

## NATURAL RESOURCES BOARD

### MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, February 22, 2006 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 4:15 p.m.

#### ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

Gerald O'Brien – present	Dan Poulson - present
Jonathan Ela – present	Dave Clausen - present
John Welter – present	Christine Thomas – present until 3:00 p.m.
Steve Willett – present	

**Mr. O'Brien** welcomed David Clausen to the Natural Resources Board.

1.B. Approval of minutes from January 25, 2006

**Mr. Poulson MOVED, seconded by Mr. Welter approval of the minutes from January 25, 2006. The motion carried unanimously by all members.**

1.C. Approval of minutes from January 31, 2006 Conference Call

**Mr. Willett MOVED, seconded by Mr. Poulson approval of the conference call minutes from January 31, 2006. The motion carried unanimously by all members.**

1.D. Approval of agenda for February 22, 2006

**Mr. Poulson MOVED, seconded by Mr. Ela approval of the agenda for February 22, 2006. The motion carried unanimously by all members.**

1.E. Approval of the minutes from the February 10, 2006 Conference Call.

**Mr. Welter MOVED, seconded by Mr. Willett approval of the conference call minutes from February 10, 2006. The motion carried unanimously by all members.**

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

**Mr. Willett MOVED, seconded by Mr. Ela approval of the Real Estate Transactions. The motion carried unanimously by all members.**

3. Action Items

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

3.A.1. Adoption of Board Order FH-41-05, creation of NR 192, related to Lake Monitoring Contracts and Citizen Lake Monitoring Network.

**Russ Rasmussen**, Director, Watershed Management Bureau stated that this rule implements NR 281.68(2)(b) that allows the Department to award contracts from the lake protection grant appropriation, s. 20.370(6)(ar), for the creation and support of a statewide lake monitoring network. The rule sets forth the qualifications and procedures for a citizen to participate in the lake monitoring network and the types of monitoring activities available to them. It also describes the types of goods and services that the Department may procure through contracts for support of the network.

**Mr. Welter** asked which bureaus of the DNR will be able to use this data.

**Mr. Rasmussen** stated mostly the bureaus that work with lakes programs, but we are hoping other partners will benefit from this data.

**Mr. O'Brien** asked how the lakes are selected.

**Mr. Rasmussen** stated that there is a random selection and also according citizen interest.

**Mr. Willett** stated that he will vote for this, but he is concerned about neighbors being able to use this further a group's agenda. He asked if there is a way to monitor that type of activity.

**Mr. Rasmussen** stated that there are some safeguards built in. The Department will be the ones analyzing the data.

**Mr. Welter MOVED, seconded by Mr. Clausen adoption of Board Order FH-41-05, creation of NR 192, related to Lake Monitoring Contracts and Citizen Lake Monitoring Network. The motion carried unanimously by all members, Dr. Thomas abstained.**

3.A.2. Adoption of Board Order AM-06-04, revisions to NR 405, NR 408, and NR 484 to incorporate changes required by recent changes to federal rules and to improve the permitting process in the state.

**Jeff Hanson**, Section Chief, Permits and Stationary Source Modeling, Air Management Bureau stated that on December 31, 2002, the USEPA promulgated Federal rules which significantly changed the federal new source review (NSR) program for major emission sources located in both attainment and non-attainment areas. In response to the promulgation of these rules, the WDNR has met with stakeholders to develop a proposed version of these rules which it believes will work for the State by reducing administrative burden on both the DNR and regulated entities while maintaining environmental standards and the public's ability to participate in the review process.

The proposed rule revisions include the minimum program elements identified by USEPA as requirements of NSR programs. These elements include Plant-wide Applicability Limitations, Baseline Actual Emissions Calculations and a revised Applicability Test. Wisconsin must submit revised program elements to USEPA for inclusion into its State Implementation Plan within 3 years of promulgation of the federal rule changes.

**Mr. Ela** asked about the rule that went out for hearing in November 2003 and if it was Wisconsin specific or an adoption of a federal rule.

**Mr. Hanson** stated that it was Wisconsin specific.

**Mr. Ela** thanked Mr. Hanson for his commitment to this project. He stated that he has heard the criticism about moving from potential to actual because there is a great enforcement difficulty.

**Mr. Hanson** stated that is possible because potential emissions are based upon what is capable of being emitted. Using the projected actual, there is no emission cap associated with it. There isn't a corresponding permit restriction that is being violated.

**Mr. Ela** asked about enforceability of PAL.

**Mr. Hanson** stated that is a cap and is an enforceable limitation.

**Public Participation**

1. **Chip Brewer**, Racine, S.C. Johnson & Son, Inc. stated his company has been headquartered in Racine for many years. It has a U.S. manufacturing facility located in Sturtevant. He stated that new source review application has made company growth difficult because of its significant transaction cost. The reforms being proposed today will allow the implementation of process changes to help maintain competitiveness and do so without negative impacts on the environment.

**Mr. Ela** asked for an example of a process change that would be impeded by current process regulations.

**Mr. Brewer** gave an example of a labeler and the label change equipment modification which triggers new source review actual to potential test we would have to provide emission offset which are hard to come by and expensive. A fairer way is an actual to actual test. Changing a labeler won't affect emission or have any environmental impact. It will affect our efficiency.

**Mr. Ela** asked about his opinion on the 10 year look back.

**Mr. Brewer** stated that it isn't applicable to our company.

**Mr. Ela** asked if being in a non-attainment area of the state affects how SC Johnson looks at New Source Review.

**Mr. Brewer** stated that absolutely and that's why he is here today. SC Johnson is loyal to the Racine community and our employees there. We don't want to move, but our management is concerned about being in a non-attainment area and the competitive aspect of that. Without the rules today, we may have to consider putting in a new line somewhere else other than Racine.

2. **Bruce Nilles**, Madison, Sierra Club asked that these rules not be adopted until the discussion with all the groups are done. The changes to the New Source Review (NSR) are controversial and complex. He asked the Board to wait until after the March 21, 2006 briefing. The DNR has only done one analysis that shows 3,000 tons of air pollution was taken out of the air because of NSR program. The purpose of NSR is about cleaning up old the facilities that have been burning coal that haven't put on modern pollution controls. The National Academy of Sciences has been asked to put out a report in April about whether changes in NSR will increase air pollution. There is no federal requirement to adopt these rules, but now we are hearing that there is a state law that requires us to adopt everything the federal government puts out. Illinois isn't adopting these rules because they say they are bad for Illinois. Wisconsin has been a leader.

**Dr. Thomas** asked if you know why Illinois didn't adopt these rules.

**Mr. Nilles** stated because Illinois said it's bad for progress in reducing air pollution in Illinois.

**Dr. Thomas** stated that we lost the case against the federal government. Was Illinois involved in that case?

**Mr. Nilles** stated that they were and they now have taken the legal position that it isn't obligated to roll back its rules along with the other states that have said no.

**Mr. Ela** added that there is a letter in Mr. Nilles' handouts from Illinois to the EPA outlining their position.

**Mr. Welter** asked about section 285.11(16) that requires the Department to promulgate rules that are consistent, but no more restrictive than the Federal Clean Air Act and it is a newer statutory provision.

