

NATURAL RESOURCES BOARD

Minutes

The regular meeting of the Natural Resources Board was held on Wednesday, March 23, 2005 in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 4:50 p.m.

Wednesday March 23, 2005

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the Roll

Jerry O'Brien	Dan Poulson	Jonathan Ela
Herb Behnke	Christine Thomas	Duke Welter
Steve Willett		

1.B. Approval of minutes from February 22-23, 2005

Mr. Ela MOVED, seconded by Mr. Willett approval of minutes from February 22-23, 2005. The motion passed unanimously by all members.

1.C. Approval of Agenda for March 23, 2005

Mr. O'Brien request that Item 3.A.2. be moved to committee as a whole before the Board breaks into committees and item 3.B.6. be moved after the committees reconvene.

Mr. Welter MOVED, seconded by Mr. Poulson approval of the changes to the agenda for March 23, 2005. The motion carried unanimously by all members.

Mr. Ela MOVED, seconded by Mr. Willett approval of the agenda for March 23, 2005, as amended. The motion carried unanimously by all members.

1.D. Approval of minutes from March 8, 2005 ADDITION TO AGENDA

Mr. Welter MOVED, seconded by Mr. Willett approval of the minutes from March 8, 2005. The motion carried unanimously by all members present.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Poulson MOVED, seconded by Dr. Thomas approval of the real estate transaction. The motion carried unanimously by all members present.

3.A.2. Presentation of 2005 Lab of the Year Awards to Sparta Wastewater Treatment Plant Lab and Middle River Health Facility Wastewater Treatment Plant Lab

David Webb, Section Chief, Environmental Science Services, Integrated Science Services Bureau stated the department annually presents the Registered Lab of the Year awards to recognize Wisconsin's best registered laboratories for their outstanding commitment to producing high quality data. Awards are presented in two categories: Small Registered Facility and Large Registered Facility. 2005 marks the tenth consecutive year that the department will present these awards. The 2005 Large Registered Facility Award will be presented to Sparta Wastewater Treatment Plant Laboratory. The Middle River Health Facility Laboratory will receive 2005 Small Registered Facility Award.

3. Operating Committees

3.A. Air, Waste, and Water/Enforcement

See committee minutes

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

3.C. Reconvene as Full Board for Committee Reports

3.B.6. Land Acquisition, Ice Age Trail, Polk County

Laurie Osterndorf, Administrator, Division of Land stated that Polk County is rapidly being developed and there isn't a lot of public land. This is a unique opportunity to protect 2,779 acres of upland forest, marsh and bog, lake and river and a unique glacial tunnel channel. She described the natural features and wildlife found on this property. The property is planned to be a wildlife area and wilderness state park.

Mr. Willett asked if the property would have to go through the public planning process.

Ms. Osterndorf stated that yes it would. We are proposing a more rustic park. There will be a segment of Ice Age Trail.

Dan Schuller, Land Leader, Northern Region gave an overview of the public participation process. He showed a video.

Mr. Behnke stated that in 1989 this was offered to the state to develop a state park. He asked if knows how much that would have cost then.

Richard Steffes, Real Estate Director stated it was \$1.5 million. The funding for the current proposed acquisition is 83% stewardship and 17% federal money.

Mr. Welter asked if the master planning process would allow for public hunting.

Mr. Steffes stated yes.

Mr. Behnke read a letter from Harvey Stower, Mayor of Amery supporting the purchase of this property.

Mr. Ela MOVED, seconded by Mr. Behnke approval of Land Acquisition, Ice Age Trail, Polk County.

Mr. Welter stated he had the opportunity to visit the property on the day of filming. He recognized that Bruce Moss and Herb Behnke played a large role in the purchase of this property.

Mr. Willett expressed his concern about prejudging the planning process. Let the public decide what to do with this land

The motion passed unanimously by all members.

Mr. O'Brien called upon Mr. Willett to give the Air, Waste, and Water/Enforcement Committee Report.

Mr. Willett stated there were no minutes to approve. He reviewed the items individually.

3.A.1. Approval of proposed FY 2006 laboratory certification fee adjustments

Mr. Willett MOVED, seconded by Mr. Poulson approval of proposed FY 2006 laboratory certification fee adjustments. The motion carried unanimously by all members.

3.A.3. Adoption of Board Order RR-56-04, revisions to NR 169 related to Dry Cleaner Environmental Response Fund Rule.

Mr. Willett MOVED, seconded by Mr. Welter adoption of Board Order RR-56-04, revisions to NR 169 related to Dry Cleaner Environmental Response Fund Rule. The motion carried unanimously by all members.

Mr. Willett asked to take item 3.A.4. at the end of the committee report.

3.A.6. Adoption of Emergency Board Order FH-16-05(E), creating NR 328-Subchapter III relating to Shore Erosion Control on Rivers and Streams.

Mr. Willett stated that there was an amendment by the department regarding fish spawning and additional habitat and bank stabilization that can qualify for the general permit. .

Mr. Willett MOVED, seconded by Mr. Poulson adoption of Emergency Board Order FH-16-05(E), creating NR 328-Subchapter III relating to Shore Erosion Control on Rivers and Streams as amended.

Mr. O'Brien asked if the rule provides that any waters added to the list must come back to the Board.

Mr. Willett stated yes.

Mr. Welter asked if the rules for the protection of spawning area apply to both biostabilization and integrated bank structures.

Mr. Willett stated that the amendment deleted the word biostabilization so the provision would apply to spawning window provision would apply to both structures.

The motion carried unanimously.

- 3.A.7. Request authorization for public hearing on Board Order FH-12-05, revisions to NR 329 and NR 345 relating to Miscellaneous Structures and Dredging.

Mr. Willett MOVED, seconded by Mr. Welter approval of request authorization for public hearing on Board Order FH-12-05, revisions to NR 329 and NR 345 relating to Miscellaneous Structures and Dredging. The motion carried unanimously by all members.

- 3.A.8. Request authorization for public hearing on Board Order WA-10-05, repeal and recreation of NR 590 and 600 to 690 relating to used oil, universal waste and hazardous waste management

Mr. Willett MOVED, seconded by Mr. Ela approval of request authorization for public hearing on Board Order WA-10-05, repeal and recreation of NR 590 and 600 to 690 relating to used oil, universal waste and hazardous waste management.

Mr. Welter requested not to receive the 1100 page rule package when it comes back for final adoption. He suggested just providing a web link to access the rule.

The motion carried unanimously by all members.

- 3.A.9. Adoption of Board Order FH-36-04, modification to NR 1 related to policies on protection and management of public waters

Mr. Willett stated there was an amendment to the rule that added a note and clarifies the policy.

Mr. Willett MOVED, seconded by Mr. Poulson adoption of Board Order FH-36-04, modification to NR 1 related to policies on protection and management of public waters as amended.

Mr. Behnke asked for clarification on the modification that states "The NRB may designate by rule. . ."

The motion carried unanimously by all members.

- 3.A.4. Adoption of Board Order WA-47-04, revisions to NR 500, technical changes for landfills.

Mr. Willett stated there are three important areas of consideration that were discussed: 1) the authorization for the expansion of landfills in process. 2) Not included in this rule, concern about stabilization rules being implemented. 3) financial responsibility after expansion.

Mr. Ela expressed his concerns about the larger scale land use implications and financial liabilities and responsibilities by passing these technical changes. We need to take a more comprehensive look at state policy and state goals for materials management. He read a resolution stating:

In furtherance of Wisconsin's existing policy of reducing the amount of waste material that must be disposed of unproductively, the Natural Resources Board directs the Department of Natural Resources to develop a Wisconsin Comprehensive Strategy on Materials Use and Disposal. This Strategy shall consider options and make recommendations in the policy areas of management of toxic and nontoxic waste, materials recycling and composting, and incentives for materials reduction and reuse. The Strategy shall analyze the economic and environmental interrelationships between various policy options. It shall make

recommendations to the Natural Resources Board for programmatic decisions that can be made within the framework of existing statutory authority, as well as recommendations that the Board can make to the Wisconsin Legislature and the United States Congress concerning desirable changes in the state and federal law. The Department shall complete the Strategy, report its findings, and make recommendations to the Board by March 2007.

Mr. Ela MOVED, seconded by Mr. Willett adoption of the above resolution.

Mr. Poulson stated that he supports Mr. Ela on this motion. It brings a culmination of the whole effort of the waste issue that is a big issue that weighs heavily on people. Landfills aren't going to disappear, people will be dealing with them forever.

The motion carried unanimously by all members.

Mr. Willett stated there is a change to the rule that increases the leachate line to 1200 feet. Mr. Poulson amended the rule that by February 2006 the Department shall propose to the Board rules concerning landfill stabilization and ongoing financial responsibility for landfills. The committee recommends the adoption of the rule with that amendment.

Mr. Willett MOVED, seconded by Mr. Poulson adoption of Board Order WA-47-04, revisions to NR 500, technical changes for landfills, as amended along with the resolution proposed by Mr. Ela.

Mr. Ela clarified that the Department staff that in addition to the seven years of capacity there is an additional eight years of capacity that's in the pipeline at one stage or another for the development of new landfills.

Mr. Willett added that there are siting issues because no one wants a landfill in their backyard.

Dr. Thomas asked that if under the amended scenario, can landfills expand between now and February 2006 without these things in place.

Mr. Willett stated no because the process is so involved with many approval and plans.

Dr. Thomas asked what was the sense by the committee members of the level of satisfaction of the various parties involved with this amended proposal.

Mr. Willett stated that no one was happy, but everyone understood the complexity.

Mr. Ela clarified the amendment to say, "The Department shall present draft regulations on stability standards and future financial responsibilities by February 2006.

Mr. Welter asked if the Department already has the authority to issue a permit for a landfill that would contain lines up to 2000 feet, under an exemption.

Mr. Willett stated that it does under an exemption, but Ms. Bangert indicated that because it is an exemption they are reluctant to do so. This rule allows for the expansion to 2000 ft, but it has the corresponding issues address.

Mr. Ela stated that he voted for this with great reluctance and it's a fractured way of handling this. From previous discussions with staff, he understands that there have been quite a number of variances issued to increase the leachate line beyond 1200 ft. In fact, if we were to defer the rule until we had a comprehensive strategy in place, it would not create an insurmountable burden on permitting new facilities.

