

## NATURAL RESOURCES BOARD

### Minutes

The regular meeting of the Natural Resources Board was held on Wednesday, April 27, 2005 at Huckleberry's Restaurant, 1916 South Marquette Road, Prairie du Chien, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 4:14 p.m.

#### Wednesday April 27, 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 - Absent		

1.B. Approval of minutes from March 23, 2005

**Mr. Poulson MOVED, seconded by Mr. Ela approval of minutes from March 23, 2005. The motion passed unanimously by all members present. Mr. Willett was absent.**

1.C. Approval of agenda for April 27, 2005

**Mr. O'Brien** stated that items 3.B.5-3.B.8 will be moved to follow 2.A.

**Mr. Poulson MOVED, seconded by Mr. Ela approval of agenda for April 27, 2005. The motion passed unanimously by all members present. Mr. Willett was absent.**

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

**Mr. Ela MOVED, seconded by Mr. Welter approval of the real estate transactions. The motion passed unanimously by all members present. Mr. Willett was absent.**

**Bill Howe** welcomed the Natural Resources Board to Prairie du Chien on behalf of the Prairie du Chien Rod and Gun Club and the local Conservation Congress members. He stated that the citizens of this area of the state are working to improve the natural resources in this region.

3. Action Items

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

3.A.1. Minutes - Air, Waste, and Water/Enforcement Committee

**Mr. Poulson MOVED, seconded by Mr. Ela approval of the Minutes - Air, Waste, and Water/Enforcement Committee. The motion carried unanimously by all members present. Mr. Willett was absent.**

3.A.2. 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.

**Lloyd Eagan** gave an overview about where the Department is today with the backlog, notice of deficiency, and rule development.

**Caroline Garber**, Section Chief, Environmental Analysis and Outreach, Air Management Bureau stated that this request seeks adoption of proposed revisions to chs. 406,407 and 410, Wis. Adm. Code, pertaining to the issuance of registration and general permits to air pollution emission sources. 2003 Wis. Act 118 requires the Department to develop rules for a registration permit system authorizing construction or operation or both for stationary sources with low actual or potential emissions. A registration permit is based on the level of emissions regardless of industry type. The Department is also required to develop rules for the issuance of general permits authorizing construction or operation or both for categories of stationary sources that have similar operations and air emissions. These rules will allow the Department to issue permits more efficiently than the current process while protecting air quality in the state. The Department is also proposing to clarify an existing construction permit exemption for certain grain storage/drying operations.

The Department held three hearings in October/November, 2004. Public comments were submitted by trade associations, companies and environmental organizations. After the hearings, several meetings were held with stakeholders to discuss their comments. As a result, the Department made significant changes to the proposed rules and decided to have a second public comment period and hearing, in February/March 2005, to receive comments on the changes. Subsequently, meetings were held with stakeholders to discuss their comments and where appropriate, additional changes were made to the rule in response to the comments received. As a result of the public comments, more specificity was added to the rule regarding the criteria for developing the permits and criteria under which sources would be eligible for coverage. The major areas of controversy include eligibility of sources located in non-attainment areas, sources that may require source specific conditions in a permit, sources that may "cause or exacerbate violations of air quality standards", the threshold level of emissions for registration operation permits, and the construction permit exemption for sources making modifications under a general or registration operation permit. The background memo and Summary of the Response to Comments covers in more detail the changes made to the proposed rules.

**Mr. Welter** asked what happens if a general permit is issued for all sources and then it is found out that it is having an adverse air quality impact. In addition general permits are issued to several other members of that industry and they are having an adverse impact on air quality.

**Ms. Garber** stated if the permit for the whole group doesn't protect air quality, the Department has the ability under current law to revise the permit and go out to public hearing again. Each of the sources would be notified that they either need to do something additional to come into compliance with it or if they could not comply they would have to get a negotiated permit or some other type of permit. If one or two sources because of unique circumstances are creating an air quality problem, there is an amendment that the Department will be proposing today to address that issue.

**Mr. Ela** asked if variability due to topography or other reasons are taken into consideration when issuing permits.

**Ms. Garber** stated that during the permit issuance process the Department does an air quality analysis to address those concerns. There is one general permit regardless of circumstances.

**Mr. Ela** asked under what circumstances would the Department expect to see a petition for a new registration permit.

**Ms. Garber** stated where industry in a particular area or a particular trade group would like to have the ability to have registration permits higher levels than 25%.

She went on to introduce amendments to the rule. She explained the three substantive amendments. In the criteria for issuance of registration operation permits located in Section 16, page 24, this amendment adds language to clarify the intent of s. NR 407.105(2)(a). This is the section of the rule that specifies the eligibility criteria for the registration operation permit described in the rule. The amendment clarifies the following: 1. Stack-vented emissions do not include horizontal discharge vents that only discharge general building ventilation. 2. The procedure for determining whether the stack is of sufficient height. 3. The method for demonstrating that a facility's emissions do not and will not cause or exacerbate a violation of an air quality standard or air increment. The method shall be air dispersion modeling. In the event that a model is not available for one or more pollutants, the demonstration shall rely on the department's air quality analysis conducted when issuing the registration permit template. The rule allowed sources to make an air quality demonstration if their stacks did not meet the permit's eligibility criteria, but did not specify how that demonstration should be made. It should be noted that all sources covered under a registration operation permit must comply with all applicable regulatory requirements. These eligibility criteria only apply to whether a source is eligible for the registration permit.

