

**ADVISORY COUNCIL**  
June 12, 2018 Meeting Minutes

**ADVISORY COUNCIL MEMBERS PRESENT**

Patrick Early, Chair  
Amy Marie Travis Lucas, Vice Chair  
Bill Freeman  
Ross Williams  
Tim Karns

**NRC, DIVISION OF HEARINGS STAFF PRESENT**

Dawn Wilson  
Scott Allen

**DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT**

John Davis	Executive Office
Chris Smith	Executive Office
John Bacone	Nature Preserve
Mark Basch	Water
Randy Maier	Water
Vanessa Gonzalez	Water

**GUESTS PRESENT**

Gary Ramege  
Stephen Russell  
Mark Bradley

**Call to Order**

Patrick Early, Chair, called the meeting to order at 10:03 a.m., ET, at the Fort Harrison State Park Inn, 5830 North Post Road, Theodore Room, Indianapolis, Indiana. With the presence of five members, the Chair observed a quorum.

**Reports of Deputies Director**

Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, provided his report. Smith said that Mitch Zoll, the Director of the Division of Historic Preservation and Archaeology, passed away unexpectedly.

Smith noted that human remains were found at the former Icon Property Building site in Terre Haute. He explained that the area is listed as a former cemetery with the human remains supposedly removed in the 1800s, but that five human remains have been discovered on the site. Smith said the Department is working with archaeologists to determine whether there are any other human remains on the site, which, if found, would be properly removed for reburial in a local cemetery.

Smith stated that last week the Division of Reclamation responded to an emergency subsidence in Washington, Indiana due to an old underground abandoned mine. He explained that before 1977, or prior to current legal requirements, reclamation of mined land did not exist. Smith stated that a four feet (diameter) by six feet (depth) hole opened up in a residential neighborhood, which has since been grouted and filled. Smith noted that it is not uncommon to address about six abandoned mine issues a year, which are funded by Abandoned Mine Land Grants, a federal program.

Smith stated that the Division of Oil and Gas is currently implementing new rules at 312 IAC 29 that were given final adoption by the Commission at its meeting held on September 19, 2017. Smith noted that the Division is currently focused on education not enforcement of the new oil and gas administrative rules. Smith explained that the Pipeline and Hazardous Materials Safety Administration (PHMSA) is developing new regulations governing underground gas storage. Smith explained that the Division is working with PHMSA and Indiana's gas storage companies to work through the implementation process for the new regulations and will potentially bring a rule package to the Advisory Counsel.

Smith reported that the Division of Entomology and Plant Pathology finished its first Gypsy Moth treatment for the year using *Bacillus thuringiensis* (Btk). Smith explained that in the next few weeks a pheromone treatment will occur, which is designed to disrupt the gypsy moth reproduction cycle.

Smith stated that a lot of Indiana timber is being exported to China. China has changed its timber rules requiring all timber to be fumigated. He said that, because the only fumigation plant is in Westfield, Indiana, timber buyers are struggling to get timber treated. Smith noted that the Division has received calls from people who are exploring the possibility of starting fumigation businesses in southern Indiana, which would involve a joint effort between the Division and U.S. Department of Agriculture.

Smith stated that the Division of Water addressed flooding issues resulting from the very wet spring. He noted that Indiana is now experiencing a dry spell, and the Division is now reviewing the water shortage plan to deal with possible water shortages.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. Davis said that a friend of the Department, Max Miller of Terre Haute, passed away on June 11, 2018.

Davis announced that Dale Brier was promoted to the Division of Outdoor Recreation Director position. He noted that Brier has been with the Department for ten years and was formerly the head of Streams and Trails Section for the Division of Outdoor Recreation.

Davis stated that the Kankakee Fish and Wildlife Area experienced significant flooding for several weeks and that Department staff has worked hard to repair multiple breaches in the levees. Davis noted that the recent flooding has led to discussions with other agencies as well as with Illinois government officials regarding possible solutions to flooding within the Kankakee River Basin.

