

NATURAL RESOURCES COMMISSION

Minutes - March 24, 1999

MEMBERS PRESENT

Michael J. Kiley, Chair
Jack Arnett, Vice Chair
Larry Macklin, Secretary
Damian Schmelz
Jane Ann Stautz
Jerry Miller
John Goss

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sylvia Wilcox
Jennifer Kane

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Lori Kaplan	Executive Office
Jack Costello	Executive Office
Paul Ehret	Executive Office
Angie James	Executive Office
Carrie Doehrmann	Executive Office
Brent Shike	Executive Office
Ihor Boyko	Staff Attorney
Gary Miller	Parks and Reservoirs
Jerry Pagac	Parks and Reservoirs
John Bacone	Nature Preserves
Robert Waltz	Entomology and Plant Pathology
Nila Armstrong	Outdoor Recreation
Emily Kress	Outdoor Recreation
Tom Gross	Museums and Historic Sites
Tom Lyons	Forestry
Paul Bykowski	Law Enforcement

GUESTS

Jerry Oxley	Bonnie Oxley	Keven Allen
Kent Reineking	Paula Reineking	Ben Reineking

MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular monthly meeting of the natural resources commission at 10:09 a.m. (EST), on March 24, 1999 in the Indiana State Library Auditorium, Indianapolis. With the presence of seven members, the chair observed a quorum.

Damian Schmelz moved to approve the minutes of January 19, 1999 meeting. The motion was seconded by Jerry Miller. Upon a voice vote, the motion carried.

Larry Macklin provided the Director's report. Director Macklin said that the new Indiana State museum ground-breaking ceremony is proposed for late August or early September. He said that the Ralph Applebaum firm had been selected to design the museum exhibits

Director Macklin attended the Great Lakes Commission meeting in Washington, DC. He said he also had the opportunity to visit the Holocaust Museum exhibits of which were also designed by the Applebaum firm. He added that the blue Ribbon Capital Campaign fund raising team will be soon named and that people from all across the state will be asked to participate in the exhibit fund-raising activities.

Director Macklin said that the agency's budget has cleared the Indiana House of Representatives and has been referred to the Senate Finance Committee. He anticipated that the Senate committee version of the state budget will be substantially different than the House, but that he did not foresee a great change in the DNR budget. In other legislative concerns, he said that the House cemetery bill was scheduled for a hearing that afternoon in the Senate Criminal & Civil Procedures committee.

Director Macklin said that he has been working with the Indiana State Fair Commission towards major renovations and rehab to the Conservation Building, with plans to make the building usable year-round for meetings and conferences. He added that he was "real pleased" with the support he has received from Bill Stinson, Executive Director of the State Fair Commission, a "super" individual. He said that we are also looking to expand the grounds adjacent to the building to provide more green space such as is available at the Pathways to Water Quality exhibit.

Director Macklin announced that the Governor's Conference on the Environment, Indiana's Future: Turning Urban Sprawl into Smart Growth, is scheduled for April 16, 1999. Jerry Pagac, Division Director of State Parks and Reservoirs, said there has been a "good reaction" to the conference with close to full attendance. Pagac said the luncheon keynote speaker is Ray Suarez, host of "Talk of the Nation," National Public Radio. Macklin said the Governor is hosting a breakfast for the Natural Resources Commission and their IDEM equivalents the morning of the conference.

Jerry Miller, Chair of the Advisory Council for the Bureau of Lands and Cultural Resources, said his council met in February. He said all four agenda items passed and were non-controversial.

Jack Costello, Deputy Director of the Bureau of Lands and Cultural Resources, distributed copies of the 1999 Indiana Recreation Guide. He said credit cards are accepted in the DNR inns, and are now accepted at DNR properties as well. He said staff will double for the summer months.

Costello announced that deer advisory meetings are being held in northern Indiana to discuss deer management within the Indiana Dunes National Lakeshore, Indiana Dunes State Park, and surrounding areas, with facilitation by Dave Case. Costello said a recommendation is expected by September 1.

Joseph Siener, Chair of the Advisory Council for the Bureau for Water and Resource Regulation, was not present.

Lori Kaplan, Deputy Director of the Bureau of Water and Resource Regulation, said the advisory council met in February and re-elected Siener as Chair. She said NRC agenda items 6 and 9 were recommended for approval and placed on the NRC agenda.

Kaplan said Ball State University students are having "a great time" filming and editing the television pilot program, including the film's introduction by First Lady Judy O'Bannon. Kaplan said there will be an afternoon premiere May 4 on the Ball State Campus for board members, trustees, and students. Kaplan invited commission members to the premier; although she announced there will be an Indianapolis presentation at a later date.