**Mr. Nilles** states that is his understanding, but it goes back to the definition of major source. These rules related to the equitability.

**Mr. Ela** asked for an elaboration on why such facilities as the Madison Capitol Heating Plant are dependent on new source review for any improvement to their emissions.

**Mr. Nilles** stated that that at its adoption in the 1970s the Clean Air Act required that new sources put on modern pollution controls, but that existing sources didn't have to right away, only when they upgrade and modernize. The changes to this rule would eliminate that requirement.

**Mr. Ela** stated that it's confusing because there are two different types of facilities affected. There are old power plant/heating facilities and there are needed changes to industry that have to be made without going through excessive transactional costs. He asked if there is a way of differentiating between these two types of facilities.

**Mr. Nilles** stated that this rule exempts old sources from ever doing their fair share. The two gravest provisions in this rule are the Ten Year Look Back and the Past Actual to Future Actual test.

**Dr. Thomas** asked for future presenters to provide materials a week before the Board meeting.

**Mr. O'Brien** stated that is told to each person who appears before the Board.

3. **Scott Manley**, Madison, Wisconsin Manufacturers and Commerce (WMC) stated their organization is a non-profit business trade organization with over 4,000 members in the manufacturer sector. WMC supports the rule package before the Board today. These rules will bring clarity and consistency to the process. Our neighboring states are implementing these rules. According to EPA, this package was supposed to be completed by January 2<sup>nd</sup>.

**Mr. Ela** stated that the report put out by the WMC and the Wisconsin Paper Council that states that there is going to be a 15,000 ton reduction in emissions. That's a pretty wide gap from the findings of the DNR's study.

**Mr. Manley** stated that the largest difference is the application of the PAL provisions.

**Mr. Ela** asked about the Ten Year Look Back and when industry would want to take advantage of that.

**Mr. Manley** stated over the past 3 years the production was down due to the recession. Without a longer look back the results can be inaccurate.

4. **Ed Wilusz**, Neenah, Wisconsin Paper Council stated that they support the rule package before the Board. There is a lack of clear regulation on how to operate within the NSR program. It is a complicated program. The biggest issue we have with NSR is the actual to potential test. He also highlighted the importance of maintaining regulation consistency from state to state. The mills in Wisconsin must be dealing with a consistent regulatory playing field. He acknowledged the hard work the DNR staff did on this package.

**Mr. Ela** asked how a process change that might lead to a reduction in emissions would be charged as an increase of emissions because of the actual to potential test.

**Mr. Wilusz** stated that if my potential is 100 tons and my actual is 50 tons and the threshold is 40 tons, and I want to make a modification and then the emission is the difference between the actual to potential. It will be 50 tons over the threshold.

5. **Todd Palmer**, Madison, Dewitt, Ross, and Stevens, representing Wisconsin Paper Council stated he doesn't think it is necessary to delay these rules. The Attorney General has already commented on this rule. The 285.11 is part of the state implementation plan. It's a federal requirement and one could argue that we are violating the Clean Air Act.

**Mr. Ela** asked for clarification from the legal staff s. 285.11, 16, and 17. He added that he spoke with the Attorney General's office yesterday and they said they aren't in a position to advise.

**Marcia Penner**, DNR Attorney, stated that what we are relying on in 285.11 is subsection (17) which says "...promulgate rules that are consistent with the Clean Air Act..." which modify the meaning of the term "modification". She doesn't think subsection (16) applies which is defining major sources.

**Mr. Ela** asked whether it would be overstating the case to say that subsection 17 requires us to adopt the EPA standard per se.

**Ms. Penner** said she would say so.

**Mr. Welter** asked if there has been a comparison of other states' approaches to these requirements.

**Ms. Penner** stated that she hasn't looked at their rules.

**Mr. Clausen** asked if there are incentives for older inefficient plants to step up the best available control methods.

**Mr. Hanson** stated that in the past certain rules have acted as a disincentive. There are other programs that do create incentives such as the New Source Performance Program.

**Dr. Thomas** asked about Storo Enso who said they were shutting down their machine in Stevens Point. She asked if they put in a new machine would it trigger NSR.

**Mr. Hanson** stated it could, but it depends on what the former machine had done historically from an emissions standpoint. It would have to be compared to a new machine and make some subtractions.

**Dr. Thomas** asked what it would have cost them if it did trigger NSR and how many years would it take to get a permit.

**Mr. Hanson** stated there is a lot of time and effort that goes into the up front evaluation and approvals before they even apply for their permit. It usually takes between 5-7 months at the Department.

**Mr. Willett MOVED, seconded by Mr. Poulson adoption of Board Order AM-06-04, revisions to NR 405, NR 408, and NR 484 to incorporate changes required by recent changes to federal rules and to improve the permitting process in the state.**

**Mr. Ela** stated that he did not think it necessary to simply adopt the federal rule, and that it was altogether possible that the EPA would accept small modifications. He added that he thought that it should be possible to distinguish between the sorts of old clunker plants that the Congress had intended to be addressed by New Source Review on the one hand, and needed industrial modifications that do not have major emission impacts on the other, and come up with a rule that all parties would be happy with. He suggested deferring adoption until the April meeting, but stressed that that was a firm deadline, and that a decision would be made at that time.

**Mr. Ela MOVED, seconded by Mr. Welter to table the adoption until April of Board Order AM-06-04, revisions to NR 405, NR 408, and NR 484 to incorporate changes required by recent changes to federal rules and to improve the permitting process in the state.**

**A roll call vote was taken.**

**Dr. Thomas - No      Mr. Poulson - No      Mr. Willett - No      Mr. Welter – Yes**

**Mr. Ela – Yes      Mr. Clausen – Yes      Mr. O'Brien – No**

**The motion failed by a vote of 3-4.**

**Mr. Poulson** stated that he doesn't see in this rule where it talks about raising the emission levels. He thinks that we need to pass this rule. We have spent a significant amount of time on the rule.

**Mr. Willett** stated that this rule isn't designed to reduce emissions.

**Dr. Thomas** asked Mr. Ela if he had a modification that would satisfy his concerns and allow us to forward this rule to the EPA.

**Mr. Ela** stated that his biggest concern is the look back provision is arbitrarily constructed.

**A roll call vote was taken for the main motion. It passed unanimously by all members.**

- 3.A.3. Adoption of Board Order AM-32-04b, revisions to NR 406, NR 407, and NR 410 related to improving linkages between air construction and air operation permits associated with changes made to the major source construction permit program.

**Mr. Hanson** stated that on December 31, 2002, the United States Environmental Protection Agency (EPA) published regulations that significantly change the way new and modified sources of air pollution are permitted. Wisconsin has had three years in which to submit revisions to its State Implementation Plan that meet the minimum program elements required under the federal program. These changes are being proposed for adoption by the Board under order AM-06-04.

The proposed rule changes necessary to implement the federal program can not be fully utilized unless additional changes are made to the state construction and operation permitting regulations. The Department has met regularly with stakeholders to garner advice on how best to revise the state permitting regulations to

implement the federal program changes. Through these meetings, the Department has developed a proposal for providing the linkage to the December 31, 2002 changes proposed for adoption under Board order AM-06-04.