The second amendment regarding air quality is located in Section 7A, page 5; Section 9, pages 8 and 12; Section 15, page 19; Section 17, page 25; Section 20A, page 30. These amendments sort forth the procedure for the department to withdraw a source from coverage under general or registration permits upon the department's determination that the source's emissions cause or exacerbate, or may cause or exacerbate, a violation of an air quality standard or increment. They also state that the source will be deemed in compliance with its general or registration permit until the department takes action on a subsequent permit application if the application is submitted on time and the source is in compliance with all other permit requirements. The department will be conducting an air quality analysis of the "class" of sources as part of the development of the registration or general permit. Based on this analysis, the permit will contain conditions necessary so that individual sources covered under the permit will not cause or exacerbate a violation of an air quality standard or increment. However, there may be situations unique to a particular source such that even though the source meets the permit eligibility criteria, its emissions cause or may cause an air quality problem. The intent had always been that, in these situations, the department

would take appropriate action to notify and require the source to obtain a different type of permit, but not penalize the source for being ineligible for the general or registration permit. This amendment states and sets forth the procedures for implementing this intent.

The third amendment is related to notification of construction or modification under a general operation permit. Located in Section 15, pages 20 and 21. This amendment requires a source covered under a general operation permit to notify the department when it has made a change or modification without a construction permit and to document how the change or modification meets the criteria for a construction permit exemption.

### **Public Appearances**

1. **Jeff Schoepke**, Madison, Wisconsin Manufacturers & Commerce thanked the DNR staff for their efforts on this rule package and their commitment to improving air permitting in this state. The DNR is on the right track with the rule before the NRB today. He supports the three proposed amendments. He stated that registration permits are not a revolutionary policy. Minnesota issues registration permits and does so for significantly larger facilities than allowed for in the Wisconsin rule. This rule makes no change to underlying environmental standards. Companies must comply with all applicable state and federal requirements regardless of the type of permits it holds. The rule eliminates red tape companies face when trying to expand or locate in Wisconsin.
2. **Henry Handzel, Jr.**, Madison, Dewitt Ross representing the Printing Industries of Wisconsin stated they support the proposed amendments. He gave examples of delayed permits under the current system. This rule package is good for state and good for economy. It is not relaxing environmental standards. It will assist in implementing some green tier projects, which will in turn enhance environmental protection by reducing emissions. He urged the Board to pass the rule as amended.  
**Mr. Ela** asked Mr. Handzel to elaborate on the green tier comment.  
**Mr. Handzel** stated under green tier undertaking some simplified permitting forms and processes to allow for ease of use.
3. **Marcia Kinter**, Fairfax, Virginia, SGIA stated she represents the 1,100 screening and digital facilities that are operating in Wisconsin. Her organization supports the rule package with the amendments. She gave examples of other states passing similar rules. Streamline permitting rules target efficiencies. Industry will still need to comply with all requirements in current environmental code. She supports moving the threshold for requiring a negotiated permit 25% to 50% of major source emissions.
4. **Tom Ravn**, West Bend, Serigraph, Inc. stated his company has four plants around West Bend that employs 850 people. One plant is a major source and two other are minor sources. He discussed how his company has significantly reduced emissions. He stated that the permitting process had become more complicated over time. He asked the Board to support the rule.
5. **Melissa Scanlan**, Madison, Midwest Environmental Advocates stated they are not opposed to eliminated redundancy. There are practical impacts of this rule. Midwest Environmental Advocates and the Sierra Club were the only two environmental voices at the negotiation table. This rule is biased towards industry. There are public health concerns. It puts air quality in the hands of industry. This rule takes away the accountability from the industry when they fail to do what's right. It's an unreasonable burden to put on small businesses to expect them to read the pages and pages of the NR 400 series. She thanks the Department for putting the 25% cap for small sources. There is a loophole in the petition process. The Board would not be involved in that process.
6. **Bob Fassbender**, Madison, Wisconsin Economic Development Association that represents 500 economic development professionals stated that the Department has safety nets that can shut down operations if they believe there is a threat to public health. WEDA supports the adoption of the air permit streamlining measures contained in the subject order and urges the Board approve these rule changes and amendments.  
**Mr. Welter** asked if the threshold is increased to 50% will that potentially increase emissions.  
**Mr. Fassbender** stated that if processes are added that goes above 25%. It will take more time to get processes on line. This rule allows for a simpler track to get there. That cap is an artificial barrier.
7. **Caryl Terrell**, Madison, The Sierra Club stated there are a number of problems with how this rule is drafted. She gave a specific example about the clean air act. There is no opportunity to appeal by the

citizens. It removes the shield. She asked the Board to deal with 17 specific issues outlined by Melissa Scanlan. She asked the Board to be conservative that not passing a rule that cannot be defended legally.

**Dr. Thomas MOVED, seconded by Mr. Ela 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.**

Dr. Thomas asked about Minnesota allowing registration permits at 80% level of the major sources. Are there any federal non-attainment areas in Minnesota?

Ms. Garber stated there are none.

Mr. Welter asked about the proposed amendments, is there an obligation for a public comment period.

Ms. Garber stated no.

Mr. Ela asked if the petition process involves public participation.

Ms. Garber stated the Department must respond within 30 days. If the Department decides to issue, it has one year to implement in which the Department would seek public comment.

Mr. O'Brien stated that Wisconsin expects the best of everything including education, health care, etc. Wisconsin needs businesses to pay for these services. If this is a matter of speeding the process and not affecting public health, then the Board should support the rule.

Mr. Welter stated it's important that if the rules are adopted then the Board hears back about the Department's experience is with issuing these permits.

