

Members

Sen. Ryan Mishler, Chairperson
Sen. Greg Walker
Sen. James Lewis
Sen. Richard Young
Rep. Robert Bischoff
Rep. Paul Robertson
Rep. Robert Cherry
Rep. Dan Leonard



NATURAL RESOURCES STUDY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Steven R. Wenning, Attorney for the Committee
Bernadette Bartlett, Fiscal Analyst for the Committee

Authority: IC 2-5-5-1

MEETING MINUTES¹

Meeting Date: October 13, 2010
Meeting Time: 10:00 A.M.
Meeting Place: Indiana State Museum,
650 W. Washington St.,
Multipurpose effervescent
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Ryan Mishler, Chairperson; Sen. James Lewis; Sen. Richard Young; Rep. Robert Bischoff; Rep. Robert Cherry.

Members Absent: Sen. Greg Walker; Rep. Paul Robertson; Rep. Dan Leonard.

Senator Ryan Mishler (Chair) called the meeting to order at 10:15 a.m. After an introduction of the members of the Committee, the Chair called on Mr. Tom King to speak about the Indiana State Museum.

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Tom King, Interim President, Indiana State Museum

Mr. King stated that he was named Interim President of the Indiana State Museum earlier this year. His main objectives are to stabilize the governance of the museum and select a successor to his position. Other goals he would like the museum to accomplish include the following:

- Making the museum a quasi-independent entity with a geographically diverse governing board
- Reconnecting with persons who have been donors to the museum.
- Making the museum more entrepreneurial (e.g. bringing in exhibits that people want to see, like the Abe Lincoln and Titanic exhibits).

The museum has a vast collection of historical items. Only 5% of the museum's artifacts are on display. The museum has nationally recognized collections on Abe Lincoln, quilts, and Indiana art.

Mike Crider, Director, Division of Law Enforcement, Department of Natural Resources (DNR)

Mr. Crider distributed a summary highlighting his remarks. (Exhibit #1). Two years ago DNR and the U.S. Fish and Wildlife Service began a joint undercover investigation into the activities of ginseng harvesters and dealers. Searches were conducted the day before the opening of the ginseng season. In the past, there has been a lot of dried ginseng sold on the first day of the ginseng season, which suggests that the ginseng was collected out of season. Also, the buying logs of several dealers had been altered. Ginseng is a wild root that is used in Asian cultures in traditional medicines. Indiana is the 3rd largest exporter of ginseng in the United States. There is an ample supply if the ginseng is picked in season. Picking in season allows the berries on the plant to ripen so that new plants can grow. In 2007, wild ginseng was selling for \$800 a pound with the average digger making about \$2,100. The price fell to about \$300 in 2008 but the current price is about \$430. DNR would like the laws that govern the harvesting and buying of ginseng to be strengthened to provide greater accountability for those who harvest and sell the ginseng.

In response to Committee questions, Mr. Crider stated the following:

- The U.S. Fish and Wildlife Service and DNR jointly executed search warrants that had been obtained by the U.S. Attorney's Office.
- The U.S. Attorney's Office is sorting through all the evidence that was seized. They will determine what, if any, charges are brought against a ginseng dealer.
- The state ginseng laws need to be clarified.

Cary Floyd, Project Coordinator, Division of Nature Preserves, DNR

Mr. Floyd stated that the Division of Nature Preserves is required to report to the U.S. Fish and Wildlife Service on the viability and sustainability of the ginseng in the state. (Exhibit #2) This report is necessary to comply with international treaties that require verification that ginseng is a sustainable product. Poaching of ginseng reduces the amount of regrowth that takes place. Ginseng harvesting is an important means to supplement the income of some individuals.

In response to questions from the Committee, Mr. Floyd stated the following:

- Ginseng can be farmed in private plantings. However, wild ginseng has a higher value than cultivated ginseng.
- Ginseng can be dried in about five to seven days.
- If harvesters and dealers of ginseng were required to be licensed, it would give DNR an enforcement tool. The department could suspend or revoke the license.
- Allowing a series of graduated penalties would also allow DNR to target egregious

violators.

Dick Lambert, Ginseng Dealer, Old Mill Root Company

Mr. Lambert's remarks to the Committee included the following:

- Ginseng can be dried in 12-14 hours.
- Ginseng root will grow below the ground for years before the leaves and berries grow.
- Because of the public logs that ginseng dealers are required to keep on every ginseng digger, he has lost many sellers as other buyers have used this business information to contact his diggers directly.
- The harvest is down 75% this year because people are skittish about the DNR investigations and unclear about the rules concerning the harvest, sale, and possession of ginseng.

In response to Committee questions, Mr. Lambert stated the following:

- The Indiana county with the most ginseng is Harrison County.
- There are many people living in the area that make their living by picking up cans, stealing a little, and harvesting ginseng.

Brent Duncan, Ginseng Dealer, Duncan's Botanical Products

Mr. Duncan stated the following to the Committee:

- Ginseng root is one of 75 products his business exports.
- The raids by DNR were conducted like a witch-hunt. DNR confiscated his farm grown ginseng.
- Some of the poorest people in the state dig for ginseng. Many of these people do not have checking accounts so they must be paid in cash.
 - There is a lot of ginseng root habitat that is being lost because of timber cutting. Many DNR owned properties do not allow ginseng to be harvested even though the ginseng will be lost once the timber is cut.
- There is a lot of ginseng seed that is sown to replenish the ginseng plants. It takes 5-7 years for ginseng to be ready for harvest.

In response to a Committee question, Mr. Duncan stated that if a license is required for ginseng harvesters the license should be easy to acquire like a hunting or fishing license. If Internet access is required to obtain a license many of the current diggers will not be able to get a license.

