

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, June 28, 2006 at the Rodli Commons, 600 Cascade, University of Wisconsin – River Falls, River Falls Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 4:06 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

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| Gerald O'Brien – present | Dan Poulson - present |
| Jonathan Ela – present | Dave Clausen - present |
| John Welter – present | Christine Thomas – present |
| Steve Willett – present | |

Mayor of River Falls, Don Richards welcomed the Natural Resources Board to River Falls.

1.B. Approval of minutes from April 26, 2006

Mr. Welter MOVED, seconded by Mr. Poulson approval of the minutes from April 26, 2006. The motion carried unanimously by all members.

1.C. Approval of minutes from May 24, 2006

Mr. Poulson MOVED, seconded by Mr. Ela approval of the minutes from May 24, 2006. The motion carried unanimously by all members.

1.D. Approval of agenda for June 28, 2006

Secretary Hassett requested that item 3.B.5 be moved before 3.B.3.

Mr. Welter MOVED, Mr. Poulson approval of the agenda as amended for June 28, 2006. The motion carried by all members present.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Welter MOVED, seconded by Mr. Poulson 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 WA-14-06, revisions to NR 135 and NR 340, pertaining to Nonmetallic Mining and Reclamation associated with Navigable Waterways and Adjacent Areas.

Sue Bangert, Director, Waste Management Bureau stated that the department has worked with the interested parties through the Nonmetallic Mining Advisory Committee in the development of the revisions to Chapter NR 135, Nonmetallic Mining Reclamation. The revisions were developed to reflect enhancements and clarifications based on implementation experience. Changes include the removal of initial start-up language, streamlining of administrative procedures and enhancement of the existing dispute resolution process. In addition, changes to Ch. NR 340, Wis. Adm. Code are included so as to satisfy a statutory mandate authorizing additional acceptable forms of financial assurance. This revision increases flexibility for operators and improves consistency in implementing the financial assurance provisions of Ch. NR 340 and Ch. NR 135. The rule changes will affect nonmetallic mine operators and county and municipal regulatory authorities that implement the nonmetallic mining reclamation programs. The Board authorized public hearings on revisions to Chapter NR 135, at its February meeting. Public hearings were held in April 13 and 14 and comments were accepted through April 28, 2006. Both hearings were sparsely attended and minimal written comments were received. The Department has made changes to the proposed rule in response to the public comments and those of the Legislative Council Rules Clearinghouse.

Although groups representing the aggregate producers and road building industries still have concerns regarding the dispute resolution process, no further revisions to the related provisions have been made.

Mr. Willett congratulated the Department on the workable rule that they developed.

Mr. Willett MOVED, seconded by Mr. Poulson adoption of Board Order WA-14-06, revisions to NR 135 and NR 340, pertaining to Nonmetallic Mining and Reclamation associated with Navigable Waterways and Adjacent Areas. The motion carried unanimously by all members.

3.A.2. Adoption of Board Order WA-15-06, revisions to NR 500, related to requirements for landfill organic stability plans.

Brad Wolbert, Hydrogeologist, Waste Management Bureau stated that the Board approved a requirement for landfill operators to submit landfill organic stability plans at its March, 2005 meeting, and directed DNR staff to draft more detailed rules for the landfill organic stability plans for the February, 2006 Board meeting. At that meeting, the Board authorized the Department to hold public hearings on the proposed rules. 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. The proposed rules were developed over an 18-month period with the collaboration of outside stakeholders. Comments at the public hearings reflected two divergent viewpoints: some support the proposed rules but feel the Department should move more aggressively to simply ban the landfilling of organic materials; others believe the proposed rules are too aggressive relative to the scope of the problem, and that the goals in the rule may not be achievable.

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. There were no comments on these minor proposed changes.

Mr. Willett MOVED, Mr. Ela seconded adoption of Board Order WA-15-06, revisions to NR 500, related to requirements for landfill organic stability plans. The motion carried unanimously by all members.