**Mr. Welter MOVED, seconded by Mr. Ela to direct the Department report back in 18 months with a report on description of sources applying for and covered under general and registration permits, facility compliance with regulatory requirements, emission trends and air quality impacts, satisfaction with the permit process by facilities and general public, and petitions received by the Department and their status, including denials and reasons why. The motion carried unanimously by all members present. Mr. Willett was absent.**

**Dr. Thomas MOVED, seconded by Mr. Poulson to include the Department's amendments in the rule package. The motion carried unanimously by all members present. Mr. Willett was absent.**

**The motion carried unanimously by all members present. Mr. Willett was absent.**

- 3.A.3. Request authorization for public hearing of Board Order AM-06-05, revisions to NR 460 and 463 to incorporate national emission standards for hazardous air pollutants (NESHAP) general provision and chromium electroplating.

Ms. Eagan stated The US EPA amended the National Emission Standards for Hazardous Air Pollutants (NESHAP) General Provisions (40CFR Part 63, Subpart A) on April 5, 2002 (67 FR 16,582), on May 30, 2003 (68 FR 32,586), and on April 22, 2004 (69 FR 21,752). The US EPA amended the NESHAP for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40CFR Part 63, Subpart N) on July 19, 2004 (69 FR 42,880). The proposed rules incorporate the federal amendments into the corresponding portions of the Wisconsin Administrative Code. Section 285.27(2), Stats., requires that the Department promulgate NESHAP into the administrative code. The Board adopted ch. NR 460 in 1997 and adopted amendments in 2002. The board adopted ch. NR 463 in 1997 and adopted amendments in 1999. Since the proposed amendments are already in effect at the national level, there are no policy issues to be resolved. The amendments to the general provisions could affect up to 1,000 facilities statewide, and the amendments to the chromium standard could affect up to 34 facilities statewide.

**Dr. Thomas MOVED, seconded by Mr. Welter approve request authorization for public hearing of Board Order AM-06-05, revisions to NR 460 and 463 to incorporate national emission standards for hazardous air pollutants (NESHAP) general provision and chromium electroplating. The motion carried unanimously by all members present. Mr. Willett was absent.**

- 3.A.4. Request authorization for public hearing of Board Order AM-07-05, revisions to NR 465 to incorporate national emission standards for hazardous air pollutants (NESHAP) for the surface coating of plastic parts and products and miscellaneous metal parts and products.

**Ms. Eagan** stated that the US EPA promulgated the NESHAP for the surface coating of miscellaneous metal parts and products, effective on January 2, 2004, and the NESHAP for the surface coating of plastic parts and products, effective on April 19, 2004. The US EPA amended these two NESHAP on April 26, 2004 (69 FR 22,660). The proposed rules incorporate those two standards, as amended on April 26, 2004, into the Wisconsin administrative code by creating Appendices MMMM and PPPP in ch. NR 460 and subchapters IV and V in ch. NR 465. Chapter NR 484 is also amended to incorporate by reference several test methods. Section 285.27(2), Stats., requires the Department to promulgate NESHAP into the administrative code. The Natural Resources Board has not acted on these NESHAP before. Since the regulations are already in effect at the national level, there are no policy issues to be resolved. The surface coating of miscellaneous metal parts and products standard affects about 135 facilities statewide, and the surface coating of plastic parts and products standard affects about 34 facilities statewide.

**Mr. Welter MOVED, seconded by Mr. Poulson approve request authorization for public hearing of Board Order AM-07-05, revisions to NR 465 to incorporate national emission standards for hazardous air pollutants (NESHAP) for the surface coating of plastic parts and products and miscellaneous metal parts and products. The motion carried unanimously by all members present. Mr. Willett was absent.**

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

3.B.1. Minutes - Land Management, Recreation, and Fisheries/Wildlife Committee

**Mr. Behnke MOVED, seconded by Dr. Thomas approve minutes- Land Management, Recreation, and Fisheries/Wildlife Committee. The motion carried unanimously by all members present. Mr. Willett was absent.**

3.B.2. Adoption of Board Order ER-11-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage payment program

**Signe Holtz**, Director, Endangered Resources Bureau The Endangered Resources Program has been administering the Endangered Resources Damage Program since 1985 without permanent rules because the total program was very small, the species on the list were subject to change as the Endangered and Threatened Species List changed, and there was no significant disagreement with the program. Now that wolf damage was made a permanent part of this program and with an increasing wolf population in Wisconsin, there is controversy about the program. This proposed rule went to public hearing in February 2005. Comments have been analyzed and the rule is coming back to the Board for approval.

**Mr. Ela** asked about once there are two verified lost calves then are all future missing calves presumed to be wolf depredations.

**Ms. Holtz** stated the Department is proposing to not pay for the industry wide loss average of 2.3%. The losses could be anytime throughout a calendar year. A probable is considered a verified loss that would count towards reimbursement for missing. Then U.S. Wildlife Services will start trap and kill wolves on that farm.

**Mr. O'Brien** asked what is the legal recourse for the farmer if he isn't satisfied with the Department's determination of verified loss or lack of cooperation.

**Ms. Holtz** stated that the farmer can ask the Department to review their actions and if the farmer is still not satisfied, he can take it to court.

**Mr. Andryk** stated that it is statute that people have a right to petition for contested case hearing.

**Dr. Thomas** clarified that the \$15,000 cap is out and the \$250 deductible is out.

**Ms. Holtz** stated that was correct.

**Mr. Behnke** asked for clarification on the biological carrying capacity. He asked if that looks at entire state as a whole or is there consideration based on number of packs in the area.

**Ms. Holtz** stated that the model looks at roadless areas and how the wolf survives in roaded areas and forested areas. In the plan, the state is divided into several zones.

**Mr. Behnke** asked about the protocol of management practice for livestock producers in order to be eligible for depredation payments.

**Ms. Holtz** stated that there are some criteria written into the rules. For example, fencing law, and disposal carcass law are already established. There are criteria to be eligible for missing payments for example ear tags and an accurate count of calves. The producer needs to report within 24 hours finding a depredated animal or there are missing calves.