Under the linkage rule, environmental review backstops such as minor construction permits or operation permit revisions are required in instances where there is the potential for impacts that could result environmental harm. However, projects that are expected to have fewer environmental consequences may be able to proceed without permits, as is the intent of the federal revisions.

**Mr. Ela MOVED, seconded by Mr. Welter adoption of Board Order AM-32-04b, revisions to NR 406, NR 407, and NR 410 related to improving linkages between air construction and air operation permits associated with changes made to the major source construction permit program. The motion carried unanimously by all members.**

3.A.4. Request authorization for public hearing of Board Order WA-18-06, revisions to NR 520 related to solid waste license surcharge fees.

**Dennis Mack**, Section Chief, Technical Support, Waste Management Bureau stated that these rule revisions are being proposed to modify language in Chapter NR 520, Wis. Adm. Code, in order to make the requirements in s. 520.04(1)(d)5. more manageable from a budgeting perspective. Current language requires that, if the Waste Management Program Revenue Account balance at the end of the previous fiscal year is greater than 8% of the expenditure level authorized in s. 20.370(2)(dg), Stats., the DNR must submit to the Natural Resources Board proposed rule revisions to modify the landfill license surcharge fee to more closely align revenues with expenditures. Eight percent of the expenditure level in the account is approximately \$250,000. In both FY04 and FY05, the account balance exceeded the limit by about \$150,000; however, projections for the account show the balance at or below the \$250,000 level for the foreseeable future. We believe that the concept of a certain program revenue account balance triggering adjustments in the landfill license surcharge fee is a sound business practice. However, annual variation in landfilled tonnages and other program revenue sources have proven this 8% level too low to avoid a yo-yo effect of frequent fee increases and decreases. The Waste Management Program has been fiscally responsible in how they manage this account and hold annual public meetings to report on the status of the account. The Department is recommending rule revisions that will allow better fiscal management of the Waste Management Program Revenue Account and avoid multiple rule revisions related to increasing and decreasing fees.

This rule package is proposing to revise the language to require the Department to modify the surcharge fee to more closely align revenues with expenditures if the account balance exceeds 20% of the expenditure level of the program revenue account authorized in s. 20.370(2)(dg), Stats., for three consecutive fiscal years. We believe that the proposed language will allow for better fiscal management of the account, without having a negative impact on stakeholders.

**Mr. Willett** asked is there going to be a short fall because the fees aren't increasing enough.

**Mr. Mack** referred to attachment B. There have been more fees implemented in to NR 500 streamlining which will make this not such a dire situation.

**Dr. Thomas MOVED, seconded by Mr. Ela approved the request authorization for public hearing of Board Order WA-18-06, revisions to NR 520 related to solid waste license surcharge fees. The motion carried unanimously by all members.**

3.A.5. Request authorization for public hearing of Board Order WA-15-06, revisions to NR 500 series, related to requirements for landfill organic stability plans.

**Gene Mitchell**, Waste and Materials Supervisor, South Central Region stated that the requirement for landfill operators to submit landfill organic stability plans was approved in a previous rule package at the Board's March, 2005 meeting. At that meeting the Board directed DNR staff to draft more detailed rules for the landfill organic stability plans and present them at the February, 2006 Board meeting.

Landfill organic stability plans will reduce the environmental and public health risks posed by the long-term persistence of undecomposed organic materials in landfills. These rule revisions contain requirements for the minimum contents of the plans; a set of goals for the landfill operator to use to model the chosen strategy for achieving organic stability; monitoring, evaluation, and reporting requirements; and definitions specifying to which landfills these rules apply. The proposed rules attempt to establish achievable goals and an even playing field for landfill operators while remaining non-prescriptive about the methods the operators use to achieve the goals.

These rules are the result of an 18-month collaborative effort involving DNR staff and outside stakeholders to develop recommended organic stability rule language that will, over time, ensure that Wisconsin's system of solid waste disposal minimizes the economic and environmental risks and burdens that are placed on future generations. Even so, some controversy may arise regarding (1) whether the goals are achievable, and (2) the immediate impacts on landfill operators.

This rule revision package also takes the opportunity to correct non-substantive rule drafting and style errors inadvertently left in the previous NR 500 rule package passed by the Board, and makes one substantive but minor change in the testing requirements for newly installed landfill liners. These minor proposed changes are not expected to be controversial.

**Mr. Willett** asked about if incineration is the answer.

**Mr. Mitchell** stated that we didn't give a prescriptive approach to the group. We chose to give alternatives. The issue with incineration is what to do with the ash that contains heavy metals and public acceptability of incineration. There is also a large cost.

**Mr. Welter** asked about how many landfills were in Wisconsin before January 2004.

**Mr. Mitchell** stated that he thinks around 35. He stated the 2007 date represents is 40% of the waste in the state. It is only looking forward and not retrospective

**Mr. Ela** asked if organic stability is achieved does that slow down the decomposition of other non-organic components of the landfill.

**Mr. Mitchell** stated the greatest potential risk is removed when organics are slowed down. The decomposition would be a very low level that would stabilize the chemicals.

**Mr. Poulson** asked about the organic status achievement. He asked if there is a specific liquid created to breakdown the organics and if so is there an issue with groundwater.

**Mr. Mitchell** stated that dealing with the organic liquid is only one of three options to deal with landfills. It requires a lot of liquid. Water is an efficient option. Another option is sewage sludge or other industrial liquid waste. It usually doesn't mean more pipes, it means faster drainage materials on the site.

**Mr. Welter MOVED, seconded by Mr. Ela approval of request authorization for public hearing of Board Order WA-15-06, revisions to NR 500 series, related to requirements for landfill organic stability plans. The motion carried unanimously by all members.**

3.A.6. Request authorization for public hearing of Board Order WA-14-06, revisions to NR 135 and NR 340, related to Nonmetallic Mining Reclamation.

**Joan Burns**, Program Manager, Waste Management Bureau stated that Chapter NR 135, Nonmetallic Mining Reclamation, has been in effect for nearly 5 years. As a result of administering the program in that time, various issues have arisen and the need to clarify and refine certain provisions of the rule has become apparent. Many of the proposed changes are needed to remove language that was only applicable to the start-up phase of the regulatory program, primarily in terms of issuing permits and approvals for mining operations that were active at the time the rule was initially promulgated. Those specific provisions are no longer necessary and are proposed to be removed from the rule. In addition to these changes, the proposed modifications address report and fee submittal requirements, minor wording clarification and procedural modifications and also includes a slight increase in fees payable to the Department and enhancement of the dispute resolution and appeals processes. Proposed changes to Ch. NR 340, Nonmetallic Mining and Reclamation Associated with Navigable Waterways and Adjacent Areas, reflect recent statutory changes authorizing additional acceptable forms of financial assurance and make the financial assurance provisions of Ch. NR 340 more consistent with those of Ch. NR 135. The rule changes will affect nonmetallic mine operators and county and municipal regulatory authorities that implement the nonmetallic mining reclamation program through specific local ordinances. The department has worked with the interested parties in development of the needed rule changes through the Nonmetallic Mining Advisory Committee.

