

NATURAL RESOURCES BOARD

Minutes

The regular meeting of the Natural Resources Board was held on Wednesday, October 22, 2003, at Park Plaza Hotel, Glacier Rock, 630 West Pine Street, Baraboo, Wisconsin. The meeting was called to order at 8:30 a.m. All October Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair
James E. Tiefenthaler, Vice Chair
Gerald W. O'Brien, Secretary
Herbert F. Behnke
Jonathan P. Ela
Howard D. Poulson
Stephen D. Willett

ORDER OF BUSINESS

1. Minutes to be approved.
- 1.A. Full Board Minutes of September 2003.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, approval of the Full Board Minutes of September 2003, as presented. The motion was carried unanimously.

- 1.B. Agenda for October 21-22, 2003.

The following has been changed: deferred 3.B.7. Mead Wildlife Area land acquisition-Marathon/Portage Counties; 4.F. American Fisheries Society Sport Fish Restoration Outstanding Project of the Year Award and 4.G. Report of farm inspections on depredations by wolves have been added; and 7.C. Milwaukee Chapter of Great Lakes Sport Fishing Donation has been added.

With that change, Mr. Tiefenthaler MOVED, seconded by Mr. Willett, approval of the Agenda for October 21-22, 2003, as presented. The motion was carried unanimously.

2. Ratification of acts of the Department Secretary.
- 2.A. Real estate transactions.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien that the Board approves the real estate transactions as presented. The motion was carried unanimously.

3. Operating Committees.
- 3.A. Air, Waste and Water/Enforcement Committee.
- 3.A.1 Minutes. There were no Committee minutes for September 2003 since all agenda items were taken up during the Full Board Meeting.
- 3.A.2 Adoption of Order DG-30-03 - revision of Chapter NR 809, Wis. Adm. Code, pertaining to arsenic in drinking water.

Michael Lemcke, Section Chief, Groundwater Management, presented the following: In 2001, the Environmental Protection Agency (EPA) set a new standard for arsenic in drinking water to 10 micrograms per liter, which went down from 50 micrograms per liter. The department rules estimates that there are 80 public systems in state that could potentially be impacted by this rule. The EPA requires adoption of this

number, the federal government put forward a delayed effective date for the systems to be implemented in order to allow time for building these infilstructures, that date is in 2006. The Department of Natural Resources held a joint hearing on NR 809 and NR 140 in Oshkosh. Much to our surprise there were only 4 people who attended and no comments.

A joint meeting was held for both 809 & 140 by teleconference in Eau Claire, Green Bay and Waukesha. The Wisconsin Rural Water Association saying that here is another mandate that the systems are going to have to take on to bring this up to speed. It was just a statement of fact. Interest in 809 and was expressed by Senator Robert Cowles of Green Bay.

Stephen Willett - That particular concern that the association raised, has been a concern of a number of the smaller municipalities. You are probably familiar with the fact that Phillips, WI is struggling terribly with phosphorus and it has cost them their bonding limits that they still have not got in order. Do we know exactly what the cost is going to be for this?

Michael Lemcke – I do not know the cost of the numbers. My understanding is that until two years or so ago the state revolving loan fund pretty much favored the larger municipalities. Now the laws have changed so that smaller entities have a much better chance of building that type of infrastructure.

Stephen Willett – Is the technology sufficient today? I see that the start dates would start in 2006 to correspond with the Federal start date. The rural community municipalities that I have contact with are concerned with the technology. Are you confident that the technology exists today to do this?

Michael Lemcke – Yes, I am confident that the technology is here to do this. I think that there are several different types and there are additional types coming out. I am much more confident on the small home owner type facilities. Over the last 5 years we have worked with people and actually built those types of systems as point of entry into a home or at the tap. And I know that talking with both the public systems section and Don Swailes that I was assured that there was technology to do that.

Trygve A. Solberg – Steve, maybe we should wait till Don gets here for these questions.

Stephen Willett – I think we should do that before we vote. I just have one other area of concern and maybe you will want to wait until later for this question. And that is the idea of multi-pollutants. Can arsenic be picked up with other pollutants or do we have to have stand-alone technology?

Michael Lemcke – It can be picked up with other pollutants. Basically, the whole water softening system in a house is an excellent way to pick up arsenic.

Trygve A. Solberg – Does that make sense that we move onto the next item? Mr. Lemcke please move onto the next item.

Mr. Willett – We were concerned about the cost and how it would impact the various facilities.

Don Swailes – We do not know exactly what the cost will be for each facility until the systems begin treatment. There are other factors that could affect the cost to the facilities. Not all of the facilities around the state would have to under go these types of changes, therefore different cost factors exist. What we are trying to do is come up with a high estimate if all facilities had to treat. Since treatment standards would not have to be met until 2006 there is a possibility that new technology would be available at a lower cost.

Stephen Willett - Bottom line is we do not know. \$10,000 a plant or a million a plant?

Don Swailes – Again it would depend on the size of the system and again I can not tell you.

Stephen Willett – Don, do you believe the technology is currently there today to do this?

Don Swailes – The technology is definitely there to move forward with this endeavor. The problem with the technology is arsenic is difficult to remove. To aid in the costs we have applied for a grant from an EPA pilot testing program which we have applied for and have an opportunity to be selected.

Stephen Willett - I recognize the need to address these areas but my concern is that I don't want to cripple already good programs. I would like to know that arsenic will be dealt with. Secondly I would like to know that it would not close down my municipality.

Don Swailes – Arsenic can be removed with other contaminants. There are some systems that you may remove contaminants like iron. During that process they remove some of the arsenic with the iron and this is an inexpensive way to do this. Yes, there are some other technologies that will allow for the removal of multi-pollutants.

James Tiefenthaler – Mine was just the second part of the rule for clarification of monitoring and demonstration of compliance and what is the cost associated with those clarifications?

Don Swailes – What is different is now regulations apply to each entry point in the distribution system. So, if the system has 10 wells instead of taking one sample one must now take 10 samples. And what one of the clarifications is that if any of those 10 violate then the system has a violation. Cost wise it probably won't make a difference.

Gerald O'Brien – According the green sheet we are required by the EPA to do this. Do we have any flexibility?

Don Swailes – No, I can tell you we are as frustrated as you are.

Stephen Willett – My concern is there needs to be some type of variance program to allow smaller communities the opportunity to have options on funding and exemptions on deadlines for compliance.

Mr. Tiefenthaler MOVED, seconded by Mr. Ela that the Board approves the adoption of Order DG-30-03 - revision of Chapter NR 809, Wis. Adm. Code, pertaining to arsenic in drinking water as presented. The motion was carried unanimously.