Mike Bell, Ginseng Dealer, Bell's Botanicals and Trading

Mr. Bell stated that the number of ginseng dealers in the state has been declining. All ginseng must be certified by DNR before a dealer may sell it. It often takes multiple calls to get DNR to come out to certify the ginseng. DNR treats dealers like they are acting illegally. The law allows a small amount of ginseng to be kept for personal consumption. However, DNR confiscated all the ginseng they came across during their raids. The ginseng laws need to be overhauled.

In response to a Committee question, Mr. Bell stated that the ginseng harvesting season is different in other states.

Scott Howser, Ginseng Dealer, Scott's Hardware

Mr. Howser stated that he felt that he was treated like a criminal by DNR. He was

awakened at 6:30 a.m. The raiding officers did not know the ginseng business. They confiscated "burnt root", which is a worthless root that is used to train his staff. Ginseng diggers come from many backgrounds, including hikers, hunters, and poor people. Some of the people who gather ginseng do not own phones, which can be a problem because the log forms the dealer must keep requires a phone number. Most diggers are older individuals and each year the total number of ginseng diggers declines. He stated that he does not have a problem with the concept of creating a ginseng license. He would like to see the ginseng season start a week earlier.

Tom Bond, Ginseng Dealer, Bond Wool, Fur Ginseng

Mr. Bond stated that he was cited for having two display cases that contained ginseng. The cases had been put together by his father years ago, were sealed, the ginseng was securely glued, and had the words "Not for Sale" on each case. Over the years various conservation officers have seen these cases and never suggested that there was any problem with them. The cases had even been put on display at 4-H events and at state parks. He is disturbed because after several phone calls to DNR no one can tell him who has these cases or where they are located.

John Howser, Ginseng Dealer

Mr. Howser noted the following problems with the enforcement of the ginseng laws:

- DNR does not provide ginseng dealers with directions on how to fill out the required paperwork.
- He does not believe that DNR should be able obtain search warrants unless they have a reason to suspect that the ginseng dealer has done something wrong. He believes that the search warrants were issued just to check out the ginseng dealer license holders.
- DNR acted in an overzealous manner, treating the dealers like they were criminals.

Senator Richard Young stated that he would be working on legislation to clarify the ginseng laws and resolve some of the problems mentioned in testimony.

Representative Robert Cherry distributed PD 3379 concerning coal bed methane. (Exhibit #3) He stated that this draft could serve as a starting point for discussion by the various parties of the coal bed methane issues. The synopsis of the PD stated the following:

Requires the natural resources commission (commission) to: (1) regulate coal bed methane wells; (2) establish alternative spacing, unit, and bonding requirements for coal bed methane wells; (3) maintain a public record containing certain information on coal bed methane wells; and (4) adopt rules concerning procedures for notification of a property owner before property is entered for oil and gas or coal bed methane purposes. Requires the commission to appoint an administrative law judge to conduct proceedings in disputes concerning agricultural damage from drilling operations. Allows an owner or lessee of coal to file an affidavit identifying a minable coal resource. Provides for regulation of coal bed methane wells and other gas wells in a similar manner. Requires the division of oil and gas (division) to post applications for coal bed methane permits on its web site, prohibits issuance of a permit less than 30 days after the posting, and establishes other permit issuance criteria. Allows the commission to require an owner or operator to modify the location for the drilling of a well for oil and gas or coal bed methane purposes. Amends the well plugging requirements. Allows an owner or operator of a coal mine

to burn coal bed methane by flares under certain circumstances. Provides for the establishment of an estate in land with respect to coal bed methane comparable to an estate that may be established under current law with respect to oil and gas. Limits the exercise of rights in certain circumstances under a coal bed methane estate if the exercise affects miner safety or coal resources. Provides that the conveyance or reservation of rights to coal or oil and gas will not be considered as including the rights to coal bed methane unless there has been a specific grant. Provides that a coal operator's venting of coal bed methane gas in connection with mining operations is not considered to be a waste or diminution of resources.

The Committee did not take any action on this draft.

The Chair then sought discussion of the draft copy of the final report. The Chair also distributed the following proposed findings and recommendations concerning coal bed methane:

Findings:

- There is an abundance of coal bed methane (CBM) in Indiana.
- CBM is a valuable resource that should be developed.
- All gas well records need to be permanently stored and authority given to a state agency to develop well drilling and plugging standards that allow CBM wells to be developed and that promote coal mine safety.

Recommendations:

- DNR should permanently maintain detailed records on the drilling and plugging of oil, natural gas, and CBM wells.
- DNR should be given rule-making authority to establish well drilling and plugging standards that allow CBM wells to be developed and that promote coal mine safety.

The Committee adopted the findings and recommendations as part of the final report, by consent.

The Committee adopted the final report, as amended by the activities of the final meeting, by consent.

The Chair adjourned the meeting at 12:15 p.m.

Ginseng Law Proposal IC 14-31-3-1



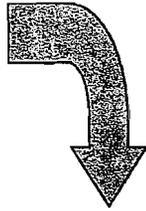
Presented By Colonel Michael Crider

- **5 Million dollar Industry**
- **American ginseng is America's premier wild-harvested medicinal plant species**
- **Revered in Asian cultures in traditional medicine, the wild root is believed to be more potent than cultivated roots, and thus commands a significantly higher price.**
- **Indiana = 3rd largest exporter of wild ginseng**
- **Proposal supported by 2-year joint undercover operation (IDNR & USFWS)**
- **Proposal supported by University of West Virginia 11-year study**

Harvest & Sale:

Harvesters "diggers" dig ginseng plants from the ground, dry the roots, and sell the roots to licensed dealers. Dealers export the ginseng plants to other states and most are sold internationally to Asia.

