

NATURAL RESOURCES COMMISSION
Meeting Minutes, September 19, 2023

MEMBERS PRESENT

Bryan Poynter, Chair
Dan Bortner, Secretary
Martha Clark Mettler
Noelle Szydlyk
Marc Milne
Phil French
Bart Herriman
John Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Elizabeth Gamboa	Scott Allen
Aaron Bonar	Billie Franklin

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Chris Smith	Executive Office	Jennifer Ware	Water
Ryan Mueller	Executive Office	Holly Lawson	Communications
Kirsten Haney	Executive Office	Amanda Wuestefeld	Fish and Wildlife
David Bausman	Executive Office	Linnea Petercheff	Fish and Wildlife
Steve Hunter	Law Enforcement	Mitch Marcus	Fish and Wildlife
Terry Hyndman	Law Enforcement	Kathy Madren	Fish and Wildlife
Brian Bailey	Law Enforcement	Terry Coleman	State Parks
Brent Bohbrink	Law Enforcement	Ron Hellmich	Nature Preserves

GUESTS PRESENT

Tim Malang

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 5:59 p.m., ET, on September 19, 2023, at Brown County State Park, Abe Martin Lodge, 1405 State Road 46, Nashville, Indiana. With the presence of eight members, the Chair observed a quorum.

APPROVAL OF MINUTES

The Chair asked for a motion for the approval of the Commission's May 16, 2023, meeting minutes.

Bart Herriman moved to approve the minutes as amended. John Wright seconded the motion. Upon a voice vote, the motion carried.

REPORTS OF THE DNR DIRECTOR, DEPUTY DIRECTORS, AND THE CHAIR OF THE ADVISORY COUNCIL

Dan Bortner, Director of the Department of Natural Resources (Department), provided the following report:

Bortner welcomed the Commission back to the Abe Marting Lodge at Brown County State Park. Governor Eric Holcomb declared May 21 as “Kids to Parks Day” in Indiana and signed an official proclamation acknowledging the important initiative to encourage kids and empower families to get outdoors and visit America’s parks. The day is a chance for children to learn about park stewardship, outdoor recreation, and natural and cultural history. It also helps foster appreciation for public lands in the next generation.

In May 2023 the seven K-9 teams that completed the Division of Law Enforcement’s nine-week K-9 Resource Protection Program were recognized in a graduation ceremony on the south lawn of the Indiana Statehouse Building. The teams came from Indiana, Kansas, Oregon, and Utah. Indiana’s K-9 program started in 1997 with two teams and now has approximately a dozen teams with at least one K-9 unit serving in each of the ten Law Enforcement Districts. Indiana’s K-9 program is recognized as one of the nation’s best and has also trained natural resource agencies in Idaho, Kentucky, Maryland, Virginia, Washington, and the country of Zambia. The K-9 Resource Protection teams are trained in man-tracking, wildlife detection, and article searches. All canines are trained to locate whitetail deer, wild turkey, waterfowl, and ginseng. The K-9 teams excel in man-tracking and locating firearms.

The recreation season was busy during the Memorial Day, Fourth of July, and Labor Day holidays and the Department continues to see large crowds during the weekends.

The Next Level Trails (NLT) program continues to dedicate new trails throughout the state, including the Speedway at Marquet Trails. The Department received applications for round four of NLT funding beginning in July and ending in August. The Department is currently in the process of grading the applications.

In July, the Department held an informational meeting to participate in Black Folks Camp Too, which is an initiative to be more inclusive and to ensure that Indiana’s special places are welcoming and enjoyable for everyone.

The Indiana State Fair started July 28, 2023, and ended August 20, 2023. The fair drew large crowds to the Department building. During the off season, the Department’s building received renovations with funding from the Governor’s deferred maintenance

program. The renovations included a new roof, window repairs, lighting, and HVAC upgrades.

The Regulatory Divisions continue to be busy plugging abandoned wells and reclaiming mining land with available federal funding.

Chris Smith, Deputy Director of the Land Management Bureau, provided his report as follows:

Labor Day weekend wrapped up the traditional recreational season. The Division of State Parks is getting a much-needed break before the next wave of visitors that comes to see the changing of the leaves.

The Department extended an invitation for everyone to celebrate Indiana's Public Lands Day on September 23 and 24, 2023. The celebration coincides with National Public Lands Day on September 23, which is the single largest day of volunteering on public lands. The Department will offer free admission on Sunday, September 24 to help commemorate the day.