**Mr. Behnke** asked how the producers felt about the 24 hour reporting procedure.

**Ms. Holtz** stated she doesn't think there is opposition. The 24 hours are from when they find the animal not from when it was depredated.

**Mr. Welter** stated the rule states that there is a requirement within two weeks of birth they are tagged. He asked what if the calf is lost before it is tagged. Is it still eligible for payment?

**Ms. Holtz** stated that if the producer contacts U.S. Wildlife Services within those two weeks it would be in the probable category because there would probably be some sign that wolves were there.

**Mr. Welter** asked about payments for stress related deaths.

**Ms. Holtz** stated that U.S. Wildlife Services could determine whether there's a wolf problem at that farm.

**Dave Nelson**, US Department of Agriculture –U.S. Wildlife Services stated that U.S. Wildlife Services staff makes the depredation determination. They can't make a stress related death determination. That has to be done by a veterinarian. It is a case by case determination.

**Ms. Holtz** stated in that situation it would probably happen on a chronic farm. Wildlife Services would go out start looking at what's going on around that farm.

**Mr. Poulson** stated the Department needs to examine how to deal with stress-related death and how to trace and verify it as a wolf loss.

### **Public Appearances**

1. **Lisa Naughton**, Madison, UW-Madison stated she doesn't have a position on the rule, but she came to share her research about citizens who give money for the wolf license plate and endangered resources program. From her survey she found that there is strong support for compensation for loss of livestock to wolves among contributors and non-contributors to the Endangered Resources Program. There was less support for compensation for loss of hunting dogs due to wolves.  
**Mr. Behnke** asked what is the definition of "best management practices"?  
**Dr. Naughton** stated this was a broad and general survey and that definition should be deliberated among experts.
2. **David Withers**, Iron River, representing himself stated these rules are not about what to pay what we owe, but how to pay the least amount possible. He asked for the sentence about hunting and trapping of wolves to be removed. He asked that the Board doesn't consider letters from the public received from outside the state and the country.
3. **Jeff Lyon**, Madison, Wisconsin Farm Bureau thanked the Board for deleting the \$250 deductible. He supports the adoption of rule, but concerns remain about criteria for a missing calf payment. Criteria 4 should be removed. There is concern about the vagueness of the language of criteria 5 "claimant certifies that they will cooperate fully." They believe research should be voluntary with assurance that any information about livestock producers remain confidential.
4. **Eric Koens**, Bruce, Wisconsin Cattlemen's Association stated he doesn't agree with the two missing calf requirement of two verified losses before missing calves will be reimbursed. He gave an example of a farmer who was missing many calves, but only had one verified loss. He stated that coyotes could not be the cause of missing calves because coyotes aren't big enough to drag the carcass off the pasture.  
**Mr. Welter** thanked Mr. Koens for his involvement in this process. He asked if the Cattlemen's Association would be ok with this rule if there was just one verified missing calf.  
**Mr. Koens** stated that would be acceptable.  
**Mr. Ela** asked about the historical evidence of chronic farms with missing calves. Have they had two verified losses?  
**Mr. Koens** stated that he is not sure.  
**Mr. O'Brien** asked about the criteria about research. He is concerned about that because of the example of the Fernago Farm where a group of students to come out to the farm to do research. The farmer was concerned because the cattle were already nervous and they were concerned for the safety of the students.  
**Mr. Koens** stated he doesn't have a problem with that, but there is concern about the type of research such as radio collaring calves. The farmer is required to place radio collars on the calves and they do not have time to do that. Research should be voluntary.  
**Mr. Behnke** asked about tagging process.  
**Mr. Koens** explained the tagging process. He is concerned about the qualifying criteria and eligibility for payment.

5. **Nan Field**, Middleton, Timber Wolf Alliance stated they support the rule package before the Board today. She stated that genetic specialists can determine genetic value and the values can be calculated to claims. TWA supports euthanizing depredating wolves. However, it is important to exercise non-lethal control options as well. She discussed research done by TWA and Northland College.

**Dr. Thomas MOVED, seconded Mr. Welter adoption of Board Order ER-11-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage payment program**

**Mr. Welter MOVED, seconded by Mr. Poulson that in s. NR 12.54(2)(c)4., Wis. Adm. Code to read: 1. "The Department has documented at least one livestock loss on the claimant's property within the same grazing season that is verified as a confirmed or probable wolf depredation."**

**Ms. Holtz** stated that if there is a transient wolf, it appears, depredates, and moves on. The future losses could be due to something else such as bears. The two losses ensure that the losses are from wolves.

**Mr. Welter** stated that is setting the bar too high for farmers. Time, research, and experience will tell whether or not that is too high.

**Mr. Behnke MOVED, seconded by Dr. Thomas amend the amendment to include "and there is evidence that wolves continued to be present on the property during that period of time."**

There was further discussion about the wording of the amendments.

**The amendment to the amendment carried by all members present. Mr. Willett was absent.**

**The amendment carried by all members present. Mr. Willett was absent.**

**The original motion carried by all members present. Mr. Willett was absent.**

- 3.B.3. Adoption of Board Order ER-12-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage personal property damage rules.

**Ms. Holtz** stated The Endangered Resources Program has been administering the Endangered Resources Damage Program since 1985 without permanent rules because the total program was very small, the species on the list were subject to change as the Endangered and Threatened Species List changed, and there was no significant disagreement with the program. Now that wolf damage was made a permanent part of this program and with an increasing wolf population in Wisconsin, there is controversy about the program. The proposed rule continues the Department's practice of paying up to \$2,500 for pets and hunting hounds. This proposed rule went to public hearing in February 2005. Comments have been analyzed and the rule is coming back to the Board for approval.