HARVESTER



DRY GINSENG FOR SALE

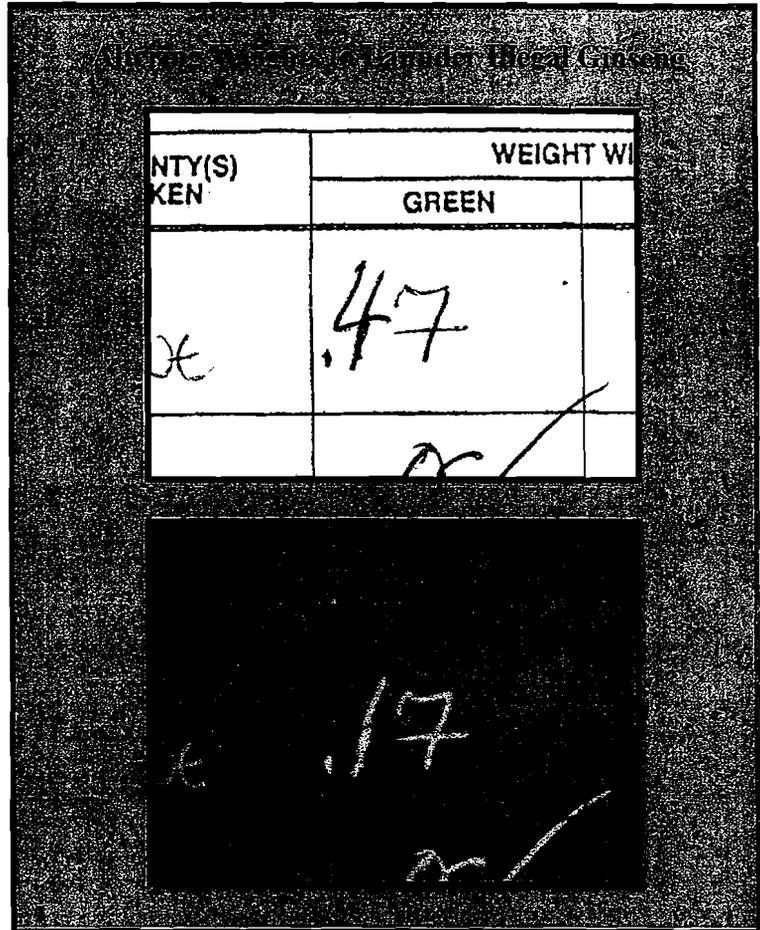
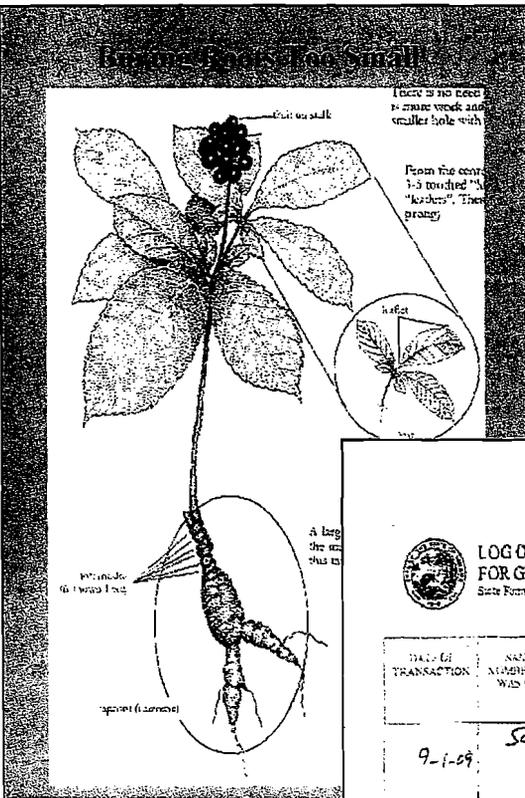


SOLD TO DEALER



Illegal Activity—Dealers

- Buying out of season
- Selling out of season
 - Sept. 1—Dec. 31
- Marking up logs
- Altering weights
- Buying small roots



Making Up Names to Launder Ginseng

LOG OF TRANSACTIONS FOR GINSENG DEALERS
State Form 758 (821/9-09)

Year of ginseng season: 09 Page number: L

Dealer's license number: 00914

RECEIVED

INDIANA DEPARTMENT OF NATURAL RESOURCES
Bureau of State Parks
100 WASHINGTON ST., 3RD FL.
INDIANAPOLIS IN 46204

DATE OF TRANSACTION	NAME, ADDRESS, AND PHONE NUMBER OF PERSON THAT GINSENG WAS BOUGHT FROM OR SOLD TO	INDIANA COUNTY(IES)	Weight Wild		Weight Wild Stimulated		Weight Woods Grown		Weight Cultivated		SERIES/CERTIFICATE NUMBER	OFFICER'S INITIALS
			Green	Dry	Green	Dry	Green	Dry	Green	Dry		
9-1-09	Scott McDonald RT 11 Brown 446-8711	clay	2	5							03/0	JLS
9-1-09	Todd McDonald RT 11 Brown 446-8711	clay		12							03/0	JLS
9-1-09	Kenn Perca 1180 N. Bennett Brown 443-7446	clay	15	2							03/0	JLS
9-1-09	James Patterson 301 Ballard Brown 229-7681	Put		15							03/0	JLS



Indiana Ginseng Annual Report

2009-10 Harvest/Trade Season

Indiana Department of Natural Resources ☞ Division of Nature Preserves
402 W. Washington St. Rm. W267 • Indianapolis IN 46204-2739
(317) 232-0207 / (317) 233-0133 fax

Annual Report of Indiana Ginseng Dealings:

2009-10 Harvest and Sale Season

There was a total of 7137 lbs and 7 oz. of wild ginseng certified in Indiana this year, no dealers reported cultivated ginseng. This season, we had a total of 29 licensed dealers. This annual harvest total is a notable harvest, 50% greater than the average of total harvest weights for the past 5 years, the largest total since 1997.