- 3.A.3. Adoption of Order DG-32-03 - revision of Chapter NR 140, Wis. Adm. Code, pertaining to groundwater quality standards for arsenic.

Michael Lemcke, Section Chief, Groundwater Management. Amendments are proposed to revise the existing state groundwater quality standards for arsenic. We would like to establish an Enforcement Standard for arsenic to 10 micrograms per liter and the Preventive Action Limit for arsenic to 1 microgram per liter. The public health risk of arsenic is very high and there is a health risk of getting cancer from this chemical at this level. I have seen that we have a lot of issues with it in the resource. We have a real issue in Oshkosh and Algoma and the adoption of this order will give us another tool. I have as samples coming in and people will see the levels and for those levels that are above the norm people will be contacted and will have some options.

Stephen Willett – Does the technology exist to remove arsenic in conjunction with other particulate? And are their substantial costs involved?

Michael Lemcke - There shouldn't be higher costs involved however there could be a higher cost factor. It depends on how clean you want things. Ideally, the best way to clean it is with a para-removal system that would remove iron and arsenic.

Stephen Willett – And that system with a little altering will remove this?

Michael Lemcke - Yes, it really doesn't matter, the concentration of iron shalates or arsenic they would be removed.

Trygve A. Solberg – If there is no further questions what were adopting here is green sheet 3A3. At this time adoption of Order DG-32-03 Revision of Chapter NR 140, Wisconsin Administrative Code, pertaining to groundwater quality standards for arsenic.

Mr. Willett MOVED, seconded by Mr. Poulson, that the Board approve the adoption of Order DG-32-03 Revision of Chapter NR 140, Wisconsin Administrative Code, pertaining to groundwater quality standards for arsenic, as presented. The motion was carried unanimously.

- 3.A.4. Adoption of Order WT-27-03 - revision of Chapters NR 104, NR 105, NR 106, and NR 210, Wis. Adm. Code, pertaining to ammonia nitrogen water quality standards.

Duane Schuettepelz, Section Chief, Wastewater Permits & Pretreatment. Ammonia nitrogen that is present in domestic and some industrial wastewater, has been shown to be toxic to aquatic life. Just briefly to summarize ammonia is present in sanitary sewage and we have been regulating ammonia discharge for many plants in the state for many years. There are about 240 municipalities that currently have ammonia effluent limits in their permits. In 1999, EPA published new criteria to replace old criteria from the mid-1970's. We are proposing to adopt new criteria and implementation methodologies that are part of our WPDS permit program. There were four public hearings held in July and 30 people attended. There were 4 oral comments and 3 additional written comments. The final rule proposes to adopt criteria for both acute exposure to aquatic life and chronic exposure to aquatic life. In general the proposed criteria are less restrictive than the values that are currently being used in developing permit limitations. Most facilities that currently have ammonia limits will be capable of achieving the limits without any further modifications to their facilities. Treatment plants that will primarily be affected are lagoon systems that are operated by small municipalities around that state. Many of these will be able to achieve these limits that will be included in their permit by changing their operation. Some of those plants may choose to replace those wastewater treatment systems as part of attaining the requirements of the rule. Rick Reickert is the lead person who developed this rule and is here to answer any questions that you might have.

Stephen Willett – My understanding is that there are about 160 facilities that are primarily rural that may be affected. Do we know what needs to be done? Whether it is reconfiguring the lagoon by emptying it out or are we talking about replacing the entire system?

Duane Schuettepelz - That will depend on the system itself. What we expect will happen in many communities is that there will be an expansion of the lagoon system or changes in the operations so that they can operate on a fill and draw basis. The ammonia in the lagoon system is a problem primarily in the winter and early spring. Once the lagoon turns over it opens up in the summertime the ammonia is essentially nitrified in the lagoon system. But when there is ice cover and cold temperature the bacteria shut down so the ammonia accumulates in those lagoon systems over the winter. So, municipalities can operate those systems so that they discharge after the spring season once the lagoon opens up. Through the summer period discharge late into the fall like now before the ice cover comes before they get really cold they should be able to operate those systems. Again, it may require an expansion to have enough capacity for the water or sewage that accumulates in those systems during the wintertime periods.

Stephen Willett – My concern is that the very rural and small systems, like Hawkins a little town about 400 people they do have a municipal system that works pretty well. But it taxes their financial reservoirs pretty substantially. Are you saying that they may have to go to a different system?

Duane Schuettepelz – Again that would be a choice of the community as to whether they abandon the lagoon type system in favor of something more viable. Or they could retain the lagoon system and expand it at additional capacity and operate in that fashion. Now not all of those 160 communities are going to be required to do anything. We've done some additional survey work and have worked with a consultant in the past couple of weeks. We estimate that about half of the lagoon systems will be affected or potentially affected by this rule.

Stephen Willett – Do we know how much this will cost to build these?

Duane Schuettepelz – We have not made any specific cost estimates and those again are going to be dependent upon on what option is chosen in each municipality. Whether they can achieve these requirements through operational means which will be a relatively inexpensive cost such as if they already have enough capacity in their lagoon to operate in a fill and draw basis. Virtually no cost is associated with it; they just hold the wastewater in the wintertime and then discharge in the springtime.

Gerald M. O'Brien – Are there any state or federal grants or loan programs associated with it?

Duane Schuettepelz – Certainly the loan program is available for those who upgrade. Then there is a Hardship loan abilities for those communities as well.

Stephen Willett - My concern is fairly large. I've watched small municipalities' struggle with phosphates and our estimates were short. There coming into compliance is taking a couple of extra years and something as large as ammonia is a very difficult situation as you say in monitoring it. And I would really hate to pass a rule and not know its effect. I would hate to see it totally close down the systems.

Duane Schuettepelz – Well I don't think we would ever be in a position to close down systems. One thing that I did not get to is that we've created a system to have an automatic variance, for those lagoon systems over the first term of the permit. So, during the first term, which is a 5-year period the municipality would have the opportunity to evaluate their systems to see which way they would choose to go. Whether operation or to completely replace their facility then those terms would be placed in the second term of the permit. Which would be five years after that permit initial permit issuance following the promulgation of the rule. During which they would implement the active to meet the limitations. So, were talking here of actual implementation of a 8 to 13 year time after the date of the promulgation of the rule when these facilities would have to be implemented. Many of these systems were placed in operation with a presumed 20-year life about 20 to 25 years ago. So, many of these systems are approaching their design life and it's probably time to think about how we want to deal with these systems. They very well might be in need of redesign.

Stephen Willett – Can the remediation of ammonia be done in conjunction with multi-pollutants or do we have to have this redesign just for this issue?

