

Members

Rep. Markt Lytle, Chairperson  
Rep. James Bottorff  
Rep. Richard Mangus  
Rep. Phyllis Pond  
Sen. Potch Wheeler  
Sen. Becky Skillman  
Sen. Richard Young  
Sen. James Lewis



# NATURAL RESOURCES STUDY COMMITTEE

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Authority: IC 2-5-5-1

## MEETING MINUTES<sup>1</sup>

Meeting Date: October 23 & 24, 2001  
Meeting Time: 12:00 Noon; 8:00 A.M.  
Meeting Place: McCormick's Creek State Park,  
Meeting City: Spencer, Indiana  
Meeting Number: 4

### Day 1; October 23, 2001

**Members Present:** Rep. Markt Lytle, Chairperson; Rep. James Bottorff; Rep. Richard Mangus; Rep. Phyllis Pond; Sen. Potch Wheeler; Sen. Becky Skillman; Sen. Richard Young; Sen. James Lewis.

**Members Absent:** None.

**Staff Present:** Jeanette Adams, Legislative Services Agency  
Bernadette Bartlett, Legislative Services Agency

**Call to Order:** Chairman Lytle called the meeting to order at 12:30 P.M.

**Issue: Department of Natural Resources (DNR) Legislative Proposal**

**Dan Mathis, DNR Legislative Liaison**, presented PD3455 and a handout to the Committee (Exhibit A). The draft does the following:

1. Changes the residency requirement to obtain DNR licenses at the in-state fee. Actual

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

domicile in Indiana will be required. The Committee asked DNR to clarify the definition of "domicile" in this draft.

2. Provides a penalty (Class C infraction) for operating off road vehicles on public property without consent. This activity is currently prohibited by statute, but there is no penalty in the current law.

3. Changes fees for commercial fishing and gear tags on the Ohio River to match recent changes in Kentucky's fees.

4. By changing a definition of "person" in DNR law, allows municipalities and other governmental bodies to participate in the law under which DNR issues permits to remove nuisance wild animals. These permits may take 30 days to obtain and are valid for a year. Municipalities would use them for problems such as deer in municipal parks. This situation differs from removal of a fur bearing nuisance animal by an individual which requires no permit, but does require notice to DNR within 72 hours of the removal. The Committee directed the staff to remove from the draft the definition of "person" in two cites that do not pertain to the nuisance animal issue.

5. Changes a reporting date for soil conservation districts to improve program administration.

#### **Issue: Cemeteries; DNR Report & Moving of Pioneer Cemeteries**

**Chairman Lytle** presented a petition signed by more than 2,000 people. The petition states that pioneer cemeteries should not be portable and that it should not be a simple process to move one. The document will be filed with Legislative Services Agency (LSA).

**Jeannie Regan-Dinius, DNR Cemetery Registry Coordinator**, in response to a request from the Committee, reported on progress in the cemetery registry program established under the recently revised cemetery law. She distributed to the Committee a document entitled "Indiana's Statewide Cemetery and Burial Grounds Registry" (Exhibit B). Ms. Regan-Dinius reported that 125,000 burial sites exist in Indiana. DNR partners with local and national groups to assist in the registry work. The goal is by next spring to have a group in all counties partnered with DNR and to have information in Indianapolis on cemeteries in all counties. Ten counties now have cemetery commissions, but most are inactive with no funds. The creation of new cemetery commissions is pending in several counties. The best way that a person can boost local registry work is to contact and work with the local historical society. For problems discovered with abandoned cemeteries, ask a Conservation Officer to investigate the situation. If you find an old cemetery, call Ms. Regan-Dinius, and she will tell you what actions you can take to have it registered and preserve its artifacts.

**Marsh Davis, Historic Landmarks Foundation (HLF)**, stated that HLF is pleased with the work that DNR is doing on the cemetery registry project. The goal, once the data is collected, is to hold a statewide symposium on preservation. HLF welcomes partnership with DNR on the registry project.

**Chairman Lytle** presented a document entitled "Cemetery Restoration Workshop, October 6, 2001, Madison, Indiana" (Exhibit C). He stated that the legislature dealt with the cemetery issue in the last few sessions and has made inroads in the problem. However, this work needs to continue.