**Mr. Behnke** stated that he doesn't like form letters and he discounts anything that comes as a form letter. He reads all letters from individuals. He asked about Michigan and Minnesota who do not pay for any pets and asked if those two states have the amount of bear hunting that Wisconsin has.

**Ms. Holtz** stated that in Minnesota they do not allow bear hunting with dogs. She didn't know about Michigan.

**Dr. Thomas** added that bear hunting with dogs is allowed in Michigan.

**Mr. Behnke** asked about the five-mile rule and how it makes a difference of where hunting takes place because anywhere where there are bears is wolf country.

**Ms. Holtz** stated that historically, certain packs that kill hunting dogs may kill again. The typical wolf territory is a radius of 5 miles. We were trying to circumscribe an area.

**Mr. Ela** stated that last year in Cable, WI, Andrian Wydeven stated that one pack was responsible for almost all the hunting dogs that were killed.

**Dr. Thomas** stated that bear hunters have territories and asked how to manage bears within the 5-mile radius and how hunters will respond to the 5-mile radius.

**Ms. Holtz** stated that the rule doesn't prohibit hunting in the area. If hunters chose to hunt there after the posting, they are assuming the risk of their dog being killed and not being reimbursed for the cost.

#### **Public Appearances**

1. **David Withers**, Iron River, Wisconsin Bear Hunter Association, Inc. asked the Board to delete the statement regarding hunting and trapping of wolves. He would also like clarification if bird dogs may be

reimbursed. If a hunter can prove dog is worth more than \$2500 then it should be paid for. He asked that the 5-mile radius be deleted.

Mr. Welter asked how long he has been hunting with dogs and if he had ever lost a dog to wolves or bears.

Mr. Withers stated about 10 years and has not lost dogs to wolves or bears.

2. George Meyer, Madison, Wisconsin Wildlife Federation was not present.
3. Corky Meyer, Kewauskum, President of Wisconsin Association of Sporting Dog Clubs stated that there are other dogs in the woods with wolves such as bird dogs, beagles, and coonhounds and he requested that they be compensated for if killed. He requested the deletion of the \$2,500 cap and the five-mile rule. He stated it would be very difficult to determine a five-mile circumference and to keep dogs out of the circumference if they are hunting near it.
4. Steve Oestreicher, Harshaw, Conservation Congress Chairman discussed the public hearing results in Rhinelander. He requested the removal of the five-mile radius. He stated that Conservation Congress overwhelming voted to classify the Gray Wolf as a furbearing animal.
5. Nan Field, Middleton, Timber Wolf Alliance stated that her organization is concerned in these tight budget times and how reimbursement for dogs will affect the compensation fund. While the loss of hunting dogs and pet is unfortunate and emotional, it is not the owner's livelihood as livestock is for farmers. TWA supports the five-mile radius rule. She also would like to see alternative funding for hunting dog reimbursement.

**Dr. Thomas MOVED, seconded by Mr. Ela adoption of Board Order ER-12-05, revisions to NR 12 related to proposed endangered/threatened species and gray wolf damage personal property damage rules.**

Mr. Welter stated he is concerned about the amount of compensation for dogs. He asked the Bureau of Endangered Resources to report in a year a summary the compensation for dogs. This report should include whether the dogs were trailing dogs or closer to owners. He would like verification of value of dogs.

Dr. Thomas asked what is the most money paid out for one dog.

Ms. Holtz stated she doesn't have the numbers, but she believes it's around \$3,500.

Mr. O'Brien stated he is concerned with the five-mile rule and its enforceability.

Dr. Thomas added it's essentially closing the public hunting opportunity.

Mr. Ela asked based on historical data how much land could potentially be closed.

Ms. Holtz stated there are two separate packs that have killed dogs. Most of the claims are for bear hunting dogs. There were two grouse hunting dogs.

Mr. Welter supports the five-mile radius. He thinks it will affect bear hunting dogs that are much further from their owners versus other hunting dogs that are closer to their owners.

**Mr. O'Brien MOVED, seconded by Mr. Behnke to amend to remove the five-mile limitation for dog depredation.**

Mr. Ela asked for a warden's opinion about whether this is an enforceable rule.

Karl Brooks, Warden stated there is no need to enforce it because it is voluntary compliance. The Department would post signs along roadway and public service announcements. It is not an enforceable law. The owner would not be compensated if his dog was injured or killed.

Mr. Behnke asked if it is a practicable alternative.

Officer Brooks stated there needs to be something in place to determine whether a hunter will be compensated. All recreation has an inherent risk and the risk is to the dog in this situation.

**A roll call vote was taken.**

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

**The amendment failed on a 3-3 vote.**

**The original motion carried unanimously by all members present.**

3.B.4. Adoption of Board Order WM-14-05, revisions to NR 10 related to the control and eradication of Chronic Wasting Disease (CWD) and CWD Research Update

**Alan Crossley**, Wildlife Biologist, South Central Region gave a snapshot of CWD in Wisconsin. He gave an overview of the disease distribution nationally and in Wisconsin and Illinois. The 2004 WI positive CWD test results are 138 deer. He stated that CWD prevalence increases with age and rate of increase is faster in males than females. The 2005 Western Deer Eradication Zone population estimate is 28 deer per square mile. In the core area population is 23 deer per square mile. DMU 70A population is 30 deer per square mile. There are 34 different CWD research projects in Wisconsin. He explained three of the CWD challenges: disposal of deer, how hard will deer hunters be willing to work, and deer refuges. There is a CWD Symposium in Madison on July 12-14, 2005.