Duane Schuettepelz – The technology used for the removal of ammonia is very similar to the technology used for the removal of BOD or organic materials of the systems. Phosphorus is another separate treatment process. But essentially ammonia or nitrification is an aeration process just like zucoid in normal wastewater treatment plants. As I indicated in the lagoon systems it is the natural aeration that occurs in many of those plants. It is the natural aeration with these lagoon systems that removes the both the BOD and the ammonia nitrify. It is not another treatment process.

Stephen Willett – So once the technology develops it can be used to resolve other issues?

Duane Schuettepelz – Right. If the municipality needs to expand there plant for example due to population growth or history or whatever.

Stephen Willett – You made the statement and I agree with you that most of these treatment systems are at least 20 years old. However, they have continued to make upgrades almost annually and they are not out-of-date. Most of them are pretty good systems. Do you see the need to totally revamp many of our systems?

Duane Schuettepelz – No, I don't think that is totally necessary at all. I think there will be a continuing need and perhaps a growing need for additional wastewater treatment capacity at municipalities around the state. Obviously small lagoon systems but larger municipalities as well.

Stephen Willett – Does the Department have a strategy to address that with the Legislature?

Duane Schuettpelz – I am not aware that there is anything like that.

Stephen Willett – Mr. Secretary do you think it would be worth our efforts to explore that? If the state is going to face the issue of substantial requirements for our municipalities to reach the new demands I think the Legislature is going to have to revisit the bonding issue of the Wisconsin Fund. In the event that worked well but I think it is pretty well exhausted. If we are going to continue down the road we need to look at the overall impact and funding as well as the strategic planning and goal.

Duane Schuettpelz – I don't disagree. At the national level there has been discussion on the water infrastructure needs. A number of studies have been done by organization and associations and a variety of these organizations have been talking about the funding situation.

Stephen Willett – It is interesting however that that discussion was going on when the clean water act was implemented and the Feds did not assist us. They expect as a delegated agency we take care of it. Again Wisconsin did a marvelous job implementing the program. If we are going to be doing this it should be part of an overall strategy, knowing where we are, where we want to go, how much it is going to cost and where we are going to get that money. This is an unfunded mandate and I can tell you living in a little village in the heart of the Chewomegon National Forest we don't have any money. We don't.

Trvgve A. Solberg - If there is no other comment we have one other appearance on this.

Gerald M. O'Brien – We have been going a number of years without this. How critical is this? Have we been killing a lot of fish?

Duane Schuettpelz – Well it's difficult to say if we have been killing a lot of fish with the pollutants in the water. Obviously these lagoon systems that the ammonia is coming out of are not currently regulated. The current levels of ammonia can be in the 20 – 30 milligrams per liter range and the levels that we would be requiring people to have are probably in the area of 5 – 10 milligrams per liter or less. Fish avoid toxic materials in general. If they are exposed to them they will move away from them. So, you will not see a fish killed but it impairs the ability of that local area around the outfall to support fish life. Basically what we are doing is bringing everybody up to the same level. We currently have a couple hundred municipalities who have ammonia removal systems in place under our existing rules. And we are now bringing everybody up to the same level so we have a consistent way of calculating limitations.

Trvgve A. Solberg - Any other questions at this time? If not is Amy Tutweiler here?

Amy Tutweiler, Attorney with Anderson and Kent – I am here on behalf of the Municipal Environmental Group (MEG). The wastewater division at MEG is a group that is an association of over 80 municipalities throughout the state who own and operate wastewater treatment facilities. We represented MEG on the advisory committee that developed the approach generally reflected in these rules. Consequently we know firsthand the efforts the department staff and committee members made in developing these rules. First and foremost we want to thank the department and the staff lead by Rick Reickert for facilitating an excellent rule making process that allowed the detailed analysis required for developing ammonia water quality rules best suited for Wisconsin waters. Overall MEG does not oppose these rules as proposed and views them as well designed to implement the Federal water quality criteria. At the same time, we very much want to echo what we're hearing from Mr. Willett about the concerns of the impact of lagoon systems. We came here today to speak on that issue as well. The impacts on some of these smaller communities are going to be critical. Particularly when they cannot consistently meet the ammonia limits. And in some cases as we have heard today those systems may have to be replaced. We very much appreciate the department's response to this issue in developing a variance process but we are very concerned about what will happen after those variance terms end. Just as we heard today we hear all the time from our smaller constituents about the number of regulations that are affecting their ability to meet wastewater treatment demands.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, that the Board approve the adoption of Order WT-27-03 - revision of Chapters NR 104, NR 105, NR 106, and NR 210, Wis. Adm. Code, pertaining to ammonia nitrogen water quality standards, as presented. The motion was carried unanimously.

- 3.A.5. Adoption of Order AM-17-03 - revision of Chapters NR 460, NR 465, and NR 484, Wis. Adm. Code, pertaining to national emission standards for hazardous air pollutants for facilities that apply surface coatings to large appliances.

Caroline Garber, Program Manager, presented the following: I am here today to request that the Board adopt the Federal emission standards for hazardous air pollutants for surface coating of large appliances. We took this rule out to public hearing in May. No comments were made. This rule is the same as the Federal rule and is no more restrictive than that rule. The only difference is the rule making policies and procedures.

Mr. Willett MOVED, seconded by Mr. O'Brien, that the Board approve the adoption of Order AM-17-03 - revision of Chapters NR 460, NR 465, and NR 484, Wis. Adm. Code, pertaining to national emission standards for hazardous air pollutants for facilities that apply surface coatings to large appliances, as presented. The motion was carried unanimously.

- 3.A.6. Authorization for hearing on revision of Chapter NR 6, Wis. Adm. Code, pertaining to snowmobile noise testing procedures.

Karl Brooks, Snow/ATV Law Administrative, presented the following: In Wisconsin rules and statutes there are no effective tools used for snowmobile noise. Current state statute requires manufacturers to comply with certain noise levels. However, there is another alternative that the department in cooperation with the snowmobile manufacturers developed. A different national standard to measure snowmobile noise emissions. This test utilizes equipment that the department currently possesses. Persons or groups that would be impacted by this rule would be individual snowmobile operators who have either failed to maintain their machine or have modified their exhaust system. This will have a positive effect on the landowners, Snowmobile clubs and associations.

Gerald M. O'Brien – Practically speaking are these isolated incidents of noise disturbance?

Karl Brooks – Yes. Landowners who currently have snowmobile trails on their property have refused to allow snowmobiles on due to the noise from these loud exhausts.

Stephen Willett – Current manufacturer standards are currently at what decibel level?

Karl Brooks – 78 decibels.

Herbert F. Behnke – What about older machines 1972 or earlier, will they be in compliance?