Saturday, September 23 is National Hunting and Fishing Day. This is the last free fishing day of the year and Indiana residents can fish without a fishing license on that day.

Biologists with the Department and Purdue University recently documented a very young hellbender salamander in the Blue River while conducting routine surveys. This discovery is significant because it is the first time in over three decades that a young hellbender salamander has been found in the Blue River. The presence of a young salamander suggests that conservation efforts and rearing programs are accomplishing their goals for the recovery of this endangered species. The hellbender is a large, fully aquatic salamander. Their decline statewide has been documented as far back as the early-to-mid 1900s because of habitat loss and poor water quality. Hellbenders play an important role in aquatic ecosystems and are indicators of clean water. The Indiana Hellbender Partnership is the largest and most comprehensive group working to recover an imperiled amphibian in Indiana. Since 2017, the program has reared and released nearly 500 juvenile hellbenders into the Blue River.

An article from Outdoor Indiana magazine, the Department's bi-monthly magazine, won a national communications award for work done in 2022 at the Association for Conservation Information (ACI) awards program last week in Stateline, Nevada. "Indiana's French Connection" ran in the July/August 2022 issue. It details the Hoosier state's often-ignored deep French roots and its work with the multi-state French Heritage Corridor initiative. The article was written by Managing Editor Marty Benson, the Graphic Designer was Erin Hiatt, and the photographers were Brent Drinkut and Frank Oliver.

Outdoor Indiana magazine's September/October issue features a cover article on Fox Lake, which was once a Green Book destination in Angola, Indiana. Fox Lake still

thrives today. The issue also features an article on Redbird Off-Road State Recreation Area near Dugger, and an article on mourning dove hunting.

Governor Holcomb, in his 2020 State of the State Address, tasked the Department with planting one million trees in five years. The Division of Forestry and its partners planted 253,400 seedlings in Spring 2023, bringing the four-year total to 964,900 trees planted. Smith thanked project partners Clif Bar Baking Company, White Oak Initiative, Hardwood Forestry Fund, Duke Energy, Huston Solar, and the Indiana Natural Resources Foundation.

In mid-August, the Department announced that organizations in eleven Indiana counties will receive \$1.1 million in grants to fund seventeen lake and river or stream projects through the Lake and River Enhancement (LARE) program. Many of the projects aim to improve water quality by reducing sediment and nutrient inputs. Improved water quality helps fish and wildlife populations and improves recreational opportunities.

Beginning August 20, hunters have been able to apply for a variety of reserved hunts online. Waterfowl, deer, and gamebird hunts are all currently active, with other opportunities coming online on October 1. Check the Departments' website for specific dates and available locations.

Indiana State Parks is celebrating the 100-year anniversary of its interpretive services this year. Colonel Richard Lieber, founder of Indiana State Parks and the first Director of the Indiana Department of Conservation, included "nature guides" in his original list of features every park should have. The first guide was Lucy Pitschler, who led wildflower hikes at McCormick's Creek State Park beginning in 1923. The celebration has included events at properties, including an interpretive reunion of former naturalists, held at McCormick's Creek State Park on August 27. About 100 people participated. Past and present seasonal and full-time interpretive naturalists participated including three of the "original six" full-time naturalists from state parks.

Ryan Mueller, Deputy Director of the Regulatory Bureau, provided his report as follows:

The Division of Reclamation has secured \$23 million in contracts to plug orphaned and abandoned oil and gas wells statewide. This is the initial phase of funding authorized by a federal grant program that awarded Indiana \$25 million. Since August 31, 2023, there have been 153 wells plugged at a cost of \$9.9 million. The initial goal was to plug approximately 350 wells. The projects have been under budget so it appears the goal will be met. The Division has applied for a \$14 million grant for methane monitoring and reduction efforts.

The Division of Entomology and Plant Pathology is finishing nursery inspections. The spotted lantern fly has been found in a third county, Elkhart County. The spotted lantern fly had already been identified in Huntington and Switzerland Counties and staff continue to survey to determine the extent of the spread. The Division is using approximately

\$150,000 this year and will use \$750,000 of federal farm bill funding in 2024 for treatment options to eradicate the spotted lanternfly and prevent further spread.

Department staff continues to participate in the Drainage Task Force established to review Indiana's drainage laws and make recommendations for updating and fixing laws related to drainage in agricultural areas. Two task force meetings are scheduled for October and a final report is due before December 1, 2023.