**Bill Vander Zouwen** Section Chief, Wildlife and Landscape Ecology, Wildlife Management Bureau stated since 2002, when our first CWD rules were adopted by the Board, we annually review all the CWD hunting rules to see if changes are prudent. This review involves analyses of both biological and social information. Our approach has been and continues to be to have herd reduction for disease control as our first priority, with recreational interest being second. As we have learned and interacted with the public, we continue to modify the hunting rules for the best combination of disease control and social acceptance. This rule order presents a compromise on 2 areas that have been most controversial: the earn-a-buck regulation and the long, continuous gun season.

*The Conservation Congress proposed to modify the rule to create 23 days of EAB and 83 days of either sex (40 early, 43 late). The three periods would be*

*Early Deer Hunt (September 17-October 26) either sex, archery only- both HRZ and DEZ.*

*Rut Deer Hunt (October 27-November 18)- EAB.*

*HRZ archery October 27-November 18; gun October 27-31.*

*DEZ archery October 27-November 18, gun October 27-November 13.*

*Late Deer Hunt (November 19- January 3) Either sex – Archery and gun – both HRZ and DEZ.*

**Dr. Thomas** asked if the Department agreed with the modifications.

**Mr. Vander Zouwen** stated that the Department accepts the modification as a way to gain some acceptance from the hunters.

**Public Appearance**

1. **Verla Kligenmeyer** stated she is a farmer in Sauk County in one of the CWD areas. The recent decision on EAB is scary. She is concerned that all of Southern Wisconsin will become a huge CWD zone. She is enrolled in the crop damage program. She asked the Board to consider the scientific findings regarding Wildlife Management as the Department's administrative code states.
2. **Tony Grabski**, Blue Mound, representing himself stated he is a scientist, landowner, and hunter who lives near Mt. Horeb in the DEZ. He asked the Board to eliminate early gun season and give hunters back the Saturday prior to Thanksgiving opener. He asked the Board to end the gun season January 3<sup>rd</sup> not March 31 and to eliminate DNR sharp shooters.
3. **Bryan Miller**, Onalaska, Wisconsin Bowhunters Association stated he has heard several complaints from the bowhunters in the CWD zones. He would like bowhunters to be able to have either sex tags.
4. **Steve Oestreicher**, Harshaw, Conservation Congress Chairman proposed a compromise modification to the rule before the Board today. He requested that the early bow season be an either sex season in both zones running until October 26 and then follow the season structure outlined in the green sheet for the balance of the hunting season. He stated that the Department also has a need for the Big Game committee to start a CWD subcommittee to address other growing problems such as refuge areas.

**Dr. Thomas** asked if the Congress and the Department are close to or in agreement with proposal.

**Mr. Oestreicher** stated in agreement.

**Mr. Behnke MOVED, seconded by Mr. Poulson adoption of Board Order WM-14-05, revisions to NR 10 related to the control and eradication of Chronic Wasting Disease (CWD) and CWD Research Update as amended with the compromise between the Conservation Congress and the Department. The motion carried unanimously by all members present. Mr. Willett was absent.**

3.B.5. Land Acquisition, Statewide Wildlife Habitat Area, Kenosha County

**Richard Steffes**, Real Estate Director stated that it is necessary for users of this property to travel to Illinois to access the property. This purchase would provide access from a public road in Wisconsin and a parking lot would be built for better public access.

**Mr. Behnke** stated that this cost \$5000 an acre. He asked if there is an opportunity to go through Illinois to gain access to this property. What is the access possibility in Illinois?

**Mr. Steffes** stated that the access issue isn't the only reason to buy this property. It would add some protection for the natural area and wildlife habitat.

**Mr. Behnke** asked how many visitors per year on this property.

**Mr. Steffes** stated there is no way of knowing that. There are duck hunting opportunities and some natural areas.

**Mr. Behnke MOVED, seconded by Mr. Poulson to defer the Land Acquisition, Statewide Wildlife Habitat Area, Kenosha County to answer some of these questions.**

**Mr. Welter** stated he is against the deferral. There is a shortage of public land in that area of state. Price is not out of line for that area of state. If the option expires we may end up losing it.

**Mr. Ela** stated he agrees with Mr. Welter that it may be lost to a subdivision.

**Mr. Behnke** stated the Board needs more information before the purchase.

**Mr. O'Brien** also has concerns about price.

**Mr. Welter** asked if this property is developable.

**Mr. Steffes** stated yes some of it. We tried to negotiate with owners.

**Mr. Welter** asked about gathering information about the number of users of this property.

**Mr. Steffes** stated he would ask Southeast Region staff.

**Mr. Ela** stated that public use isn't the primary reason for natural area.

**The motion to defer the acquisition passed by a 4-2 vote. Mr. Willett was absent.**

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

3.B.6. Land Acquisition, Glacial Habitat Restoration Area, Winnebago County

**Mr. Ela MOVED, seconded by Mr. Poulson the approval of Land Acquisition, Glacial Habitat Restoration Area, Winnebago County. The motion passed unanimously by all members present. Mr. Willett was absent.**

3.B.7. Easement Acquisition, Brooklyn Wildlife Area, Dane County

**Mr. Poulson MOVED, seconded by Mr. Ela the approval of Easement Acquisition, Brooklyn Wildlife Area, Dane County. The motion passed unanimously by all members present. Mr. Willett was absent.**

3.B.8. Donation Easement and Articles of Dedication, Statewide Natural Area, Door County

**Mr. Ela MOVED, seconded by Mr. Poulson approval of Donation Easement and Articles of Dedication, Statewide Natural Area, Door County. The motion passed unanimously by all members present. Mr. Willett was absent.**

**After lunch Mr. O'Brien stated there was no action take in the executive session.**

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Recognition

4.A.1. Rebecca Wallace Award

**Secretary Hassett** stated that Rebecca Wallace was Chief of the Runoff Management Section, Bureau of Watershed Management. She was tragically killed along with her husband, Lyle, his brother and wife, in an automobile accident in February 1997. This award was established by the Natural Resources Board to

honor her 18 years of service with DNR. It was created to recognize an exceptional DNR employee nominated by his/her co-worker(s) for either (1) the improvement of relationships with external partner agencies and organizations for environmental quality issues, or (2) for mentoring Department staff. A committee, headed by Bruce Baker, selects the recipient from nominations submitted by co-workers. Governor Tommy Thompson presented the first award in 1998. Tom Lovejoy accepted the award. He is a 27-year veteran of the DNR. Since 1985 he has directed liaison activities within three Department of Transportation districts and coordinates Wisconsin Environmental Policy Act compliance in the West Central Region.