Karl Brooks – If snowmobile operators have maintained their machines mufflers should be up to date because of the manufacturer phase in period.

Jonathan P. Ela – If machine maintenance has after market parts, would this cause the exhaust to be louder? With the louder exhausts will that eliminate trail usage?

Karl Brooks – If an operator has put on after market parts the machines exhaust could be louder. This is one reason some landowners have removed their property from snowmobile trails. These same technologies could be used for ATV's.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, that the Board approve the authorization for hearing on revision of Chapter NR 6, Wis. Adm. Code, pertaining to snowmobile noise testing procedures, as presented. The motion was carried unanimously.

3.B. Land, Management Recreation and Fisheries/Wildlife Committee.

3.B.1. Minutes. There were no Committee minutes for September 2003 since all agenda items were taken up during the Full Board Meeting.

3.B.2. Authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial and sport fishing for yellow perch in Green Bay.

Michael Staggs, Bureau Director, Fisheries Management and Habitat presented that in 2001 the department brought to the Board an adoption to reduce the recreational and commercial harvest of yellow perch from Green Bay. The sport fishing bag limit was lowered from 25 to 10 and the total allowable annual commercial harvest was reduced from 200,000 to 20,000 pounds. Those rules will expire on June 30, 2004. Monitoring of the yellow perch population has shown no recovery of the adult population to date. There was a large hatch of yellow perch in 2003 but even if they survive to adults would not be of harvestable size until 2006. The Department recommends extending the current bag limit and commercial quota until June 30, 2006, while continuing to monitor the adult population.

Mr. Willett MOVED, seconded by Mr. O'Brien, that the Board approve the authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial and sport fishing for yellow perch in Green Bay, as presented. The motion was carried unanimously.

3.B.3. Authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial trap net in Lake Michigan and Green Bay.

Michael Staggs, Bureau Director, Fisheries Management and Habitat presented that standards have been developed for marking all commercial trap nets used in Lake Michigan and Green Bay. Department law enforcement and fisheries staff has worked extensively with affected commercial fisherman and sport anglers to develop the standards and believe there are now good agreement on these standards. We ask that the Board approve the hearing authorization on these new standards.

Mr. Willett MOVED, seconded by Mr. O'Brien, that the Board approve the authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial trap net in Lake Michigan and Green Bay, as presented. The motion was carried unanimously.

Dick Steffes, Section Chief, Real Estate, presented the following land items:

3.B.4. Big Muskego Lake Wildlife Area land acquisition - Waukesha County.

Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, that the Board approves the purchase of 19.60 acres of land from Harold Heinrich for \$174,244 for the Big Muskego Lake Wildlife Area in Waukesha County, as presented. The motion was carried unanimously.

3.B.5. Governor Knowles State Forest Area land acquisition - Polk County.

Mr. Willett MOVED, seconded by Mr. Behnke, that the Board approve the purchase of 80 acres of and from Vincent Menke for \$200,000 for the Governor Knowles State Forest in Polk County, as presented. The motion was carried unanimously.

3.B.6. Jackson Marsh Wildlife Area land acquisition - Washington County.

Mr. Tiefenthaler MOVED, seconded by Mr. Ela, that the Board approves the purchase of 32 acres of land from James Lindsay for \$175,000 for the Jackson Marsh Wildlife Area in Washington County, as presented. The motion was carried unanimously.

3.B.7. DEFERRED - Mead Wildlife Area land acquisition - Marathon and Portage Counties.

3.B.8. Statewide Habitat Area land acquisition - Oconto County

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, that the Board approves the purchase of 47.41 acres of land from Donald and Patricia Zeller for 256,000 for the Statewide Habitat Area in Oconto County, as presented. The motion was carried unanimously.

3.B.9. Statewide Public Access land acquisition - Calumet County.

Mr. Ela – I don't have any doubts that this is a meritorious project but it seems to me that it comes on the category of local assistance instead of the Stewardship Fund land acquisition category. What is this not a local assistance project?

Richard Steffes, What I think is happening here is the Northeast Region folks have made extra efforts with local government to manage our boat landings. If this were in the South Central Region this would be DNR owned and operated. This would still be public access we would want to buy. The only difference in the Northeast Region the staff there has gone to great efforts to get local units to manage their boat landings. From our point of view it means less staff time and it means grant seeking and from the public's point of view it is still managed the same. This is a boat landing for other fisherman and users of the lake.

Mr. Ela – Do you have any sense of where these fishermen are coming from? How many are from Calumet County? And how many are from outside of Calumet County?

Richard Steffes – Well a lot of people enjoy Lake Winnebago and will drive along ways to go to it.

Mr. Tiefenthaler – I can tell you that they are coming from out of state, everywhere. They'll use it.

Mr. O'Brien – How close are the nearest boat landings?

Richard Steffes – We have one in Fond du Lac and there are boat landings there and then you have this one which is in Brothertown which is all privately owned. North is one in Quincy that is not a safe landing in a storm, the next is Stockridge which is very similar to what we would like to do here. And then if you go farther North to High Cliff State Park there is one there. And we feel that we need to acquire this one as it would make a safe landing in the storm.

Mr. O'Brien – We are really buying for the landing rather than the parking spaces.

Richard Steffes – Yes, it would add additional parking but also provide a safe landing in storms.

Mr. Tiefenthaler – Is Calumet County going to be charging a fee?

Richard Steffes – I do not know what the limits are but we have an administrative code on the limits.

Mr. Ela – It still strikes me in the terms of allocations of the Stewardship Fund that we approved last meeting that this more appropriately comes out the local assistance pot rather than the Statewide Land Acquisition Fund. Is it possible to allocate it that way without going through the grant procedure?

Richard Steffes – Well we'd have to go through a grant and there is no guarantee that the county would take it under those conditions. With the grant they would have to pay half and our people feel that they have done a fair amount of business in talking them into managing the area. And if they would have to buy it too, I do not know if they would be able to do it.

Mr. Solberg – You know a number of years ago there was a rule passed depending upon the size of the Lake every lake had to have public landings so the Department has been actively purchasing these landings all around the state.

Mr. Tiefenthaler MOVED, seconded by Mr. Behnke, that the Board approve the purchase of 1.04 acres of land from Marvin Stroobants (Brothertown Harbor) for 198,000 for the Statewide Public Access in Calumet County, as presented. The motion was carried unanimously.

3.B.10. Lower Wolf River Bottoms Wildlife Area - Waupaca County.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, that the Board approve the purchase of 80.02 acres of land from Donald and Judith Zeuske for 264,000 for the Lower Wolf River Bottoms Natural Resources in Waupaca County, as presented. The motion was carried unanimously.

