

**NATURAL RESOURCES COMMISSION**  
Minutes - September 21, 1999

**MEMBERS PRESENT**

Michael J. Kiley, Chair  
Larry Macklin, Secretary  
John Goss  
Jerry Miller  
Damian Schmelz  
Jane Ann Stautz  
Steve Cecil  
Rick Cockrum  
Terri Moore

**NATURAL RESOURCES COMMISSION STAFF PRESENT**

Steve Lucas  
Jennifer Kane  
Tawnya Whittington

**DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT**

David Vice	Executive Office
Jack Costello	Executive Office
Paul Ehret	Executive Office
Carrie Doehrmann	Executive Office
Angie James	Executive Office
Brent Shike	Executive Office
Mark Reiter	Fish and Wildlife
John Bergman	State Parks and Reservoirs
Greg Ellis	Legal
Scott McDaniel	Law Enforcement
David Duvall	Historic Preservation and Archeology
Mark Basch	Water
John Davis	Land Acquisition

**GUESTS**

Paul Burris

## MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular monthly meeting of the natural resources commission at 10:04 a.m., on September 21, 1999 at the Indiana War Memorial, Indianapolis. With the presence of nine members, the chair observed a quorum.

Jane Ann Stautz moved to approve the minutes of August 26, 1999. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Jerry Miller, Chairman of the Advisory Council for the Bureau of Lands and Cultural Resources, reported his council did not meet in August.

Jack Costello, Deputy Director for the Bureau of Lands and Cultural Resources, reported there were scheduled to be hunts in ten state parks this year to help control local deer population. He also stated that emergence is good from the nurseries. The total was previously about 4 ½ million trees but is now up to six million. He said there were order forms available.

David Vice, Deputy Director for the Bureau of Resource Management, said he and Paul Ehret, Deputy Director for the Bureau of Resource Regulation, had their first advisory council meeting last week. There were several good discussion items.

Paul Ehret, Deputy Director for the Bureau of Resource Regulation, said there was, "an extremely favorable" decision by the trial court in the Foertsch case. He added that the Division of Reclamation is currently, "working on CCW rule-making initiative," and a full report will be in front of the Commission soon. He said there have been meetings with S.E.M.A concerning the Indiana drought. "We are monitoring and keeping track of the situation."

Larry Macklin provided the Director's report. Macklin said groundbreaking for the new museum had a very pleasant turnout, including Governor O'Bannon, many dignitaries, and five grade school classes. He reported he recently returned from a National Parks Conference in Wyoming. The Director said he also traveled to Pittsburgh for the Great Lakes Commission. He indicated that on September 28 and 29, he will be traveling to Spring Mill with all of the division directors for a retreat. Director Macklin shared that, "Carrie Doehrmann has lined up some good programming for us." He also reported on an agency order that there be no burning on any properties in the southern part of the state, due to the extremely dry conditions. The Director said the agency is receiving condition reports two to four times a week.

John Bergman, Division of State Parks and Reservoirs, discussed a problem at Missessenewa. He said unanticipated settling has taken place, and the U.S. Army Corps will be taking the water down to winter pool to conduct testing. The results of the testing should be in by next March. He said every time there is a heavy rainfall, the Corps will need to drop the water levels. Repair of the damage could take approximately three to

five years, and the Corps would need to go to Congress for appropriations to conduct the repairs, since current condition of the dam is not considered an emergency.

**BUREAU OF LANDS AND CULTURAL RESOURCES  
DIVISION OF LAND ACQUISITION**

**Consideration of a Resolution authorizing conveyance of a 30-foot gas line easement to Indiana Gas Company. Decatur County - Westerkamp Tract**

John Davis of the Division of Land Acquisition presented this item. He said the proposed easement would replace a blanket easement now held by Indiana Gas over the 100-acre Westerkamp parcel. There would be no construction, and the proposal would be to the advantage of the DNR. He said the 30-foot easement would contain the existing residential gas line now in place.