Last year we reported that a slow down in purchase of 2008 harvested root could factor into an inflated harvest report for 2009. While that factor may be the contributing, Indiana also had an excellent growing season for 2009. It was also reported by several dealers that they had seen many diggers long thought to have retired from the craft. This was reportedly due to high unemployment and so that factor should also be considered as contributing to this year's abundant numbers. Finally, price paid to diggers (according to solicited and unsolicited comments by dealers) rose dramatically and held at an average near \$400 per pound, likely an additional factor. In sum, approximately \$3 million was paid to diggers in Indiana in 2009, an economic boost to many in need.

FINDINGS:

Present abundance of wild ginseng rating was based on this scale:

0 = Absent	No Activity
1 = Rare	Under 1 lb.
2 = Occasional	1 lb. to 150 lbs.
3 = Frequent	Over 150 lbs.

At the end of the 2009 harvest season, there were 10 Indiana counties with no activity; 3 counties with a rare abundance of ginseng; 63 counties with an occasional abundance of ginseng, and 16 counties with a frequent abundance of ginseng. These are substantially more abundant rankings than last year, about a 45 % overall increase.

Trend in wild ginseng population considers only the 2008/09 season and this current 2009/10 season:

-2 = extirpated -	0 lbs. of wild ginseng harvested 2 years in a row
-1 = decreasing -	decrease of more than 50 lbs. of wild ginseng since previous year
0 = stable -	within 50 lbs. of previous harvest of wild ginseng
+1 = increasing -	50 or more lbs. of wild ginseng harvested over last season

For the 2009 harvest season, there were only 2 counties that had no activity for two consecutive seasons, only 2 counties with a decreasing amount of ginseng activity from last year, **72 counties were stable**, and **16 counties had an increase in ginseng population trends** this season. Given these factors, we see no detriment to the Indiana ginseng population to continue harvest under the current rules and regulations.



Department of the Interior
U.S. Fish and Wildlife Service

Expires 11/30/2010
OMB No. 1018-093

CITES EXPORT PROGRAMS

Return to: Division of Management Authority (DMA)
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Room 700
Arlington, VA 22203
1-800-358-2104 or 703-358-2104

Type of Activity: American Ginseng Export Program
STATE OR TRIBE: State of Indiana
HARVEST YEAR: 2009
PREPARED BY: Cary Floyd (317) 232-0207
(Convention on International Trade in Endangered Species of Wild Fauna and Flora)

If the information requested has not changed from the last year, please indicate "No Change."			
Below, please provide the amount of ginseng harvested.			
Source of Ginseng	Harvested (lbs.)	Certified (lbs.)	Estimated Number of Roots Per Pound
Wild*	7137 lbs. 6.88 oz.	7137 lbs. 6.88 oz.	406
Artificially Propagated*	0	0	Not available
Program administered by (Department or Agency Name): • No change. Indiana Department of Natural Resources, Division of Nature Preserves.			
Ginseng certification by (Department or Agency): • No change. Indiana Department of Natural Resources, Division of Law Enforcement, et. al.			
Has your State or Tribe's enabling legislation, ginseng regulations, or ginseng certification form been modified in the last year? (If yes, please provide a copy): • No changes have been made to State legislation. IN Administrative Code re: ginseng, was readopted without change 5/18/2010			
Does your agency certify all wild ginseng harvested? If no, when would your agency not certify wild ginseng harvested in the State or on the tribal lands, and can uncertified ginseng be sold or transported outside the State or Tribe? • No change. Ginseng harvested for personal use is not required to be certified. Ginseng must be certified if it is to be sold or removed from the State.			
Does your agency certify all artificially propagated ginseng harvested? If no, when would your agency not certify artificially propagated ginseng harvested in the State or on the tribal lands, and can uncertified ginseng be sold or transported outside the State or Tribe? • No change. Ginseng harvested for personal use is not required to be certified. Ginseng must be certified if it is to be sold or removed from the State.			
When does your agency certify wild/artificially propagated ginseng (e.g., at time of harvest, at time of sale)? • No change. Ginseng must be certified prior to shipment; this is usually just prior to trade by a dealer, or just prior to the end of the trade season when it is placed "on hold."			
How does your agency handle wild/artificially propagated ginseng entering the State or Tribe from another State or Tribe? Is this procedure the same for both certified (by another State or Tribe) and uncertified ginseng? • No change. Dealers report out-of-state transactions on the Out of State Commerce form as part of their annual summary. The process is the same for both wild and cultivated ginseng.			

*Artificially propagated plants are defined under 50 CFR 23.64.