Davis reported that the more than 70 Department employees who were displaced due to “flooding” in the Central Office are all back into their offices and other respective spaces, with the Division of Engineering moving back in just last week.

Davis stated that the timber harvest at Yellowwood State Forest is now completed. With the cleanup and reseeded finished, the area was able to reopen just before Memorial Day. He stated that the Department took several State Legislators on a site tour, and last week the Governor and his office staff visited and toured the area.

Davis said the Division of State Parks’ revenue is ahead of last year. He noted that visitors and revenue are dependent on weather, so with favorable weather during the 4<sup>th</sup> of July and Labor Day, the Division could be on pace to set a revenue record.

Davis noted that Indiana has received approval from the U.S. Army Corp of Engineers (USACE) to proceed with the In-Lieu Fee Program and the Indiana Stream and Wetland Mitigation Plan. He noted that the Indiana Department of Environmental Management and the USACE are the permit issuers for this program. He also noted that funds cannot be accepted through the program until July 1, 2018 due to the State’s fiscal calendar.

Freeman asked whether the fees paid into the In-Lieu Fee Program are deposited in a dedicated fund.

Davis responded in the affirmative and said that the money received is placed in a dedicated fund created by the Legislature to be held by the Indiana Natural Resources Foundation. The fund is subject to audit by the State Board of Accounts, according to Davis. He explained that the dedicated fund is insulated from other Department accounts, as required by the USACE, and is subject to stringent accounting procedures requiring the Department to account for every dollar spent on mitigation, administration of the fund, and long-term care of the mitigated site.

The Chair congratulated Vice Chair AmyMarie Travis Lucas on her appointment to Judge of the Jackson County Superior Court I, in Seymour, Indiana.

The Chair provided an update on the Commission’s May meeting. He noted that the Department withdrew the proposed bobcat hunting season from the biennial wildlife rule amendment package, LSA #17-436(F). The Chair explained that through the Division of Fish and Wildlife’s biennial rule process, the Division receives various suggestions for rule amendment; and

subsequently, the biologists review those suggestions. The Chair said a citizen submitted a proposal through the biennial review process for the establishment of a bobcat season, and the Division biologists reviewed the proposal and approved the season to move forward through the rule adoption process. The Chair noted that taking rule proposals directly to the Commission poses a challenge because the Department may know the biology but it does not know “what the social reaction and social issues” will be. The Chair observed that in the past the Advisory Council has engaged in the review process by holding public hearings and giving the public a chance to be heard before the proposal is preliminarily adopted by the Commission.

Davis agreed that involving the Advisory Council in the process is beneficial and observed that the Department needs to “do better on saying why and how we process [rule proposals].” Davis stated that the Division of Fish and Wildlife has a different constituent group than other divisions, because the Division has hunters, non-consumptive users, and people who are not involved in the rule process on a consistent basis. Davis noted that he received a report that during the spring turkey season two different turkey hunters, in two different counties, were approached by bobcats resulting in one of the hunters being scratched by the bobcat.

Travis Lucas said, “If we can increase confidence in the Division and the Department by going through this [Advisory Council] first...and saying nothing has been adopted...we just want your opinion, then that’s a big deal.”

Davis stated that it might even take the Department bringing items more than once to the Advisory Council to make improvements to an item or rule amendment.

### **Approval of minutes of meetings held on January 9, 2018**

The chair called for a vote to approve the minutes of the meeting, held on January 9, 2018, as presented.

AmyMarie Travis Lucas, moved to approve the minutes of the meeting held on January 9, 2018, as presented. Bill Freeman seconded the motion. Upon a voice vote, the motion carried.

### **Information Item: Presentation by the Division of Water on the Voluntary Water Well Monitoring Program**

Randy Maier, Geologist with the Division of Water, presented this item. Maier gave a PowerPoint presentation on the Voluntary Water Well Monitoring Program including information such as precipitation; standard precipitation index; streamflow; groundwater; and reservoir levels. Maier’s presentation on the resource assessment included information on the completed aquifer systems for 92 counties; potentiometric surface maps for bedrock and unconsolidated aquifer systems; and Indiana’s volunteer water monitoring network.