Al Shea, Administrator, Air and Waste Division stated that is true. There are some beneficial aspects of the rule that would go wanting, but it would not be crippling.

Mr. Poulson stated that he got a strong feeling from the discussion there was a stonewalling effort here relative to the financial burden. Somewhere along the line, we need to get to the point and decide how we stand behind this rule and make it work.

Dr. Thomas stated that maybe something would be forced if we only passed the beneficial portions of this rule.

Mr. Ela stated he would prefer to pull out beneficial items and bring back the rest after a comprehensive plan was created.

Mr. Willett stated he would oppose that proposal because we need to give the industry some direction here and he thinks the public has a right to expect an ongoing planning process.

Mr. Welter stated that as he reviewed this rule package the range of significant issues that need to be addressed struck him. There is concern about Wisconsin becoming America's trash land.

Mr. Willett stated that in the past, uncertified landfills had to be closed, which was almost all of them. Now the price has increased to get rid of waste. Sitings are impossible. He doesn't think that all these expansion and siting issues can be put off until 2007.

Mr. Ela asked how many variances have been approved.

Susan Bangert, Director, Waste Management Bureau stated about 5-10.

A roll call vote was taken.

<u>Yes</u>	<u>No</u>
Mr. Behnke	Mr. Ela
Mr. Willett	Mr. Welter
Mr. Poulson	Dr. Thomas
Mr. O'Brien	

The motion passed 4-3.

Mr. O'Brien called upon Mr. Behnke to give the Land Management, Recreation, and Fisheries/Wildlife Committee Report.

Mr. Behnke stated there were no minutes to approve. He reviewed the items individually.

- 3.B.1. Adoption of Board Order FR-04-05, revisions to NR 46, related to Managed Forest Law Program from 2003 Wis. Act 228.

Mr. Behnke stated that Mr. Welter requested that the Department report back to the Board in one year regarding the closed acreage change.

Mr. Behnke MOVED, seconded by Mr. Welter Adoption of Board Order FR-04-05, revisions to NR 46, related to Managed Forest Law Program from 2003 Wis. Act 228 as amended. The motion carried unanimously by all members.

- 3.B.2. Request authorization for public hearing Adoption of Board Order FR-13-05, revisions to NR 46.30, annual adjustment of stumpage rates. MODIFICATION TO AGENDA

Mr. Behnke MOVED, seconded by Mr. Welter approval of request authorization for public hearing of Board Order FR-13-05, revisions to NR 46.30, annual adjustment of stumpage rates. The motion carried unanimously by all members.

- 3.B.3. Request authorization for public hearing Adoption of Board Order WM-02-05, 2005 Bureau of Wildlife Management Housekeeping Order. MODIFICATION TO AGENDA

Mr. Behnke MOVED, seconded by Mr. Welter approval of Request authorization for public hearing of Board Order WM-02-05, 2005 Bureau of Wildlife Management Housekeeping Order.

Mr. Willett MOVED to amend to delete provisions that doves be included under the definition of migratory game bird. This motion failed due to the lack of a second.

The original motion carried unanimously by those members present. Mr. Ela was absent.

- 3.B.4. Approval of 2005 Deer Herd Control Recommendations

Mr. Behnke gave an overview of the discussion. He expressed the need of a Sex-Age-Kill (SAK) audit. He stated that the committee voted to accept the Department's recommendation, with the provision to drop Units # 9, 13, 73B from the T-Zone and secondly, to modify the existing Earn a Buck (EAB) units in the Northeast part of the state to Zone T Units. The reasoning for this is because there was tremendous public opposition to the EAB seasons we had last year. He stated that there should be other ways to manage the herd besides telling hunters what they have to do that takes the enjoyment out of the hunting experience.

We need to develop a different approach to EAB that is more acceptable to public. By a vote of 2-1 the committee passed the motion.

Mr. Behnke MOVED, seconded by Mr. Willett to accept the Departments recommendation, except to drop Units # 9, 13, 18, 73B from the Zone-T and secondly, to modify the existing EAB units in the Northeast part of the state to Zone-T Units.

Mr. Welter stated that this should not be understood that T-Zone and EAB are not legitimate tools for deer management. People in the EAB units should understand that this is a challenge because if the population doesn't decrease and make some progress towards over winter goals, we will be back in the same situation next year. It's a challenge to the Department, hunters, Conservation Congress and landowners to make sure the harvest in those units will be significant to help meet those goals.

Mr. Behnke stated that a second year of EAB in these units is not fair to the hunters who are so dissatisfied with last year's hunt.

A roll call vote was taken.

Yes

Mr. Behnke

Mr. Ela

Mr. Welter

Mr. Willett

Mr. Poulson

Dr. Thomas

Mr. O'Brien

The motion carried unanimously.

Mr. Welter MOVED, seconded by Mr. Willett that in the 4 units that were taken out of T-zone the Department allow hunters to use T zone tags that comes with license to take antlerless deer during 9 day hunt.

Tom Hauge, Director, Wildlife Management Bureau stated that it would take a rule change to authorize that proposal. To make it effective this year, it would take an emergency rule. There is a possibility of special deer permits. The problem with that is if we make all the permits free we have a problem with funding in the wildlife damage program.

Mr. O'Brien added that it also makes it more complicated when we are trying to simplify the regulations.

Mr. Welter asked if another approach would be to change the number of bonus tags available in those units.

Mr. Hauge stated that there will be no doubt that everyone who applies for a hunter's choice is going to get one.

Mr. Welter withdrew the motion and Mr. Willett withdrew the second.

Mr. Welter asked the Department come back to the Board to move the T-Zone season to the Saturday closest to October 15th.

Mr. Hauge stated the Department would need to come back with a rule change so it wouldn't happen in 2005 without an emergency rule. In the deer streamlining presentation that was exactly one of the recommendations from that group.

Mr. Welter requested the Department undertake the steps for an emergency rule to change the T zone dates.

Mr. Behnke stated there are some complications with changing the dates. When we first set those dates it was to coincide with teachers convention so that young people could be out deer hunting. In some areas of the state the teacher's convention is two weeks earlier than the rest of the state.

Mr. O'Brien asked Mr. Welter to address this issue during Board Member Matters.

Dr. Thomas stated that the action taken on the season structure is not a reflection on hardworking, dedicated staff.

- 3.B.5. Approval of statutory limit on the percent of electrical sites in state parks deferred from 2005 legislative proposals introduced at the December 2004 NRB meeting

Mr. Behnke MOVED, seconded by Mr. Welter approval of statutory limit on the percent of electrical sites in state parks deferred from 2005 legislative proposals introduced at the December 2004 NRB meeting. The motion carried unanimously by all members.

- 3.B.7. Land Acquisition and Donation, Onion River Streambank Protection Area, Sheboygan County

Mr. Behnke MOVED, seconded by Mr. Willett approval of Land Acquisition and Donation, Onion River Streambank Protection Area, Sheboygan County. The motion carried unanimously by all members.

- 3.B.8. Land Acquisition, Ice Age Trail, Waushara County

Mr. Behnke MOVED, seconded by Mr. Willett approval of Land Acquisition, Ice Age Trail, Waushara County. The motion carried unanimously by all members.

- 3.B.9. Land Acquisition, Swan Lake Wildlife Area, Columbia County

Mr. Behnke MOVED, seconded by Mr. Willett approval of Land Acquisition, Swan Lake Wildlife Area, Columbia County. The motion carried unanimously by all members.

- 3.B.10. Land Sale, Statewide Wildlife Habitat Program, Wood County

Mr. Behnke MOVED, seconded by Mr. Poulson approval of Land Sale, Statewide Wildlife Habitat Program, Wood County. The motion carried unanimously by all members.

4. Citizen Participation

4.A. Citizen Participation

- 4.A.1. **Brook Waalen**, Luck, Friends of Log Greenway –ATV and state recreational trails discussed the unfair comparison of snowmobile and ATV trails. He stated that pedestrian and bicycle is a conflicting use with ATV's. ATV's are incompatible with bicycle and pedestrians. There isn't a master plan for the Cattail Trail.

Mr. Behnke asked about the Amery-Dresser planning process

Mr. Waalen stated it's complete. There is a signed agreement between county and state. County will not take responsibility for environmental damage within the corridor.

- 4.A.2. **Duke Tucker**, West Marshland - Crex Meadows Wildlife Area-Governor Knowles State Forest Expansion and Payment in Lieu of Taxes was not present.

- 4.A.3. **Gene Francisco**, Sun Prairie, Executive Director, WI Professional Loggers Association - forest land management and master logger certification talked about Logger Appreciation Day. It raises awareness of the importance of logging to our culture. He read the proclamation by Gov. Doyle and talked about issues facing logging.

Mr. Behnke asked about the bill being drafted in the legislature asking the Department to manage and harvest forest to provide revenue and income.

Mr. Francisco stated there is a market for this. The jobs are shifting to Michigan because of lack of material and cost of doing business.

Mr. Behnke asked about the annual revenue for managing our forests.

Mr. Francisco stated his analysis estimates \$10 million per year.

Mr. Behnke asked what would it take to initiate and facilitate a program for the state.

Mr. Francisco asked the Board not to cut the 41 forestry jobs and shift them to state lands management, state forest management, and enforcement of the managed forest law.

