote, the motion carried.

DIVISION OF MINE RECLAMATION

Consideration of a Request for the Adoption of a Revised Permit Application for Permits to Surface Mine Coal

Paul Ehret presented this item. Ehret stated that no one from the Jasonville office could make the presentation because of the weather. He stated Item 4 is the revised permit application and that it is a substantial document. It is the first time the mine permit application document has been changed since primacy (1982). The division has worked in conjunction with industry for three years on this project. Ehret stated that the new form is clearer and should be easier to understand. If approved, the division of reclamation will hold workshops and the new permit form would be used in approximately six months. Ehret stated the staff has worked "really hard on this", and he was pleased it was now ready for commission approval.

Nat Noland, representing the Indiana Coal Council, stated that Ehret was right on point when he discussed the cooperation with industry on this item. He stated there was no opposition to the new form and that the operators were going to try to submit a test application on the new form within two to three months.

Steve Cecil moved to approve the adoption of a revised application form for permits to surface mine coal. The motion was seconded by Joe Siener. Upon voice vote, the motion carried.

Consideration of a Non-rule Policy Request Concerning Permitting Uncontrolled Properties in Coal Mine Permit Areas

Paul Ehret spoke to this issue. Ehret stated the item is a nonrule policy document in regard to the inclusion of uncontrolled property in a surface mining permit. The policy document as written reflects current practice. The subject is a contentious issue which is not understood by a lot of people. He stated that Indiana may be the most liberal state in allowing the permitting of uncontrolled property. This document makes it clear that just because an uncontrolled property is included in the permit does not give the operator any right to mine on or under the property. It does expedite the mining of the property if acquisition rights are later obtained. This policy does allow a citizen who objects to the inclusion of their property to have it withdrawn from a permit area upon a written request. Ehret stated the division felt that since a new application was being implemented, now would be a good time to have the commission adopt a formal policy dealing with permit area. Ehret stated that hopefully this effort will provide clarity in an area where there has been a degree of confusion.

Nat Noland of the Indiana Coal Council stated the policy is a fair and accurate representation of the industry's understanding of Indiana law on this issue. Indiana has followed this policy since 1991. If a landowner is in the permit area, the landowner receives all notices dealing with the permit. No mining can take place until the operator has a legal right of entry. Noland stated that a typical example of the application of this policy occurs in the case of the Amish, who often will not sign a lease until the mining operation is very close to their property.

Patrick Ralston moved to approve the nonrule policy request concerning permitting uncontrolled properties in coal mine permit areas. The motion was seconded by Steve Cecil. Upon voice vote, the motion carried.

NATURAL RESOURCES COMMISSION DIVISION OF HEARINGS

Consideration of Report of Public Hearing and Recommendation of Reaffirmation of Final Adoption of Rules Governing Recodification of Delegation of Authority of the Natural Resources Commission, and Simplification of Commercial Deer

Processing Reporting; Administrative Cause Numbers 95-135R (LSA #95-155(F)), and 95-048L (95-219(F))

William Teegarden presented this item on behalf of Steve Lucas. Teegarden stated this item involves two rules that had completed the approval process as far as the governor's office, at which time the governor's office requested that the rules would be withdrawn and readopted as a single rule. Included in this item are the rules that the commission previously adopted, combined into one rule rather than two.

Sherman Anderson moved the reaffirmation of final adoption of rules governing recodification of delegation of authority of the natural resources commission, and simplification of commercial deer processing reporting. The motion was seconded by Patrick Ralston. Upon a voice vote, the motion carried.

At approximately 10:40 a.m., EST, the meeting was adjourned.