Mr. Willett MOVED, Mr. Poulson seconded to pass the following resolution:

*“WHEREAS the Natural Resources Board recognizes that the science and technology governing the achievement of organic stability in landfills encompasses a wide range of methods, including innovations that are not routinely practiced in waste management system design and operations in Wisconsin; and
WHEREAS the Board believes that the current state of the science provides sufficient justification for promulgating a rule that promotes full-scale application of methods to speed the attainment of organic stability in landfills; and*

Whereas the Board considers it important that knowledge gained from the application of methods for achieving landfill organic stability be defined and disseminated so that the rules requiring landfill organic stability plans may be improved over time;

NOW THEREFORE, BE IT RESOLVED by the Natural Resources Board that the Department is directed to convene, within 5 years of the effective date of these rules, a panel of independent experts in the field of landfill design and operations to conducting a statewide review of the effectiveness of this rule in promoting more rapid achievement of landfill organic stability, and, based on the results of this review, to report back to the Board within one year of the panel being convened with recommendations on ways to improve the efficiency and effectiveness of the rule based on knowledge gained during the first five years of the rule’s implementation.

Mr. Ela asked if the intent that this panel would be convened soon.

Mr. Willett stated that yes, it would be instant.

Dr. Thomas asked if the intent of the group will be gathering data throughout the five years.

Mr. Willett stated yes and working with the Department to evaluate the effectiveness of the program.

Mr. Ela asked how this new group would affect the current stability group.

Mr. Wolbert stated members of the stability group would be asked to serve on this new group. I don’t think the stability group would continue to function, but this new panel would replace that group with some of the same members.

The motion carried unanimously by all members present.

3.A.3. Adoption of Board Order WT-44-05, revisions to NR 102, related to listing additional waters as Outstanding and Exceptional Resource Waters

Russ Rasmussen, Director, Watershed Management Bureau stated that Outstanding and Exceptional Resource Waters (O/ERW) are listed in s. NR 102.10 and NR 102.11, respectively, and are waters which are characterized as being important from various viewpoints especially as they relate to their fishery, hydrology, water quality, and recreational value. The initial listing of O/ERW river segments was published in 1988 and updates to the list were made in 1989, 1993, and 1998.

This revision to Outstanding and Exceptional Resource Waters was prompted by an August 2004 Petition to the Natural Resources Board from various conservation organizations. The petition, filed under the authority of Ch. 227.12(1), Stats. requested that the Department designate 100 water segments as Outstanding or Exceptional. Department staff evaluated available information pertaining to the segments in the petition and recommends a designation of "Outstanding" for 63 discrete segments of 38 Northern Wisconsin rivers. Staff also recommends a designation of "Exceptional" for 18 discrete segments on 7 rivers. These proposed changes to the list of O/ERWs address the request of the petitioners. Please refer to the attached Background Memo for a detailed listing of the rivers that were included in the August 2004 Petition and the specific recommendation to be considered.

Various interest groups may be affected by these revisions. Many conservation organizations believe designating additional waters as Outstanding or Exceptional will result in more appropriate protection of water quality which could in turn have a positive impact on the tourism economy of the affected counties - an economy valued at nearly \$1.7 billion in Calendar Year 2005. From another perspective, segments designated as O/ERW are considered "Areas of Special Natural Resource Interest" as part of Act 118 and in some cases may preclude developers and shoreland property owners from utilizing exemptions from permits for certain activities that may modify the shoreline or near shore environment.

Mr. Welter asked about waters that flow through reservations.

Mr. Rasmussen stated that initially that was a criterion, but that has changed. It remained a criterion, but that one of the tribes requested that the river segments on its reservation contained in the petition and qualifying be included.

Mr. Willett asked about the Flambeau River designation.

Mr. Rasmussen stated that the designation is upstream of the mill discharge.

Dr. Thomas asked how the Department knows that this classification won't affect the sale of the mill.

Mr. Rasmussen stated that there have been extensive meetings with the attorneys and the potential mill owners.

Mr. Poulson asked about high capacity well impact.

Mr. Rasmussen stated one option is to move it outside the 1200 foot zone or drilling it to a different depth.

Todd Ambs, Administrator, Water Division stated there hasn't been a situation where this has been an issue.

Mr. Ela stated that this rule was as a result of a citizen petition. He asked what the process is going to be for reviewing other waters.

Mr. Rasmussen stated that the use assessment methodology process is looking at our criteria for designating uses for waters across all use types. That is what we will be using.

Mr. Ela asked if there are other river categories that come to the Board.

Mr. Rasmussen stated that all the use designations are numerated in rule.