3.B.11. TABLED ITEM FROM SEPTEMBER - Lower Wisconsin State Riverway land acquisition - Richland County.

Mr. Ela – I think that the questions that were raised at the last meeting were entirely appropriate. They were exactly the kinds of questions that should be raised. This is what we are here for. I had no problem going to investigate the site. In fact I enjoyed it. But I did find the fire drill that came afterwards quite frustrating. That is, the suspense we had about whether we could in fact approve this deal before the option expired. This should be completely unnecessary. We should have enough time that we can raise objections at one meeting and then reconsider at another meeting before the option expires. And I do not understand why that is not the case. In more than half the land acquisition authorizations we are considering today, for example, the options expire before our next meeting, and we would have to go through the whole thing in a similar way if we were raise objections. I would like to make the request that unless there are exceptional circumstances that there always be enough leeway as these are presented to the Board so that if we have questions we can take it up at the next regular meeting without having to schedule a conference call.

Mr. Tiefenthaler – These could be written in the terms of an option.

Mr. Behnke - I think part of the problem is the speed at which it moves through the bureaucracy from the time that they send it into the field until the finalized offer. But I would think they could streamline it.

Mr. Solberg – If it is possible it makes sense.

Richard Steffes – Typically, we take a 90-day option. I think it is probably critical for us to get it to the earliest Board meeting because if we miss the month we have less time. The other thing that we could do is look at a 120-day option for Board items. Years ago, we did do a 4-month option for Board items and a 3-month item for routine items. So, we could go back to typical Board items back to 4 months.

Mr. O'Brien MOVED, seconded by Mr. Ela, that the Board approves the purchase of 13.83 acres of land for 211,000 for the Lower Wisconsin State Riverway in Richland County, as presented. This motion carried.

Citizen Participation – Dr. Robert Salzer speaking about the archeological significance of Lower Wisconsin State Riverway land acquisition. As President of the Cultural Land Liberties, nearly all mound groups are on land owned by the DNR in the state. Mounds indicated in our tour show 85 to 90% of the effigy mounds have been destroyed. The purchase of the Boyer property would allow for many years of educational and scientific value for Wisconsin residents and tourists. The Ho Chunk Nation concluded by resolution that all 4th graders are required by law to tour the effigy mounds promoting the educational value. These lands will become part of the cultural land legacy and offer significant educational and scientific opportunity.

3.B.12. DEFFERED - Statewide Wildlife Habitat Area land acquisition and donation - Green Lake County.

3.B.13. Ice Age Trail Area land acquisition and donation - Polk County.

Mr. Tiefenthaler MOVED, seconded by Mr. Ela, that the Board approve the purchase of 80.5 acres of land from Spike Mayes for 125,000 for the Ice Age Trail in Polk County to include the 5500

donation from the Ice Aged Park & Trail Association, as presented. The motion was carried unanimously.

3.B.14. Gift Lands Area donation - Iron County.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brein, that the Board approves the donation of 12 acres of land from the Town of Knight for the Gift Lands in Iron County, as presented. This motion carried.

Mr. Solberg – It has been brought to my attention that we would like to amend the agenda. There are a couple air toxic rules and mercury rule that we would like to address under Secretary's Matters if I hear a motion to amend the agenda.

Mr. Willett – If you noticed the Board of Regents got in really hot water over the issue of not giving proper public notice.

Mr. Solberg – There is a timing issue here.

Mr. Willett – Both of these are very important rules and we need to provide our consideration into it.

Mr. Solberg – We should have a conference call to address the issues.

Mr. Willett – We can deliberate, we can talk about it but we should not take a vote today on it.

Mr. Solberg – Mr. Willett and others have voiced concerns on this that this was not properly noticed and that we can discuss this and maybe instead of voting on it that we may need a conference call later on. Will that suffice?

Mr. Shea – Yes.

Mr. Solberg – We can put this on as an informational item under E and F. And we can later have a conference call and take care of these items. We will then amend these under Secretary's Matters.

Secretary Hassett – Then we can still meet the deadlines.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, that the Board amends the agenda to reflect under Secretary's Matters items E and F for air toxic rules and mercury rule, as presented. This motion carried. The motion was carried unanimously.

1. Committee of the Whole.

4.A. Citizen Participation.

George E. Meyer, on behalf of the Wisconsin Wildlife Federation. The Wisconsin Wildlife Federation would like to bring a matter to your attention regarding the loss of raccoon hunting opportunities in Metro Deer Units as an unintended consequence of changing the Metro deer hunting units from an extended deer hunting season to a permanent deer hunting season a couple of years ago.

When the Metro deer units were established as an extended season, there was concern that raccoon hunting at night would be lost since it would be "after hours". Language was worked out with staff that allowed the nighttime hunting of raccoon during the extended Metro unit deer hunt except for the days of the traditional nine-day gun deer season.

Therefore we are asking the Board to request the Department staff to initiate a housekeeping rule change to address this issue in time for the 2004 raccoon-hunting season.

Mr. Solberg – I think this is something that we can ask the Department to address. I think they are definitely reasonable changes.

Mr. Ela – Is this something that something that should go to the Conservation Congress?

Mr. Solberg – It looks more like a housekeeping rule. Steven Oestreicher, Chairman of the Conservation Congress, said no, don't worry about it.

George E. Meyer, on behalf of the Wisconsin Wildlife Federation. The Wisconsin Wildlife Federation encourages the Natural Resources Board at its meeting today in Baraboo, Wisconsin to reaffirm its prior decision to adopt mercury emission regulations. As the Wisconsin Wildlife Federation testified at your June meeting, this is an important health issue to our members and their families. The sooner that Wisconsin utilities start to implement the reductions called for in the regulations, the sooner there will be less mercury going into our lakes, our fish and our children.

The respective Senate and Assembly Committees returned this matter to you for more discussion. Time is now of the essence. If the proposed set of regulations is not returned back to the Legislature, it may well delay the regulations for another two and one-half years. The Wisconsin Wildlife Federation along with the remainder of the petitioners has been patiently waiting for these rules for over three years.

This issue is no longer one of science and policy; it has become one of hardball politics. That is not your job. That is the job of Secretary Hassett, those in the legislature that support the rule, the many fishing and environmental groups that support the rule and ultimately Governor Doyle. Please complete your job by returning this rule to the Legislature as recommended by DNR staff and let the remainder of the legislative review process begin.

Mr. Tiefenthaler – I have one question that I am going to bring up under Board Member Matters that is unrelated to this issue. And as long as you are here Mr. Meyer maybe I could ask you. That is issue of hunter's safety and the charging of a fee. I have been talking about this for two to three years and I really feel strongly that we have to look into hunter's safety that would be fee based. And it is not there now and it would probably have to require statutory change. But how does the National Wildlife Federation feel about this?