- 4.A.4. **Denny Brown**, Rhinelander, Wisconsin Professional Loggers Association spoke about state forest management practice and programs. He is a 34-year veteran logger. He has never seen a wood supply crisis like we are experiencing today. There is a shortage of timber and sales are on hold in the Nicolet-Chequamegon Forest due to lawsuits by out of state lawyers.
Mr. Willett asked if there is any cutting in the Chequamegon.
Mr. Brown stated they are cutting some. He wants to keep this industry in the state.
Mr. Willett asked if the state is not allowing for sustainable forestry.
Mr. Brown stated he is not saying they are not allowing for it. There is room to ratchet the numbers up on a sustainable cut. By leaving the 41 positions in the DNR we will have staff in the field. The timber is there and we need to push getting the fiber on the market. It is a sustainable cut. We understand that the forest is a multiple use entity in the state and we are in favor of that. There is room for improvement.
Mr. Willett asked about the proposed 10,000 acre increase in the cut. Is this divided between all the forests or certain forests?
Mr. Brown stated this should be across the state.
Mr. Behnke asked what happens if we aren't able to keep the 41 positions. Are there private or contract foresters who can do this work?
Mr. Brown stated that the DNR foresters are a buffer between the landowners and industry. They are a neutral party. It costs about \$70,000 to employ a state forester, but that forester can generate \$250,000 profit for the state. He asked the DNR to be better land stewards.
- 4.A.5. **Gary Zimmer**, Laona, Regional Biologist, Ruffed Grouse Society, spoke about sound forest management to wildlife populations. He stated that Wisconsin's wildlife needs professional loggers. They reset natural succession that assures an abundance of young forest habitat that the presence of humans has stopped.
Mr. Behnke asked about the ruffed grouse stamp and how it could be utilized to help ruffed grouse.
Mr. Zimmer stated it would put an emphasis back on habitat restoration, especially on private land through workshops.
- 4.B. Citizen Recognition
None.
5. Board Members' Matters
- 5.A. **Mr. Behnke** expressed his concerns about environmental damage to Amery trail. It's very controversial issue. There is an underlying tone that the DNR isn't taking responsibility to take care of the resource. The DNR needs to get off the hook of being blamed for standing on the sidelines and saying do what you want Polk County. He asked for the Department to come back and explain where we stand and why. The second issue is the CWD program. There is no appropriation to fund it except for license fees which is affecting other programs. He has no problem with how CWD is managed. But at a time, we need to reconsider the philosophy of whether we need to keep monitoring every deer in the zone. He asked the Department to examine philosophy and approach, perhaps a program where we don't do testing where we don't have CWD. In addition, develop a program that charges \$25 instead of \$150 to get deer tested. The third issue is researching the possibility of \$4-5 million revenue by managing state forest program. He asked the Department develop a plan to implement for that.
Secretary Hassett stated that in regards to CWD, we are going to give the Board an update next month. The statewide testing isn't a one-time undertaking. We are going to split it up and spread it out over the next few years. In July, we are hosting an international conference on CWD. There will be 400-500 people from all over the world. There may be some things that we can learn from that conference.
- 5.B. **Mr. Ela** reiterated Mr. Behnke's first matter regarding statewide management of our state trails. He asked who plans and who is involved in the master plan process.
Ms. Osterndorf stated in regards to the Amery Trail, there is a Memorandum of Understanding with the County that addresses environmental concerns.
Mr. Ela expressed concern that the state trail system is not really a state trail system at all, since planning and management of many trails has been delegated to local units of government. He asked the Department to provide a summary of the status of the state trails.

- 5.C. **Mr. Welter** asked the Department to develop a rule to recommend 2005 T-zone season to include the Saturday closest to October 15th. Secondly he described all the wildlife he saw when he drove to Madison yesterday. He is pleased with the Department's wildlife management of all those species. He expressed his disappointment in the recent fish kills, especially at the Sugar River. He stated that agriculture practices have been a problem for these streams. He suggested changing our perspective about how to do business and figure out ways to positively change those practices.
- 5.D. **Mr. Willett** had none.
- 5.E. **Mr. Poulson** shares Mr. Welter's concerns. He also had a call from someone in Polk County who is having a problem with applying turkey waste. **Mr. Ambs** stated he would follow up.
- 5.F. **Dr. Thomas** stated that Wisconsin is one of the best places to live because it has a wealth of public land and the socially responsible people. The hunters and anglers are the conservationists. They make it possible for wildlife to be a public resource. The tension between agency (DNR) and their responsibility to help us to do the right thing. She asked the public to set aside conflict and support the necessary license fee increase.
- 5.G. **Mr. O'Brien** had none.
6. Special Committees' Reports
None.
7. Department Secretary's Matters
Secretary Hassett distributed the newest annual report documenting how the DNR used hunting and fishing license fees to support fish and wildlife programs in 2003-2004. This report highlights some DNR accomplishments including improved habitat on 28 miles of trout streams, sampled 769 stream sites and 403 inland lakes and Wisconsin waters of Lake Superior and Michigan; raised and stocked 11 million fish and 20 million fry; improved hunter access by leasing 125,942 acres as public hunting grounds, paid for in part by partner conservation groups; raised and released more than 36,000 pheasants and provided 53,000 chicks to partners, and banded more than 4,535 waterfowl; worked to eradicate CWD through testing and herd reduction; and conservation wardens contacted more than 250,000 people engaged in hunting and fishing activities to promote safety and ensure compliance of regulations and resources. The second issue he talked about was manure runoff. We have been working with DATCP, who is also concerned. We are developing joint strategies and solutions. Lastly, he discussed deer management. He is proud of the staff in science based efforts. They take into account social and political ramifications of their recommendations. He also heard from the discussion today the issue of quality of hunt. Fragmentation is a difficult issue to deal with, but baiting and feeding needs to be confronted. It is affecting the quality of hunt. He is hoping that the Conservation Congress, the NRB, and lawmakers are willing to take up the issue of baiting and feeding and deal with it again.
- 7.A. Retirement Resolutions
- 7.A.1. Michael J. Penning
- 7.A.2. Deborah G. Coblenz **ADDITION TO AGENDA**
- 7.A.3. Rodney M. Werner **ADDITION TO AGENDA**
- 7.A.4. Donald D. Dodge **ADDITION TO AGENDA**
- Mr. Willett MOVED, seconded by Mr. Poulson approval of the retirement resolutions. The motion carried unanimously by all members.**
- 7.B. Donations
None.
- 7.C. Resolutions
- 7.C.1. The naming of the new Mead Wildlife Area Education and Visitor Center.

Mr. Willett MOVED, seconded by Mr. Welter approval of the naming of the new Mead Wildlife Area Education and Visitor Center. The motion carried unanimously by all members.

7.C.2. Appreciation to the Douglas County Fish and Game League on their centennial anniversary. **ADDITION TO AGENDA**

Mr. Willett MOVED, seconded by Mr. Behnke approval of the appreciation to the Douglas County Fish and Game League on their centennial anniversary. The motion carried unanimously by all members.

8. Information Items

8.A. Air, Waste, and Water/Enforcement
None.

8.B. Land Management, Recreation, and Fisheries/Wildlife

8.B.1. Yellow Perch harvest limits in Green Bay

Mike Staggs, Director, Fisheries Management and Habitat Protection Bureau stated that under current regulations the annual total allowable commercial harvest of yellow perch from Green Bay is 20,000 pounds. In the absence of changes in the administrative code, that harvest limit will remain in effect until July 1, 2006, at which time it will increase to 200,000 pounds. At the September Natural Resources Board meeting, commercial fisherman Mark Maricque, noting an abundance of yearling yellow perch in Green Bay, requested that the harvest limit be increased before the sunset date. Mr. Behnke asked the Department to review the request and prepare a report for the Board in December. Because the December and January agendas were full, the oral presentation was postponed until February. The Department is hopeful that the 2003 year-class of yellow perch, abundant as yearlings in 2004, will survive well and support increased commercial harvest in the future, but does not recommend changing the commercial harvest limits at this time. It is prudent to wait until the younger fish establish themselves as a successful adult spawning population before increasing the mortality of the remaining rapidly-declining population of older mature fish.

Mr. Ela asked why 2003 was so atypical.

Mr. Staggs stated that it may be typical with the introduction of exotic species, changing water levels, and unusual spring conditions.

Public Participation

1. **Mark Marique** Green Bay, Vice Chair, Great Lake Commercial Fishing Board stated that a small increase in the quota would still be helpful to the commercial fishermen who need to qualify their licenses with a minimum production of 3,560 lbs. The fishermen's livelihood is at stake. He believes that we have turned a corner with the reduction in white perch and hopefully in September when this comes before you as a rule you will have more information to help you make decisions.

Mr. Willett clarified that if the Department restricts a fishery we weren't going to qualify for licenses.

Mr. Staggs stated that is the way we have been operating, yes. We haven't denied any licenses if they haven't been able to meet minimum quotas.

Mr. Marique stated that hasn't happened yet, but it's still an option that is available to the Department.

8.B.2. Forest certification update including state forest, county forest, and managed forest law.

Paul Pingrey, Staff Specialist, Forest Management Bureau stated that in 2003 the Governor directed the Department to explore forest certification to address the growing demand for certified wood from purchasers of Wisconsin products. The State Forest, County Forest and Managed Forest Law programs have all undergone some level of evaluation under the two most prevalent certification bodies, the Sustainable Forestry Initiative (SFI) and the Forest Stewardship Council (FSC). In April of 2004 the NRB approved committing the State Forest program to dual FSC and SFI certification. That program has since undergone an interim audit. The County Forest program underwent a full certification audit last fall using a group certification scheme. The individual county forests voluntarily selected which certification program to be audited against. Through approval by their County Boards or County Forest Committees, 27 counties

have committed to certification. The MFL program just completed the field audit portion of their certification assessment. The program was audited against the American Tree Farm System (ATFS) standards. Individual landowners that are enrolled in the MFL program are included (at no cost) unless they choose to opt-out of certification. Work on addressing minor non-conformances, opportunities for improvement, and administration of the program, is on going. The DNR incurs direct and indirect costs in managing the group certification programs. As such, a NRB update on the certification progress is appropriate.

Dr. Thomas asked how will you respond to the public with the cut of 41 positions.

Mr. Pingrey stated that is a challenge, but the forest leadership team is looking at other options.

Mr. Ela asked how do you monitor all 30,000 tree farms.

Mr. Pingrey stated it is a statistical representation.