September is Indiana Archaeology Month. The Division of Historic Preservation and Archaeology (DHPA) coordinates events to encourage learning about Indiana archaeology. Universities, museums, organizations, and individuals throughout the state host a variety of programs. These can include archaeological laboratory open houses, artifact identifications, lectures on archaeological topics, and archaeological excavations. People may participate in scheduled events before October 1, 2023, including archeology days at several state parks. A full list of events is available on the DHPA website.

Kirsten Haney, Deputy Director of the Bureau of Administration, provided her report:

The Department has been busy with Budget Committee meetings and has requested funding for major milestone projects. The projects include \$4.6 million for the Lincoln State Park Amphitheatre expansion, \$6.5 million in partial state and federal funding for the Jasper-Pulaski Visitor Center, \$2.1 million in partial state and federal funding for multiple Division of Fish and Wildlife range renovations, \$100 million for the lodge at Potato Creek State Park, \$5 million for tornado damage restoration at McCormick's Creek State Park, and the release of \$10 million of President Benjamin Harrison Trust funding.

The future Budget Committee meetings will include additional agency projects and the release of \$30 million in Next Level Trail funding.

The Department's partnership with the Indiana Department of Administration remains strong and the deferred maintenance projects are making progress. The renovation at the Spring Mill Inn continues with a project completion date of Fall 2024. The Department has not heard yet if it will receive any new biennium Deferred Maintenance funding, but the Department is hopeful and will continue to update the Commission.

As of September 15, 2023, the Department had 1,254 regular positions filled and is in the process of filling 66 of the vacant positions. The Department had a decrease in vacancies and staffing is doing well overall.

Chris Smith provided the Advisory Council meeting report as follows:

The Advisory Council met on August 8, 2023, at the Atterburry Fish and Wildlife Area. Department staff presented proposed invasive carp harvest permit rules, catfish rule changes, deer hunting rule changes, and river otter rule changes. There was also a discussion on the use of cast nets and fishing on Sugar Creek.

CHAIR AND VICE CHAIR

***Information:* Consideration of 2023 meeting dates:**

The Chair noted the last 2023 Commission meeting date would be November 21, currently scheduled to be held at the Fort Harrison State Park Garrison.

Updates on Commission and AOPA Committee

Elizibeth Gamboa, Director and Chief Administrative Law Judge of the Natural Resources Commission, Division of Hearings, reported:

An AOPA meeting was held on August 9, 2024, and there was one case considered involving a group pier license that was resolved with the Committee affirming the Non-Final Order.

DNR, EXECUTIVE OFFICE

Consideration and identification of any topic appropriate for referral to the Advisory Council

None

***Information Item:* Rulemaking Presentation**

David Bausman, Chief Legal Counsel for the Department, gave a presentation and update to the Commission as follows:

House Enrolled Act 1623 (HEA 1623) was passed in the last legislative session and applies to administrative rulemaking. Prior to HEA 1623, rulemaking was divided into permanent rulemaking and emergency rulemaking processes. The Commission adopted permanent rules and would readopt every seven years. The issue with permanent rule adoption was that it was a lengthy process taking approximately one year to go through the process. The emergency rule was a quicker process with Department Director Bortner having the authority to sign the rule. The rule would last one year with the ability to be renewed for one year.

With the passage of HEA 1623, there are now three different types of rules instead of two. In addition to the permanent rulemaking process, there is a provisional rulemaking process, which would be like an emergency rule under the previous code except now the rule requires Governor's Office approval before its issued. The provisional rule has a ten-day delay, so the rule does not go into effect immediately and it only lasts 180 days.

Limited circumstances for a provisional rule include an imminent threat to wildlife and domestic animal safety and the spread of an invasive species.

The new type of rule is the interim rule, which allows agencies to adapt quickly when responding to legislative changes so agencies don't risk losing funding. Department interim rules can only last one year after publishing and the interim rule will need Governor's Office approval.

Mettler asked if the new rule process allows for a one-year extension like the emergency rule process did. Bausman replied that there is no extension, and the intent was for the issuance of a provisional or interim rule while agencies work to get a permanent rule passed. Bausman used bovine tuberculosis (bTB) as an example and said a possible scenario could start with a provisional rule, move to an interim rule, and then the passing of a permanent rule.