Terri Moore moved to approve the request the blanket easement now held by Indiana Gas be abandoned and be replaced by a 30-foot easement containing the existing residential gas line. The motion was seconded by Rick Cockrum. Upon a voice vote, the motion carried.

**Consideration of a Resolution authorizing conveyance of right-of-way to the Indiana Department of Transportation. Morgan County - Cikana Fish Hatchery tract**

John Davis of the Division of Land Acquisition presented this item. He said the project involves 1.6 acres for road improvement. This access would benefit the DNR, as it will improve access to the fish hatchery. DNR hopes to trade some internal roadwork for the access. INDOT's appraisal of the area in question is \$6,300.

Damian Schmelz moved to approve the authorization to convey the right-of-way to the Indiana Department of Transportation as more particularly referenced in the Commission's packet. The motion was seconded by Jerry Miller. Upon a voice vote, the motion carried.

**Consideration of a Resolution authorizing sale of subject tract of surplus to the needs of the Department. Boone County - Sugar Creek Rest Park Tract**

John Davis of the Division of Land Acquisition presented this item. He stated this area (2.411 acres) is too small be used for anything within the department, and the agency would like to see the land sold as surplus.

Rick Cockrum moved to approve the request that the 2.411-acre parcel be sold as surplus. The motion was seconded by Jerry Miller. Upon a voice vote, the motion carried.

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

### **Consideration of a request from the Brookville Regional Waste District for an Easement on a Portion of Whitewater Memorial State Park**

John Bergman of the Division of State Parks and Reservoirs presented this item. Bergman said construction plans have changed since the Commission approved an easement in March 1996 for a lift station. He said the March 1996 approved easement should be vacated and replaced by approval of the new easement location. He reported the Town of Liberty would provide sewage treatment.

John Goss moved to approve the request that the March 1996 action be rescinded and replaced by approval of the new easement location. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

## **BUREAU OF RESOURCE MANAGEMENT DIVISION OF FISH AND WILDLIFE**

### **Consideration of a Request Williams Communications, Inc. for Permission to Install a Fiber Optic Transmission Line through Splinter Ridge Fish and Wildlife Area**

The Chair reported this item deferred.

### **Consideration of a Request by Paul Burriss for a Residential Easement for Electric Service across Hillenbrand Fish and Wildlife Area**

Mark Reiter of the Division of Fish and Wildlife presented this item. He said the item was deferred from the August 1999 Commission meeting. Paul Burriss sought an easement across Hillenbrand Fish and Wildlife area for electrical service to his residence. In August, the Commission determined there was a need to determine if County Road 575 North was still a dedicated road or if the road had been vacated.

Following extensive research in the Greene County Courthouse, Reiter was convinced CR 575 North was still was a dedicated road. Maps at the courthouse and in the office of the county surveyor show a dedicated road. In 1974, Peabody Coal Company was allowed to mine through the roadway, but it was not vacated.

Paul Burriss said he was satisfied the road still existed. He thanked DNR for its efforts in researching the issue.

Damian Schmelz moved to deny the request of Burriss for an easement across the Hillenbrand Fish and Wildlife area for electrical service because an easement was unneeded. The motion was seconded by Jane Ann Stautz. Upon a voice vote the motion carried.

**LEGAL PROCEEDINGS  
NRC DIVISION OF HEARINGS**

**Consideration of Report of Public Hearing and Recommendation for Final Adoption of Amendments to DNR Property Use Rules Concerning Shooting Ranges, Reptiles and Amphibians, Horse Tags, Trot Lines, Group Boat Docks on Mississinewa Lake, and Other Subjects; Administrative Cause No. 99-035D; LSA #99-66(F)**

Steve Lucas, Hearing Officer, presented this item. He said the proposed amendments address several issues. Principal among them are: (1) places new controls on the use of shooting ranges; (2) requires a person to obtain a scientific collector permit to take reptiles and amphibians, other than those species of turtles and frogs for which a season is established; (3) modifies the horse tag requirement at Brown County and Versailles State Parks and at Salamonie so a tag is no longer required in March; (4) deletes a general prohibition on the use of trot lines, set lines, limb lines, and drop lines; (5) modifies the standards for group boat docks to make them applicable to Mississinewa Lake as well as Monroe Lake; (6) requires a valid mooring permit to be exhibited for a watercraft moored at a designated group dock or mooring post; and (7) make numerous technical changes. Lucas said the proposal was non-controversial, and he recommended final adoption.