8.B.3. Butler Garter Snake Update

Signe Holtz, The Bureau of Endangered Resources has been working with the Legislature's Joint Committee on Review of Administrative Rules (JCRAR) and stakeholders in southeastern Wisconsin on a number of issues related to the Butler's garter snake, a state threatened species. The Bureau has developed a science-based conservation strategy for the Department and is working with various organizations to implement it. The Bureau wants to brief the Board because of the controversy surrounding this issue. The Butler's Garter snake has a very restricted range in Wisconsin, found primarily in 4 counties in and near the Milwaukee metropolitan area. This area is under heavy development pressure. The Department's efforts to protect the species through measures outlined in its conservation strategy have been criticized by land developers because they might require protection of land that could otherwise be developed and sold. The high value of land in the southeast exacerbates the problem. Some public land managers are concerned that they might not be able to develop their lands for certain recreational uses that are not compatible with the snake's long term survival. Environmental groups, local land trusts, and regional planning agencies want to ensure that the Department provides the snake the protection it needs for long term survival. The JCRAR has reviewed the need for listing the species and is requiring the Department to report on actions related to its conservation. The Butler's Conservation Strategy and a list of stakeholders who attended meetings hosted by the Department are attached.

Mr. Willett asked if we put the tier system in place.

Ms. Holtz stated that the tiers are only for the Butler Garter Snake Strategy only. All other species go through an incidental take authorization process.

Mr. Willett stated that he disagrees with the tier system if it doesn't follow the rule that was put in place. He asked what the regulatory procedure is for incidental take. There were no tiers in that procedure.

Ms. Holtz stated that the Department when through a broad incidental take process that included public input and went through a regulatory process that deals just with Butler Garter Snake and a tier 1 take last fall. It didn't go through the Board because it was part of our operations.

Mr. Willett stated the Department doesn't have the authority to put regulatory items in place.

Mr. Andryk stated that the Department is following the incidental take process outlined in the statute. We go through the public comment period and then we make a decision on the incidental take permit based on whether it puts the species at risk and other statutory requirements. For the Butler Garter Snake, we came up with a conservation plan that says Tier 3 sites are absolutely essential for the long-term conservation of this species.

Mr. Willett stated that the Department decided to put in this policy without going through the Board.

Ms. Holtz suggested getting back to Mr. Willett with the Department's legal basis for developing the tier system.

Mr. Andryk stated that the Department's legal basis is based on the statute. It is guidance, it's not a rule that the Board has adopted.

Mr. Willett asked if the Department requested a regulatory scheme on implementing the law.

Mary Schlaefer, Executive Assistant stated we are not aware of that. There is a statutory provision that allows for incidental take determinations. That provision contemplates individual applications. It's on a case by case basis. The statute also provides that the Department has a separate provision that allows provide public notice. We are following statutory provision that there is a case by case determination, but providing broad public notice of the tiers.

Mr. Willett stated that argument could be made for any law that as long as it provides for a regulatory scheme and you come up with one then it meets the statute.

Ms. Schlaefer stated you would have to have some sort of authorization to do that which is in the incidental law itself.

Mr. Willett stated that all laws provide for authorization for certain activities, but it comes to the Board to put into a form a regulatory scheme for the implementation of it.

Ms. Schlaefer stated that in terms of proceeding, she suggested coming back to the Board with this as an action item. But the law provides that the developer fills out an application and the Department gives them authorization.

Mr. O'Brien asked for written legal opinion on this rule and distributes it to Board and bring it up at a future meeting if necessary.

Mr. Ela stated presumably there will be requests for incidental takes between now and a future meeting, but Mr. O'Brien's suggestion is a good one to review the procedure.

Ms. Osterndorf asked if the Board would like the Department to stop authorizing incidental takes until the Board has reviewed the procedure.

Mr. Willett stated he thought when we approved the rule, we had put into place a regulatory scheme, which addressed how incidental take would be addressed.

Mr. Ela stated it may be highly unpopular if the Department stops issuing all incidental take permits.

Mr. Andryk stated that the Department can't use this as a basis to grant or deny an incidental take. It is guidance that doesn't have the force and affect of law. In order for it to have the force and effect of law, we need to go through the rule making process.

8.B.4. ~~CWD Update~~ **POSTPONED FROM AGENDA**

The meeting adjourned at 4:49 p.m.

Air, Waste and Water/Enforcement Committee

March 23, 2005

Minutes

The Air/Waste and Water/Enforcement Committee was called to order at approximately 8:45 a.m. by Chairman Stephen D. Willett in Room 511, GEF2, Madison.

ORDER OF BUSINESS

3.A. Air/Waste and Water/Enforcement

3.A.1. Approval of proposed FY 2006 laboratory certification fee adjustments.

Greg Pils, Lab Certification Coordinator, Integrated Science Services Bureau stated that section 299.11(9) requires the Department to promulgate a graduated schedule of fees for certified and registered laboratories which are designed to recover the costs of administering the laboratory certification program. The fee schedule for each fiscal year is determined using the formula promulgated in NR 149.05. The formula uses a relative value system to equitably distribute the costs of administering the program among the laboratories the program certifies and registers. The NRB must approve all annual fee adjustments. The program is projecting operating FY 2006 costs of \$578,100. This figure is an increase of \$25,542 over the program's FY 2005 budget, but remains \$82,700 below the program's 660,800 spending authority as provided in s. 20.370(3)(fj) of the Governor's proposed FY 2006-2007 budget. The program must increase FY 2006 certification and registration fees 1.8% from FY 2005 levels in order to collect sufficient fee revenue to recover the program's FY 2006 operating costs. Details of the program's FY 2006 budget and proposed fee adjustment are included in the attached background memorandum.

Mr. Willett MOVED, seconded by Mr. Poulson, approval of the proposed FY 2006 laboratory certification fee adjustments. The motion carried unanimously by all committee members.

3.A.2. Presentation of 2005 Lab of the Year Awards to Sparta Wastewater Treatment Plant Lab and Middle River Health Facility Wastewater Treatment Plant Lab

Mr. Willett congratulated the winners of the 2005 Lab of the Year Awards that were presented to Sparta Wastewater Treatment Plant Lab (large lab) and Middle River Health Facility Waster Water Treatment Plant Lab (small lab) in front of the full Board.

3.A.3. Adoption of Board Order RR-56-04, revisions to NR 169 related to Dry Cleaner Environmental Response Fund Rule.

Mark Giesfeldt, Bureau Director, Remediation and Redevelopment stated that the Dry Cleaner Environmental Response Fund program was established by the legislature in 1997 at the request of the dry-cleaning industry. The Department of Revenue licenses dry cleaners and collects license and solvent fees that are then used to reimburse eligible dry cleaners for eligible costs associated with the investigation and cleanup of dry-cleaning facilities contaminated with dry-cleaning solvents. NR 169, effective January 2000 was developed by the DNR to implement this program, and was revised in May 2003 to accommodate previous statutory changes. Since that time, additional statutory changes and other implementation streamlining have occurred and NR 169 now needs additional revisions. These revisions were developed with an advisory group consisting of DNR field staff, Central Office staff, consultants, and representatives of the dry-cleaning industry. The major changes include incorporating statutory changes such as the deadline for accessing the program, and new definitions that clarify eligibility. In addition, the rule changes include streamlining the remedy selection process, and allowing drycleaners to receive up to three interim reimbursements of a minimum of \$15,000 each during the site investigation. The interim reimbursement must be accompanied by a change order to the site investigation scope of work and no more than one reimbursement can be requested in a fiscal year. Another revision allows the department to reallocate money between the risk priority categories when it is necessary to ensure timely reimbursement of claims. These changes will allow the program applicants an easier and more streamlined way to remediate their sites and obtain the reimbursement for their expenditures.

Mr. Ela stated that he was glad that DNR put the substance of the statute in the rule notes, as this improved the clarity of the rule.

Mr. Poulson MOVED, seconded by Mr. Ela adoption of Board Order RR-56-04, revisions to NR 169 related to Dry Cleaner Environmental Response Fund Rule. The motion carried unanimously by all committee members.

3.A.4. Adoption of Board Order WA-47-04, revisions to NR 500, technical changes for landfills.

John Melby, Policy Section Chief, Waste Management Bureau stated that at the June 2004 meeting, the Board authorized the Department to hold public hearings to solicit input on the proposed revisions to the NR 500 series. These proposed rule revisions will allow longer leachate lines in municipal solid waste (MSW) landfills, improved landfill design and construction standards, and require the measures be taken by MSW landfill owners to reduce the long-term risk of their landfills. The proposed rules also allow for approval of trials that may involve addition of liquids to foster quicker biodegradation, changes in final cover requirements and introduction of run-on water from precipitation events. The Department convened public hearings on August 17th and 18th and accepted public comments through September 17, 2004. As part of the comment process, 17 individuals commented on the proposed rules and a response to public comments has been developed and is provided as part of the package. Also, several comments were concerned that no Environmental Assessment (EA) was done. While, we believe that no EA is required, additional information is provided on the environmental impacts of the proposed rule as Attachment 2 to the background memo. In response to public comments and comments from the Legislative Rules Clearinghouse, the Department has made changes to the proposed rules. Neither federal rules, nor the rules of surrounding states, address the maximum length of leachate collection pipes. The revised leachate collection length and proposals related to recirculation of leachate and the introduction of liquids into the MSW landfills were the product of work groups composed of Department staff and external stakeholders. Landfill size, potential impacts on recycling, environmental impacts, required stability plans and final landfill liner testing continue to be controversial with some stakeholders. One of the controversies is the rule changes would improve landfill stability and allow landfill leachate lines to be up to 2,000 feet long (increased from current 1,200 feet).

Ms. Bangert stated that dry-tomb landfills have long-term risk and liability. The rule represents a significant shift in long-term landfill design standards and policy. It improves waste management in Wisconsin by improving the technical specifications for leachate line, and by requiring landfill operators to develop plans to bring waste mass to steady state as soon as possible. However, there still isn't an update about financial assurance. Eventually, the goal is to set up financial mechanisms that protect the environment, address future needs and risks, and are cost effective for landfill operators. She stated the Department heard and attempted to address concerns about safety, size of landfills, the rule's potential effect on recycling programs, and landfill stability.