Smith stated that the Voluntary Water Well Monitoring Program became more of a priority after the drought of 2012, and the Department has been having discussions throughout the state on water resources.

Freeman asked if contamination, such as lead or fertilizer, was being monitored or is the Department only measuring the quantity of water.

Smith stated that the Division of Water only measures water quantity and the quality of the water would fall under the Indiana Department of Environmental Management, who have a program where they monitor wells and certain standards that are followed.

### **Consideration of the Hoosier Mushroom Society’s petition for rule change, amending the definition of “mushroom” (312 IAC 8-1.5-15); Administrative Cause No. 18-045P**

John Bacone, Director of the Division of Nature Preserves, presented this item. Bacone stated that the Hoosier Mushroom Society (HMS) submitted a petition for rule change on May 15, 2018, to change the definition of “mushroom.” Bacone explained that state park users are supposed to stay on marked trails. He said that the Department property rules allow for the collection of greens, mushrooms, fruits, nuts, berries, and pine cones, and individuals are allowed to go off-trail to collect these items for personal use. He explained that “mushrooms” are intended to be morels, the main edible mushroom that everyone recognizes and there is no fear that you are collecting a poisonous fungus.

Bacone noted, “It is true that the definition of ‘mushroom’ is a little odd, because it really is a macroscopic fruiting body of a fungus, the definition proposed by the HMS. He said that it makes sense for the DNR Property Rules Committee to review the HMS’s proposal. Bacone said the main intent of the existing rules is so people can gather edible mushrooms. Bacone stated that the HMS pointed out that many people cannot identify edible mushrooms from poisonous mushrooms. Bacone stated that the review committee, established under the nonrule policy document, Information Bulletin #7, interpreted HMS’s petition and determined that HMS could apply for a Special Use Permit or an individual could apply for a Scientific Collecting Research Permit whenever the HMS wanted to look for any and all mushrooms. Bacone noted that there is a fear that changing the definition of “mushroom” would allow people to look for any and all mushrooms and would result in a lot of people being off-trail making it difficult to control. Bacone stated that the review committee recommends no amendment to the definition of “mushroom” and to notify the HMS that their desire for the occasional mushroom foray can be accomplished by applying for a Special Use Permit, which are granted all the time for many different entities.

Travis Lucas asked if there was a cost to obtaining a permit, because she could see an objection if there was a fee associated with picking mushrooms.

Smith explained that a fee may be associated with any permit, if a burden is placed on the Department, to cover the Department’s cost.

Davis elaborated that the Department may charge for a Special Event Permit if there was Department staff time involved or there was an exclusive use in a part of the park or a particular structure.

Travis Lucas asked what the fee would be for staff time or park exclusivity.

Davis explained that the fee would depend on the impact on the property and staff. He noted that the Department also figures in a benefit factor, such as if there is a charitable event that requires Department staff, the Department would either charge a nominal fee or none at all. Davis noted there are some events that make money, like bass tournaments, which includes money for the promoter.

Bacone stated that individuals studying flora, such as lichens or mushrooms, routinely get Scientific Collecting Research Permits without a fee.

Karns asked what the typical timeline from when an application for a Scientific Collecting Research Permit is received to when it is granted.

Bacone stated that it takes two weeks from the receipt of a Scientific Collecting Research Permit application to complete the permit process. He noted that if an individual is researching an animal then an individual would first need to get a permit from the Division of Fish and Wildlife.

Karns asked if the permit would be applied to one individual or a group and if it would be valid for a particular date and time.

Bacone explained that the permits could be for a specific date or for a date range and could apply to a group or an individual. Bacone gave an example of the bio-blitz conducted in a state forest or state park. He explained that a bio-blitz involves teams of 15 people conducting studies in several categories, which can be complicated permits, but normally there is one permit issued for the event and the permit names the captains for each of those categories. Bacone said that the Department requests that the event organizer provide a report at the end of each study. He noted that usually the bio-blitz or other ongoing studies are permitted for one year.