**Mr. Willett** asked about the force of the opinion given by the DNR regarding these nonmetallic mines.

**Ms. Burns** stated it is non-binding. The force is for providing clarification and documentation.

**Mr. Willett** asked about the appeals process and if the DNR's opinion is used for guidelines for decision-making.

**Dan Graff**, DNR Attorney stated that there is a right to appeal only where the DNR is a regulatory authority. That hasn't happened yet. Usually it is the county, sometimes a municipality that is the regulator. Then it goes under NR 68.

**Mr. Willett** stated that he is in favor of this rule, but he thinks the key issue is going to be the review process and since the DNR is making recommendations he wants to know the force of those recommendations.

**Mr. Graff** stated the Department isn't the regulator, so it isn't our decision. The Department is an expert to determine what the requirements are.

**Mr. Willett** asked about permit expansion and the authority of the court.

**Mr. Graff** stated that NR 135 permits are for reclamation and not to decide if a mine will be sited. That is covered by zoning.

**Mr. Willett** stated that they aren't allowed to be cited without a reclamation plan. He cited the example of Fond du Lac.

**Mr. Graff** stated he doesn't see it that way. He can't see a judge denying a siting if all the qualifications are met.

**Mr. Poulson** asked about affects on navigable waters.

**Ms. Burns** stated it won't affect those operations.

**Mr. Welter MOVED, seconded by Mr. Poulson approval of request authorization for public hearing of Board Order WA-14-06, revisions to NR 135 and NR 340, related to Nonmetallic Mining Reclamation. The motion carried unanimously by all members.**

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

3.B.1. Adoption of Board Order WM-31-05, revisions to NR 10 and NR 45, related to small game and turkey hunting in State Parks.

**Peter Biermeier**, Trails and External Relations Section Chief, Park and Recreation Bureau

Stated that in 2002, the department promulgated rules which established small game hunting in 4 state park properties and offered expanded spring turkey hunting opportunities in 3 state parks. Based on recommendations from a citizen advisory committee, a 3-year sunset was placed on these hunting opportunities in order to measure user tolerance for increased hunting opportunities on these properties. Following an evaluation of the 2003 and 2004 hunting seasons, the department recommends that the turkey hunts continue at all 3 parks (Interstate, Newport and Willow River State Parks) and that the small game hunts continue at 2 (Mill Bluff and Mirror Lake State Parks) of the 4 state parks, since there was no evidence that these hunts conflicted with non-hunting park utilization and that additional recreational opportunities (hunting) was offered. However, as a result of limited hunting opportunity and limited use by hunters, Newport is recommended for removal from the list of park offering small game hunting. Additionally, due to potential user conflicts due to significant hunting pressure already occurring at the park, via the extended CWD deer hunts, small game hunting at Gov. Dodge is proposed to be discontinued.

**Mr. Welter** asked about the registration for small game hunting at state parks.

**Amy Lemberger**, Executive Staff Assistant stated that she used to work at Governor Dodge State Park and there was a self-registration box for hunters to drop off registrations and the park staff records that information when they arrive.

**Dr. Thomas MOVED, seconded by Mr. Willett adoption of Board Order WM-31-05, revisions to NR 10 and NR 45, related to small game and turkey hunting in State Parks.**

**Mr. Ela** stated that at two of these parks, Newport for Turkey Hunt and Mill Bluff for Small Game, the Friends groups have taken an opposition.

**Mr. Ela MOVED, to delete turkey hunting at Newport and small game hunting at Mill Bluff. The motion failed for lack of a second.**

**Mr. Willett withdrew his second to the original motion.**

**Mr. Poulson seconded the original motion.**

**Mr. Welter** stated he thinks that Governor Dodge State Park should continue to offer small game hunting since there is already CWD hunting going on, the fall foliage season is over, and the lack of public hunting land in the area.

**Mr. Welter MOVED, seconded by Mr. Poulson to not to remove small game hunting in Governor Dodge State Park.**

**Mr. Ela** asked about the Friends Group position at Governor Dodge.

**Mr. Biermeier** stated that they are in opposition of small game hunting.

**Mr. Clausen** stated that one of the biggest issues facing us is land access for hunting. Generally he supports the amendment, but last month the Friends of the State Parks appeared before the Board and were thanked for their efforts and they do a lot of good things for our parks. They should have some input about what goes on at the parks.

**A roll call vote was taken for the amendment.**

**Dr. Thomas - Yes    Mr. Poulson - Yes    Mr. Willett - No    Mr. Welter – Yes**

**Mr. Ela – No    Mr. Clausen – No    Mr. O'Brien – Yes**

**The motion passed by a vote of 4-3.**

**Dr. Thomas** stated she didn't know there was opposition by some of the friends groups. She asked why all the Board members know that.

**Mr. Biermeier** stated that it was included in the green sheet in the comment section.

**Mr. Welter** stated that there wasn't a comment section from Governor Dodge.

**A roll call vote was taken for the original motion as amended.**

**Dr. Thomas - Yes    Mr. Poulson - Yes    Mr. Willett - No    Mr. Welter – Yes**

**Mr. Ela – No    Mr. Clausen – No    Mr. O'Brien – Yes**

**The motion passed by a vote of 4-3.**

**Mr. Poulson MOVED, seconded by Mr. Ela to adjourn and go into executive session. A roll call vote was taken.**

**Dr. Thomas - Yes    Mr. Poulson - Yes    Mr. Willett - Yes    Mr. Welter – Yes**

**Mr. Ela – Yes    Mr. Clausen – Yes    Mr. O'Brien – Yes**

**As a result of the executive session the Natural Resources Board has approved a proposed real estate transaction in Wisconsin.**

3.B.2. Adoption of Emergency Board Order FR-16-06(E) and request authorization for public hearing for Board Order FR-17-06, creation of NR 47.93, forestry research and development grant program.

**Paul Delong**, Administrator, Forestry Division, stated that the 2005 Wisconsin Act 25 authorizes the department to promulgate rules for the forestry research and development grant program, s. 26.385 Stats. The rule will establish the purpose, applicability, definitions, grant solicitation and public notice, contractor selection criteria and grant agreement provisions of the program. The intent of the program is to provide grants to organizations experienced in the commercialization of energy technologies related to forestry biomass as energy and biochemical sources. The program will further the development of alternative renewable energy sources to benefit public health and the environment. The forestry research and development grant program will only provide state match grants required for federal grant programs for forestry biomass research and development.

The grant program is currently unfunded. The department is seeking spending authority for funding from the Forestry Account through a 13.10 emergency budget request, as directed by the Governor (Veto Message, pg. 26, July 25, 2005).

An emergency exists because, without the rule, Wisconsin interests will not be able to apply for \$14 million of federal funds that were recently released with proposals due by April 3, 2006. Letters of commitment for state match funding are a requirement for federal grant proposals. Board adoption of the emergency rule will:

1. Establish the Wisconsin grant program and enable applicants to compete for federal funding.
2. Benefit public health, the public good and the environment through the development of alternative sources of renewable energy and biochemical sources based on forestry biomass. The Board has not taken previous action on this issue because it is a new program.