Public comment

1. Caryl Terrell, Madison, The Sierra Club requested that the committee return the rule change to Department staff to address various concerns, especially risk issues and financial assurance issues. She stated that The Sierra Club supports Ms. Bangert's statement of December 2003, which discussed increased environmental risk associated with larger landfills. She stated that the financial assurance subgroup of the Technical Advisory Committee did not reach consensus and has not met since April 2004. She stated that DNR staff is ignoring risk issues in the rule. The state could be bankrupted by a landfill disaster such as a "garbalanche" where the landfill collapses like it did near Cincinnati because state law says that landfill operators can walk away from their financial responsibility for a landfill 40 years after it's closed. Two-thirds of the rule portions are not in the final rule package, so DNR would lose leverage with landfill operators if the rule changes were approved.
2. Todd Watermolen, Milwaukee, Onyx Waste Service, showed a piece of plastic pipe of the type used for collecting landfill leachate. He also passed around photographs. He stated that the main issue is landfill-engineering design. He requested committee approval of the rule changes.
Mr. Willett stated that restructuring landfills' financial responsibility is one of two major financial issues.
Mr. Watermolen replied that if the Natural Resources Board approves the rule change, it could include a

2007 deadline by which the Financial Assurance workgroup must finalize that issue.

Mr. Ela asked why the Financial Assurance workgroup had not met in almost a year.

Ms. Bangert stated that she isn't sure that the workgroup hasn't met. Department staff has been doing additional work with insurance groups and Brownfield staff to enable the workgroup to conclude its business and to enable the Department to work through its financial issues first.

Mr. Willett asked about the second major issue, the financial stability rules.

Ms. Bangert stated that those rules must go back to the Board by February 2006 for authorization for public hearings. If the Department needs to make statutory changes related to those rules, February 2006 is probably not doable.

Mr. Ela asked what kind of plan can reasonably be expected from landfill operators in the absence of rules to establish financial stability standards?

Ms. Bangert stated that the plan will not have to be submitted to the Department until January 2007, so that year should be adequate to develop such a plan.

Mr. Poulson stated that the discussion about financial issues should continue whether or not the big landfills are at the table.

Mr. Watermolen stated that the Financial Assurance workgroup gathered information on how long "long term care" and financial stabilization ought to be. The times varied from 10 to 40 years.

3. **Peter Peshek**, Madison, DeWitt Ross & Stevens, outside counsel for Onyx Waste Services discussed the procedural merits of the rule changes. Approving the rule changes would mean that the Waste Management program is keeping promises made in 1996 concerning landfills, and that Waste Management is truly using dynamic, Environmental Management System (EMS) techniques in making decisions and revisiting decisions when new information comes up

Mr. Willett clarified he is not saying to postpone other areas of concern.

Mr. Peshek stated no saying we're not giving staff enough credit for what is in this rule package.

Mr. Willett stated point well taken, but the Committee has heard concern about one area that has fallen by the wayside.

Mr. Peshek stated that if one buys into the Green Tier and partnerships, you need to trust the partners. This is also a chance for DNR to influence land use. These rules hold costs down so there's less need to build additional roads, install more monitors, etc.

4. **John Reindl**, Madison, representing himself, stated that he is a member of the Technical Advisory Committee. The state is being asked to fix problems on landfills that are at least 35 years old. He supports financial responsibility and stability for landfills of all sizes. He proposed that the Department calculate externalities of solid waste management, with the goal of putting surcharges on solid waste. He recommended that the Board hold the rule in abeyance until all three parts are completed; place a moratorium on the approval of new landfills or landfill expansions until the rule is finalized; continue to work towards minimizing the environmental impact of materials management.
5. **Dan Otzelberger**, Menomonee Falls, Republic Services, stated that Republic Services supports the rule making, particularly the increase in leachate line length and the design and construction improvements. He stated that current best practices for landfills support the DNR rule change. By increasing the leachate line, it would reduce the number of new landfills needing to be sited and is a good rule overall.

Mr. Willett asked if the Board approved the rule with the financial stabilization rules still pending, would Republic and other landfill operators expand their facilities before the final details were known about financial stabilization.

Mr. Otzelberger replied that he expects the industry would probably continue working with DNR during the interim.

Mr. Willett stated that Department staff indicates that the state has 6-7 years of landfill capacity left. Given that there appears to be no rush to build big landfills, how long would it take a company to come up with a plan to expand your construction?

Mr. Otzelberger stated that his company is in no rush.

Mr. Poulson said there is an issue of how to educate the public and a landfill's customers/users on how to hold down expenses.

Mr. Otzelberger explained how his company takes time to communicate with customers.

6. **Sherren Clark**, Madison, BT2 Inc. stated that she belonged to the workgroups on the landfill rule development process. BT2 Inc. supports the rule package. The changes to leachate line length provide more flexibility for landfill site design.
Mr. Willett asked whether Ms. Clark anticipated any landfill operators would try to expand their landfills without some of the concerns being addressed regarding financial stability.
Ms. Clark stated that she assumes landfill plans and construction would generally move forward.
Mr. Ela asked how a company would approach landfill design if it didn't know what was in the details of the financial stability plan.
Ms. Clark states that a landfill operator wouldn't necessarily have to know those details. The rule package is a big step toward the next generation of landfills.
Mr. Ela asked whether the new technical standards if accepted by all stakeholders could be put in a stand-alone rule and if so, could they be adopted in a relatively non-controversial way.
Ms. Clark said yes, they are mostly general improvements.
7. **Mike Amstadt**, Madison, RMT Inc. stated that the proposed rule incorporates state of the art landfill design techniques. Other states have stable landfills with 2000-foot-long leachate lines.
8. **Peter Anderson**, Madison, Center for Competitive Waste Industry, stated that Department asked him to serve on the Technical Advisory Committee and the Financial Stabilization subcommittee. He stated that the rule changes present enormous financial risks that exceed the magnitude of the savings and loan debacle. He stated that he disagrees with Mr. Peshek and Mr. Watermolen about the safety of landfills with long leachate lines; once maintenance stops, 40 years after the landfill closes, the landfill liner will fail and the risks are not known. He stated that EPA's 30-year time frame is not based on scientific data or technical studies, but on a compromise of competing interests. He stated that the rule would increase the size and moisture level of landfills to the consistency of wetlands. He showed photographs of failed landfills. The rule package puts the financial risks for failed landfills on Wisconsin's taxpayers. He stated that the financial responsibility issue pervades all landfills. It must be resolved to protect the environment and the state's fiscal integrity.
9. **Angela Peterson**, Franklin, representing herself, stated that she lives near Waste Management Corporation's Metro landfill. She requested that the committee return the leachate line rule to DNR staff until financial responsibility issues are resolved. She stated that her neighbors pay to have their well water tested. There are also conflicts about road sweeping responsibilities and odor problems near the landfills. She said that the priority should be public safety with long-term financial responsibility.
10. **Bruce Coleman**, Franklin, representing himself was absent.
11. **Charlene Lemoine**, Waukesha, Waukesha County Environmental Action League, stated that she is this group's representative for solid waste issues. She stated that current large landfills are showing problems less than 30 years after opening. She stated that she was involved with the 1996 rule that allowed 1,200-foot leachate lines. She stated that both landfills in Waukesha County have sought and received exemptions for leachate lines longer than 1,200 feet and that Wisconsin has more landfill capacity than ever under the 1,200-foot leachate line rule. She said there is no reason to approve this rule change quickly and that landfill operators' exemptions don't end with longer leachate lines. She stated that there are very serious water quality problems in Waukesha County. Ms. Lemoine expressed concern about public participation under the new rules. She stated that she feared citizens will not get involved in contested case hearings, for example on the length of leachate lines. She stated that the waste industry has enacted agreements with local governments that state that residents may do nothing to impede landfill permits, so citizens are shut out of the process.
Mr. Willett asked Ms. Lemoine to comment only on the rule.
Mr. Ela asked why citizens have lost the right to comment.
Ms. Lemoine stated that this is due to the two-track system in Chapter 89 for local landfill siting and permitting processes. She stated that now local agreements are finalized before DNR submits the landfill feasibility report. She stated that the rule is an economic giveaway from the waste industry because they incur no risk and they can build higher landfills because air space is free.

12. **Ben Piater, Ayres Environmental Associates**, stated that his company supports the code revision, specifically extending leachate lines beyond 1,200 feet. He stated that larger landfills make waste-to-energy projects more economical. The revisions will benefit future landfill design in Wisconsin.
- Mr. Ela** asked Ms. Bangert about the December 2003 Waste Management program statement, “extending the permissible length of leachate lines will necessitate appropriate mechanisms to ensure adequate financial resources are available to address the additional risks associated with larger landfills. We believe perpetual long-term care and prompt remediation, financial assurance are necessary to address the increased environmental risk associated with larger landfills.” He asked why, four months later, DNR effectively took the opposite position.
- Ms. Bangert** stated that DNR staff was exploring new tools, such as an insurance tool, that could not be investigated in a four-month time frame. She clarified that the state statutes and regulations require landfill operators to be responsible for their landfills in perpetuity.
- Mr. Ela** said this is meaningless if a landfill company goes out of business.
- Ms. Bangert** replied that large, private landfill companies and local governments take care of landfills. A good point has been raised about landfill failures bankrupting companies and taxpayers assuming responsibility.
- Mr. Willett** stated that there were comments about adequate landfill capacity. If future landfill capacity is adequate, why is this rule needed and how is the public being affected?
- Ms. Bangert** said that Wisconsin has about seven years of remaining landfill capacity and noted that it takes 5-7 years to expand at an existing site and much longer to build a new site. She stated that approximately 20 new landfills are in the pipeline now; their capacity is about 100 million cubic yards, which would give the state another 8 years of capacity.
- Mr. Ela** stated that he was disturbed about what the current process implies about the Natural Resources Board, in that it seemed like a perfect example of taking incremental action at the cost of failing to look at broader problems. He said it appears that Wisconsin is a magnet for solid waste from other states at the same time that DNR's stated policy is to reduce the flow of waste into our landfills. He said he did not understand how increased landfill efficiency would impact the overall waste management system. He proposed that the Natural Resources Board direct DNR to conduct an overall study on waste and materials management issues. He read the following resolution:

In furtherance of Wisconsin's existing policy of reducing the amount of waste material that must be disposed of unproductively, the Natural Resources Board directs the Department of Natural Resources to develop a Wisconsin Comprehensive Strategy on Materials Use and Disposal. This Strategy shall consider options and make recommendations in the policy areas of management of toxic and nontoxic waste, materials recycling and composting, and incentives for materials reduction and reuse. The Strategy shall analyze the economic and environmental interrelationships between various policy options. It shall make recommendations to the Natural Resources Board for programmatic decisions that can be made within the framework of existing statutory authority, as well as recommendations that the Board can make to the Wisconsin Legislature and the United States Congress concerning desirable changes in state and federal law. The Department shall complete the Strategy, report its findings, and make recommendations to the Board by March 2007.