**Dan Mathis, DNR**, stated that there are three ways to move a cemetery: (1) court order; (2) state department of health (DOH) permit; or (3) DNR permit from the Division of Historic Preservation and Archeology (DHPA). A DOH permit is used to move one grave and requires permission of the landowner and the decedent's spouse or parent (of deceased child).

**Ms. Regan-Dinius** stated that a DNR permit to excavate a cemetery was granted only once for a project near the Indianapolis airport.

**Lois Mauk, State Coordinator, Indiana Pioneer Cemetery Restoration Project**, distributed a document entitled "How Difficult Is It to Move a Pioneer Cemetery in Indiana?" (Exhibit D). She stated that six cemeteries in two counties are in danger of being moved since January of this year. The problem is that it is just too simple for developers to get a court order to move these cemeteries. There is also the issue of who owns the land if the cemetery plot is an exemption from the developer's deed to the property.

Right now, the information that must be filed to get a court order varies by county. If statute required the filing of certain information, the protection of cemeteries would be improved. This information (from page 17 of Exhibit D) is: owner of the cemetery property; current survey of the property; publication of legal notice of intent to disinter; verification of tax status of the property; acquiescence of the township trustee; disinterment plan prepared by a qualified archeologist; date of last known burial; record of all known stones and markers; and approval of the plan by DNR DHPA. A post-disinterment report should also be required to be filed with the county recorder. Current law does not require a professional to be present on site when a cemetery is disinterred. A funeral director is required on site for a reinterment. Ms. Mauk would like the process of moving a cemetery to be so burdensome that other alternatives are considered.

**John Molitor, HLF**, stated that the situation is disgraceful. As a starting point, a DNR variance should be required to move a cemetery.

There was discussion of various remedies, including removing the court from the process, requiring denial of a DNR variance application before going to court, or appointing someone (perhaps the township trustee) to speak for the "decedents in need of services". DNR representatives stated that it does not have the resources to review all developers requests to move cemeteries. The Committee agreed that cemetery removal is a problem, but do not at this time have a solution. Members will work on this issue during the session.

### **Issue: Constitutional Right to Hunt and Fish**

The Committee considered taking action on a proposed Constitutional Amendment granting a right to hunt and fish (HJ 9202 - Exhibit E). **Representative Ulmer**, author of the legislation, stated that the language of the amendment authorizes DNR to regulate hunting and fishing as they do now. He and Judge Garrard of the Court of Appeals believe that it is important to act now to preserve this right. Chairman Lytle stated that he suggests that this Committee recommend that this amendment be assigned to the Judiciary Committees in the House and Senate because of the judicial nature of the unresolved issues concerning DNR regulatory powers. Members agreed, and the Committee voted 8 - 0 to recommend this proposal.

**Issue: State Museum Commission**

**Doug Noble, State Museum CEO**, described the new museum and its funding which involves a total of \$105M, with \$65M from the state and the balance from private sources. The museum is very close to meeting a major challenge grant from Lilly. Donations come from all over the state. Opening date is May 2002. Because there is a concern about the need for legislation to govern the museum after it opens, legislation is proposed to create a museums commission to govern the properties, including the historic sites. The commission is modeled on the White River State Park law. The commission format is needed to enable specialized activities such as traveling exhibits, special contracts, and insurance of valuable display items. The bill to be proposed today (Exhibit F) is a new proposal, not the bill the legislature saw last year.

**Kent Agness, President, Museum Foundation Board**, explained the membership of the commission that is proposed in the bill. Committee members expressed concern about the need for geographic diversity in membership.

Members asked to be provided with information as to whether the required audit of the museum would be public information.

In response to a question about legislative control, it was stated that the commission will have to visit the General Assembly for money and, at that time, there will be an opportunity to change anything that is objectionable. In addition, there are four legislators on the commission who will provide legislative oversight.

The bill provides that the commission does not operate under the state procurement laws. These laws are not useful in a museum setting.

State employees will be protected in the bill, but the new structure will enable the museum to attract new good staff.

Chairman Lytle commented that the historic sites once had fears of dominance by the museum, but that worry has been corrected in this bill by letting the sites keep all of the money that they raise locally. Mr. Agness stated that the sites were not included early enough in last year's deliberations. This year they were consulted early, and most now see the benefits in joining with the museum. The state procurement laws are also a problem for the sites.