Bausman continued his presentation as follows:

Permanent rulemaking changes included adding a second comment period if substantive comments are received; however, "substantive comments" was not defined, and the Department will see how it will function in practice. Public hearings for permanent rules will be streamed online and permanent rules will only be effective for five years, instead of seven. Before a readoption can take place, the Indiana General Assembly (IGA) must be notified a year in advance and a rule cannot be amended during a readoption. The new process cuts the readoption process time in half, and changes how the Department and Commission staff approach the adoption and readoption process. The positive side of the process is the expedited length of time when adopting permanent rules.

The Department's existing emergency rules already had end dates, so extension requests were not needed.

The IGA made two changes to attorney fees that impacts agencies' risk assessment. Attorney fees can be awarded to a prevailing party if the agency action was based on an invalid rule or if the agency failed to demonstrate the agency was acting within their legal authority.

Anything monetary including a fee, a fine, a civil penalty, a financial benefit limitation, or payment amount set by an agency must be in administrative rule and can no longer be done by an information bulletin. Any of the fees, fines, and civil penalties rules will now be reviewed by the Budget Committee on an accelerated timeline. The Department will have a year and a half to be compliant with the fees, fines, and civil penalties to avoid liabilities on attorney fees, but the process starts with the Budget Committee monetary review in December. The fees, fines, and civil penalties package is allowed to have a dollar amount, a formula to calculate a dollar amount, or a dollar amount range.

The Department and Commission will need to make procedural changes to accomplish making the rulemaking process work. Staff will redo all fee increases by creating a new article under 312 IAC listing Department fees, fines, and civil penalties.

Not having emergency rules will significantly impact the Division of Fish and Wildlife's planning and management of hunting regulations and managed hunts. Processes and procedures will also be impacted and will need to be reviewed. Information bulletins that will need incorporated into administrative rules. The Commission staff will have more engagement with the public during the public comment periods, public hearings will be streamed, and there is potential for additional public comment periods. There is a potential for additional and longer Commission meetings as the Department works to get into compliance and there will be more readoptions. Overall, there will need to be organization and additional planning ahead and bundling of division rules into packages.

The HEA 1623 Implementation will take place in two phases. Phase one will include fees, fines, and civil penalties and be ready to present at the October 2023 Budget Committee meeting with preliminary adoption at the January 2024 meeting. Phase two will include process and regulatory compliance by reviewing information bulletin and replacing those with administrative rules. The Department anticipates Governor's Office approval for interim rules in early 2024 so the Commission could start seeing preliminary adoptions next Spring.

Mettler asked if there is any leeway on the sunseting of readoptions to meet federal mandates. Bausman said the Department would do an interim rule if there was a federal requirement.

Herriman asked if the Department would do an interim rule, so the rule is compliant with federal rules and then work on a permanent rule to present to the Commission. Smith said there would be an interim rule in place and before the one-year expiration the Department would start the rulemaking process.

DNR, DIVISION OF NATURE PRESERVES

Consideration of the dedication of the North Woods Nature Preserve in LaPorte County

Ron Hellmich, Division of Nature Preserves, presented this item as follows:

The proposed nature preserve contains dry-mesic upland forests, mesic upland forests, and protects one of the best examples of boreal flatwoods in Indiana. Some of the dominate tree species include red oak, white oak, red maple, American beech, pin oak, and black gum. The proposed nature preserve protects several plant populations including paper birch, long sedge, goldthread. There are shrub swamp and sedge meadow along the southern property.

Since the 1970s, the Department has worked with the Lindbergh family to protect the property until the state purchase of the property in 2023. The Division of Nature Preserves recommends dedication of the site.

Marc Milne moved to approve the dedication of the North Woods Nature Preserve in LaPorte County. Bart Herriman seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of the Toothwort Woods Nature Preserve in Jennings County

Hellmich presented this item as follows:

The proposed nature preserve contains mesic upland forest and dry-mesic upland forest and is located along the Muscatatuck River within the Crosley Fish and Wildlife Area. The proposed nature preserve is 101 acres and protects all the toothwort plants in Indiana. Toothwort Woods Nature Preserve site will be the three-hundredth nature preserve to be dedicated and is owned and managed by the Division of Fish and Wildlife. The Division of Nature Preserves recommends dedication of the site.

Phil French moved to approve the dedication of the Toothwort Woods Nature Preserve in Jennings County. Marc Milne seconded the motion. Upon a voice vote, the motion carried.