Davis said that the Department is happy to have a dialog with the HMS about the future definition of the "mushroom", but that the Scientific Collecting Research Permit allows the Department to get feedback about what is on Department property, which is an important piece to managing the Department's properties.

Bacone stated that the Department is interested in learning more about what species are on Department properties and the issuance of a Scientific Collecting Research Permit would help increase knowledge of the various mushrooms.

Freeman stated that he took a master naturalist course several years ago and the professor brought in and identified a large number of mushrooms, several of which are detrimental to the human body. He noted that there were some mushrooms that were psychedelic and others that

could cause death. Freeman said that he would like to ensure that any regulation on mushrooms that might be adopted would protect the public.

Karns stated that he would be worried that by giving carte blanche access to mushroom hunters that whole species of mushrooms in certain areas could be wiped out. He supported the permit process in order to control and regulate the resources.

Davis explained that when a petition for rule change is received, the Department appoints a review committee. For the HMS petition, he said the review committee appointments are: John Bacone from the Division of Nature Preserves, Ginger Murphy from the Division of State Parks, Megan Abraham from the Division of Entomology and Plant Pathology, Phil Marshall from the Division of Forestry, and Terry Hyndman from the Division of Law Enforcement.

Davis explained that people can leave the trails on state property to gather berries, greens, nuts, and pinecones, which are all exempted items; otherwise a person has to stay on the trail.

The Chair asked what limits someone from looking for mushrooms, like a morel, out of season. He used as an example that morel mushroom season is in spring and someone could go in search of a tree mushroom in June and say that they are looking for a morel.

Bacone stated that someone looking for mushrooms out of season is a gray area and it is difficult to monitor from an enforcement standpoint in state parks. He said that someone might be asked why they are off-trail looking for a different kind of mushroom out of season, but the property regulations would allow that person to be off-trail.

Davis stated that if a conservation officer stopped an individual and asked the individual what was in their bag, a person could say that they have mushrooms that they intend to eat, then those would be considered edible mushrooms.

The Chair recognized Stephen Russell, President of the Hoosier Mushroom Society.

Russell stated that there is a wild mushroom certification course through the Indiana State Department of Health where people can get certified on selling about ten species of edible mushrooms. Russell explained that a number of species of mushrooms authorized to sell in Indiana can only be identified properly at the collection site.

Russell stated that HMS conducts an online bio-blitz where people can sign on to iNaturalist.org and insert their observations into their particular project. He said that the HMS receives Scientific Collecting Research Permits from the Department to allow access to be able to collect on nature preserves, but the permits are limited to specific times and locations. He said that he has inquired about getting a general collecting permit for the HMS to use for events, but the permits are limited to specific areas. Russell stated that there are people who cannot drive to where the event is located and that those people would like the ability to do their collecting locally. Russell stated that the HMS needs a permit that is broader than what is currently allowed.

Russell noted that there have been studies done on long-term commercial harvesting of specific species of mushrooms, showing that even collecting all of the mushrooms for an extended period of time has little to no impact on the population structure of the species of mushroom. He noted that the mushroom could be compared to the fruit on a tree and it is the reproductive structure and not the main body.

Freeman asked, "What is the limiting thing that made you write this petition?"

Russell stated that the reason that he submitted the petition is because he is writing a book on Indiana mushrooms and was researching the current law. He said that he found that the current definition for "mushroom" is vague and not useful from a scientific and practical perspective, so that a person going into the woods would not be able to make an accurate identification of mushroom species.

Bacone noted that the mushroom topic is a complicated issue and that Don Ruch, a botanist and former Commission member, said the mushroom definition was not a good one.

Freeman suggested there should be a regulation that lists what species of mushrooms a person can gather, but noted that his understanding is that there are species, like the chanterelle mushroom, that cannot be identified until after it is picked. He asked if after a chanterelle is picked, if the chanterelle could be identified immediately.