<p>Do all resident and non-resident individuals and companies dealing in (i.e., buying or selling) ginseng in your State or Tribe have to be registered or licensed? If no, please explain.</p> <ul style="list-style-type: none"> • No change. Dealers must be licensed; diggers are not required to license or register.
<p>Can wild and/or artificially propagated ginseng be sold at any time during the year?</p> <ul style="list-style-type: none"> • No change. Selling (trading) season is September 1 through March 31 of the following year.
<p>How often are dealers required to report the sale, purchase, or export of ginseng (e.g., monthly, quarterly)?</p> <ul style="list-style-type: none"> • Change. With every five (5) certificates used, the dealer must complete a "Report of Commerce" to get additional certificates. <p>Also, dealer's file logs of digger transactions quarterly, and a dealer must report annually by the current season's end, deadline of April 30.</p>
<p>Do you track unsold and/or un-exported ginseng from one season or one year to the next? Please explain.</p> <ul style="list-style-type: none"> • No change. Unsold ginseng is reported on the Annual Summary as being "on hold." When sold, "on hold" roots are again reported on the Annual Summary by certificate number, but the weight is not recorded as part of this report. No ledger is kept of "on hold" roots by this office.
<p>What is the wild ginseng harvest season in your State or Tribe?</p> <ul style="list-style-type: none"> • No change. September 1 through December 31 of the harvest year (i.e., 9/1/09-12/31/09).
<p>Does your State or Tribe have a harvest season for artificially propagated ginseng? If so, what is it?</p> <ul style="list-style-type: none"> • No change. September 1 through December 31 of the harvest year (i.e., 9/1/09-12/31/09).
<p>Within the wild and artificially propagated ginseng reported above, are there other sub-categories of ginseng production that you track in your State or Tribe? If so, please describe each sub-category (e.g., woods grown, wild simulated) and, if available, what quantities have been harvested and certified?</p> <ul style="list-style-type: none"> • Wild simulated, which had a harvest of 659 lbs. 5 oz. and Woods grown, which had no reported harvest.
<p>Is there a minimum allowable size/age for harvest of wild and/or artificially propagated ginseng in your State or Tribe?</p> <ul style="list-style-type: none"> • No change. Wild ginseng must show three (3) prongs, a flowering or fruiting stalk, and have at least four (4) internodes on the root.
<p>Is harvest allowed on State or tribal lands?</p> <ul style="list-style-type: none"> • No change. The harvest of ginseng is not allowed on State lands.
<p>Does your State or Tribe require diggers to have written permission from private landowners before harvesting? Do dealers need to supply copies of these written permissions when having ginseng certified?</p> <ul style="list-style-type: none"> • No change. Owner permission is required.
<p>Please provide the average age of wild-harvested ginseng from your State or tribal lands.</p> <ul style="list-style-type: none"> • Information not available.
<p>Please provide an estimate of the average number of roots per pound (dry weight) of wild ginseng harvested in your State for the most current season, and describe the methodology you used to calculate the estimate.</p> <ul style="list-style-type: none"> • 406 roots per pound. Six (6) barrels from three (3) dealers in two (2) regions of Indiana were randomly selected and sampled. Two lbs of roots per dealer, one pound at a time, were weighed and counted to provide a shared total of six (6) samples. The combined count from each of these six (6) samples was added then divided by six (6) to provide the mean number of roots per pound statewide.
<p>Does your State or Tribe require or encourage diggers to plant seeds from harvested wild ginseng plants at the site of harvest? If so, please describe any guidelines. Does your State or Tribe allow diggers to plant ginseng seeds from other sources (e.g., commercial sources)?</p> <ul style="list-style-type: none"> • No change. The planting of the harvested seeds is required by Indiana Administrative Code. It is encouraged by the State through digger literature and by the ginseng dealers in general. Limited guidelines are given for planting the seeds with no restrictions on commercial seeds.
<p>Based on your information, what is the effect of the current harvest level of American ginseng in your State or on your tribal lands on the wild population (positive, negative, no impact)?</p> <ul style="list-style-type: none"> • We have no evidence that indicates the current harvest level is having an impact. Therefore, we can report no impact.

Please provide your assessment of the status of ginseng in the State or on your tribal lands (i.e., stable, increasing, declining). If population levels are declining, please provide the State's or Tribe's professional assessment of the reason for the decline and any steps being taken to address it.

- The ginseng population appears to be stable.

On a separate piece of paper, please provide a brief description of any research, including ginseng population monitoring, being conducted in your State or Tribe on American ginseng.

- We are unaware of any research being conducted at this time.

Please provide details of any ginseng-related violations found and/or prosecuted in your State or on your tribal lands during the last year.

IDNR Enforcement generated 31 case reports. Out of 31 reports there were 48 citations written and 14 warnings written. Also, out of these 31 reports, only 6 occurred on State DNR property.