Jane Ann Stautz moved to give final adoption to the amendments proposed to 312 IAC 8 as set forth in the "Report of Public Hearing and Recommendation for Final Adoption" submitted by the Hearing Officer. The motion was seconded by Jerry Miller. Upon a voice vote the motion carried.

**Consideration of Report of Public Hearing and Recommendation for Final Adoption Rules Regarding Water Well Drilling Contractors (Recodification and Modification); Administrative Cause No. 98-122W; LSA #98-268(F)**

Steve Lucas, Hearing Officer, presented this item. He said the rules governing the conduct of water well drilling contractors were proposed for recodification from 310 IAC 16 to 312 IAC 13. The proposed rules also set minimum standards for well plugging and abandonment. In addition to recodification, the rules would be modified from their current form to provide coordination with construction standards adopted by the Water Pollution Control Board for public water supply wells. He said the WPCB rules are set forth at 327 IAC 8-3.4.

Mark Basch of the Division of Water said DNR had been in contact with IDEM concerning construction standards for water supply wells. Previously, IDEM regulated water supply wells through guidelines. With the adoption of WPCB rules, NRC was now able to incorporate those rules by reference. He recommended approval of final adoption.

Jerry Miller moved to give final adoption to 312 IAC 13 to govern water well drilling contractors, the placement of new wells, and the proper treatment of abandoned water

wells. With the adoption of 312 IAC 13, 310 IAC 16 would be repealed. Steve Cecil seconded the motion. Upon a voice vote, the motion carried.

**Consideration of Report of Public Hearing and Recommendation for Final Adoption of Recodification of Rules for the Indiana State Historic Rehabilitation Tax Credit, with Some Substantive Changes; Administrative Cause No. 99-046H; LSA #99-57**

Steve Lucas, Hearing Officer, presented this item. He said proposed 312 IAC 23 would change very little from what is currently provided at 310 IAC 24, but two changes should be noted:

1. The current rule states a specific annual limit of \$450,000 for tax credits allowable in each fiscal year. At the time 310 IAC 24 was adopted, this amount was consistent with the annual limit set forth by statute at IC 6-3.1-16-14. Subsequently, the statute was amended to provide (on a temporary basis) for a \$750,000 annual limit. Since the limit is ultimately set by the General Assembly by statute, and not by rule, 312 IAC 23-3-4 would reflect the annual credit cannot exceed the amount specified in IC 6-3.1-16-14, rather than state a figure which can fall out of step with the legislative authorization.
2. 312 IAC 23-3-3(e)(3) would require an applicant to show a project was completed no more than three years before the tax credit is sought.

He said, in addition, one technical change was being made to the language from what was published at preliminary adoption. Standards by the Secretary of the Interior for rehabilitation have now been codified by federal regulation, and together with the 1985 Guidelines for Rehabilitation (with 1992 partial revisions), have been consolidated into a 1995 edition. This technical change would not change how the agency is currently conducting its business.

David Duvall, who administers the tax credit for the Division of Historic Preservation and Archeology, was present to answer questions. He said he believed the rule itself was "pretty straightforward."

Steve Cecil moved to give final adoption to recodification of the historic rehabilitation tax credit at 312 IAC 23. With the adoption of 312 IAC 23, 310 IAC 24 would be repealed. The motion was seconded by John Goss. Upon a voice vote, the motion carried.

**ADJOURNMENT**

At 11:08 a.m., EST,