**Tom Lovejoy** stated he loves the outdoors and enjoys working for the Department. He was thanked everyone for the award.

4.A.2. **Ethical Hunter Award**

**Steve Dewald**, Warden stated that since 1997, conservation wardens and outdoor writers for the LaCrosse Tribune have presented an annual award to one or more hunters exhibiting high standards of ethical behavior that reflects positively on the tradition of hunting. The winner for the ethical hunter award for 2004 is Dale Petkovsek of Willard, Wisconsin. Mr. Petkovsek was nominated for his efforts in organizing a disabled deer hunt in Clark County since 1999. The 2004 disabled hunt was the largest disabled hunt offered in the State of Wisconsin. This past fall, 67 landowners participated opening more than 7500 acres of land to the disabled hunters.

**Mr. Petkovsek** thanked several people and the DNR for providing opportunities for disabled hunts.

4.A.3. **International Hunter Education Association (IHEA) Professional of the Year Award**

**Officer Karl Brook**, Warden stated that Richard Wallin has been committed to hunter education for more than 30 years. He has been involved both as a volunteer instructor while off duty, as well as a representative of our Department while on duty. He has faithfully attended special events for hunter safety instructor graduates and has offered his expertise in muzzleloaders to participants in Women in the Outdoors field days and hunter safety instructor workshops. Richard placed priority on making hunter education all-inclusive through his efforts to bring on board the Amish community. He has also been involved in attempting to include corporate sponsorship of hunter education programs through his work with Wal-Mart employees.

**Richard Wallin** thanked everyone for nominating him for the award.

4.A.4. **DONATION - The Natural Resources Foundation will donate \$38,750 for the management of state natural areas in Lacrosse, Door, Milwaukee, and Ozaukee Counties.**

**Secretary Hassett** presented the award to Charlie Luthin.

**Charlie Luthin**, Executive Director, Natural Resources Foundation gave an overview of some of the Foundation's accomplishments including the new adopt-a-natural area program.

4.B. **Citizen Participation**

4.B.1. **David Withers**, Iron River, representing himself stated that this area of the state is beautiful and the Board is responsible for protecting our natural resources.

4.B.2. **Roger Kerr**, Boscobel, representing himself asked the Board to review the trout report that he mailed to them last week and that he was available for questions.

4.B.3. **Ed Freeman**, Galena, IL, representing himself stated that trout fishing in Wisconsin has changed. The regulations have changes and anglers have changed. Today, most trout anglers use fly rods.

4.B.4. **Quent Hurtz**, Boscobel, representing himself stated that he is a bait and tackle storeowner and a licensing agent in Grant County. There has been a change in the numbers of trout anglers in SW Wisconsin. The youth aren't out there fishing. It is mostly fly rod anglers.

4.B.5. **Sam Slaman**, Boscobel, representing himself – trout was not present.

4.B.6. **Bill Howe**, Prairie du Chien, representing himself discussed the Mississippi River recreation area and its importance to local economy. He commended the U.S. Fish and Wildlife Services, DNR, Corp of Engineers staff for their hard work on the Mississippi. He also discussed feral pigs He asked the

Department to apply for \$100,000 of federal funds to control feral pigs. The feral pigs destroy the natural resources and agriculture crops.