Mr. Meyer – The Federation would support. And I know because they were opposed and concerned when the ability for hunter education instructors to charge a reasonable fee was taken away. Our practical experience is that no student was ever turned away when a fee was charged. Most parents are glad to have that service and are willing to pay a marginal fee. The change in the fee-based program has limited the instructor's ability to provide a quality course.

- 4.B. Petition for administrative rules to have a portion of the Township of Irving, Jackson County, removed from organized forest fire protection.

Richard Bucklew, Forestry Law Enforcement Specialist, presented that in the Wis. Statutes Chapter 26 regarding fire protection there are three levels of forest fires outside of the village of Irving. In speaking with the Black River Falls Fire Chief he indicated that "the other side of the coin is we don't have the resources available in our departments, other than a brush truck and pack cans, to fight wildland fire, especially along this river area. The resources that the DNR can bring, personnel and equipment wise, I think far outweighs the disadvantages and inconvenience that you folks have to go through here in the town to get a permit to burn".

Some of the items brought to the public hearing appear to be issues that can be mitigated within our current authority and the overall integrity of the forest fire protection area would be maintained for the benefit of the total resource.

The DNR requests that the Board reject the petition and continue the area in organized forest fire protection.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler, that the Board deny a petition for administrative rules to have a portion of the Township of Irving, Jackson County, removed from organized forest fire protection, as presented. This motion carried.

4.C. INFORMATIONAL ITEM - Report update on nonmetallic mining.

Tom Portle, Waste Management Specialist, presented we are required by code to do an update on fees by code and basically everything having to do with any extraction from the ground that is not metallic mining. These fees are the source of revenue needed to administer county and local Nonmetallic Mining Reclamation Programs.

The Department Regional staff evaluated about 20 regulatory authorities administering nonmetallic mining reclamation programs. These regulatory authorities were audited to determine if fees and program administrative expenses were in balance and reasonable. Given the early phase of the program implementation, many of these counties audited as well as Department staff feel it is too early to make definitive statements about the level of fees to charge because most of the reclamation plan review costs have yet to be incurred. However, based on present information fees generally appear to be reasonable.

Mr. Willett – How is the program going?

Mr. Portle – Very well. In fact, we were thinking that some counties might not embrace it but that has not been the case. It is pretty well accepted. That is not to say that there are no bumps in the road but we are working through those.

4.D. INFORMATIONAL ITEM - Update on Captive Wildlife.

Tom Hauge, Bureau Director, Wildlife Management, presented a follow up to the September conference call. Mr. Hauge introduced Dr. Robert Ehlenfeldt from the Department of Agriculture, Trade and Consumer Protection.

Dr. Ehlenfeldt – Introduced a presentation on Chronic Wasting Disease and Wisconsin's Cervid Industry. In the early 1990s notification of TB tests and certificates of veterinary inspection were required for imports of deer. In 1995 the authority for elk, deer other than whitetails was transferred to DATCP. 2002 an emergency CWD rule was acted applying to whitetails and the permanent CWD rule authority for whitetails to DATCP. This permanent rule applied to whitetail and all other cervids. It requires detailed records, identification, testing and reporting of any escapes of these animals.

Wisconsin is the 3rd largest deer/elk farm state in the U.S. Presently there are 242 TB free herds that have been quality tested throughout the state as a direct effect of these rules. All farm raised deer/elk herds in Wisconsin must maintain stringent record keeping on the animals to include testing, escapes and count. These items must be in place and enrolled with DATCP by December of 2003.

In conclusion, stringent record keeping and fencing is a valuable tool to be used for the control of CWD. The proactive cooperative efforts used by farmers are appreciated.

Mr. Gary Nelson, President Whitetails of Wisconsin

I believe you will agree that my industry has taken an aggressive positive approach that has changed the face of who we are and how we do business. I believe that the whitetail industry has been more aggressive and more successful than the state itself in moving progressively to address the issues that confront us.

We are gratified that the steps we have taken within the industry have been successful in developing a program that is working effectively to monitor, identify and ultimately root CWD out of the domestic

cervid industry. We will continue to work with state officials to modify our programs to better meet the unique management challenges the whitetail deer present to the agricultural community.

- 4.E. Retirement Resolutions.
- 4.E.1. Michael Johnson.
- 4.E.2. Gary Krause.
- 4.E.3. John Lacenski.
- 4.E.4. James Miller.

Secretary Hassett reviewed the careers of each retiree and commended them for their excellent years of service to the Department and the State of Wisconsin. Mr. Willett MOVED, Mr. Poulson seconded approval of the Retirement Resolutions, as presented. The motion was carried unanimously.

- 4.F. American Fisheries Society Sport Fish Restoration Outstanding Project of the Year Award.

Mike Staggs, Director of the Bureau of Fisheries Management and Habitat Protection, introduced Doug Stang of the NYSDEC Bureau of Fisheries.

Mr. Stang – It is an honor to be presenting the American Fisheries Society Sport Fish Restoration “Outstanding Sport Fish Restoration” project of the year award to the Baraboo River Dam Removal and Restoration Project. The broad community involvement and a spirit of inclusiveness allowed this project to work through differences among stakeholders. The unique combination of partnership was shown through the success of this project that will have a positive impact on future generations.

- 4.G. INFORMATIONAL ITEM - Report of Farm Inspections on Depredations by Wolves. (Bob Willging, U.S. Fish and Wildlife Service/Eric Koens, Cattle Mens Association) (20 minutes)

Mr. Willging is the District Supervisor for the USDA Wildlife Services in Rhinelander. In the late 1980s when wildlife services entered into a cooperative agreement with the DNR for wildlife damage management the priority was Agricultural damage for Central and Southern Wisconsin and Beaver damage for roads and protection of trout streams and timber in Northern Wisconsin. By that time the investigation of endangered species was also made a part of that program.

In the early 1990s the main complaints were of eagle and wolves. At that time there were 12 wolf complaints and they were able to verify 6 of those complaints to conclude the cause was from wolves. By 1995 to 1999 the complaints against wolves had risen to 104 complaints with 47 confirmations of damage. At this point they started to trap the wolves. Currently, there are 240 complaints regarding believed wolf damage with 90 verified as wolf damage.

It is clear that as the wolf population has risen so has the damage to livestock. There are 12 different farms throughout Wisconsin; these farms have experienced the deprivation of wolves. Seven of these properties are considered chronic with the report of 2 or more wolves within a three-year period of time. With the trapping method we were able to confirm and these wolves were euthenized. This year alone there is a total of over \$30,000 worth of damage caused by these animals.