**Mr. Welter MOVED, seconded by Mr. Poulson adoption of Emergency Board Order FR-16-06(E) and request authorization for public hearing for Board Order FR-17-06, creation of NR 47.93, forestry research and development grant program. The motion carried unanimously by all members.**

3.B.3. Request authorization for public hearing for Board Order FR-07-06, revision to NR 46, revisions to the stumpage rates, weight conversions, and mandatory practices

**Carol Nielsen**, Tax Law Manager, Forest Management Bureau stated that a hearing is being requested to present the proposed stumpage rate changes in NR46, Wis. Admin. Code, including...

- 1) Annual Stumpage Rate Adjustments. 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 7% increase over current rates. The pulpwood prices, on average, would increase 20%. Stumpage values are collected from private, state and county timber sales to be used in calculating the proposed stumpage rates.
- 2) Addition of "mixed product" stumpage rates for red pine, white pine and spruce to reflect changes in how products are being sold and keep product reporting in line with public land reporting.
- 3) Adjust the weight conversion factor for red pine (green weight) from 4700 to 4500 to bring it in line with the weight conversion factor used for public lands.
- 4) Update the mandatory practices related to release from competing vegetation and treatments to insure adequate regeneration.

**Mr. Ela MOVED, seconded by Dr. Thomas approval of request authorization for public hearing for Board Order FR-07-06, revision to NR 46, revisions to the stumpage rates, weight conversions, and mandatory practices, The motion carried unanimously by all members.**

3.B.4. Request authorization for public hearing for Board Order WM-11-06, revisions to NR 10 relating to CWD management.

**Alan Crossley**, Wildlife Biologist, South Central Region gave a Chronic Wasting Disease (CWD) eradication update. He stated that the helicopters are currently in the air counting the deer. He stated that there is progress in reducing the deer population in the Disease Eradication Zone. (DEZ) The testing results are back from nearly 24,000 deer and there are 128 positives, of which 117 are in the DEZ and 11 in the Herd Reduction Zone (HRZ). We have started another round of statewide testing and this year was the Northeast Region and there haven't been any positives there.

**Mr. Willett** asked about the theory of feces and disease transmission.

**Mr. Crossley** stated that is still the theory, but it isn't for sure.

**Mr. O'Brien** asked about the cost of testing.

**Mr. Crossley** stated that the testing, employees salaries, and all the work we are doing is around \$5 million per year, which is mostly coming from the fish and wildlife account.

**Bill Vander Zouwen** Section Chief, Wildlife and Landscape Ecology, Wildlife Management Bureau stated that the 2006 Chronic Wasting Disease (CWD) rule order presents some major compromises with hunters and landowners that are hoped to make this rule both adequate for herd reduction and sustainable from a social perspective. The rule proposal is also aimed at creating more consistency and simplicity. This rule order includes the following proposed changes in the CWD hunting rules:

- 1) Allows either-sex deer hunting for the entire archery and gun deer season (no earn-a-buck).
- 2) Creates criteria where earn-a-buck regulations could be used again, if needed.
- 3) Shortens the early gun season in the Disease Eradication Zones (DEZs) from 18 days beginning in late October to 9 days beginning the Saturday nearest October 24.
- 4) Shortens the late gun season in both the HRZ (Herd Reduction Zone) and DEZs by ending the season 2 Sundays after the traditional 9-day season (December 10 this year) rather than January 3.
- 5) Modifies the early gun season in the HRZ so that it is identical to the DEZ early gun season.
- 6) Creates criteria where the early gun season could be extended by 7 days, if needed.
- 7) Modifies the administrative code so that the archery season ends the same day as in non-CWD units, should that date change in future rules.
- 8) Modifies the dates of the DEZ and HRZ state park gun hunting seasons to be consistent with CWD Zone hunts, with the exception that the early gun season hunting hours would close at noon.

**Mr. Willett MOVED, seconded by Mr. Welter approval of request authorization for public hearing for Board Order WM-11-06, revisions to NR 10 relating to CWD management. The motion carried unanimously by all members.**

3.B.5. Approval of statewide natural areas project acreage goal revisions

**Rebecca Schroeder** stated that the DNR's State Natural Areas Program, administered under ss. 23.27-29 Wis. Stats., is a partnership project involving many partner agencies, non-profit conservation groups, and land trusts with a mission to protect the diversity of Wisconsin's native landscape. The SNA Program designates natural areas on lands owned by its partners, and also purchases land in fee and easement. DNR-owned SNAs are placed in two categories: formally "named" natural areas, and scattered natural areas in the Statewide Natural Area Project. In 1992, the Board set an interim goal for cumulative acreage in this statewide project at 26,000 acres. The cumulative acreage contains not only purchased fee/easement natural area lands, but also dedicated conservation easements conveyed to the Department by land trusts and others. Several acquisitions and the conveyance of more than 11,500 acres of dedicated easements have brought the Statewide Natural Areas Project holdings past the interim acreage goal. It now stands at 32,000 acres. To implement existing legislative and Department direction for protecting biological diversity, such as that documented in the Land Legacy Report, the Department requests an increase in the interim acreage goal to 41,000 acres to allow for continued fee purchases of land for natural areas and rare species habitat for the next several years.

**Mr. Ela MOVED, seconded by Mr. Willett approval of increase the acreage goal for Statewide Natural Areas Project to 41,000 acres. The motion carried unanimously by all members.**

**Richard Steffes** stated that concurrently, the Department requests the authority to administratively increase the acreage goal in the future as new natural area dedicated easements are conveyed to the Department from its partners.

**Mr. Ela MOVED, seconded by Dr. Thomas authorization the Department to administratively increase the goal as natural area dedicated easements are donated. The motion carried unanimously by all members.**

3.B.6. Approval of the Badger State Trail Master Plan

**Peter Biermeier** introduced the project.

**Dana White-Quam**, Parks and Recreation Specialist, South Central Region stated this plan proposes to establish a 40-mile State Trail on the former Illinois Central Railroad corridor connecting Madison to the Illinois state line. This trail will connect to five other state trails which will allow a user to visit four State Parks along this regional trail network. This regional trail network will also continue into Illinois with a direct connection at the Wisconsin / Illinois border. In addition, a northern section of this trail will be designated as part of the Ice Age National Scenic Trail which will connect to other established Ice Age Trail segments. Proposed development includes 6.1 miles of asphalt extending south from the City of Madison along with a new bridge and three trailheads that will be developed cooperatively with communities along the trail corridor. Trail uses are divided into primary and secondary uses. Primary trail uses include biking, hiking, rollerblading, bird watching, general nature study and snowmobiling. Secondary trail uses include equestrian and winter ATV use on limited trail sections. To avoid trail use conflicts, separation of competing uses will be done by either distance or seasonal restrictions. It is estimated that the total cost of the proposed trail development with improvements will be approximately \$4.75 million. There has been strong support for development of the trail from recreational user groups.

**Mr. Welter** asked about proposed connectors to New Glarus State Woods and Paoli and if they will be on existing roads.

**Ms. White-Quam** stated they could be. We are looking at different options.

**Mr. O'Brien** asked if the trail is available to cross-country skiers.

**Ms. White-Quam** stated that cross country skiers could use the trail, but it's groomed for snowmobiling.

**Public Appearances**

1. **Jeff Jones**, Oregon, Save the Badger Trail Coalition stated his group is comprised of concerned citizens and trail users due to ATC possible use of the Badger Trail as a high voltage corridor. The question is "Do we want state recreational trails to be an option for high voltage transmission lines?" ATC maps show possible route options along the Badger Trail and the Military Ridge State Trail. Our tax dollars bought the

land for these trails and for their development. It is our responsibility to protect the trails for future generations. Not only are these trails recreation corridors, they are also habitat for many species of plants and animals.