Russell answered in the affirmative that a chanterelle can be identified on location after being picked.

Freeman asked, "If it is not a chanterelle, do the regulations say that you need to discard it, right in the spot what you picked it? How complicated should this get?" He asked if there should be 20 species of mushrooms listed, for example, and that those are the only mushrooms that a person can pick.

Russell stated that he does not believe identifying 20 species of mushrooms is a good solution. He said it is estimated that there are between 3,000 and 4,000 different species of mushrooms in Indiana. Russell said that there are a number of undescribed species of mushrooms in Indiana and taxonomy is changing at a rapid rate. He said that just in the last five years in North America the number of chanterelle species has doubled and five years from now the number of chanterelle species is likely to double again.

Travis Lucas stated the one of the concerns she has is to protect the other flora and fauna by keeping people on the trails and not having people trample everywhere, which may take some additional planning by the HMS. She suggested that the HMS get feedback from people, who want to participate in a bio-blitz or other project prior to the event, to provide locations where they will collect species and a specific time frame, then the HMS could apply for a permit for those locations and times. She noted that it may be less convenient, but asked the HMS whether organizing the bio-blitz or project before applying for a permit would work.



Russell stated, “That might work for that specific issue, but we still run into the issue of chanterelles. How you can’t identify a mushroom properly unless they’re harvested.”

Travis Lucas stated, “In the statute, it’s ‘knowingly’ or ‘intentionally’, so the lawyer and the law enforcement person in me says that if my intention is to gather what I believe is an edible chanterelle and... it is actually something else, I haven’t violated the law because my intention, my knowing and intentional act was to comply with the law and to leave the trail for the purposes of collecting an edible mushroom.” Travis Lucas said the HMS could be conducting a scientific study, which does seem appropriate. Travis Lucas stated, “I want your study to happen. Your study sounds super cool and important and I want it to happen. Does it sound like that would facilitate your study?”

Russell replied that in the past when the HMS held the mushroom events the Department wanted the HMS to do a very specific and smaller number of locations. He said it might be possible if the Department were able to accommodate more locations.

Travis Lucas stated that if the permit is too broad then there might be too many people in an area trampling the beautiful flora and fauna that is located on Department property. She asked if the HMS understood the protective aspect of issuing permits.

Russell answered in the affirmative. He added that the naturalists, or people in general, are not really aware of the current mushroom definition and the new proposed definition is what is in practice currently around the state.

Travis Lucas noted that the HMS, through its petition, has brought a mushroom education opportunity to the Department’s attention.

Davis asked Russell if the HMS wanted to collect non-edible mushrooms.

Russell answered in the affirmative. He stated that many of the HMS members are interested in the science of the non-edible mushrooms. He explained that many of the mushrooms in Indiana do not have scientific names, and the only way to make advances and learn more about mushrooms is to collect nonedible mushrooms.

Davis asked, “Are there structures of a fungus that are maybe not the fruiting bodies, if they last more than a season... Are there structures of fungus that are old?”

Russell answered in the affirmative, and noted that there are a number of mushroom species, especially the species that grow on trees, have yearly growth rings.

Davis said that the Department should look at its understanding of what a fungus is and the places off-trail on Department properties that have more sensitive plant and animal species during the various seasons of the year where foot traffic would not be good in those areas.

Bacone stated said that the Scientific Collecting Research Permit application review could handle the needs of people being off-trail collecting edible mushrooms.

Davis ask if there was institutional knowledge in the Department regarding mushrooms and should the Department be getting more information on mushrooms from the HMS.

Bacone stated that the Department worries most about the species that are threatened, endangered, or rare so more information about those mushrooms would increase the Department's knowledge.

The Chair asked whether it is the Department's concern that changing the mushroom definition as HMS requests would broaden the definition enough to cause increased foot traffic in sensitive areas; and whether the review committee has determined that, because of increased foot traffic in sensitive areas, it would not be appropriate to change the mushroom definition at this time.