INDIANA
CITES EXPORT PROGRAM
GINSENG TREND DATA SHEET FOR 2008 HARVEST

County of origin	lbs. wild ginseng harvested (dry weight)	Present abundance of wild ginseng* (0, 1, 2, 3)	Current trend in wild ginseng populations** (-2, -1, 0, +1)
Adams	0.00 lbs 0.0 oz	0	-2
Allen	1 lbs 14.0 oz	2	0
Bartholomew	46 lbs 11 oz	2	0
Benton	3 lbs 14 oz	2	0
Blackford	0.00 lbs 0.0 oz	2	0
Boone	0.00 lbs 0.0 oz	0	-2
Brown	70 lbs 3 oz	2	0
Carroll	27 lbs 7.5 oz	2	0
Cass	12 lbs 3.5 oz	2	0
Clark	115 lbs 15.5 oz	2	+1
Clay	175 lbs 10 oz	3	+1
Clinton	3 lbs 6 oz	2	0
Crawford	177 lbs 11.2 oz	3	+1
Daviess	46 lbs 13.41 oz	2	0
Dearborn	108 lbs 7 oz	2	+1
Decatur	105 lbs 12.88 oz	2	0
DeKalb	2 lb 12 oz	2	0
Delaware	0 lbs 9.5 oz	2	0
Dubois	183 lbs 14.34 oz	3	+1
Elkhart	1 lbs 14 oz	2	0
Fayette	73 lbs 10 oz	2	0
Floyd	44 lbs 10.5 oz	2	0
Fountain	36 lbs 15 oz	2	0
Franklin	414 lbs 7 oz	3	+1
Fulton	3 lbs 2.5 oz	2	0
Gibson	96 lbs 14.5 oz	2	+1
Grant	16 lbs 7.24 oz	2	0
Greene	299 lbs 8 oz	3	+1
Hamilton	0 lb 10 oz	1	0
Hancock	9 lbs 15 oz	2	0
Harrison	487 lbs 5.57 oz	3	+1
Hendricks	11 lbs 11 oz	2	0
Henry	14 lbs 11.5 oz	2	0
Howard	0.00 lbs 0 oz	0	-2
Huntington	3 lbs 11 oz	2	0
Jackson	89 lbs .28 oz	2	0
Jasper	21 lbs 5 oz	2	0
Jay	0.00 lbs 0.0 oz	0	0
Jefferson	103 lbs 14 oz	2	0
Jennings	283 lbs 3.75 oz	3	+1
Johnson	18 lbs 15.5 oz	2	0
Knox	77 lbs 5.69 oz	2	0
Kosciusko	11 lbs 0 oz	2	0
Lagrange	10 lbs 7.25 oz	2	0
Lake	23 lbs 13 oz	2	0
LaPorte	32 lbs 9 oz	2	0
Lawrence	311 lbs 2.33 oz	3	+1
Madison	1 lb 15 oz	2	0

County of origin	lbs. wild ginseng harvested (dry weight)	Present abundance of wild ginseng* (0, 1, 2, 3)	Current trend in wild ginseng populations** (-2, -1, 0, +1)
Marion	41 lb 6.5 oz	2	0
Marshall	15 lbs 5 oz	2	0
Martin	134 lbs 5.07 oz	2	0
Miami	23 lbs 0 oz	2	0
Monroe	223 lbs 6 oz	3	+1
Montgomery	59 lbs 2 oz	2	0
Morgan	314 lbs 5.4 oz	3	+1
Newton	0.00 lbs 0.0 oz	0	-2
Noble	8 lbs 10 oz	2	0
Ohio	2 lbs 1 oz	2	0
Orange	306 lbs 11.9 oz	3	+1
Owen	322 lbs 0 oz	3	0
Parke	454 lbs 9 oz	3	-1
Perry	100 lbs 15.62 oz	2	+1
Pike	13 lbs 3 oz	2	0
Porter	5 lbs 15 oz	2	0
Posey	39 lbs 4.3 oz	2	0
Pulaski	3 lbs 13.5 oz	2	0
Putnam	225 lbs 15.56 oz	3	0
Randolph	0 lbs 2 oz	1	0
Ripley	265 lbs 4 oz	3	+1
Rush	1 lb 5 oz	2	0
Saint Joseph	1 lb 12 oz	2	0
Scott	58 lbs 1 oz	2	0
Shelby	1 lb 6 oz	2	0
Spencer	48 lbs 5.7 oz	2	0
Starke	9 lbs 4 oz	2	0
Steuben	0 lbs 0 oz	0	0
Sullivan	58 lbs 15 oz	2	0
Switzerland	4 lbs 15 oz	2	0
Tippecanoe	30 lbs 11.78 oz	2	0
Tipton	0.00 lbs 0.0 oz	0	-2
Union	27 lbs 4 oz	2	0
Vanderburgh	30 lbs 3.85 oz	2	0
Vermillion	68 lbs 2 oz	2	0
Vigo	50 lbs 10.25 oz	2	0
Wabash	5 lbs 11 oz	2	0
Warren	11 lbs 11.78 oz	2	-1
Warrick	68 lbs 15.83 oz	2	+1
Washington	479 lbs 12 oz	3	+1
Wayne	33 lbs 13 oz	2	0
Wells	0.00 lbs 0 oz	0	0
White	29 lbs 15.25 oz	2	0
Whitley	0.00 lbs 0 oz	1	0

*Present abundance of ginseng:

0=absent, 1=rare, 2=occasional, 3=abundant

**Trend in wild ginseng populations:

-2=extirpated, -1=decreasing, 0=stable, +1=increasing

Indiana Ginseng Comparison

June, 2010

Date of Season	Number of Dealers	Type	Pounds	Ounces	Average number of roots per pound:	Dollars per pound:
2009-10	29	wild	7137	6.88	441	\$400.00
2008-09	35	wild	4623	1.16	318	\$250.00
2007-08	30	wild	3888	2	430	\$585.83
2006-07	26	wild	5096	12.25	488	\$396.67
		green	-	-		
2005-06	29	wild	4,923	1	373	\$289.68
		green	-	-		
2004-05	31	wild	4,819	0	426	\$261.40
		green	-	-		
2003-04	34	wild	6,915	5	323	\$284.00
		green	-	-		
2002-03	42	wild	3,192	5	351	\$325.00
		green	1	-		
2001-02	52	wild	7,047	11	335	\$213.00
		green	1	-		
2000-01	51	wild	6,273	6.5	229	\$300.00
		green	-	-		
1999-00	53	wild	3,433	5	378	\$395.00
		green	20	1		
1998-99	42	wild	4,693	11	461	\$240.00
		green	-	-		
1997-98	55	wild	9,044	2	377	\$250.00
		green	1	-		
1996-97	68	wild	11,910	1	502	\$260.00
		green	5	12		
1995-96	70	wild	9,877	8.5	242	\$350.00
		green	-	-		
1994-95	68	wild	7,480	6.25	362	\$240.00
		green	-	-		
1993-94	64	wild	10,459	4.75	204	??
		green	-	-		
1992-93	62	wild	13,645	12.25	303	\$220.00
		green	102	7		
1991-92	62	wild	5,283	1.5	294	\$200.00
		green	-	-		
1990-91	65	wild	11,669	10.75	335	\$150.00
		green	-	-		



PRELIMINARY DRAFT
No. 3379

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 14-8-2-317; IC 14-37; IC 32-23-7.