**Mr. Ela** asked if his group is happy with the master plan.

**Mr. Jones** stated yes.

2. **Dar Ward**, Madison, Bicycle Federation of Wisconsin stated they have concerns about the ATV trial. ATV use is incompatible with non motorized users during that time. It will be difficult to enforce the complicated structure of the provisions for ATV and Snowmobilers. There will be damage done to the trail because there won't be a ranger there to enforce these provisions as conditions change on a daily basis. In general the BFW doesn't support ATV use where bikes are used.

**Mr. O'Brien** asked the Department for a report after the two year ATV trial is over.

**Mr. Ela** asked what statutory provisions exist to protect state owned recreational properties against utilization for transmission lines or other utilities.

**Tom Steidl**, DNR Attorney stated that in siting of transmission lines there are four priorities. The first priority is existing transmission line corridors, the second is highways and railroads, third is state trails provided that the transmission facilities are underground, the fourth priority is new corridors.

**Mr. Ela** asked since it doesn't seem feasible to bury a 345 kilowatt line, these trails would not be considered as priorities for corridors.

**Mr. Steidl** stated that is correct.

**Mr. Ela MOVED, seconded Dr. Thomas approval of the Badger State Trail Master Plan. The motion carried by all members.**

**Mr. Ela** stated he would like the Board to write a letter to the chair of the PSC expressing concern about using state owned recreation land as corridors for power lines.

**Mr. Poulson** stated it has been his observation that state owned land is pretty much exempt.

3.B.7. Land Acquisitions, Kettle Moraine State Forest – Southern Unit, Waukesha County

**Mr. Willett MOVED, seconded by Mr. Welter approval of Land Acquisitions, Kettle Moraine State Forest – Southern Unit, Waukesha County.**

**Mr. Poulson** stated that he went with Mr. Steffes to look at the property and he thinks it is an important purchase.

**Mr. O'Brien** stated it is costly and he is going to vote against it for that reason.

**The motion passed 5-1 (Mr. O'Brien voted no). Dr. Thomas was absent.**

3.B.8. Land Acquisition, Statewide Natural Area, Dane County

**Mr. Clausen MOVED, seconded by Mr. Welter approval of Land Acquisition, Statewide Natural Area, Dane County.**

**Mr. Ela** stated he will vote for this, but he doesn't support using stewardship dollars to buy land from another state agency so they can meet their budget bottom line projections.

**Mr. Poulson** asked if the working lands will remain in working land.

**Richard Steffes** Real Estate Director stated that we will lease this land for awhile.

**Mr. Willett** stated he is going to vote against this because it is being purchased from Department of Transportation. If this is wetland how could it be sold for development?

**Mr. Steffes** stated that a portion of it is developable.

**Mr. Welter MOVED, seconded by Mr. Poulson approval of Land Acquisition, Statewide Natural Area, Dane County. The motion carried 5-1 (Mr. Welter voted no). Dr. Thomas was absent.**

3.B.9. Land Acquisition, White River Fishery Area, Waushara County

**Mr. Welter MOVED, seconded by Mr. Ela Land Acquisition, White River Fishery Area, Waushara County. The motion carried unanimously by all members present. Dr. Thomas was absent.**

3.B.10. Land Acquisition, Glacial Habitat Restoration Area, Winnebago County.

**Mr. Ela MOVED, seconded by Mr. Welter Land Acquisition, Glacial Habitat Restoration Area, Winnebago County. The motion carried unanimously by all members present. Dr. Thomas was absent.**

3.B.11. Land Donation, Statewide Public Access, Marathon County

**Mr. Poulson MOVED, seconded by Mr. Clausen Land Donation, Statewide Public Access, Marathon County. The motion carried unanimously by all members present. Dr. Thomas was absent.**

3.B.12. Reconsideration of adoption of Board Order WM-29-05, revisions to NR 10 pertaining to deer hunting season and regulations.

**Keith Warnke**, Wildlife Biologist, Wildlife Management Bureau stated that on Tuesday, January 31, 2006, the Board adopted modifications to CR 05-086 in a good faith effort to restore the work of the state's hunting groups for the 2006 deer hunting season. These modifications were in response to requests from the legislative committees.

On February 8, 2006, the Assembly Committee on Natural Resources requested the Department of Natural Resources again consider the same modifications to CR No. 05-086 to which the Board had already responded on January 31.

On February 10, 2006, the Natural Resources Board declined to make any further modifications or take any further action on the proposed rule. Consequently, the Assembly and Senate Natural Resources Committees objected to portions of the NRB adopted rule on February 15, 2006. Their objections have been forwarded to the Joint Committee on Review of Administrative Rules (JCRAR) where action must be taken to uphold, or not uphold the objection within 30 days, or request further modifications.

The Board has a number of options to consider:

- 1) Direct the agency to not file the rule and await completion of the legislative review.
- 2) The Board could choose to file the rule as approved by the legislature with the objections in place.
- 3) The Board could direct the Department to withdraw the rule.
- 4) Approve only portions of the rule for filing.

The stakeholder groups, on February 20, 2006, unanimously endorsed Option 1. The Department recommends Option 1. Option 1 requires that the Board direct the agency to not file the rule until the legislative review of the rule package is complete.

**Mr. Willett** asked what happens if JCRAR doesn't act on the rule within 30 days.

**Tim Andryk**, DNR Attorney stated that once JCRAR gets the rule, they have 30 days to act. They must either vote to uphold the objection or not.

**Dr. Thomas** asked if the ball is in the NRB's court.

**Mr. Warnke** stated that it is because the legislative committee only objected to a small portion of the rule. Their review period has expired on the rest of the rule. That part of the rule could be implemented by the Board.

**Mr. Willett** asked what the Department is recommending the Board do.

**Mr. Warnke** explained the Department held a conference call with the stakeholders. They discussed four options and the stakeholder group unanimously endorsed option one. The Department is recommending option one which is to do nothing.

**Mr. O'Brien** asked if the snowmobilers were involved in that conference call and what their comments were.

**Mr. Warnke** stated that they were and that if this is the direction the group wants to go, they will support it and are generally neutral on it.

**Mr. Willett** stated officially that may be what they said, but they are contacting all the chamber of commerce and hotel owners to object to this rule.

**Mr. Welter** asked about the legislature's recommendation to have a four day antlerless hunt beginning the Thursday after Thanksgiving in all units as opposed to the Department's proposal for a four day antlerless hunt one week later in the herd management units North of Highway 8 and statewide antlerless hunt South

of Highway 8 in December. He asked if it's crucial to keep control of the deer population in those herd control units North of Highway 8 and it's more efficacious to do it the second weekend in December than a week before.

**Mr. Warnke** stated that was correct and it's more effective the second week in December.

**Mr. Willett** asked about 2005's current structure.

**Mr. Warnke** stated that it includes an October hunt in herd control units statewide, December hunt in Zone T units, but only South of Hwy 8 and regular nine-day gun season structure with herd control tools of Zone T and Earn-a-Buck after that. He stated that if Option one is implemented the herd control tools will be October 4 day season applicable statewide in Herd Control Units, December 4 day season South of Highway 8.