Kaplan said the bill forming the Lakes Work Group, a legislative study committee made up of 22 lay members and four legislators, expires at the end of the year. She said the workgroup is pulling together recommendations, and discussing whether the group should continue due to the numerous and complicated lake issues that need to be addressed.

Kaplan said the Division of Fish and Wildlife held open-house forums for the 1999 deer bonus quotas in the ten wildlife biology districts. She said there was "great attendance with no less than 40 citizens attending each forum."

Paul Ehret, Deputy Director of the Bureau of Mine and Reclamation, announced that "for the first time in more than ten years" the federal government has approved a \$25 million increase in AML funding nationally. He said there is currently a \$1.4 billion surplus in the AML fund and that it is the intent of the federal government to seek a resolution to balance money collected from states with money appropriated. Ehret said the resolution will "turn the corner of the under-funded AML program," and Indiana's appropriation should double.

Ehret said the coal combustion waste rule hearings concluded with "no real break throughs relative to testimony given and positions taken." He said the hearing officer is formulating the written comments and testimony into a report to be reviewed by Division of Reclamation, and finally presented to the NRC. Ehret said that the CCW Beneficial

Use Nonrule Policy Document should be ready for the April NRC agenda. Kiley suggested finding an appropriate facility to accommodate the public when the CCW rule package comes before the NRC for final adoption.

ELECTION OF OFFICERS

Jerry Miller nominated Michael Kiley as Chair, Jack Arnett as Vice Chair, and Larry Macklin as Secretary of the Natural Resources Commission for 1999. The nominations were seconded by Jane Ann Stautz. There were no additional nominations, and the three candidates were elected by acclamation.

BUREAU OF LANDS AND CULTURAL RESOURCES PERSONNEL INTERVIEWS

Consideration of Personnel Interviews for Assistant Property Manager, Greene-Sullivan State Forest and Assistant Property Manager, Ferdinand State Forest.

John Goss provided the report of the personnel committee. He said Rick Cockrum, Steve Cecil, and he conducted the interviews. Goss said he was "amazed at the dedication of the applicants that left private industry to work on DNR properties." The committee determined to recommend Edward Bohman for the position of Assistant Property Manager, Greene-Sullivan State Forest; and Rex Gambill for the position of Assistant Property Manager, Ferdinand State Forest.

Jerry Miller moved to select Edward Bohman for the position of Assistant Property Manager, Greene-Sullivan State Forest; and Rex Gambill for the position of Assistant Property Manager, Ferdinand State Forest. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Consideration of an extension of the leased area at Brookville Reservoir

Gary Miller, Division of State Parks and Reservoirs, presented this item. Miller said the expansion of Brookville Reservoir "Sagamore Resort" started ten years ago by Brookville Enhancement Partners, Inc. ("Partners, Inc."). He said the development prospectus allowed for a marina, ship store, lodging, dining, and meeting facilities, parking, and recreation areas. During Phase II construction, however, it became apparent some leased areas developed into wetland areas and restricted wetland areas due to the fluctuation of water levels. In an effort to avoid impacting wetlands, Partners Inc. requested an additional 66.48 acres to allow sufficient land to accommodate the proposed facilities in an environmentally sound manner.

Miller said there would be a net gain of ten acres. He requested NRC approval of an amendment to the lease agreement in order to incorporate the additional 66.48 acres.

Jerry Miller moved to approve an amendment to the lease agreement to incorporate the additional 66.48 acres. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Consideration of the Dedication of Little Cedar Creek Wildlife Sanctuary Nature Preserve

John Bacone, Director of Division of Nature Preserves, presented this item. He said the proposed nature preserve is a 17.9 acre tract in northern Allen County owned and managed by Acres, Inc. Bacone said the Indiana Heritage Trust Fund helped to purchase the site. Bacone said the 17.9 tract is part of a larger area of protected land that Acres Land Trust has pieced together along Little Cedar Creek. Bacone recommended the area be dedicated as a nature preserve.

Bacone said he was, however, "nervous" about the gypsy moth invasion. He reported that studies introducing pheromone flakes by air-drop in old growth forests are on-going. Pheromone flakes have also been introduced at Indiana Dunes. Bacone said that "if we can get special areas like this to survive, it would be good." Jack Costello asked whether anyone in the East has been successful in controlling defoliation. Bacone said they may have seen some success in the Adirondacks.

Jerry Miller moved to dedicate Little Cedar Creek Wildlife Sanctuary Nature Preserve. The motion was seconded by Jane Ann Stautz. Upon a voice vote, the motion carried.