Synopsis: Coal bed methane. Requires the natural resources commission (commission) to: (1) regulate coal bed methane wells; (2) establish alternative spacing, unit, and bonding requirements for coal bed methane wells; (3) maintain a public record containing certain information on coal bed methane wells; and (4) adopt rules concerning procedures for notification of a property owner before property is entered for oil and gas or coal bed methane purposes. Requires the commission to appoint an administrative law judge to conduct proceedings in disputes concerning agricultural damage from drilling operations. Allows an owner or lessee of coal to file an affidavit identifying a minable coal resource. Provides for regulation of coal bed methane wells and other gas wells in a similar manner. Requires the division of oil and gas (division) to post applications for coal bed methane permits on its web site, prohibits issuance of a permit less than 30 days after the posting, and establishes other permit issuance criteria. Allows the commission to require an owner or operator to modify the location for the drilling of a well for oil and gas or coal bed methane purposes. Amends the well plugging requirements. Allows an owner or
(Continued next page)

Effective: July 1, 2011.



Digest Continued

operator of a coal mine to burn coal bed methane by flares under certain circumstances. Provides for the establishment of an estate in land with respect to coal bed methane comparable to an estate that may be established under current law with respect to oil and gas. Limits the exercise of rights in certain circumstances under a coal bed methane estate if the exercise affects miner safety or coal resources. Provides that the conveyance or reservation of rights to coal or oil and gas will not be considered as including the rights to coal bed methane unless there has been a specific grant. Provides that a coal operator's venting of coal bed methane gas in connection with mining operations is not considered to be a waste or diminution of resources.



A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-37-3-14.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: **Sec. 14.5. The commission shall do the**
4 **following:**

5 (1) **Regulate coal bed methane wells and compliance with**
6 **IC 32-23-7.**

7 (2) **Establish alternative spacing, survey, unit, and bonding**
8 **requirements for coal bed methane wells.**

9 (3) **Maintain a public record of the following:**

10 (A) **The location of each coal bed methane well that has**
11 **been drilled, including exploration wells.**

12 (B) **The current status of each coal bed methane well.**

13 (C) **The date of plugging and detailed information**
14 **concerning the plugging of each coal bed methane well.**

15 SECTION 2. IC 14-37-3-15 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 15. (a) The commission**
17 **shall adopt rules under IC 4-22-2 to implement this article. The rules**
18 **must include rules necessary to carry out the duties imposed upon the**
19 **commission under this chapter.**

20 (b) **The commission shall adopt rules under IC 4-22-2**
21 **establishing procedures for the notification of a property owner**
22 **before the owner's property may be entered to survey, explore for,**
23 **or extract oil and gas or coal bed methane.**

24 SECTION 3. IC 14-37-3-18 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2011]: **Sec. 18. (a) As used in this section, "actual damage to**
27 **agricultural land or crops" includes compaction of the soil, damage**
28 **to drainage systems, and causing flooding or soil erosion.**

29 (b) **The commission shall appoint an administrative law judge**
30 **to conduct proceedings under IC 4-21.5 in disputes between:**



1 (1) the person who has the right to use agricultural land
2 through ownership or a lease; and

3 (2) the owner or operator of an oil and gas or coal bed
4 methane exploration or extraction company;

5 concerning actual damage to agricultural land or crops caused by
6 surveying or exploration for or extraction of oil and gas or coal bed
7 methane.

8 (c) An administrative law judge appointed under this section is
9 subject to IC 14-10-2-2.

10 (d) An order made by an administrative law judge appointed
11 under this section is a final order of the department.

12 (e) Judicial review of a final order made by an administrative
13 law judge under this section may be taken under IC 4-21.5-5.

14 SECTION 4. IC 14-37-4-8 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Except as
16 provided in section 9 of this chapter and subject to subsections (b)
17 through (d), if an applicant for a permit complies with:

18 (1) this article; and

19 (2) the rules adopted under this article;

20 the commission shall issue a permit.

21 (b) The division shall post on the web site maintained by the
22 division a listing of each complete permit application under this
23 chapter with respect to oil and gas or coal bed methane. The
24 posting must include at least the following:

25 (1) The location, type, and depth of each proposed well.

26 (2) The coal seam, if any, affected by each proposed well.

27 (c) The commission may not issue a permit under this chapter
28 until all of the following requirements are satisfied:

29 (1) At least thirty (30) days have elapsed after the posting of
30 the listing of the permit application under subsection (b).

31 (2) The commission has taken into consideration any
32 comments received from any interested party during the
33 period referred to in subdivision (1).

34 (3) The applicant has submitted to the director documentation
35 demonstrating that at least thirty (30) days have elapsed since
36 the applicant sent written notification of the permit
37 application to the following:

38 (A) The owner of the property subject to the permit
39 application.

40 (B) All of the owners of property that is adjacent to the
41 property that is subject to the permit application.

42 (C) Any owner of the coal on the property that is subject to
43 the permit application.

44 (4) The director has issued a finding that the requirements of
45 subdivisions (1) through (3) have been met.

46 (d) The commission may require the applicant to make



1 reasonable modifications to the specific location for the proposed
2 drilling of a well for oil and gas or coal bed methane purposes if:

3 (1) the modifications are necessary to protect the health and
4 safety of coal miners; or

5 (2) the modifications:

6 (A) are necessary to protect minable coal resources;

7 (B) do not violate the drilling unit, well spacing, or other
8 requirements of this article; and

9 (C) do not result in waste.