Public appearances

1. **Dennis Vanden Bloomen**, Eau Claire, Trout Unlimited stated TU supports the effort to classify these waters as Outstanding Resource Waters and Exceptional Resource Waters. Several TU chapters and a number of other citizen groups have been trained in water monitoring through the Water Action Volunteer program and other sources that stress proper procedures and record-keeping and that produce reliable data.

2. **Jordan Lamb**, Madison, Dewitt, Ross & Stevens was not present.

3. **Lori Grant**, Madison, The River Alliance supports the proposal and urges the NRB to pass the rule as proposed. The River Alliance was one of the original signers on the petition to name these waters as ORW/ERW. This designation is important for the state of Wisconsin and its economy.

4. **Nick Miller**, Madison, The Nature Conservancy stated his organization supports this proposal to designate these waters as ORW/ERW. It brings us significantly closer to conservation goals for rivers and streams identified in the Land Legacy Report.

5. **Daniel Marchand**, Hudson, representing himself was not present.

6. **Andrew Hanson**, Madison, Midwest Environmental Advocates stated his organization is the organization that filed the petition with the DNR to list up to 433 river segments as ERW/ORW. He thanked the Department for designating these waters.

7. **James Sieben**, Woodbury, MN, The River Alliance gave some background of the St. Croix River water designation. He thinks the long term benefits outweigh the short term headaches.

Dr. Thomas MOVED, seconded by Mr. Clausen adoption of Board Order WT-44-05, revisions to NR 102, related to listing additional waters as Outstanding and Exceptional Resource Waters.

Mr. Willett MOVED, seconded by Mr. Ela the proposed an amendment “Related to Swamp Creek in Forest & Langlade County Section 4. NR 102.10(1)(f) 6m should be amended to removed Segment 2 – All of Swamp Creek within Mole Lake Indian Reservation Boundary.” The motion carried unanimously by all members.

The original motion as amended carried unanimously by all members.

3.A.4. Reconsideration in response to the November 1, 2005 action of the legislative committee regarding the adoption of Board Order DG-37-02, revisions to NR 140, related to ground water quality standards.

Michael Lemcke, Section Chief, Groundwater Management, Drinking Water and Groundwater Bureau stated that On November 17, 2005 the Department received a letter from the Assembly Natural Resources Committee requesting that the Department consider modifications to Board Order DG-37-02 (revisions to NR 140 groundwater quality standards). The Committee requested that the Department consider removing the proposed groundwater quality standard foralachlor ethane sulfonic acid (alachlor-ESA) from the rule and convene a scientific review panel to review the proposed standard.

Alachlor-ESA is a metabolic breakdown product of the herbicidealachlor, which has been found in drinking water supply wells statewide. Following the statutory process a health risk based groundwater quality standard foralachlor-ESA was developed by the Department of Health and Family Services (DHFS). Wisconsin ch. 160, Stats., requires that the Department propose groundwater standard recommendations developed by DHFS as state groundwater quality standards in ch. NR 140, Wis. Adm. Code.

As requested by the Assembly Natural Resources Committee the Department has considered the proposed modifications to DG-37-02. The Department has consulted with DHFS regarding the need for a scientific review of the groundwater quality standard developed foralachlor-ESA. In developing their recommendation for analachlor-ESA groundwater standard, DHFS staff conducted an extensive multi-year review and analysis of existing toxicologic data. DHFS staff considered all comments received during public hearings on this rule and responded to those comments, and to questions raised by the Board and state legislators. DHFS does not believe that external review of the proposedalachlor-ESA groundwater quality standard is necessary. The Department concurs with DHFS and recommends that the proposed rule not be modified.

Dr. Thomas MOVED, seconded by Mr. Welter reconsideration in response to the November 1, 2005 action of the legislative committee regarding the adoption of Board Order DG-37-02, revisions to NR 140, related to ground water quality standards.

Mr. Willett would like to see the Board compromise rather than ignore a direct request from the legislature. He thinks it will hurt future relations with the legislature.

Dr. Thomas stated that she discussed this issue with the groundwater expert on her staff. He stated that the staff recommendation was fine.

Mr. O'Brien asked if there has been any contact with the legislators who asked us to take another look at the rule.