Mr. Koens – representing the Wisconsin Cattlemen’s Association. The Wildlife Services does not provide a sound picture of the reality of the loss to the farmers through wolf depredation. I have brought some photographs of animals found by neighbors in their hay fields. These animals had been taken away by wolves. Not only are these wolves causing a financial burden to the farmers but they are also becoming more adapted to the presence of humans.

An Idaho Wolf Study concluded that wolves caused other expense problems to farmers and their herd. Some examples of this would be: hours patrolling farms, accounting for animals, stress on the cattle, wolves have caused cattle to abort and they have been known to run calves to death.

A potential wolf management plan could encompass the following items:

1. The Department should receive input from outside of the Department.
2. We do not need 350 wolves in Wisconsin as it causes a tremendous loss of live stock.
3. The Department could offer a permit to shoot chronic wolves.
4. The Board needs to hear from the Department and Associations on an annual basis.

Mr. Solberg – Wolves are a problem. There are single wolves and no tracking devices; there is a large spike and curve on wolves in Wisconsin. Problems will compound themselves if these areas are not addressed,

Mr. Behnke – Authorization to shoot chronic wolves, would that be an effective control method? What steps can we take to resolve the problems?

Mr. Koens – The big problem is the population. The Department estimates that there are 329 wolves in the state and the management plan proposes that there is room for 350. Wolves on a farm should be open season. The increased wolf population causes the cattle farmers to lose profits or show a marginal profit. Due to the increased wolf population the farmers do not have enough time or funds to spend driving the land searching for wolves or searching for missing cattle day and night.

Mr. Solberg – The Board's position is we should pay for the depredation by wolves.

Mr. Behnke – I would like to request the Department's terms on payment for wolf depredation.

Mr. Willging – There are control options available that have been used in Minnesota for wolf depredation. Being aware of wolves on and around that farm, having guard dogs may or may not be effective, light and/or sound machines have shown to be partially effective however the wolves adapt to them. Presently, removal is the main control along with compensation payments.

Mr. Tiefenthaler – Are there any studies that have been done on live trapping? How effective is trapping?

Mr. Willging – Trapping has been the most effective until the depredation ceases, it is an on going process with repeat offenders. In Minnesota wolves are threatened and trapping helps to prevent additional funds being spent. In addition, there are many people who are willing to hunt wolves as a means of depredation control. In conjunction with depredation payments it is something to consider moving towards as the population is rapidly increasing.

Mr. Solberg – Requests that the Department provides further information at Decembers' meeting regarding claim payment and in what time frame the claims were paid.

Signe Holtz, Bureau Director, Endangered Resources, reporting on committee structure regarding wolf depredation. There are two committees – the first is a stakeholders committee that incorporates people who are affected by the plan. Their role is to provide more input into agendas and a smaller group sets the agendas. The second is the science committee who works with other agencies regarding wolf depredation areas their primary function is to bring expertise.

Mr. Willett – Would like to see at the next meeting how funding is done for depredation payments and how much funding is needed to aid in these claims as they should be paid.

5. **Board Members' Matters.**

- A. **Mr. Behnke** – requests that the Natural Resources Board winter meetings have no tours and the meetings be started later in the afternoon and early morning the next day to allow for winter driving. Mr. Solberg agreed that the time could be shortened.

- B. **Mr. O'Brien** – questioned the Badger Ordinance property clean up at a cost of \$10,000.00 per acre. I thought it would be cleaned up before we took it over and now hearing the cost I'm just concerned. There is a lot of valuable land but also a lot of flat nothing.

Mr. Solberg – When we originally discussed this I was under the impression all along that the Federal government was going to clean it up before they turned it over to us.

Mr. O'Brien – That is not what we heard yesterday. They are obligated to clean up any pollution and we are obligated for the rest.

Mr. Ela – my understanding is that did include Federal Remediation costs or I may have had that wrong.

Ruthie Badger, Regional Director South Central indicated that we are looking toward the Federal government for obtaining the cost of clean up. I think that the difference of what you heard yesterday is that we will actually be able to take the property on as owners then get the money for the clean up. If we are unable to obtain the Federal funding, we have a reversionary clause to give that back to GSA. So, it could be sitting with us for seven to ten years and once we decide that the Federal Government is not going to come up with the money then those particular parcels can revert back to GSA. And then they'll just go through the process again.

Mr. Willett – Ruthie that is not the way that it was presented to us all this time. We were going to get it clean because of all the hassles in trying to get it and we do not know what is out there.

Ruthie Badger – The Army still has to do all of the Hazardous Waste clean-up and that still has to come up to standard. The kind of clean up we are talking about is just unwanted infrastructures. These would be the buildings that are not hazardous and are basically good buildings. What we are doing right now is working with Forest Products labs and USDA on deconstruction of these buildings so that hopefully that cost will not come up to the 56 million that we are talking about. That would be the very high-end cost of the infrastructure removal.

Mr. Tiefenthaler – What about the on going costs of the groundwater treatment like we were talking about yesterday?

Ruthie Badger – Army pays for that including on going monitoring. We may be custodians for them but we would never be expected to pay for them.

Mr. Solberg - I remember like everyone else that any time the Federal Government turns property over to a state that it would be cleaned up.

Ruthie Badger – Yes. All we're talking about on our side of the ledger that we're still looking for federal funds to pay for is for the unwanted infrastructures. To be able to reclaim that property as conservation/recreation land.

Mr. O'Brien – Based on the \$56 million figure that I heard yesterday, which is the only figure I have, we're talking about buying flat land for \$10 thousand an acre.

- C. **Mr. Willett** – Yesterday, Senator Gary George was recalled and he was of great assistance on natural resource issues on minority population in metro areas for minorities who have no access to natural resources. Senator George put in the budget an urban forestry program for minorities. I request that the DNR respectfully carry out his vision.

- D. **Mr. Willett** – Regarding Secretary Hassett's speech in Merrill, I believe that it was misinterpreted by some but certainly not the Wisconsin State Journal. Secretary Hassett presented some valuable innovative ideas regarding the health of Wisconsin's economy in regards to protecting our environment in cooperation with the Grow Wisconsin initiative. I applaud Secretary Hassett and

Governor Doyle for their efforts as they are on the right track to strengthening the economy through the building the integrity of the environment and economy.