Bacone answered in the affirmative. Bacone said that the needs of the HMS could be accommodated by the Scientific Collecting Research Permit so that HMS activities would not be inhibited.

Smith said that there are two conversations: collection of mushrooms for scientific purposes, and public collection. He questioned whether the Department is okay with collecting mushrooms and then identifying them noting that the Department would normally want a hunter, for example, to know what species of duck they are tracking before they shoot it. Smith said that it seems wasteful to pick a mushroom and then identify it later. Smith stated that there may need to be more discussion with regard to picking edible mushrooms and delaying identification.

Freeman stated that his understanding is that the existing definition of "mushroom" is not correct currently.

Travis Lucas noted that sometimes legal definitions are not always scientific definitions and that the everyday use language would be so that everyone can understand the regulation.

Davis said that edible mushroom is a self-regulating term so that if a person only knows a morel mushroom then the morel is the only mushroom that person would collect. He said that if a person knows about more mushrooms, then they can collect more.

The Chair noted that the HMS's scientific research on mushrooms would be something the Department would want to support, but that the Department would not want to make it broad-based to apply to everyone. He said that the HMS should work with the Department on the specifics on how they can assist with mushroom collection projects.

Davis invited Russell and the HMS to attend the Commission's July 17 meeting when the Department makes its presentation regarding HMS's petition.

**Consideration of Hearing Officer Report in Preparation for Advisory Council Summarizing Public Meetings and Making Recommendations to the Natural Resources Commission Regarding contract application MWS-18-001, by Salt Creek Services, for a**

**Water Sale Contract from Monroe Lake under IC 14-25-2 and 312 IAC 6.3;  
Administrative Cause No. 18-040V**

Mark Basch, Section Head, Water Rights/Use Section of the Division of Water, presented this item. Basch explained that a contract for the sale of water under IC 14-25-2 must provide compensation to the state of not less than \$33.00 per one million gallons of water. Basch said that Salt Creek Services, Inc. (Salt Creek) has contracted with the State of Indiana for the withdraw of water from Monroe Lake since 1968, but the contract expired February 2018 and Salt Creek would like to enter into a new contract for another 50-year term.

Basch said that the proposed 50-year contract would provide domestic water supply for 70 residential lots, eight lots have permanent residents, and close to 47 lots are seasonal residents. He said that Salt Creek is again requesting a contract providing an average annual water withdrawal of 25,000 gallon per day, a volume equal to a maximum of 9.125 million gallons per year. Basch noted that during the past ten years, Salt Creek has reported an annual withdrawal of 1.2 million gallons per year representing a revenue of approximately \$39.00 for the State of Indiana annually.

Basch said that the State has the right to 160,000-acre feet of water supply storage and low-flow augmentation from Monroe Lake, which equals 122 million gallons a day. Basch said that the sum of annual limits of all current water supply contracts for withdraw on Monroe Lake is currently 17.59% of the available water supply volume. Basch said that the proposed water withdrawal of the pending request would increase the total committed annual contractual limits to just under 17.61% of the available volume in the lake. Basch noted that the City of Bloomington Utilities is the main contract that the Department has for Monroe Lake representing 16.8% of the total volume withdraws from the reservoir.

Basch stated that two public meetings were conducted by the Division of Water on April 10, 2018, in Bloomington and on April 11, 2018, in Nashville, to gather testimony regarding the application for the proposed contract as required by IC 14-25-2. He stated approximately ten people from the public attended the meetings, and noted that a couple of people were present at the Advisory Council meeting. He noted that participation in meetings included residents, board members of the Salt Creek Services, Inc., and the President of the Patoka Lake Water and Sewer District Board. He stated that the Department received an email comment from an individual from the Friends of Lake Monroe.

Basch stated that the Department's opinion is that the 50 year contract for a maximum annual withdraw of 9.125 million gallons of water, under the proposed contract application MWS-18-001, allows Salt Creek to provide water to its residents. Basch said the Department believes the volume of water in Monroe Lake is adequate to supply the annual water withdraw amount requested and the potential impact to recreational facilities to the lake is expected to be negligible.