Mr. Lemcke stated that two of the representatives asked for specific information about how accurate tests are. He asked Department of Health and Family Services about their opinion of our testing methods.

Mr. Ela asked if this process that was just described is the same process for establishing any ground water standard and if so how many standards are there.

Mr. Lemcke stated yes and there are 130 standards.

Mr. Ela asked if the Department has ever established an advisory panel due to a manufacturer's request.

Mr. Lemcke stated that there was one other case.

Mr. Willett stated that he is warning the Board that they should be somewhat responsive to the legislative request.

Mr. Welter stated that we have done what the legislative requested. Our job is to review the proposals and to protect the resource.

Mr. Willett stated that it isn't unreasonable to discuss the idea of a peer review if it would be helpful.

Mr. Poulson stated that we already have a peer review process and the corn growers association is on board with where the Department is at right now.

Mr. Ela MOVED, seconded by Mr. Poulson that a letter be drafted to the Chair of the Assembly Natural Resources Committee for the Chair's signature about why we are voting the way we did and the peer review process. The motion carried unanimously by all members.

The original motion carried unanimously by all members.

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

3.B.1. Adoption of Board Order FR-16-06, revisions to NR 47.93, related to forestry research and development grants.

Terry Mace, Forest Resource Analyst, Forestry Services Bureau stated that 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 department has received 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). The Board has previously approved the emergency rule, this is to approve the final rule.

Mr. Ela MOVED, seconded by Dr. Thomas adoption of Board Order FR-16-06, revisions to NR 47.93, related to forestry research and development grants.

Mr. Poulson stated that the biomass effort has a future in Wisconsin. We should explore how we can utilize the dollars and make it work for our economy.

The motion carried unanimously by all members.

3.B.2. Adoption of Board Order FR-07-06, revisions to NR 46, related to stumpage rates and mandatory practices.

Kathy Nelson, Section Chief, Forest Tax, Forest Management Bureau stated that Hearings were held April 19, 2006, on proposed changes to NR 46. Changes to NR 46 include:

Revision of annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2006 through October 31, 2007.

Creation of new stumpage rates for mixed products for red pine, white pine and spruce.

Adjustment of weight conversion factor for red pine (green) to match the public lands weight conversion factor.

Modification of mandatory practices to include release of hardwoods from competing vegetation and pre-harvest treatments to insure adequate regeneration.

Mr. Willett asked about the 15% increase in the pulp wood rate.

Ms. Nelson stated that stumpage rates are determined by collected rates that are already being charged in private industry.

Tim Mulhern stated these are not rates being established, it's a severance tax landowners pay.

Mr. Clausen asked if the severance taxes take into the account what the landowners are receiving.

Ms. Nelson stated that these taxes are an average.

Mr. Ela MOVED, seconded by Mr. Clausen adoption of Board Order FR-07-06, revisions to NR 46, related to stumpage rates and mandatory practices. The motion carried unanimously by all members.

3.B.3. Approval to explore feasibility of developing a motorized state recreation area through local partnerships.

Laurie Osterndorf, Administrator, Division of Land gave background on the proposal. She stated that she is only asking for permission to explore this plan. She will not be talking about who the partners will be, where the park would be located, and where the funding would come from. The plan isn't developed yet.

Bill Morrissey, Director, Parks Bureau stated that all terrain and off-highway vehicle ownership has increased significantly in the last few years. Nearly 300,000 ATV's are registered in Wisconsin. Survey data from the State Comprehensive Outdoor Recreation Plan (SCORP) indicate that 23.4% of Wisconsin's population (959,400 people) participate in off-road recreation with an ATV. Almost 18% (725,700 people) operate their four-wheel drive vehicles off-road. Off-road motorcycling is enjoyed by 241,900 citizens of Wisconsin. A study published by the USDA shows off-highway vehicle use to be one of the fastest growing outdoor activities. Along with this increase in vehicle ownership has come an increase in requests to use them on Department and other public lands. Currently, ATV's are permitted at Richard I. Bong State Recreation Area, two state forests and seven state trails. DNR is developing a planning process that will determine which yet-to-be-abandoned railroad rights-of-way are suitable and can be used for motorized recreation.