- 4.B.7. **Ivan Hoffland**, Prairie du Chien, representing himself was not present.
- 4.B.8. **Tom Hutton**, Columbia, Missouri, Wildlife Disease Biologist, USDA stated that feral hogs come by several names— razorbacks, wild hogs, wild pigs, Piney Woods Rooters, Wild Boar, or Russian Boar. They are all the same species. Unless we take aggressive action now, they will be causing serious problems in every state in the country. He encouraged Wisconsin, government agencies, hunters, citizens and private landowners alike, to address the situation while the population is relatively small and may be controlled. He emphasized how important it is to start control efforts early and how important a sustained cooperative effort is to success. It is also reasonable when you consider that feral hogs already cause \$800 million in damage annually in the U.S. And, believe it or not, \$800 million will be a drop in the bucket if Foot and Mouth Disease infects feral swine populations in this country, either accidentally or through an act of terrorism.  
**Mr. Behnke** asked what control methods are being used in Missouri.  
**Mr. Hutton** stated everything at our disposal: shooting, concentrated hunting, trapping, aerial hunting, Judas pigs. It's hard to know when the last pig has been killed, but it can be accomplished.  
**Mr. Ela** asked what a Judas pig was?  
**Mr. Hutton** stated they capture a sow, radio collar her, give her contraceptives, when she goes back to her group, hunters kill the group except for the Judas pig.
- 4.B.9. **Dave Fritz**, Montfort, Trouts Unlimited showcased Southwest Wisconsin trout fishing opportunities. He distributed a packet of information. He discussed trout habitat restoration projects, educational outreach to kids, and research on trout streams.
- 4.B.10. **Richard Peters**, Marshfield, Ocooch Creeks Chapter of Trout Unlimited stated trout regulations should be based on science and professional opinions. Habitat restoration is a key component of trout populations. The Elk Creek Project consists of stream and prairie restoration, research and education. He thanked the Department and the Board for their help to make this project a success.
- 4.B.11. **Don Pluemer**, Monfort, Harry & Laura Nohr Chapter of Trout Unlimited discussed trout stream restoration projects. He talked about the importance of partnerships. He asked the Board to remember these accomplishments in future deliberations of the cold water resources.
- 4.B.12. **Laura Hewitt**, Madison, Trout Unlimited distributed a report about the driftless area. It is rich in natural resources including cold water streams and trout. She highlighted the volunteer efforts to restore habitat. They have a vision to restore the entire driftless region.
- 4.B.13. **Jerry Cummings**, Prairie du Chien, Prairie du Chien Rod and Gun Club was not present
- 4.B.14. **Anne Selness**, Prairie du Chien, Mississippi Valley Conservancy stated her organization is a non-profit land trust who works to provide bluffslands protection. They have permanently protected almost 2000 acres in SW Wisconsin. The land is open to the public for hiking, hunting, recreation, and bird watching. Many have state natural area designation. They are able to purchase land with the help of the stewardship fund. Their website is <http://www.mississippivalleyconservancy.org/>  
**Mr. Poulson** asked if any of the land is farmland that has been preserved.  
**Ms. Selness** stated not yet, but we are working on it.
- 4.B.15. **Paul Brandt**, Boscobel, representing himself distributed his statement about Unit 73D Zone T and Earn-a-Buck regulations and yielded time to Mr. Kirschbaum.
- 4.B.16. **Lynn Kirschbaum**, Glen Havens, Unit 73D Zone T and Earn-a-Buck regulations stated he is a dairy farmer south of Glen Haven in Grant County. He has been in the crop damage program since 1996. He farms 370 acres. In 2003, his damages were over \$26,000 and in 2004, they were around \$18,500. Herb Kohler, owner of Kohler Engines bought 1400 acres bordering his farm. He doesn't allow hunting except for a few family and friends totaling 10 people. He wonders if a Zone T would help the farmers in his area. Since August 2004 until now 104 deer were shot with agriculture tags and regular tags. From September

14, 2003-March 13, 2004, 154 deer were removed. It is a serious situation all along the Mississippi River from Prairie du Chien to Cassville.

5. Board Members' Matters

**Duke Welter** stated that at last month's meeting, he had asked the Department to take steps to move October T zone a week early. The only way that could be done for this season is by an emergency rule. He requested that steps be taken to move the T zone season for 2006 season.

**Mr. Hauge** stated that probably the Department would come back to the Board in August with a rule proposal. There are a number of matters that need to be addressed before then.

**Mr. Behnke** stated that he thinks that other alternatives will be brought forward during the public comment period.

**Mr. Hauge** stated the Department will welcome public input.

**Mr. Welter** asked Board about a public listening session in Port Washington and Tomahawk

**Dr. Thomas** stated that at the December meeting she raised the issue of personal information printed on back tags She is concerned about personal safety and identity theft issue.

**Mr. O'Brien** asked for a report on wetland mitigation rules for landowner and where are we with that.

6. Special Committees' Reports

7. Department Secretary's Matters

7.A. Retirement Resolutions

7.A.1. Mark Brandt

7.A.2. John Paddock

7.A.3. John Cole

7.A.4. Jack Eslien

7.A.5. Pearl A. Whistler

7.A.6. Daniel R. Simonson

7.A.7. Glen Wiegenstein

7.A.8. Judith E. Speth **ADDITION TO AGENDA**

7.A.9. Raymond M. Hajewski **ADDITION TO AGENDA**

**Mr. Welter MOVED, seconded by Mr. Ela approve the Retirement Resolutions. The motion carried unanimously by all members present. Mr. Willett was absent.**

7.B. Donations

8. Information Items

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

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

8.B.1. Butler Gartersnake Update

**Ms. Holtz** stated 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 Gartersnake, 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 Gartersnake 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. The Department initially discussed this topic at the March 2005 Natural Resources Board Meeting. However, due to questions and time constraints, we were directed to return and discuss this topic with the Board at the April meeting.

**Andy Galvin** Conservation Biologist, Endangered Resources Bureau gave an overview of the Tier system: Tier 1 minimal conservation value, Tier 2 moderate conservation value, and Tier 3 significant conservation value. He gave an example of a typical scenario.

**Dr. Thomas** asked if there is opportunity to negotiate the mapping of the site.

**Mr. Galvin** stated there is an on-site mitigation process.

**Mr. Poulson** asked if the farm bill could be integrated into the Butler Gartersnake protection program. For example, there would be compensation paid to put land into a buffer or easements.

**Mr. Galvin** stated he assumed so.

**Mr. O'Brien** asked what if there are multiple owners in a protected area.

**Mr. Galvin** stated it adds to the complexity of the issue. The Department tries to get the landowners to cooperate to protect the species.

**Dr. Thomas** asked if one of the reasons for the decline of the Butler Garter snake is common garter snake are taking over or breeding with them.

**Mr. Galvin** stated that these populations are isolated due to urbanization.

**Mr. Ela** asked what if the Department is not successful in gaining 65 tier three sites.

**Mr. Galvin** stated the Department needs to be flexible and reassess at a later date.

**Mr. O'Brien** stated one issue that came out of this discussion is what role should the Board play in endangered species issues. He suggested a three-person sub committee to discuss by phone or meeting and bring recommendations back to the Board. Mr. Ela, Mr. Welter, and Mr. Poulson were appointed to the committee.

**Mr. Welter** stated that Don Johnson reporter for Milwaukee Journal Sentinel is battling terminal cancer. He suggested recognition for Don Johnson by the Board.

The meeting adjourned at 4:14 p.m.