Mr. Ela MOVED, seconded by Mr. Poulson the adoption of the resolution.

Mr. Willett stated that the Bureau of Waste Management and the Bureau of Remediation and Redevelopment spent two years reviewing where DNR was at in terms of these issues. He stated that Department is not limping along and has reviewed the overall problem and recognized there's no perfect solution. The citizens are demanding readily availability and affordable.

Mr. Ela stated that he was not suggesting putting everything on hold, but he would like to see the Board adopt an overall framework.

Mr. Poulson asked whether the motion superseded the rule packet just presented. **Mr. Ela** replied that his proposal was a separate decision that would not close options on the current rule package.

The motion carried unanimously by all committee members.

Mr. Poulson asked **Ms. Bangert** how we know that longer leachate lines won't have breakdowns.

Ms. Bangert stated that landfills undergo an extensive approval process with significant DNR oversight, redundancies in engineering, numerous inspections, and extensive monitoring requirements for groundwater and gas emissions. Discussion ensued about a landfill failure in the Milwaukee area. She stated that a bioreactor pilot failed because of where the reactor unit was placed in the landfill.

Mr. Poulson asked about the videotaping process used when leachate lines are cleaned out.

Ms. Bangert said it's not unusual for DNR staff to monitor the leachate line clean outs. The rule package requires submission of a videotape of the clean out.

Mr. Ela stated that one major issue is that the rule enables massive increases in size and height of landfills. This isn't just a technical issue. It's a policy issue related to sizing and risk.

Ms. Bangert stated that not all landfills will be able to take advantage of the 2000 foot length because of other constraints. There isn't an aesthetic standard for our current landfills. The Department hasn't had discussions to address the bigger policy issues.

Mr. Peshek stated that was the argument in 1996, that the staff was using the 1200-foot limitation as a surrogate for making land use decision. He said that DNR staff has applied EMS principles in developing the rule.

Mr. Willett stated that protecting the environment includes proper waste disposal. If the Board puts off the rule, there's the potential for a crisis.

Mr. Ela asked Ms. Bangert what the consequence would be if the Board were to defer the leachate line portion of the rule, and direct the Department to incorporate in either into the strategy we just passed, or in a shorter term rule that addressed financial responsibility and stability standards. The Department has variance authority, so what would be the practical detriment to not passing the rule?

Ms. Bangert stated for facilities that have lines longer than the current 1200 foot, that will mean a delay in reviewing their plans and approvals. It may cause landfill companies to go to less than 1200 ft. to reevaluate their design.

Mr. Willett MOVED, seconded by Mr. Poulson, Adoption of Board Order WA-47-04, revisions to NR 500, technical changes for landfills.

Mr. Poulson proposed the following amendment: that the Department and all interested parties will work toward additional rules on financial stability and responsibility, with a deadline of reporting to the Natural Resources Board in February 2006.

Mr. Poulson MOVED, seconded by Mr. Ela this amendment. The amendment passed unanimously with all members of the committee.

The original motion with the amendment passed unanimously by all members of the committee.

Mr. Ela stated that he was uncomfortable with the passing of this rule.

- 3.A.5. ~~Adoption of Board Order AM 46-04, revisions to NR 400, 406, 407, and 410 relating to the issuance of registration and general permits to air pollutant emission sources.~~ (Caroline Garber, 15 minutes)
POSTPONED FROM THE AGENDA

- 3.A.6. Adoption Emergency Board Order FH-16-05(E), creating NR 328-Subchapter III relating to Shore Erosion Control on Rivers and Streams.
Mike Staggs, Director, Fisheries and Habitat Protection Bureau stated that Wisconsin 2003 Act 118, which went into effect on February 6, 2004, modified provisions in Chapter 30 governing the regulation of activities in Wisconsin's navigable public waters. The legislation establishes a new regulatory framework where activities are either authorized as exemptions subject to rules adopted by the Department; allowed under a general permit through rules adopted by Department, or reviewed under an individual permit. The primary purpose of this emergency rule is to establish two general permits. There are no statutory exemptions for the placement of shore erosion control on rivers and streams-without this rule, projects in these settings all require an individual permit. NR 328 – subchapter III defines and describes general permit standards for Biostabilization and Integrated Bank Protection on waterways less than 35-foot wide. Department staff, federal agency staff, and external consultants developed the standards. The Board

authorized Emergency and Permanent Rules in 2004 for shore erosion control on inland lakes and impoundments. The proposed emergency subchapter addresses rivers and streams. State and federal agencies that design, install, or fund shore protection and habitat projects along rivers and streams and property owners where these projects occur will benefit from the general permits. This emergency rule will provide streamlined permitting for the 2005 construction season, for activities that meet prescribed permit conditions. Department staff are working with internal and external advisors on further technical standards, in order to develop a permanent rule for shore erosion control on rivers and streams.

Mr. Willett asked if the Department was also pursuing a permanent rule track.

Mr. Staggs replied that this emergency rule is only for the 2005 construction season. There is more work to be done before we complete the permanent rule.

Pam Biersach, Regional Aquatic Habitat Expert, Southcentral Region discussed the Department's public involvement effort for this emergency rule. She noted that the emergency rule contains two general permits, for biostabilization and integrated bank treatment.

Mr. Willett asked whether the emergency rule covers permits for stream projects done by DNR staff.

Ms. Biersach said that those projects must use the same practices and meet the same standards as projects governed by the emergency rule, but they are governed by existing DNR manual code.

Mr. Staggs stated that DNR projects go through the same review process as private projects, but DNR doesn't receive a paper permit for its projects.

Mr. Poulson asked if the biostabilization rule allowed exotic woody vegetation.

Ms. Biersach said the rule allows only the use of native species. She handed out an amendment to the proposed emergency rule. One amendment corrects typographical errors, while the other increases the maximum length for multiple projects. There is an alternate process for larger habitat projects not meeting the general permit standards.

Mr. Ela asked what determines which counties are exempt to the trees cut down must be incorporated in a bank stabilization project.

Ms. Biersach stated that in Southwestern Wisconsin, the Department is trying to remove vegetation due to impacts on trout waters.

Mr. Ela MOVED, seconded by Mr. Poulson, adoption Emergency Board Order FH-16-05(E), creating NR 328-Subchapter III relating to Shore Erosion Control on Rivers and Streams, as amended. The motion carried unanimously by all committee members.

3.A.7. Request authorization for public hearing on Board Order FH-12-05, revisions to NR 329 and NR 345 relating to Miscellaneous Structures and Dredging.

Mike Staggs, Director, Fisheries and Habitat Protection Bureau stated the purpose of the proposed revisions to these two chapters is to create five additional general permits to continue permit streamlining and implementation of 2003 Wisconsin Act 118. The proposed revisions contain construction, design and location standards for the following general permits: pea gravel blankets (NR 329) and maintenance dredging of previously dredged areas (NR 345)(both statutorily-required general permits); manual dredging, jetting to harvest aquatic plants, and dredging less than 25 cubic yards from a river or stream. Revisions to NR 329 also include changes to the purpose and applicability sections to identify that the rule applies to all structures in navigable waters other than activities regulated under another rule. The Board previously authorized the pea gravel blanket, manual dredging and maintenance dredging general permits on August 24, 2004, as part of the second emergency orders issued to implement Act 118. All types of waterfront property owners – from private landowners to business, builders and developers – who wish to pursue one of the five activities will be interested in the proposed additional general permits that provide specific standards, a shorter permit review and reduced permit fee. Conservation organizations and the public who use and enjoy Wisconsin's navigable will be interested in the proposed standards to ensure that they protect public rights in navigable waters.

Mr. Ela MOVED, seconded by Mr. Poulson, approval for public hearings. The motion carried unanimously by all committee members.

3.A.8. Request authorization for public hearing on Board Order WA-10-05, repeal and recreation of NR 590 and 600 to 690 relating to used oil, universal waste and hazardous waste management.

John Melby, Policy Section Chief, Waste Management Bureau that the proposed rules replace and update current rules that regulate the generation, transportation, recycling, storage, treatment and disposal of hazardous waste and used oil. The format for the proposed rule is similar to the federal regulations published in the code of federal regulations by the U.S. Environmental Protection Agency (EPA). Most of the proposed revisions incorporate updates to Federal rules already in effect. These revisions include provisions to facilitate legitimate recycling, paperwork reduction for businesses and flexibility in design and operation of hazardous waste management facilities. The updates are necessary to retain authorization from the EPA to implement the federal hazardous waste program in Wisconsin. The proposed rules continue the long-standing state policy of more fully regulating companies that generate small amounts of hazardous waste than EPA's rules. The Department believes this level of oversight is necessary to be protective of human health and the environment. The proposed rules also include adjustments to the current fees for hazardous waste plan review and license fees that have been in effect since 1994. The proposed fees are necessary to generate sufficient revenue to administer the hazardous waste program.

Mr. Ela MOVED, seconded by Mr. Poulson the request authorization for public hearing on Board Order WA-10-05, repeal and recreation of NR 590 and 600 to 690 relating to used oil, universal waste and hazardous waste management. The motion carried by all committee members.

3.A.9. Adoption of Board Order FH-36-04, modification to NR 1 related to policies on protection and management of public waters. ADDITION TO AGENDA

Todd Ambs, Administrator, Division of Water stated that the Assembly Natural Resources Committee continued to have concerns about the Department's rules relating to NRB policies on protection and management of public waters. Discussion between Department and Assembly staff specified the issues and resulted in a series of proposed modifications. The Department recommends Board adoption of the requested modifications. The changes to the board policies on protection and management of public waters (NR 1) are intended to clarify terms used in the designation of Areas of Special Natural Resources Interest (where exemptions are not allowed) for waters harboring rare species and locations of fish and wildlife habitat. In addition, the changes relate to processes used by the Department to identify public rights features and to publish the list of waters.