The growth of this activity has also led to use of motorized vehicles in areas not designed to accommodate them and in areas where they are not permitted. This has resulted in problems of trespass, environmental damage, noise and enforcement. On the positive side, a Department of Tourism economic impact study determined that all terrain vehicle use resulted in \$295 million in tourism visitor spending in 2003. The development of a motorized state recreation area is not meant to solve all of the issues, but would be part of the overall motorized recreation picture. Other states have successfully developed motorized state parks as valuable components of their outdoor recreation programs and more are considering this course of action. The U.S. Forest Service is working with the public on all 155 national forests and 20 national grasslands to identify trails and areas suitable for off-road vehicles. DNR can play a leadership role in providing for this growing segment of our population while protecting natural resources and stimulating a rapidly growing tourism market. This activity is within the mission of the Department and provided for in Wisconsin statutes.

Mr. Ela asked if the Board will be expected to approve a site before approving a plan.

Ms. Osterndorf stated the Department would ask you to approve a model before a site is selected.

Mr. Welter asked if this concept is calling for a "state operated" motorized recreation area.

Ms. Osterndorf stated that the designation would be state recreation area, but it could be managed by another entity.

Mr. O'Brien stated that the statute says "to encourage and supervise recreation" it doesn't say design, build . . . is this group required to approve a plan beyond what the statute says.

Secretary Hassett stated he thinks we should be exploring the idea and get public input. We might not go forward with designing and building it.

Mr. Ela stated that Lincoln County would like to have an off road motor vehicle park. There are two ways of approaching the concept. The DNR can buy 2000 acres of industrial forest land and work with the county and user groups to develop this park. The other option is there may be 2000 acres of county forest land and the DNR can be involved with designing, planning, technical assistance. He doesn't want to lock into one or other of these models today.

Ms. Osterndorf stated that the intent is to ask permission to explore different models.

Mr. Poulson stated the Board would like to have more input than what the model outlines.

Mr. Clausen stated that one of the reasons the Department gave to explore this concept is to take pressure of existing trails. He doesn't think it will relieve other trails. In Minnesota, funding is by registration money, but part of the lottery goes to parks. Wisconsin doesn't have that benefit.

Public Appearances

1. **John Schnorr**, Fond du Lac, Wisconsin Off Highway Vehicle Association, requested that the DNR explore the development of a motorized state recreation area. He asked that the Forest County proposal be immediately explored to its fullest potential. He thinks that an OHV park will decrease vandalism and increase the economy of the community where the park is located.

Mr. Welter asked if WOHVA thinks user fees should fund the operation and maintenance of the park.

Mr. Schnorr stated we are leaving that up to the DNR.

Mr. Poulson asked about the diversity of users and the conflict of those users.

Mr. Schnorr stated that there will always be user conflict, but the design of the park can eliminate most of that.

Mr. Ela asked about the 4 wheel drive users and how they recreate in comparison to ATVs.

Mr. Schnorr stated that he has a jeep and enjoys trying to get the jeep on top of a big rock.

2. **Tony Phillippe**, Mole Lake, Sokaogon-Chippewa Mole Lake Band and Forest County, stated he supports exploring a motorized state recreation area. He has witnessed first hand that an OHV park is an environmentally sound interface between nature and the recreational public. He distributed a plan to build a OHV park in Forest county.

Mr. Welter about the option locations.

Mr. Phillippe stated that he has talked to people at the Plum Creek Timberlands and they are willing to enter into negotiations with the DNR about having a OHV park there.

Mr. Ela asked where the funding would come from.

Mr. Phillippe stated it would come from the DNR and \$10 million from the negative-effects of gambling fund. It would provide economic development for that county which is the second poorest county in the state.

3. **Brook Waalen** Luck, Wisconsin League of Conservation Voters stated that ATVs are the primary reason that this issue is being discussed. There are 300,000 registered ATV in the state. Only 1/3 of these ATVs are used for true ATV use. ATVs have completely taken over some trails such as the Cattail State Trail, the Cheese Country Trail and the Tuscobia State Trail. These trails are not multi use trails, but multi motor trails.

Mr. Ela asked if the Department should be exploring this proposal.

Mr. Waalen stated that no current funding should be used to develop/maintain the new area until the current problems are funded.