- E. **Mr. Poulson** – Would like to request the contact person for the agricultural liaison.
- Mr. Smith** – The Agricultural liaison is Dr. Sara Hurley.
- F. **Mr. Tiefenthaler** – The Coast Guard administration has received no response back from the Department. I request that the Department respond to all requests made from people throughout the state.
- G. **Mr. Tiefenthaler** – With regard to Wetland Maintenance permits, I have received a few calls and so has Mr. Solberg. I would request that the Department expedite these permits to allow for property owners to maintain the wetlands. Please report back to the NRB in December regarding this.
- H. **Mr. Tiefenthaler** – A fee based hunters safety program would be of benefit to the educators and students of Wisconsin. This would allow for the offering of more classes and provide a better quality of education to students.
- I. **Mr. Behnke** – Mr. Poulson will receive an Honorary Recognition award from the University of Wisconsin College of Agricultural and Life Sciences. This award is the highest honor bestowed by the College in recognition of people who have made outstanding contributions toward the development of agriculture, protection of natural resources, and the improvement of rural living.
- Mr. Willett** – Mr. Behnke was also nominated to receive this award from the College as well. We congratulate them on their achievements.
- J. **Mr. Tiefenthaler** – Allen Pribnow is a hunter education instructor and the chairman for the Wisconsin Wildlife Federation ad hoc committee dealing with fee based hunter education. I received a letter from Connie Pribnow that I would like to present to the Secretary for follow up on fees and information requested by the Pribnow's. The fees and information that they requested from the Department would cost us \$3,000.00 for staff time to put together the information that they are requesting. They requested information regarding the Federal audit on hunter's safety fees to include how the funds are being spent and how much time is going to it. And I think that these issues that need to be addressed.
- K. **Mr. Solberg** – I'd just like to take you back on what Mr. Tiefenthaler addressed in 3.5.3, you already know it is a dry year. It would be easy for many residents to fix deteriorating dikes and water control structures up. We passed a rule prior to this meeting and it is just a matter of getting those permits out to them so they can make the necessary changes before winter. It would be a great year to do it as those people are waiting for the permits to do it.
- L. **Secretary Hassett** – This morning there are two very important reports that came out in the last week regarding CWD. I just want to give a well-deserved thank you to all department employees who have put everything together for this in the last 18 months. The external expert review indicates that Wisconsin's science based control program for CWD is on target. The second report from the Legislative Audit Bureau concluded that CWD expenditures for fiscal years 2002 and 2003 does a good job of describing the massive effort that was put forth in the last 18 months and more importantly did not find any fatal flaws in our approach. And I would like to congratulate and thank all of the hard working dedicated employees who put that put so much effort into CWD and these reports certainly confirm all of that.

6. **Special Committees' Reports**
None.

7. Department Secretary's Matters.

- A. Request from the Assembly Committee on Natural Resources for Modification to Order FH-12-03 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing outlying waters. (Adopted April 22, 2003, Item 3.D. Minutes of April 22, 2003)

Michael Staggs, Director of the Bureau of Fisheries Management and Habitat Protection presented that the Assembly Natural Resources Committee had voted to request modifications to FH-12-03 which had closed commercial smelt harvesting in Green Bay through July 1, 2008. Specifically the Committee asked that a quota of 100,000 pounds be adopted instead of a closure. Department fisheries staff reviewed the request but determined that the smelt population remains extremely low and a continuing annual harvest of 100,000 pounds could impair its recovery in Green Bay, and recommended that the rule be promulgated as adopted. Mr. Staggs did indicate that in discussions with Reps. Johnsrud and Bies it was determined that an amendment to shorten the sunset date on the closure to July 1, 2007 would be an acceptable compromise.

The Board unanimously approved the recommendation with the sunset date amended to July 1, 2007.

Mr. Behnke MOVED, Mr. Willett seconded approval of the modification to Order FH-12-03, as presented. The motion was carried unanimously.

- B. DONATION - from the Estate of John P. Danielson for a gift of \$50,000 to benefit the Endangered Resources Fund.

Mr. Willett MOVED, Mr. O'Brien seconded approval of the Donation, as presented. The motion was carried unanimously.

- C. DONATION - from The Milwaukee Chapter of Great Lakes Sport Fishing for a gift of equipment with a value of over \$5,000 for improving hatchery operations for the Lake Michigan fishery.

Mr. Willett MOVED, Mr. O'Brien seconded approval of the Donation, as presented. The motion was carried unanimously.

- D. INFORMATIONAL ITEM – Legislative Review of the Proposed Revisions to Ch. NR 445, Wisconsin's Hazardous Air Contaminant Regulations.

Al Shea, Division Administrator, Air and Waste provided the Board with an update on the above rules. The Department recommends that the Board adopt modifications to the hazardous air contaminant regulations related to the procedure for listing additional substances in NR 445 and the regulation of emissions from agricultural facilities and livestock operations. Also noted is the Department does not believe that request to remove the section of the rule related to regulating diesel generators is warranted. The existing and pending federal regulations do not apply to the sources regulated under the proposed revisions.

On October 3, 2003, the committee chairs sent a letter to the Department requesting specific modifications to Order AM-34-02. The chairs requested modifications in three areas: the proposed procedures for determining the need to expand the list of hazardous air contaminants in the rule, the treatment of diesel generators, and the potential for regulation of malodorous emissions from agriculture operations and livestock.

- E. Mercury Rule – Legislative Review of the Proposed Revisions to mercury emissions rules in 27.01

Secretary Hassett – I do not think with these provisions that this can be an action item. But as long as we are here it is appropriate to perhaps hear about it and then we will have a follow up phone conference about it next week, I am assuming.

Al Shea – We have a letter from the Senate Committee chair with some general items of concern.

John Heinrich – I received a memo signed by the Secretary that addresses the three areas of concern that the Senate Environment and Natural Resource Committee identified in the mercury air rule adopted in June 2003. This presentation will provide a foundation for the NRB to consider modifications to the rule to address these concerns. The staff recommendation presented for consideration was as follows:

- Authorize the Secretary to send a letter to the Chairs of the Assembly Natural Resources Committee and the Senate Environment and Natural Resources Committee that addresses rule modifications in three areas of concern expressed by the Senate committee.
- Approve modifications to the provisions in the rules that address Periodic Evaluation and Reconciliation Reports to the NRB - The potential for duplication when a federal emission standard is implemented.
- Decline to consider modifications in two other areas of concern identified by the Senate committee - The ability of utilities to achieve an 80 percent reduction by 2015 with current available technology and the exclusion of a comprehensive emission credits and trading program.

The above items address and identify three areas of concern, and as Al Shea had indicated we have not received a specific list of things to deal with. We certainly have identification from Senator Kenzie of things that he is concerned about. It has been 4 months since adopted rules have been referred and taken up in Legislative Review. We are very concerned about taking forward action on this matter; we have been looking at the concerns that Senator Kenzie has raised.

Meeting adjourned at 2:40 PM