10 SECTION 5. IC 14-37-7-8 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2011]: Sec. 8. (a) The owner or lessee of coal or another
13 interested person may file with the division of reclamation an
14 affidavit that identifies by map coal that the owner or lessee holds.

15 (b) The division of reclamation shall:

16 (1) keep the affidavit and map confidential; and

17 (2) use the affidavit and map solely for the purpose of
18 determining the owner or lessee of coal in an area for which
19 a permit application has been filed under IC 14-37-4.

20 (c) Upon receipt of a permit application under IC 14-37-4, the
21 division shall request the division of reclamation to determine
22 whether the location of the well proposed in the permit application
23 is in an area underlain by coal identified in an affidavit and map
24 filed under subsection (a).

25 (d) The division of reclamation shall report its determination
26 under subsection (c) in writing to the division.

27 SECTION 6. IC 14-37-8-2 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Plugging
29 methods must be approved by the commission and must permanently
30 confine all oil, natural gas, coal bed methane, and water in their
31 original strata.

32 (b) If a well is drilled through an area containing minable coal,
33 the plugging standards applying to the well must be more stringent
34 than the standards approved under subsection (a) to the extent that
35 the federal Mine Safety and Health Administration requires the
36 more stringent standards in order to permit coal mining through
37 the area of the plugged well.

38 (c) For areas to which subsection (b) does not apply, mud-laden
39 fluid, cement, or mechanical plugs shall must be used singly or in
40 combination.

41 SECTION 7. IC 14-37-11-3 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
43 1, 2011]: Sec. 3. The owner or operator of a coal mine may burn in
44 flares the coal bed methane produced from a coal bed methane well
45 if both of the following apply:

46 (1) The burning is necessary to protect coal miners' safety.



1 **(2) It is not economical to market the coal bed methane.**

2 SECTION 8. IC 32-23-7-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) As used in this
4 chapter, "oil and gas" means petroleum and mineral oils and gaseous
5 substances of whatever character naturally lying or found beneath the
6 surface of land.

7 **(b) The term does not include coal bed methane.**

8 SECTION 9. IC 32-23-7-4 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) As used in this
10 chapter, "person in interest" means:

11 **(1) if used in reference to an oil and gas estate in land, the**
12 **owner of a beneficial interest in the oil and gas estate in land; or**

13 **(2) if used in reference to coal bed methane, the owner of a**
14 **beneficial interest in the coal bed methane estate in land;**

15 whether the interest is held for life, for a term of years, or in fee.

16 (b) The term includes a lessee, licensee, or duly qualified agent of
17 the owner.

18 (c) The term does not include a mortgagee or security assignee of
19 the owner if the mortgagee or security assignee does not have a right
20 to the control or operation of the premises for:

21 **(1) oil and gas, if the term is used in reference to an oil and gas**
22 **estate in land or oil and gas; or**

23 **(2) coal bed methane, if the term is used in reference to a coal**
24 **bed methane estate in land or coal bed methane.**

25 SECTION 10. IC 32-23-7-7 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) **This section**
27 **applies to the following:**

28 **(1) Interests in oil and gas.**

29 **(2) Interests in coal bed methane.**

30 ~~(a)~~ **Interests in the oil and gas** ~~(b)~~ **An interest referred to in**
31 **subsection (a) in, on, under, or that may be taken from beneath the**
32 **surface of land located in Indiana may be created:**

33 (1) for life;

34 (2) for a term of years; or

35 (3) in fee;

36 in the manner and to the extent that other interests in real estate and
37 title are created.

38 ~~(b)~~ **(c) Title to the estates specified under subsection ~~(a)~~ (b) may be**
39 **vested in one (1) or more persons by:**

40 (1) sole ownership;

41 (2) tenancy in common;

42 (3) joint tenancy;

43 (4) tenancy by the entireties; or

44 (5) another manner recognized under Indiana law.

45 ~~(c)~~ **(d) Interests or estates specified in this section are freely**
46 **alienable, in whole or in part, in the same manner as are other interests**



1 in real estate.

2 SECTION 11. IC 32-23-7-8 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) This chapter does
4 not limit the rights of parties to contract with regard to ~~the~~ **an** oil and
5 gas estate **or a coal bed methane estate** affecting lands in Indiana:

6 (1) to the extent permitted by; and

7 (2) in a manner consistent with;

8 the nature of the estate in law as specified under this chapter.

9 (b) This chapter ~~is intended to declare~~ **declares** the law of this state
10 **Indiana** with regard to the subject matter treated in this chapter as the
11 law existed before ~~March 5, 1951~~ **July 1, 2011**.

12 (c) This chapter does not affect the rights or powers of any
13 commission, board, or authority duly constituted for the regulation of
14 the oil and gas industry **or the coal bed methane industry** in Indiana.

15 SECTION 12. IC 32-23-7-9 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2011]: Sec. 9. (a) Any conveyance, reservation, or exception of
18 rights to coal or oil and gas shall not be deemed to include rights to
19 coal bed methane gas absent an express grant.

20 (b) Nothing in this section affects a coal operator's right to vent
21 coal bed methane gas in connection with mining operations. A coal
22 operator's venting of coal bed methane gas in connection with
23 mining operations is not considered to be a waste or diminution of
24 resources for purposes of any action.

25 (c) This section does not affect:

26 (1) the settlement of any dispute concerning the ownership or
27 development of coal bed methane gas that was entered into
28 before July 1, 2011; or

29 (2) any judgement or order of a governmental agency
30 concerning the ownership or development of coal bed
31 methane gas that was entered before July 1, 2011.