4. **Randy Harden** Sheboygan, Wisconsin ATV Association stated they support the concept plan. He would like to move the project to the next phase. There is a need for more motorized and non-motorized trails. The funding source itself is derived by way of the federal gas formula that applies to the use of motorized vehicles being driven off the highway.

Dr. Thomas asked about supporting legislation for restitution for ATV use in unauthorized areas.

Mr. Harden stated that he would.

Dr. Thomas asked Secretary Hassett if he discussed it with any legislators.

Secretary Hassett stated that he had.

Mr. Welter asked about different vehicles and different uses and compatibility.

Mr. Harden stated he has been at parks where it is sectioned off to accommodate the different user groups.

Mr. Welter asked if developing a park would reduce damage to other trails across the state.

Mr. Harden stated that in a way yes because you can educate within the borders of the park.

Mr. Ela asked about funding.

Mr. Harden stated state registration.

5. **Dorothy Heller**, Eau Galle, representing herself stated ATVs have a negative impact on the landscape and cause air pollution. Development is causing misuse of valuable agriculture land.

6. **Ron Potter**, St. Paul, Minnesota DNR, distributed information about the Gilbert OHV park located in Minnesota. They aren't promoting the site currently because there are still 3000 acres that are under development. The project was funded by the OHV dedicated accounts. Everyone who uses the park must go through an individual safety check.

Mr. Welter asked who does the operation and maintenance of the property.

Mr. Potter stated the funding comes from registration and the gas tax that comes into the OHV account. It costs about \$270,000 to run the facility including staff.

Dr. Thomas asked if lottery money helps fund the park.

Mr. Potter stated that no not for the Gilbert site.

Mr. Clausen asked if there is a fee to use the park.

Mr. Potter stated that there isn't a fee. As long as the vehicle is registered in some state, they may use the park.

Mr. Ela asked what else the OHV fund covers.

Mr. Potter stated it goes to Gilbert park, grants for clubs, maintenance of other state trails, license centers, and enforcement.

Mr. O'Brien asked if Minnesota has the same type of problems with ATVs going in unauthorized areas around the state.

Mr. Potter stated yes, but this Gilbert park has helped with trespass problems.

Mr. Ela asked what type of erosion problems there have been around the lakes.

Mr. Potter stated that there haven't been any erosion problems because they follow the regulations of 100 ft set back and the lakes are monitored.

Mr. Welter asked what distance do people travel from to use the park.

Mr. Potter stated that the registration is all done by hand, so it's not in a good accessible database. Many are from the Twin Cities and many from Northern Wisconsin.

Mr. Ela asked about the economic impact.

Mr. Potter stated that a formal study hasn't been done yet, but it was depressed when the mine moved out. Now there is a restaurant, car wash, hotel going in. He couldn't say for sure if it's related, but we think it is.

7. **Luana Schneider**, DeForest, Wisconsin Four Wheel Drive Association stated that that the W4WDA supports the concept of a State Motorized Recreation Area. Currently there are only 8 miles of “official trail” in Wisconsin for OHVs. The park must include all motorized OHV users.

8. **Rod Schneider**, Deforest, Four Lakes Four Wheeler stated that his group is in support of the State Motorized Recreation Area Concept and ask the DNR to go forward with the plan. He stated that he and his wife have traveled to Colorado and Utah to use OHV parks.

Mr. Welter asked if all the parks were run by government agencies or if some are privately operated.

Mr. Schneider stated some are privately operated.

Lunch Break

Mr. Poulson MOVED, seconded by Mr. Clausen to go into executive under the authority of s.19.85(1) (e) Wisconsin Statutes, for the purpose of discussing potential real estate transactions.

A roll call vote was taken and all members voted to go into executive session.

Mr. O'Brien stated that no action was taken during the executive session.

Mr. Ela MOVED, seconded by Mr. Clausen to direct the Department to develop a public involvement plan and a concept plan for one or more motorized recreation areas that will ensure the participation of not only off-road vehicle enthusiasts, but also interested stakeholders, members of the general public as well as representatives from other outdoor recreation industry and resource protection communities. The Department will report back to the Board presenting options for funding, location, management, and partnerships.

Mr. Ela asked how much money is allocated for ATV funding.