Public Appearance

1. **George Meyer**, Madison, Wisconsin Wildlife Federation stated his organization supports the last changes to NR 1. The rules do not lower protection for fish habitat, water quality, or natural scenic beauty. The changes are cosmetic.

Mr. Ela MOVED, seconded by Mr. Poulson Adoption of Board Order FH-36-04, modification to NR 1 related to policies on protection and management of public waters as amended. The motion carried unanimously by all committee members.

The committee adjourned at 11:55 a.m.

Land Management, Recreation and Fisheries/Wildlife Committee

March 23, 2005

Minutes

The Land Management, Recreation and Fisheries/Wildlife Committee was called to Order at approximately 8:45 a.m. by Chairman Herb Behnke in Room G09, GEF2, Madison.

PRESENT: Herb Behnke, Chairman
 Christine Thomas
 John Welter

ORDER OF BUSINESS

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

Mr. Behnke called the meeting to order and asked that Item 3.B.4. be taken out of order and discussed first

3.B.4. Approval of 2005 Deer Herd Control Recommendations

Keith Warnke, Wildlife Biologist, Wildlife Management Bureau stated that the Department recommends that the NRB approve the implementation of option 2, outlined in the memo, for the 2005 deer seasons. Option 2 includes Earn-A-Buck (EAB) regulations in Deer Management Units (DMU): 51A, 51B, 63A, 64M, 66, 67A, and 68A where population densities are extremely over goal, and Zone T regulations in DMUs (1, 2, 3, 6, 9, 13, 14, 18, 22A, 23, 24, 25, 27, 46, 47, 54B, 54C, 57, 57B, 59B, 59C, 59M, 60A, 60M, 61, 62A, 62B, 64, 65A, 65B, 65B, 68B, 69, 73B, 74A, 77C, 77M, 78, 80A, 80B, 81) where populations are likely to be brought to within 20% of goal with a regular deer season framework and additional antlerless permits. He distributed handouts, including a revised deer management map that was not included in the Board packets. He discussed the 2004 gun deer season, specifically the Earn a Buck (EAB) and Zone T management units. He indicated that 2004 was the second highest deer harvest in Wisconsin history.

Mr. O'Brien asked why the 2000 harvest numbers were so high.

Mr. Warnke discussed in detail on the 2000 season and then proceeded into discussion regarding the Departments deer population estimates (sex-age-kill (SAK) model). In general, the buck harvest was 6% lower than the model predicted (2004-gun season). He gave a detailed history of the EAB and Zone T program and specifically discussed unit 63A. In general, he stated that all 2004 EAB areas were severely over population goals.

Mr. Welter asked about the average population determined in population goals and whether EAB units could become T-Zone units in the future.

Mr. Warnke stated that he didn't look specifically at that. He then presented a new deer management map that included 51 units in the nine-day season, 42 units in Zone T and 8 Units in EAB.

Mr. O'Brien asked about where the Department got the information that hunters support EAB or T-zones.

Mr. Warnke stated that with T-zones, hunter participation is voluntary and surveys indicated that 40% of hunters took part in those seasons.

Mr. O'Brien asked about the accuracy of the Department's SAK model deer population estimates and asked if an audit is going to be conducted in the future.

Mr. Warnke stated that there is an education void on the population estimate. Harvest figures estimate that 1 in every 3 deer are harvested. That cannot be sustained if the Department is fairly accurate with their population estimates. He agrees that an audit is important and would help provide and impartial review and resolve discrepancies between parties. He sent out a letter inviting people to a meeting in early June to structure and scoping out the audit.

Mr. O'Brien asked about the timeline for such an audit.

Mr. Warnke stated that a request for proposal (RFP) will be going out soon and this may be a yearlong project. He also indicated that they are meeting with all interested stakeholders in June 2005.

Mr. Hauge, Director, Bureau of Wildlife Management stated that if the meeting is successful, the RFP would go out by the end of summer for the audit.

Mr. O'Brien asked if the data would be being collected by this time next year.

Mr. Hauge indicated that next year would be feasible, but there are many more questions being asked.

Dr. Thomas suggested that the Department seek a panel of auditors, possibly someone not from Wisconsin, in order to make the audit more impartial.

Laurie Osterndorf, Administrator, Land Division stated that the Department is pursuing the audit and indicated that the “believability” factor in the audit will be crucial.

Mr. Behnke stated that this discussion is important, but there will be no resolution to this issue until the audit is completed. He asked about deer habitat definitions.

Mr. Warnke discussed how the department quantifies deer habitat.

Mr. Behnke stated that he has received many letters from hunters who say they are going to quit hunting because of the over regulation of deer hunting. He asked how much is this a factor in the drop of hunters.

Mr. Warnke stated that on average, data suggested that 15% of hunters drop out from year to year. He gave a brief explanation on the reason.

Mr. Behnke asked about the regulatory affect on hunters. He explained that there are really two issues here, biology and sociology. He suggested that the Department give equal representation to the people who buy the licenses.

Mr. Welter asked when T-Zone seasons are set.

Mr. Warnke stated that they are defined in WI Administrative Code, October 28th this year.

Public Participation

1. **Steve Oestreicher**, Harshaw, Chair, Conservation Congress, stated that in general, they are in agreement with some of the Departments Zone-T recommendations. They are however, not in agreement with many of the EAB units. The Congress has heard from many landowners who are against EAB and they are threatening to end gun deer hunting on their property altogether. He also has serious concerns with many of the units; specifically when there is data to indicate deer kills remain consistent no matter what program they are in. He discussed the specifics regarding data from various deer management units and passed out two handouts with data on various deer management units.
2. **Joe Kaputa**, Chair, Big Game Committee, Conservation Congress, stated that there is a lack of progress that has been made between the Department and the Conservation Congress. He described the questions that will be on the agenda of the Spring Hearings and indicated that from his feedback, hunters have had enough. He asked the Board to show hunters we are listening by adopting the Congress’ proposal of 20 zone T units and no EAB units statewide. The Congress will take the lead role in educating the public about the need for antlerless harvest. The congress also asked for the Board to put the executive council season proposal on its list as an action item after the spring hearing. He went on to read a letter from Gary Kramer, Madison, WI outlining the frustrations landowners are having with the various gun deer hunting programs. At the conclusion of the letter he stated that in general, the Department has always been willing to listen, but each entity serves different masters. As an elected Conservation Congress delegate, he is hearing from a different constituency and they are saying there is not enough hunting pressure due to EAB and Zone T.
3. **Jonathan Gilbert**, Odanah, Great Lakes Indian Fish and Wildlife Commission (GLIFWC) described how the Board has ignored consultation with the Tribes regarding deer management as required by the Voight Case. He further indicated that GLIFWC has not been consulted with other deer management issues. He supports option 1 outlined in the green sheet. The NRB has obligations contained in the Voigt Decision Deer Trial Stipulations concerning the role of Ojibwe Indian Tribes in Wisconsin’s deer management system.
Mr. Welter asked if his position is whether the Board should just endorse the recommendations of game managers or that we have some discretion making decisions at this board level that may require the wildlife managers to consult with GLIFWC.
Mr. Gilbert suggested that before the Board makes any decision concerning deer management there is a court order that requires the Department with the tribes.
4. **Dr. Thomas Rooney**, Madison, University of WI-Madison described a situation at Anacosti Island in Quebec and gave a brief history of deer hunting and management in Wisconsin. He indicated that controversy in this issue is not new. The deer management situation could get very ugly very soon if we do not take correct measures. He urged the Board to adopt option one.

5. **Dan Hirschert**, Waupan, USDA-Wildlife Services described in detail the deer damage program in the central part of the state. He stated that the Fox Valley is highly used for agricultural purposes with many high value vegetable crops. He gave statistics about how deer damage claims are on the rise. He stated that the tools the USDA uses include permanent fencing and shooting permits.
6. **Jim Hebbe**, Green Lake, Green Lake County Land Conservation stated his support for the EAB program in Green Lake County and asked that this program be kept as a resource management tool. He gave the statistics for Unit 67B.
7. **Larry Gohlke**, Neshkoro, discussed the 1996 deer season and empathized with the Board, there is no way they are going to appease everyone. He stated it's important to hunt land that is overpopulated. He suggested that various special deer seasons might allow portions of land typically not open to deer hunting to be accessible. He urged the Board not to eliminate EAB.
8. **Ralph Fritsch**, Kaukauna, Wisconsin Wildlife Federation stated his organization's position on this issue. They feel that the 2004 season was more controversial than normal largely because of the EAB and Zone T seasons. He agreed with the Department that the deer herd should be managed within population goals, but would be open to the Conservation Congress proposal on a pilot basis. At their February 2005 Wildlife Committee meeting they voted to support an either sex bow season with free antlerless permits in any unit with an unlimited quota; support a nine-day general gun deer season starting the Saturday before Thanksgiving with free antlerless permits in any unit with an unlimited antlerless quota; to support the current muzzleloader season with the same tagging requirements as the general season; to support the establishment of a statewide four day antlerless season in the 2nd week of December for all units with an antlerless quota, and to support the creation of an either sex season for all deer hunting in the CWD zone starting the first day of the 9 day gun season on a one year trial basis. The WWF Board voted to support the elimination of the October T-zone hunt on a one year trial basis.
Mr. Welter asked that if the Conservation Congress proposal didn't work would the WWF be willing to go back to EAB and T-Zones.
Mr. Fritsch stated yes and further explained the promoting the organization has been doing regarding the fee package increase. It has been very difficult to do this when you have a high level of frustration regarding the 2004 deer hunt.
9. **John Lewis**, Verona, Seventh Generation Hunters was not present
10. **Greg Kazmerski**, Waukesha, Deer Hunters Coalition, expressed his concerns about the SAK formula. He then went on to explain possible reason for the high deer harvest in 2000 and discussed the need for simplifying the regulatory process.
11. **George Meyer**, Madison, Wisconsin Wildlife Federation declined to speak.