DNR, DIVISION OF FISH AND WILDLIFE

Report to the Natural Resources Commission on Citizen Petition to ban the use of lead shot in Indiana; Administrative Cause No. 23-FW-007

Linnea Petercheff, Division of Fish and Wildlife, reported on this item as follows:

The Commission received a citizen petition from Nancy Tatum to ban the use of lead shot due to concerns on the impact to wildlife and people who consume wildlife. The Department established a committee, and a sub-committee was established to focus on education information and the Division's website.

Currently, hunters are required under federal law to use non-lead (non-toxic) shot for hunting waterfowl. Hunters are also required to use non-toxic shot while hunting mourning doves on all Fish and Wildlife Areas and while hunting all species on Goose Pond and Wabashiki Fish and Wildlife Areas.

The Department drafted a new webpage called, "Effects of Lead on Wildlife" informing hunters of the benefits of using non-lead ammunition and giving recommendations for non-lead options for fishing tackle. The Department will help educate hunters on the benefits of using non-lead ammunition through electronic newsletter and social media.

One concern raised was the availability of non-lead ammunition. Non-lead ammunition options are already available for hunting waterfowl, but lead shot is currently used for hunting squirrels, deer, and other mammals. Some non-lead ammunition may not cost much more than lead options, but depending on the type of non-lead ammunition, there are concerns of the availability, effectiveness, performance, and accuracy.

The Department does not support banning lead shot for hunting all species. The Department is focused on education efforts to hunters and anglers on the environmental benefits of using non-lead equipment.

Milne said that he researched the use of non-lead ammunition and found articles that said there was not a difference in the effectiveness when using non-lead shot. Petercheff said sometimes the lack of availability for a particular non-lead shot option that works with the hunter's equipment is an issue.

Milne said the availability of non-lead ammunition increased after the federal ban on the use of lead shot when hunting waterfowl. Milne noted that local retail availability is a function of consumer demand and if the laws are changed the market would shift. He asked if the availability of other types of non-lead ammunition would increase if there was a ban on the use of all lead shot.

Smith stated that performance of the shot depends on the source. He said there is a big difference in the cost and performance of steel shot compared to tungsten shot. Smith noted the market would not necessarily change to make non-lead shot better based on a state banning lead shot like it did with the federal lead shot ban for waterfowl. He said a requirement to use non-toxic shot for hunting mourning doves has been in place for several years and the market has not caught up to the demand, making it hard for hunters to find the ammunition.

Milne asked if the authority to ban lead shot was outside the authority of the Department and if so, could the Department make a recommendation to whoever has the authority to ban lead shot. Petercheff responded that the petitioner worded the petition in a way that did not make the request to ban lead shot specific to hunting or Department properties. The petition request was to ban the sale of lead shot in Indiana and the Department does not have the authority to ban the sale of lead shot.

Milne said some states, such as Arizona, have programs that have been successful in giving non-lead ammunition to hunters and asked if that was something that could be done in Indiana. Petercheff responded the Department did, and will continue to, research all options regarding the use of non-toxic ammunition.

Martha Clark Mettler moved to approve the Report on Citizen Petition to ban the use of lead shot in Indiana. John Wright seconded the motion. Upon a voice vote, the motion carried.

NRC, DIVISION OF HEARINGS

Consideration of Hearing Officer report on rule processing, public hearing, and hearing office analysis with recommendation regarding final action to amend 312 IAC 10-1-2 to accurately reflect a statutory reference by adding IC 14-27-7.5. Amends 312 IAC 10-2-28 concerning coastal high hazard areas; LSA #23-425(F); Administrative Cause No. 23-WA-006

Billie Franklin, Hearing Officer, presented agenda item and reported as follows:

The proposed amendments to 312 IAC 10-1-2 will accurately reflect statutory changes that struck IC 14-27-7 and added IC 14-27-7.5. The proposed amendments to 312 IAC 10-2-28 add the definition of the “lowest floor” to address the establishment of “coastal high hazard areas” on Lake Michigan by the Federal Emergency Management Agency (FEMA). The changes are necessary for regulation of dams under IC 14-27-7.5 and the regulation of the lowest floor for structures proposed in the floodway under IC 14-28-1.

A virtual public hearing was held on August 23, 2023. No members of the public attended. There were no public comments received during the comment period. There is currently an emergency rule in place that will expire on January 12, 2024. The Hearing Officer recommended final adoption to amend 312 IAC 10-1-2 and 312 IAC 10-2-28.