Larry Freidig, Financial Specialist stated that annually there is \$4 million in ATV registration revenue and non-resident trail passes and \$1.7 million from the federal gas tax. There is \$3.3 million worth of trail grants that are given to local units of government, counties, and trail management. \$1.3 million goes to DNR law enforcement staff and a local assistance program which is about \$200,000. Rider education grant of \$250,000.

Mr. Ela stated that our funds that might be applicable to this program are already stretched thin and it isn't feasible to divert funding into this project.

Dr. Thomas stated she wants to see proof that the DNR is adequately taking care of the current problems before we take on any future projects.

The motion carried unanimously by all members.

3.B.4. Approval of updated Wisconsin Wolf Management Plan

Signe Holtz, Director, Endangered Resources Bureau stated that the Natural Resources Board approved the Wisconsin Wolf Management Plan in 1999. The plan includes the provision to review the plan periodically. The Department has reviewed the plan and identified several areas that need changing to better manage wolf depredations. The Department considered other parts of the plan and recommends that these not be changed. The U.S. Fish and Wildlife Services has proposed to delist the wolf in a population segment that includes Wisconsin. This proposal is dependent on the Service's confidence that the states with wolves in the Midwest--Wisconsin, Michigan, and Minnesota--will carry out their current plans. The Department has worked with the Wolf Stakeholders Committee on the update. This item could be controversial because groups would like to see both the population goal and the methods used to manage the population changed. If the NRB approves the update, the updated plan would remain in effect until 3 years after the federal delisting is final. At that time, the Department would return to NRB with a complete review of the Wisconsin Wolf Management Plan and recommendations for revisions.

Adrian Wydeven, Conservation Biologist, Endangered Resources Bureau discussed population numbers. He stated that there are 115 packs counted this past winter. The population goal is 350 wolves. The carrying capacity is 500 wolves which we are reaching. He explained the updates to the wolf management plan.

Ron Refsnider, USFWS reviewed the current litigation proceedings. He is expecting to get sued in the future regardless of what USFWS decides to do.

Dr. Thomas asked the Department to give the NRB annual population updates.

1. **Jim Olson**, Eau Claire, Sierra Club stated that they support the wolf management plan update. It is based on research and facts. He thinks that prevention is the solution to the predation problem. The current plan is working well. Humans and wolves can co-exist, but must do so in isolation from one another.
2. **Doug Moericke**, Waupaca, Timber Wolf Alliance stated that an uniform training for field staff should be given for those performing necropsies for accurate wolf mortality data. TWA doesn't advocate a wolf harvest, nor oppose it.
3. **Linda Hatfield**, Help Our Wolves Live and the Humane Society was not present.
4. **Peter David**, Odanah, Great Lakes Indian Fish and Wildlife Commission stated that the tribes are excited that wolves are back on Wisconsin's landscape. Wolf management has a lot of meaning to the tribes. Some believe what happens to the wolves will happen to the tribes.
5. **Eric Koens**, Bruce, Wisconsin Cattlemen Association requested that the NRB move to add an appendix to the updated wolf management plan: "Negative Impacts to Livestock Producers Caused by Gray Wolf Harassment of Livestock" and "Trends of Wolf/Livestock Depredation in Wisconsin" It is important that all aspects of wolf/livestock damage be understood and that is why it should be included in the wolf management plan.
6. **Jeff Lyons**, Madison, Wisconsin Farm Bureau stated that the Farm Bureau consistently testified that the compromise goal of 350 is acceptable. The DNR is now ignoring that goal and talking about carrying capacity, which is 500. He would also like to see the reports that Mr. Koens mentioned be included.
7. **Mike Anderson**, Middleton, representing himself was not present.

Mr. Willett MOVED, seconded by Mr. Ela approval of updated Wisconsin Wolf Management Plan.

Mr. Poulson MOVED, Mr. Willett seconded to amend the motion to include the study and graphs distributed by Mr. Koens about the stress on livestock as an appendix to the wolf management plan.

Mr. Clausen stated that most of this report is referenced in the environmental assessment done by USDA Wildlife Services referenced in the wolf management plan. We need to be concerned about depredation for both livestock and for wolves.

Mr. Ela asked if the environmental assessment will be cited in the wolf management plan.

Ms. Holtz stated yes.

Mr. Poulson stated that if the two reports are referenced and people can read them if they would like, that would be ok too.

A roll call vote was taken.