Consideration of Permit Authorizing the Reburial of Gene Stratton Porter and Her Only Daughter, Jeannette-Porter Meehan, on the Grounds of the Gene Stratton Porter State Historic Site

Tom Gross, Division of Museum and Historic Sites, presented this item. He said Gene Stratton Porter was a well-read author and a naturalist from Noble County. She eventually moved to Hollywood, California to start her own production company. Stratton Porter was killed in an automobile accident and buried in California.

Gross said Stratton Porter had expressed the desire to be buried on the grounds of her home in Noble County, Indiana. The Gene Stratton-Porter Memorial Association acquired Stratton Porter's Noble County home from her only daughter, Jeannette Porter Meehan (which became known as the Gene Stratton Porter State Historic Site) and conveyed the property to the Indiana Department of Conservation in 1947. The option for the purchase stipulated that Stratton Porter's body be moved from California and reinterred at her Noble County property. The reburial did not take place during Jeannette Porter Meehan's lifetime. John and Jim Meehan, the only grandchildren of Gene Stratton Porter, recently informed the DNR about their desire to move the bodies of Stratton Porter and Meehan back to the Gene Stratton-Porter State Historic Site for reburial.

Gross said the Meehans have made the arrangements to pay all expenses associated with the reburial and have indicated a strong desire to complete the reburial before May 1, 1999. At that time, they will be coming with their families for the dedication of the new visitor center (to which they were major contributors). Gross said the Division of Museum and Historic Sites has obtained all required local and state approvals, with final approval by NRC, for the reburial. Gross recommended approval of the permit for reburial.

Jerry Miller moved to approve the permit for reburial of Gene Stratton Porter and her daughter, Jeannette Porter Meehan. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Consideration of a request to name a Knobstone Trailhead in Honor of John Stuart Oxley

Nila Armstrong, Division of Outdoor Recreation, presented this item. She said John and Bonnie Oxley wished to make a donation in the memory of their son, John Stuart Oxley, an avid hiker and outdoors man. Armstrong said John Stuart Oxley enjoyed hiking the Appalachian Trail, frequently hiked the Knobstone Trail, and participated in the Young Executive Program.

Armstrong said the Oxleys made a "generous" memorial donation of \$20,000 for the Knobstone Trail expansion. She said there is an area along Bane Hollow Road that would be a possible location for a trailhead an area that is currently being used but has not been named. Armstrong said improvements would be made to the trailhead, and the Division of Outdoor Recreation recommended that it be named the John Stuart Oxley Memorial Trailhead. In anticipation of probable approval, Armstrong invited commission members to the dedication and the sign unveiling scheduled for April 24, 1999 at 12:00 Noon.

Kiley expressed appreciation, and he thanked John and Bonnie Oxley for their "most generous" donation. "We hope, in some small way this gives you some solace for the loss of your son."

Damian Schmelz moved to approve the request to name Knobstone Trailhead in honor of John Stuart Oxley. The motion was seconded by John Goss. Upon a voice vote, the motion carried.

LEGAL PROCEEDINGS NRC DIVISION OF HEARINGS

Consideration of Report of Public Hearing, and Recommendation of Hearing Officer for Final Adoption of Amendments to 310 IAC 12-8 Governing Application and Renewal of Blaster Certification for Surface Coal mining and Reclamation; Administrative Cause Number 98-143R; LSA #98-178(F)

Jennifer Kane, hearing officer, introduced this item. She said the promulgation of a 1992 rule package, LSA #92-119(F), inadvertently repealed 310 IAC 12-8-4 and 310 IAC 12-8-8. The intent in 1992 was to strike language requiring fees for blaster certifications and renewals; however, the rule was repealed in whole rather than in part.

Kane said the proposed rule package re-establishes the repealed sections, without the fee requirement language, as 310 IAC 12-8-4.1 and 310 IAC 12-8-8.1. She said the current proposal package mirrors the repealed rule, with only minor clerical corrections, and is believed to be consistent with federal statute. Kane recommended the proposed rule amendments be given final adoption.

Jerry Miller moved to give final adoption to the amendments to 310 IAC 12-8 governing application and renewal of blaster certification for surface coal mining and reclamation. The motion was seconded by John Goss. Upon a voice vote, the motion carried.

Consideration of Report of Public Hearing, and Recommendation of Hearing Officer for Final Adoption of Amendments to 310 IAC 2.1-12-5 Governing Water Skiing on the Ohio River; Administrative Cause Number 96-200L; LSA #98-196(F)

Jennifer Kane, NRC Division of Hearings, presented this item for the hearing officer, Tim Rider. She said the proposal would amend the rule section governing water skiing on the Ohio River. The amendment is intended to clarify current practice and to support enforcement which is consistent with Kentucky law on the Ohio River, a water of "concurrent jurisdiction." Kane said the hearing officer recommended the proposed amendments be given final adoption.