Mr. Noble stated that he would like both the museum and the sites to be more entrepreneurial with multiple revenue sources. The museum has much to share with the sites: exhibit design staff; help with installation, planning, consulting, and conservation; and use of central purchasing for gift store merchandise.

Senator Skillman recommended and members approved changing the language of the draft so that the last two sentences of paragraph (g) on page 2 of Exhibit F read "The nominating committee shall develop policies for ensuring that nominees are Indiana residents and have shown the interest and experience necessary to serve effectively on the Commission. The nominating committee and the governor shall [act to] achieve broad diversity, including geographical balance, among commission members."

**Carol Holliday, Trustee, Lanier Mansion Historic Site**, stated that this site belongs with the museum, although, with one exception, relations with DNR have been good.

**Jack Gallien, T.C. Steele Historic Site**, stated that this bill looks better than the one last year. There is probably more support in his group, but the group has not yet met on the draft.

**Larry Macklin, DNR Director**, stated that he supports the draft 100% and feels that the commission structure is the best path for the museum and the historic sites.

**John Molitor, HLF**, favors separation of the museum from DNR. He is somewhat concerned about whether all historic sites should go to the museum.

### **Issue: Preservation of Historic Sites on State Owned Property**

**Marsh Davis and John Molitor, HLF**, presented a memo (Exhibit G) listing proposals to the Committee concerning state owned historic property. The proposals include an historic property survey, appointing an historic preservation liaison person in each agency having historic property, a state agency education program, providing methods to dispose of surplus historic property, early notification of intent to alter or move an historic structure, and standing for HLF to intervene in court to uphold state law. DNR and HLF work together on all of these proposals except for the one concerning court standing, and DNR agrees with all the proposals except that one. John Molitor stated that only the court standing proposal requires legislation. Chairman Lytle stated that he would review the request.

### **Issue: Off Road Vehicles**

**Roy Garrett, Discover Indiana Riding Trails and Indiana Four Wheel Drive Association**, provided a handout (Exhibit H) outlining legislative requests of these organizations. The requests include enabling off road vehicles to register at the Bureau of Motor Vehicles (now done only at DNR), increasing the registration fee from \$6 to \$15, enabling DNR to use the revenue from the fee increase to acquire land for trails, and changing the requirements for the display of registration numbers on these vehicles.

**John Davis, DNR Deputy Director**, does not want DNR to be mandated to acquire sites for off road vehicles. DNR is currently in the process of doing a pilot project with off road trails at an abandoned strip mine location (Red Bud). The Red Bud project is bringing national recognition to DNR. However, DNR has not yet decided if public or private ownership of trails is the best approach.

**Jeff Wells, DNR Law Enforcement**, stated that the off road vehicle registration process needs to be looked into. Many of these vehicles avoid registration. The display problem is real; there is not enough space on the vehicles to show the numbers. The proposal to affix only a decal is workable.

**Brendan Kearns, Discover Indiana Riding Trails**, presented handouts (Exhibit I) of newspaper articles concerning the off road topic. There are no state facilities in Indiana for off road vehicles. Registration brings in money that just sits in the fund and is not used

(other than for administering the registration system and publishing brochures).

**Chairman Lytle** advised this group to work with DNR to address concerns and to get a legislator to introduce their legislative proposal.

**Introductions:**

**Chairman Lytle** introduced **Dwight Brooks, Property Manager at Mc Cormick's Creek State Park**. Mr. Brooks welcomed the Committee to the facility.

**Issue: Horse Trails (continuation of meeting 3):**

**John Davis, DNR**, reported on plans to visit the Salamonie site and to meet with the parties concerned with DNR's plans for that horse trail. **Ron McCoy, Indiana Trail Riders Association**, thanked DNR for the opportunity to meet, and expressed hopes that this issue can be resolved satisfactorily.

**Issue: Agenda Item Concerning Property Tax Replacement:**

This item will not be discussed today as interested parties are not in attendance and the topic is being studied by other committees of the legislature.