**Mr. Willett** stated that we won't have herd control measures in December North of Highway 8.

**Mr. Warnke** stated that is correct.

**Dr. Thomas** stated that the snowmobilers were ok with that since there isn't an issue North of Highway 8, but why did the rest of the stakeholders go along with it if they wanted to get ride of the October hunt.

**Mr. Warnke** stated that is correct, but they felt strongly that there is good reason to continue to play this out through the legislative review as it stands which includes JCRAR and potential implementation of legislation to uphold the objection. He went on to explain the other options and recommended that the Board approve option one.

**Dr. Thomas** asked about the time crunch and why the Department can't start selling Patron licenses on March 10<sup>th</sup> and get them the deer tags after this issue is resolved.

**Mr. Warnke** stated that is possible, but the major problem is that when people walk in to buy a deer license, sports license, or a patron license, they wants to be able to walk out with all their tags.

**Dr. Thomas** stated that option one we can't sell a license until after we find out what JCRAR is going to do with the rule, which is after March 10<sup>th</sup>.

**Diane Brookbank**, Director, Customer Service and Licensing Bureau stated that if option one is taken then we could not issue deer tags with a patron license or issue the tags and replace them later. It's a costly venture either way.

**Mr. Andryk** stated that the rule that is on the books right now is the 2005 framework. The rule that is in Legislative Review is for beyond that. Our licensing people are saying we are running up to the deadline for 2006 and unless we move right now we are too late for ordering tags and licenses for 2006. Even if JCRAR agreed with the Department and didn't uphold the objections, it's still too late for 2006. The rule isn't in effect until the Department files so when the rule passes legislative review it comes back to the Department for filing. The Secretary signs it and sends it to the Reviser's office where there is a 6-8 week pre-publication period. Then it is published and then goes into effect.

**Mr. Willett** stated that the Department's recommendation is to do nothing. Now there's a rule that's been passed by the Board that's up for administrative review and if they approve it the Department is stuck.

**Mr. Andryk** stated that if the Department can't implement the rule administratively, filing can be delayed until the Department can implement it according to Chapter 227.

**Tom Hauge**, Director, Wildlife Management Bureau stated that on other rules the Department has implemented delayed changes midcourse in the licensing year. Most hunters don't care or understand this rule making process. All they know is that we messed up their season because they can't get their tags or they have to do something different. That is why the Department is suggesting that the most practical way to do this let the rule process play in front of JCRAR and if they approve it then the Department will implement it the next license year.

**Mr. Willett** stated he doesn't think the Department can do that without coming back to the Board for approval.

**Mr. Hauge** stated that the Department is willing to do that.

### **Public Appearances**

1. **Morris Nelson**, Edgerton, Association of Wisconsin Snowmobile Clubs stated his group hasn't been opposed to the overall rule. We just asked for modifications to the rule North of Highway 8 to not have T-Zones in December. We have tried to negotiate different options. He reviewed the rule making process and where this process broke down with this rule. He is proud to represent a special interest group that owns hundreds of thousands of acres in Wisconsin who have never kicked a hunter off their land.

2. **George Meyer**, Madison, Executive Director, Wisconsin Wildlife Federation stated that his group along with the Wisconsin Muzzleloading Association support the deer season framework previously established

by this Board. He asked the Board to reconfirm their position by not adopting the changes requested by the Senate and Assembly Natural Resources Committees.

3. **Steve Oestreicher**, Harshaw, Chairman, Conservation Congress stated his organization is holding the line on their recommendation for the original proposal. The Congress cautions that there are landowners who may close their land to snowmobiling which could result in permanent trail closures. The landowners who hunt will ultimately have the final say on this matter.

**Mr. Willett MOVED, seconded by Mr. Welter to approve option one: "Direct the Department to not file the rule and await completion of the legislative review" for Board Order WM-29-05, revisions to NR 10 pertaining to deer hunting season and regulations.**

**Mr. O'Brien** stated that herd control is paramount in this situation.

**Dr. Thomas** stated that the Board came to an agreement in good faith. The muzzleloaders get the leftover season as it is. She has spoken to one resort owner before the last meeting to ask him how it affects his business. He stated it won't affect his business at all.

**Mr. Welter** stated that herd control is versus marginal recreational opportunities for snowmobilers, we need to go for the biological resources.

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

4. Citizen Participation 1:00 p.m.

4.A. Citizen Recognition

4.A.1. Shikar Safari Club International Award (9:00 a.m.)

**Randy Stark**, Chief Warden, Law Enforcement Bureau and **John Pearson**, Shikar Safari International Club presented Warden Todd Schaller, Warden Supervisor in Oshkosh with the Shikar Safari Club International Award.

**Todd Schaller** thanked the Shikar Safari International Club for the award.

5. Board Members' Matters

5.A. Update--Escape of captive deer in Portage County

**Alan Crossley**, stated that the Hall Farm is a captive white-tailed deer farm near Almond that was the first captive facility in Wisconsin to find a CWD positive deer in September 2002. Since that time, 19 additional deer have tested positive from that farm. On January 12, 2006, Mr. Hall contacted the Department of Agriculture to report that the fence around his shooting pen had been cut, there was roughly a three-foot-square area of the woven wire fence cut and wired back to form an opening. It was unknown when the fence was cut or if any deer are missing. Department shooters immediately began shooting deer around the borders of the property and were tested. Department staff has formulated a surveillance plan. In addition, the Department is assisting with the investigation as to who cut the hole in the Hall fence. A public meeting was held in Almond with local landowners to talk about the Department's recommended response to the Hall's situation.

**Mr. Welter** asked how the 21 positives were found.

**Mr. Crossley** stated that any deer that died or were shot had to be tested.

**Mr. Welter** asked about how the 21 positives were discovered and did he continue to run his shooting operation the two falls after CWD was discovered on his farm.

**Mr. Crossley** stated that Mr. Hall was under quarantine and all the animals that died on his property were tested. He did continue to run his hunting operation. He was not able to shoot in the fall of 2005 because he was denied his fencing certificate because the shooting pen was too small under new modifications to the fencing requirements.

**Mr. Ela** stated he had three items. The first is defending the state owned recreational properties from utility lines. He asked for a report on our options and perhaps a resolution by this Board petitioning the Public Service Commission to avoid using state owned recreational properties for utility corridors to the extent possible. His second issue is paying DOT for land with money out of the stewardship fund. He requested a letter and resolution to be written to the Governor and the Secretary of DOA saying that using stewardship money for a bottom line balancing of budget for other agencies is wrong.

**Mr. O'Brien** stated that he doesn't like to purchase lands from other agencies either, but the Board can just vote no to the land purchase.

**Mr. Ela** stated that his third item is that there was a federal policy set that in order to fund rural school they were going to sell off U.S. Forestry properties around the countries. There were several thousand acres in the Chequamegon Forest that would be affected by this. He would like forestry to work with federal staff to identify which areas are being considered for disposal and the justification for it.

**Mr. Welter** asked about the environmental assessment versus an environmental impact stated for the Amery to Dresser trail and the controversy between motorized and non-motorized users.