Marth Clark Mettler moved to give final action amending 312 IAC 10-1-2 to accurately reflect a statutory reference by adding IC 14-27-7.5 and amend 312 IAC 10-2-28 concerning coastal high hazard areas. Phil French seconded the motion. Upon a voice vote, the motion carried.

Consideration of Hearing Officer report, including findings and proposal to the Natural Resources Commission as to recommendations to the U.S. Army Corps of Engineers regarding Fourwinds Resort Marina ratemaking petition; Administrative Cause No. 22-SP-035

Franklin, Hearing Officer, presented this agenda item as follows:

Brent Pearson on behalf of Fourwinds Resort and Marina (Fourwinds), filed a petition for rate increase with the Commission and the Department on December 15, 2022.

Fourwinds notified 816 slip renters of the proposed rate increases as required by Information Bulletin #20 and approximately 140 rate hearing requests were received. A public hearing was conducted on May 31, 2023, with twelve slip renters attending and seven slip renters providing comments. Six additional comments from slip renters unable to attend the public hearing were received by the Hearing Officer. Most of the complaints involved the ten percent increase and lack of maintenance. The comments are attached as “Exhibit B.”

After reviewing the comments and comparable information received, the Hearing Officer determined the request for rate increase was reasonable and justified. The Hearing Officer recommended the findings and recommendations be approved.

Herriman noted this is the third year in a row Fourwinds has requested a rate increase. He said that previous Commission meetings he noted basic contractual requirements that are not being provided. Herriman said he will probably vote “no” because he would like to see the slip renters’ concerns get addressed.

Coleman said that following the public hearing, Department staff visited Fourwinds and determined many of the complaints had been addressed. He specifically noted the repair of a viable and solid boat pump-out system and the restrooms repairs. Coleman noted a dock inspection was completed by the Department and major areas of concern had been addressed. Coleman said the prices fall within established means and noted over the last 22 years Fourwinds had an expenditure cost of approximately \$1 million each year.

The Chair stated Fourwinds is a large marina complex and to keep in perspective the number of comments received compared to over 800 letters that went out to slip renters.

Coleman said Fourwinds went several years without any increases and is now working to catch up with inflation.

The Chair said an exorbitant increase request would fall within the Commission's purview. The Commission should not arbitrate fair market disputes and if slip renters are not satisfied with the services, they receive they can choose to go to another marina.

Coleman said the Department research determined the Fourwinds rate increase request is not out of line with other comparable marinas.

Bortner added that the location of a particular marina adds intrinsic value.

Milne asked if amenities are taken into consideration when determining the marina rates. Franklin answered that a marinas amenities are considered in the marina rates.

Phil French moved to approve the Hearing Officer's findings and recommendation to the U.S. Army Corps of Engineers, in the matter of rate making Petitions for Fourwinds Resort Marina. John Wright seconded the motion. Upon a voice vote, the motion carried seven to one with Bart Herriman voting "No."

Consideration of approval for amendments to Information Bulletin #57, to update references in Cumulative Effects under the Flood Control Act; Administrative Cause No. #23-WA-019

Franklin, Hearing Officer, presented this agenda item as follows:

The amendment updates an inaccurate DIN number that references Information Bulletin #2. The Hearing Officer recommended the approval of amendments to Information Bulletin #57.

Martha Clark Mettler moved to approve the amendments to Information Bulletin #57 to update references in Cumulative Effects under the Flood Control Act, as presented. Bart Herriman seconded the motion. Upon a voice vote, the motion carried.

**Consideration of repeal of Information Bulletin #14, Commission Floodway Criteria;
Administrative Cause No. 23-WA-021**

Elizabeth Gamboa, Hearing Officer, presented this agenda item and reported as follows:

Commission floodways are governed by IC 14-28-1-28 and 312 IAC 10-3-4 establishes the criteria and procedures for seeking authorization for a Commission floodway. The Department confirmed that Information Bulletin #14 adds no additional information, predates the administrative rule, and the administrative rule covers the information. It was determined that Information Bulletin #14 could be repealed, and a non-rule policy would not be needed for Commission floodways. Hearing Officer recommended the repeal of Information Bulletin #14.

Martha Clark Mettler moved to repeal Information Bulletin #14. John Wright seconded the motion. Upon a voice vote, the motion carried.

The meeting was adjourned at approximately 7:02 p.m., ET.