Jerry Miller moved to give final adoption to the amendments to 310 IAC 2.1-12-5 governing water skiing on the Ohio River. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Consideration of Preliminary Adoption of Amendments to Rule that Governs Control and Quarantine of Gypsy Moths to add Allen, LaGrange, Elkhart, and Porter Counties to the Areas Quarantined in Indiana; Administrative Cause Number 99-018E

Sylvia Wilcox, NRC Division of Hearings, presented this item. She indicated this proposal is the preliminary step in seeking the permanent rule to place Allen, LaGrange, Elkhart and Porter Counties into those areas quarantined for gypsy moths. She said these counties have population levels of gypsy moths which cannot be eradicated. The recommendation is that the new counties be added to the quarantined area because of the possible artificial movement of gypsy moths.

Damian Schmelz requested an overview of the situation. Robert Waltz, Ph. D., said that 82,000 male moths were trapped in 1998, and indicated that within the four counties, his

staff is seeing distribution of moths scattered throughout at levels which can no longer be contained. He estimated that defoliation results will be seen in these new counties within three to four years. In Steuben County, that defoliation is expected in approximately two years.

Waltz further explained that the moths are not native, but were brought into the Eastern United States from Europe. Major infestations exist in Michigan and Ohio and have recently been spread to Wisconsin and Illinois, particularly along the Lake Michigan coast. He stated that a single egg mass measuring the size of a thumb has 1,000 eggs. Approximately 500 of the eggs are female; these are capable of producing 1,000 eggs leading to 500,000 larvae the next year. He said approximately 1,300 egg masses were counted in Detroit, and this count could indicate the presence of 1.3 million larvae in a single acre. Since one moth larva eats one square foot of leaf surface per day, these numbers have the potential for resulting in 1.3 million square feet of leaf surface eaten per day.

Chairman Kiley asked what deterrents were available. Waltz indicated that the Division of Entomology and Plant Pathology has pursued eradication efforts for the last 20 years. He analogized the spread of the moths to a forest fire, in that, isolated populations can be eradicated. As you approach the source of the fire, however, the intent becomes focused on control and management rather than eradication. He said suppression programs designed to aid citizens in managing the numbers of gypsy moths, rather than eradicating them, will start in Indiana within five years.

Schmelz asked whether trees can survive repeated defoliation by the gypsy moths. Waltz said the infestation will kill the trees if the trees are weakened by disease, drought, or otherwise stressed. If trees are healthy and have stored reserves, however, they can usually survive a two-year defoliation.

Larry Macklin said the gypsy moth was introduced into the US in 1869. Moths are entering Indiana in increasing numbers from Michigan and Ohio. He stressed that the NRC needs to "acknowledge Dr. Waltz and staff efforts in this area. This is very serious." He indicated that "we will do our level best, but we will be hit on two fronts, Michigan and Ohio." Mike Kiley suggested "it would be a good idea to take a look at a stand that has been decimated." Lori Kaplan said there are no stands in Indiana that have yet reached this stage; however, there is a site approximately 30 miles into Michigan that has been defoliated.

Kaplan said a federally funded multi-state organization, called the "Slow the Spread Foundation," is being formed to address the gypsy moth infestation. Approximately \$8 million federal dollars is anticipated on October 1, 1999 to fund the foundation. She said the foundation may be based in Indiana.

Jane Ann Stautz moved to give preliminary adoption to amendments to the gypsy moth quarantine rule by adding Allen, LaGrange, Elkhart, and Porter Counties to the areas

quarantined. The motion was seconded by Jack Arnett. Upon a voice vote, the motion carried.

Consideration of a Non-Binding Resolution in Support of an Emergency Gypsy Moth Quarantine Rule to Add Allen, LaGrange, Elkhart, and Porter Counties to the Areas Quarantined in Indiana; Administrative Cause Number 99-017E

Sylvia Wilcox, NRC Division of Hearings, presented this item. She indicated a similar non-binding resolution was considered at the July 1998 NRC meeting to make Steuben County a quarantined area for gypsy moths. She requested that the commission approve the resolution urging Director Macklin to adopt an emergency rule to become effective on April 1, 1999. The emergency (and temporary) rule would include Allen, LaGrange, Elkhart, and Porter Counties as quarantined areas pending final consideration of a permanent rule.

Jerry Miller moved to approve the non-binding resolution for an emergency gypsy moth quarantine rule adding Allen, LaGrange, Elkhart, and Porter Counties to the areas quarantined. The motion was seconded by Jack Arnett. Upon a voice vote, the motion carried.

ADJOURNMENT

At approximately 11:15 a.m., EST, the meeting adjourned.