**Issue: Committee Recommendations to the General Assembly**

**The Committee made the following recommendations:**

1. **Constitutional Amendment , Right to Hunt and Fish** (HJ 9202 - Exhibit E) - adopted without change by a vote of 8 - 0. The Committee recommends that this amendment be assigned to the Judiciary Committees in the House and Senate because of the judicial nature of unresolved issues concerning DNR's regulatory powers. Representative Ulmer, who is not a Committee member, will be the author of this joint resolution.
2. **Final Report** (Exhibit J) - adopted without change by a vote of 7 - 0.
3. **DNR Legislative Proposal** (PD 3455 - Exhibit A) - adopted by a vote of 7 - 0 with changes to remove two instances of the proposed change in the definition of "person" . Chairman Lytle will introduce this bill in the House, and Senator Wheeler will introduce this bill in the Senate.
4. **Fishing License Fee, Age 65** (PD 3190 - Exhibit K) - adopted by a vote of 6 - 0 with changes to remove references to "hunting" from the draft so that the bill applies only to fishing licenses. The author is this bill will be announced at a future time.
5. **Driver's License Penalty for Game Law Violations** (PD3399 - Exhibit L) adopted with no changes by a vote of 6 - 0. Representative Bottorff will be the author of this bill.
6. **Boat and Boating Matters** (PD 3393 - Exhibit M) adopted by a vote of 6 - 0 with changes to remove the 50% excise tax reduction for boats not registered in Indiana. Representative Pond will author this bill.

7. **Museum Commission** (Exhibit F) adopted **in concept** by a vote of 6 - 0 with changes concerning diversity in membership as described in the body of these minutes and with the addition of transition language and other details to be coordinated by LSA. Representative Lytle will be the author of this bill.

**Adjournment:** There being no further business for this day, **Chairman Lytle** adjourned the meeting at 5:30 P.M.

**Day 2; October 24, 2001**

**Members Present:** Rep. Markt Lytle, Chairperson; Rep. James Bottorff; Rep. Richard Mangus; Rep. Phyllis Pond; Sen. Potch Wheeler; Sen. Richard Young; Sen. James Lewis.

**Members Absent:** Sen. Becky Skillman.

**Staff Present:** Jeanette Adams, Legislative Services Agency  
Bernadette Bartlett, Legislative Services Agency

**Call to Order:** Chairman Lytle called the meeting to order at 8:15 A.M.

**Issue: Flintlock Rifle Deer Hunting Season; DNR Report**

**Rep. Bottorff** stated that the Clark County Conservation Club uses flintlock rifles and would like to have a separate hunting season for them to increase interest in flintlocks.

**Jeff Wells, DNR,** stated that flintlock rifles can now be used to hunt deer during the season for regular firearms and during the muzzle loading rifle season. Flintlocks can also be used to hunt game other than deer. DNR does not have data on how many people hunt with flintlocks. DNR keeps data on the kind of license used to take deer, but not on the kind of weapon used. There are other types of specialized weapons that also would like their own separate seasons. DNR will provide information on the number of shotgun, muzzle loader, and archery licenses sold.

**Issue: Silt Build Up in Lakes; DNR Report**

**Mike Massonne, DNR,** stated that there are many silt removal projects involving many groups. These projects often involve dredging sediment from the bottom of lakes. Silt is especially a problem in freshwater lakes in the north and in the manmade reservoirs. It is part of the natural life of a lake. Lake Shafer is being dredged now. Spring Mill Lake is a big problem area that is being worked on. The lake at Versailles State Park is filling up. The main point is that many lakes have silt problems, and that DNR looks for the best way to solve the individual problems.

**Issue: Non Game Wild Animals; DNR Report**

**Jeff Wells, DNR,** told the Committee that there are two ways to possess a wild animal in Indiana. DNR offers a wild animal permit that lets a person have one lion, tiger, bear, or

wolf per permit. There is also a U.S. Department of Agriculture (USDA) permit which is better for public display since it allows multiple animals on one permit, allows for a large variety of animals, and enables the holder to take the animals across state lines. Twelve Indiana permits are currently valid, all for large cats. A state permit does not allow breeding and requires obtaining a permit when an animal is six months of age. Conservation Officers (CO) inspect animals prior to issuance of a state permit, and the USDA inspects for its permits. The state Board of Animal Health can also become involved when there are issues of humane treatment.

**Question: Number of Conservation Officers**

**Jeff Wells, DNR**, reported that there are 215 CO's authorized and there are 11 vacancies. Most of these officers are in the field.

**Adjournment:** There being no further business, **Chairman Lytle** adjourned the meeting at 10:00 A.M. This will be the final meeting of the 2001 interim.