**Secretary Hassett** stated it was an environmental analysis that was required.

**Mr. Welter** stated that his second issue is regarding the DOT/Mirror Lake deal. He asked if DOT has to comply with the same environmental standards as the DNR.

**Bill Smith**, Deputy Secretary stated that we have an agreement with DOT. They operate on a special approval process that is equivalent to individual permits because their projects are linear and complex we have a memorandum of agreement. There have been environmental impacts in the past, but it's not because of a lack of standards. It's more due to the particular site conditions.

**Mr. O'Brien** assigned members to Operating Committees.

Air, Waste, and Water Management/Enforcement Committee

Stephen Willett, Chair

Howard Poulson

Jonathan Ela

Land Management, Recreation and Fisheries Wildlife Committee

Christine Thomas, Chair

John Welter

David Clausen

6. Special Committees' Reports  
None.

7. Department Secretary's Matters

7.A. Retirement Resolutions

7.A.1. Thomas H. Desjardins

7.A.2. Susan J. Sutton

7.A.3. Ken Wiesner

7.A.4. Dale J. Lang

7.A.5. Larry Vine

7.A.6. Richard R. Miller

7.A.7. David Kleman

7.A.8. Richard S. (Rick) Weigle

7.A.9. Dennis Verhaagh

**Mr. Welter MOVED, seconded by Mr. Poulson approval of the Retirement Resolutions. The motion carried unanimously by all members present. Dr. Thomas was absent.**

**Secretary Hassett** stated that USEPA informed the Department that they lifted their notice of deficiency.

7.B. Donations

7.B.1. Lorraine G. Uihlein will donate \$5,000 to the Bureau of Endangered Resources and the Wisconsin Trumpeter Swan Recovery Program for Trumpeter Swan Research.

**Mr. Ela MOVED, seconded by Mr. Welter approval of donation of \$5,000 from Lorraine G. Uihlein to the Bureau of Endangered Resources and the Wisconsin Trumpeter Swan Recovery Program for Trumpeter Swan Research.**

7.C. Dedications

7.C.1. Renaming of a state owned property in Outagamie County.

**Mr. O'Brien** stated that Herb Behnke has had a very long and strong involvement with natural resources conservation and especially hunting and fishing programs. He served on the Conservation Congress for 12 years, representing Marinette and Shawano Counties, before being first named to the NRB in 1967. After

serving a first term on the Board - from 1967 to 1971, he was appointed again in 1989 and re-appointed in October 1995 and 2001. He served as Chair of NRB from May 1993 – February 1997. He Served under Governors: Warren Knowles, Tommy Thompson, Scott McCallum and Jim Doyle. He has seen and been involved with many important changes to Wisconsin's natural resources in his life: to name a few: general clean up of the Fox, Lower Peshtigo and Wisconsin Rivers, rapid growth of the Great Lakes salmon and trout fisheries, the restoration or recovery of a number of important wildlife species including wild turkey, trumpeter swan, wolves, whooping cranes, fisher, pine marten and elk, deer management has always been a major issue for the Board and the Department. Herb has been a major policy maker in the ever evolving story of deer management in the state. The Deer herd has changed considerably in that time. The 1967 harvest was 136,000 for both gun and archery. In 2000 – the total gun and archery harvest was 615,293- this is the largest recorded state kill ever in the U.S.! By 2005 that had reduced to around 500,000 combined. Herb has helped guide Department policy in combating Chronic Wasting Disease and he has been a powerful voice in the debates on baiting and feeding, deer herd control, deer damage programs, deer in urban areas and deer hunting ethics. In addition, Herb helped guide the development of revised Canada goose and black bear seasons in the late 1980's that are still effective and in use today with little change. These were very hot issues back then. And it is likely that Herb's most longstanding continuing contribution will be his strong support for public land acquisition to protect habitat and provide the public with places to hunt, fish, camp and just be outside. In 1967, when Herb first came on the Board, the Department owned or controlled 803,554 acres and today it owns 1,525,499 acres. That is an increase of 721,895 acres or 1,128 square miles of land permanently dedicated for habitat protection and public use. Herb's involvement and support of two Stewardship Programs and the newly developed Land Legacy Initiative are examples of his foresight and vision for Wisconsin. With the Wolf River right in the backyard of his home in Shawano, we are pleased to dedicate the former K&S property on behalf of Herb. Herb has championed the protection and management of the Wolf River for its world renowned lake sturgeon spawning and the vast bottomland forests, marshes and lakes that provide so much enjoyment to the people of northeast Wisconsin. Congratulations Herb. We sincerely appreciate all you have done for the state of Wisconsin.

**Mr. O'Brien MOVED, seconded by Mr. Welter approval of renaming of a state owned property in Outagamie County to Herb Behnke Unit of the Lower Wolf River Bottomlands Natural Resources Area. The motion carried unanimously by all member present. Dr. Thomas was absent.**

8. Information Items

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

8.A.1. Wisconsin Buffer Initiative report results related to NR 151

**Russ Rasmussen**, Director, Watershed Management Bureau stated that Chapter NR 151, Runoff management, specifies an array of performance standards for both agricultural and nonagricultural activities that have been selected to abate nonpoint source water pollution and that have been designed to meet state water quality standards. During development of NR 151, there was general agreement among stakeholders that agricultural riparian buffers should be among the body of performance standards. However, no consensus could be reached on design criteria for the buffers nor on where they should be deployed. Thus, on May 22, 2002, the Natural Resources Board passed a resolution requesting that by December 31, 2005, the University of Wisconsin College of Agriculture and Life Sciences (UW-CALS) review literature, develop recommendations and submit a written report of its findings concerning agricultural riparian buffers. Accordingly, UW-CALS submitted its report on December 29, 2005. A second component of the May 22, 2002, NR Board Resolution directed the Department to initiate a revision to NR 151 considering WBI findings and to complete its rule-making process by December 31, 2007. While the WBI does not provide clear administrative rule language for the incorporation of an agricultural buffer performance standard in administrative rules, it does provide a framework for revisions to current technical standards, a statewide method for optimizing the placement of buffers, and an overall implementation and monitoring strategy predicated on adaptive management. If the WBI recommendations are incorporated into NR 151 revisions, parties that could potentially be affected include certain agricultural producers in critical watersheds. Also, county governments could also be affected since state cost-share dollars could be distributed, in part, according to the WBI. Based on recommendations in the WBI, the Department will be initiating modification to NR 151. We will be returning to the Board in the future seeking authorization to initiate these revisions.

**Peter Nowak**, UW Madison gave a power point presentation that highlighted the research that was done to complete the report.

**Mr. Ela** stated that it is an outstanding document. He asked if what he heard was true that there is no such thing as an acceptable rate of erosion and buffers have their place, but only in conjunction with understanding and working with local farms so that lowering tillage practices becomes economical for those farmers.

**Dr. Nowak** stated that our recommendation is to flip-flop traditional resource management in agriculture. Science now has the analytical capability to identify those portions of landscape and to work with the landowners.

- 8.B. Land Management, Recreation, and Fisheries/Wildlife  
None

\*\*\*The meeting adjourned at 4:15 p.m.\*\*\*