Basch requested that the Advisory Council recommend to the Commission approval of water supply contract application MWS-18-001, between Salt Creek Services, Inc. and the State of Indiana.

Basch then introduced Vanessa Gonzalez with the Division of Water.

Gonzalez stated that the Division of Water served a public notice on all interested parties to water supply contract application MWS-18-001. She noted that the public meeting information was published the first week of April in *The Herald-Times* in Bloomington for Monroe County and in the *Brown County Democrat* in Nashville, for Brown County.

The Chair recognized Gary Ramege.

Ramege, the president of Salt Creek Estates, stated that the contractor who monitors the water supply in Salt Creek Estates supplying approximately 48 homes, submitted a contract that stated Salt Creek Estates does not have a water conservation plan. Ramege stated, however, that the Salt Creek Estates covenants, which are recorded in Monroe County, provide for water conservation. He noted that residents are not allowed to have swimming pools, irrigation, or hot tubs and the water volume is monitored weekly. Ramege stated that if there are irregularities in water usage, the water would be shut off for the residence where the water irregularity is occurring. He noted that there have only been about three incidents in 15 years where there was a problem with irregular water usage. Ramege provided an example, and described a time when a contractor left a hose on while the family was away from the home and the water was shut off when the irregularity in water usage was discovered. Ramege requested that the Advisory Council's approval the water supply contract application with Salt Creek Services, Inc.

Freeman asked about Salt Creek Estates' bylaws, which prohibit residents from having swimming pools, irrigation, or hot tubs as part of their water conservation. He asked if the contract with the State included similar language or if similar language should be included. Freeman stated that Salt Creek Estates could arbitrarily change its bylaws so that a person could put in a swimming pool.

Travis Lucas asked if the neighborhood decided to change their covenants, if those changes are not listed in the water contract, then could everyone put in pools.

Basch stated that covenant amendments was a topic discussed at the public meeting. He noted that Salt Creek Estates has a stringent water conservation program to track water usage and the Department requires the Salt Creek Services, Inc. to have a water conservation plan specified.

Travis Lucas asked how specific would the conservation plan have to be.

Basch stated that the conservation plan would have to be a plan approved by the Department.

Smith noted that Salt Creek Services, Inc. is contracted for a specific amount of water, so there is a limit to how much water can be used.

Travis Lucas stated that Salt Creek Services, Inc. could increase the amount it uses by eightfold so it could increase its usage a lot more.

Ramege noted that the recorded Salt Creek Estates covenants have been on record since the subdivision was developed 50 years ago and there are no swimming pools. Ramege stated that the Salt Creek Estates water treatment plant is just about at capacity with possible facility replacement in the future. Ramege stated that the Salt Creek Estates would not allow a homeowner to put in a swimming pool from an economic and supply standpoint.

Freeman asked what prevents a person from putting in an irrigation system and pumping directly from Monroe Lake.

Basch answered that a person would need to contract with the state to remove water from any reservoir.

The Chair asked about the percentage of usage of the Monroe Lake's available water, if all contracted users withdraw their respective maximum allowable amounts.

Basch said that 16% of the available water is contracted for Monroe Lake. He explained that if a contractor does not have a conservation plan, that contractor, in terms of priority, would be lowered in a drought where there may be a restriction in water use.

Freeman asked if the price was fixed for the next 50 years of the water withdrawal contract.

The Chair noted that the rates are statutory.

AmyMarie Travis Lucas moved to approve the Hearing Officer's Report, as the Advisory Council's report to the Commission under 312 IAC 6.3-3-4, and that the Advisory Council recommend that the Commission enter a Water Sale Contract with Salt Creek Services from Monroe Lake, under IC 14-25-2 and 312 IAC 6.3. Bill Freeman seconded the motion. Upon a voice vote, the motion carried.

## **Adjournment**

The meeting adjourned at 11:36 a.m., ET.