Mr. Behnke asked if representatives of the Department and the Conservation Congress could convene in an adjacent room and attempt to reach a compromise. They were asked to return in one hour.

- 3.B.1. Adoption of Board Order FR-04-05, revisions to Nr 46, related to Managed Forest Law Program from 2003 Wis. Act 228.

Carol Nielsen, Tax Law Manager, Forest Management Bureau stated that the revisions in the managed forest administrative rules, subch. III of NR 46 are proposed to reflect the changes made to subch. VI of ch. 77 Wis. Stats. In 2003 Wisconsin Act 228 and to implement one additional change recommended by the Governor's Council on Forestry, in their report December 2002 Review of Wisconsin's Managed Forest Law (MFL). MFL application changes including new application deadlines, establishment of a second deadline beginning Nov. 15, 2005, requirement that title documents be recorded and that existing certified survey maps be included with the application, and revises orders eligible for additions to new orders only. Development of a plan writer certification program for non-department foresters who will prepare management plans for managed forest law entries. Establishes requirement that plans be prepared by a certified plan writer or the department itself. Modifications of open/closed acreage rules to allow up to 160 acres closed per ownership per municipality for new entries and to allow owners to change the open and

closed designation of their lands up to two times during the order period. Yield tax exemption for new entries during the first five years of the order period, excluding Forest Crop Law (FCL) conversions to MFL and MFL land renewed at the end of the original order period. Definition of municipality is modified to include city and the definition for renewal is repealed.

Mr. Welter expressed concern about how the new changes may restrict public access.

Ms. Nielsen indicated that in general, these changes should not affect public access.

Mr. Welter recommended that the Department report back to the Board in one year on the status of the program and its affect on public access.

Dr. Thomas MOVED, seconded by Mr. Welter adoption of Board Order FR-04-05, revisions to Nr 46, related to Managed Forest Law Program from 2003 Wis. Act 228. The motion carried unanimously all members.

3.B.2. Request authorization for public hearing Adoption of Board Order FR-13-05, revisions to NR 46.30, annual adjustment of stumpage rates. MODIFICATION TO AGENDA

Carol Nielsen, Tax Law Manager, Forest Management Bureau stated that a hearing is being requested to present the proposed changes to the stumpage rates in NR 46. Annual Stumpage Rate Adjustment, section 77.06(2) and 77.91(1), Stats. Require that the Department establish stumpage rates (values) used in calculating severance and yield taxes on timber harvested from land enrolled in the Forest Crop Law (FCL) and Managed Forest Law (MFL). This rule would repeal and recreate NR 46.30(2) (a) to (c) to revise the stumpage values to be used in calculating severance taxes and yield taxes for timber harvested during the period of November 1, 2005 and October 31, 2006. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average change for sawtimber is a .06% increase over current rates. The pulpwood price, on average, would decrease .06%. Stumpage values are collected from private, state, and county timber sales to be used in calculating the proposed stumpage rates.

Dr. Thomas MOVED, seconded by Mr. Welter approval of [request authorization for public hearing of Board Order FR-13-05, revisions to NR 46.30, annual adjustment of stumpage rates](#). The motion carried unanimously by those members present.

3.B.3. Request authorization for public hearing of Board Order WM-02-05, 2005 Bureau of Wildlife Management Housekeeping Order

Kurt Thiede, Wildlife Biologist, Wildlife Management Bureau stated that these rule changes are minor in nature, non-controversial and can most effectively be handled through the housekeeping procedure. We are proposing changes that provide clarifications to the current rules, updating definitions, increasing management efficiency and altering limitations on hunters. Specifically, this housekeeping rule order: clarifies that cylinder loading black powder handguns may be used for hunting species other than deer or bear; clarifies that doves are included under the definition of migratory game birds; clarifies that a waterfowl blind also must be partial concealed when waterfowl hunting; creates a definition for rifle; clarifies that hen pheasant held under ch 29 or 169 Stats authority are not considered protected; clarifies that those unprotected species identified in ch. 169, Stats. May be taken live from the wild; codifies the Department position that pigeons are not considered wild animals; clarifies that air guns may not be used for deer or bear hunting; updates references to the submission of special permit applications necessary due to modified hours of operation for service centers; codifies the issuance of special permits for those who incorrectly tag a deer; clarifies that a structure, for the purposes of dry land body gripping type traps is a single unit or structure; updates rule language pertaining to use of cable restraints; clarifies rules pertaining to turkey tagging and tag validation; and clarifies wildlife damage program regulations.

Mr. Welter MOVED, seconded by Dr. Thomas approval of the request authorization for public hearing of Board Order WM-02-05, 2005 Bureau of Wildlife Management Housekeeping Order. The motion carried unanimously by all members present.

3.B.5. Approval of statutory limit on the percent of electrical sites in state parks deferred from 2005 legislative proposals introduced at the December 2004 NRB meeting.

Bill Morrissey, Director, Parks Bureau stated that the NRB approval is sought to pursue a change in s. 27.01(15)(b) to raise the cap on the percent of the total number of state park campsites that provide

electrical hookups. The request is to raise the cap from 25% to 50%. Wisconsin has one of the most rustic state park systems in the country and this upgrade of services to our campers will not change that nor will it change our niche. The purpose of Wisconsin State Parks is to provide quality outdoor recreational and educational opportunities in a natural/rustic setting. This action fits our mission in that it allows us to provide campsites with a variety of services to match the current and near-future needs of our citizens. The results of adding or upgrading electrical service to specific loops within a select group of campgrounds over the next six years will not be visually apparent to the casual observer. Yet, this action will allow a greater range of citizens to utilize state parks to experience the natural solitude and learn how humans fit into the world of nature. Of the nearly 70,000 licensed campsites in Wisconsin, state park sites account for only 6.7% of the total. Private campsites are the majority. In addition, 84% of all private campsites provide electrical hookups and that percentage is growing. Wisconsin State Parks with the approval to eventually grow to 50% electric will still be a small player and, with no sewer and water hookups, not a significant competitor in the camping business. State Parks are much more than camping. In a 1994 camper preference survey, 50% of state park campers desire electrical service. Of those campers who request electricity, 60% were denied in their request for an electrical site because there were not enough available to meet demand. In the current Statewide Comprehensive Outdoor Recreation Plan (SCORP), 67% of respondents consider RV-friendly campsites to be appropriate for state parks. Families desire electrical hookups.

Mr. Behnke asked if electric generators are allowed in state parks.

Mr. Morrissey responded yes, by permit.

Dr. Thomas MOVED, seconded by Mr. Welter approval of statutory limit on the percent of electrical sites in state parks deferred from 2005 legislative proposals introduced at the December 2004 NRB meeting. The motion carried unanimously by all members.

3.B.6 Land Acquisition, Ice Age Trail Polk County

Item deferred to full Board

3.B.7. Land Acquisition and Donation, Onion River Streambank Protection Area, Sheboygan County

Mr. Welter MOVED, seconded by Dr. Thomas land acquisition and Donation, Onion River Streambank Protection Area, Sheboygan County. The motion carried unanimously by all members.

3.B.8 Land Acquisition, Ice Age Trail, Waushara County

Mr. Welter MOVED, seconded by Dr. Thomas approval of land acquisition, Ice Age Trail, Waushara County. The motion carried unanimously by all members.

3.B.9. Land Acquisition, Swan Lake Wildlife Area, Columbia County

Dr. Thomas MOVED, seconded by Mr. Welter approval of land acquisition, Swan Lake Wildlife Area, Columbia County. The motion carried unanimously by all members.

3.B.10 Land Sale, Statewide Wildlife Habitat Program, Wood County

Mr. Welter MOVED, seconded by Dr. Thomas approval of Land Sale, Statewide Wildlife Habitat Program, Wood County. The motion carried unanimously by all members.

3.B.4 Approval of 2005 Deer Herd Control Recommendations

Mr. Behnke asked that the Department and Conservation Congress representatives take five minutes each and address the Board as to whether a compromise had been reached.

Mr. Hauge stated that the Department and the Conservation Congress differ on about 8 deer management units, specifically #2,3,9,13,14,18,23 and 73B. The concerns of the Congress include 1) decreased fawn production, 2) weather severity, and 3) black bear predation. The Department is confident in the biology of the situation, but it's the sociology of the situation is the issue. Consequently the Department is willing to reach a compromise on 4 of the 8 stated T-Zones, provided the Congress can get out and educate hunters about the importance of harvesting deer. Ultimately, it will be a team effort with the Department and Congress to move towards management goals.

Mr. Behnke asked specific questions about the population totals and harvest numbers in various management units in Marinette County.

Dr. Thomas stated that she would like to raise an issue with the baiting and feeding of deer in the Elk areas of Wisconsin and the concern that issue poses.

Mr. Welter asked about the 4 units being proposed to taken out of the T-Zone. How do you reduce herd numbers?

Mr. Hauge stated it will become buck and quota. Everyone who applies for hunter's choice permit will get one. The Conservation Congress would need to pitch in with a public education campaign.

Mr. Oestreicher, stated they would not support having any of the eight units in the EAB for this season, but they would support the 8 units in Zone T. He then restated his position EAB and why he feels it is disenfranchising hunters.

Mr. Behnke then asked the committee for any recommendations

Mr. Behnke MOVED, seconded by Dr. Thomas, to accept the Departments recommendation, with the exception to drop Units # 9, 13, 18, 73B from the Zone-T and secondly, to modify the existing EAB units in the Northeast part of the state to Zone-T units.

Mr. Behnke stated his motion is meant to address the social side of this issue.

Mr. Welter stated that he has a concern for the land with this motion. It seems that we are looking to other unknown tools that may be less effective than our current management strategies.

Mr. Behnke stated that he is not advocating eliminating EAB altogether with this motion. He is in favor of making minor changes to the EAB program such as allowing hunters to shoot a buck first and then "earning their buck" during the remainder of the season by harvesting and antlerless deer.

Mr. O'Brien stated that this discussion only reinforces his desire to complete the audit.

Mr. Welter stated his concern with the potential for crating underhunted or unhunted refuges because of the lack of EAB and Zone T regulations.

The motion passed on a 2-1 vote with Mr. Welter voting no.

Meeting adjourned at 11:45 AM