Mr. Clausen – No

Mr. Ela – No

Mr. Welter – No

Mr. Willett – Yes

Mr. Poulson – Yes

Dr. Thomas – No

Mr. O'Brien - Yes

The motion failed 3-4.

Mr. Clausen MOVED, seconded by Mr. Poulson to review the wolf management plan on an annual basis and to change or amend the plan as needed. The motion carried unanimously by all members.

The original motion carried unanimously by all members.

- 3.B.5. Request authorization for public hearing for Board Orders FR-28-06, creating administrative code section NR 1.25, pertaining to defining "generally accepted forestry management practices.

Darrell Zastrow, Director, Forest Sciences Bureau stated that the purpose of the creation of NR 1.25 is to define "generally accepted forestry management practices" as required by s. 823.075 (1)(d), Wis. Stats., as created by 2005 Wisconsin Act 79. The legislation allows the Department to incorporate into the definition, by reference, the most recent version of the Department's publication "Wisconsin Forest Management Guidelines" (FMG). The proposed rule will include procedures for updating the FMG.

Mr. Clausen MOVED, seconded by Mr. Willett approval of request authorization for public hearing for Board Orders FR-28-06, creating administrative code section NR 1.25, pertaining to defining "generally accepted forestry management practices. The motion carried unanimously by all members.

3.B.6. Land Acquisition, Lower Chippewa River State Natural Area, Eau Claire County

Mr. Willett MOVED, seconded by Mr. Welter approval of Land Acquisition, Lower Chippewa River State Natural Area, Eau Claire County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.7. Land and Easement Acquisition, North Branch Milwaukee River Wildlife and Farming Heritage Area, Ozaukee County

Mr. Willett MOVED, seconded by Mr. Welter approval of Land and Easement Acquisition, North Branch Milwaukee River Farming Heritage and Wildlife Area, Ozaukee County The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.8. Land Acquisition, North Branch Milwaukee River Wildlife and Farming Heritage Area, Ozaukee County

Mr. Willett MOVED, seconded by Mr. Clausen approval of Land Acquisition, North Branch Milwaukee River Farming Heritage and Wildlife Area, Ozaukee County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.9. Land Acquisition, Rush Creek State Natural Area, Crawford County

Mr. Welter MOVED, seconded by Mr. Ela approval of Land Acquisition, Rush Creek State Natural Area, Crawford County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.10. Land Acquisition, Mead Wildlife Area, Marathon County.

Mr. Ela MOVED, seconded by Mr. Welter approval of Land Acquisition, Mead Wildlife Area, Marathon County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.11. Land Acquisition, Onion River Stream Bank Protection, Sheboygan County

Mr. Welter MOVED, seconded by Mr. Clausen approval of Land Acquisition, Onion River Stream Bank Protection, Sheboygan County. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.12. Land Acquisition, Western Prairie Habitat Restoration Area, St. Croix County

Mr. Clausen MOVED, seconded by Mr. Welter approval of Land Acquisition, Western Prairie Habitat Restoration Area, St. Croix County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.13. Land Donation, Grand Traverse Island State Park, Door County

Mr. Ela MOVED, seconded by Mr. Willett approval of Land Donation, Grand Traverse Island State Park, Door County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.14. Land Transfer and Project Boundary Modification, Mill Bluff State Park, Juneau and Monroe County.

Dr. Thomas MOVED, seconded by Mr. Clausen approval of Land Transfer and Project Boundary Modification, Mill Bluff State Park, Juneau and Monroe County. The motion carried unanimously by all members present. Mr. Poulson was absent

3.B.15. Land Exchange, Peshtigo River State Forest and Thompson State Park, Marinette County

Mr. Willett MOVED, seconded by Mr. Welter approval of Land Exchange, Peshtigo River State Forest and Thompson State Park, Marinette County. The motion carried unanimously by all members present. Mr. Poulson was absent.

4. Citizen Participation 1:00 p.m.4.A. Citizen Recognition4.A.1. 2006 Brogan Award

Secretary Hassett presented the external Brogan Award to David Ladd of Walnut Hollow, Dodgeville WI and the internal Brogan Award to Dan Kaemmerer, Financial assistance specials with the Government Outreach Unit in Southeast Region.

4.A.2. 2005 Wisconsin Ethical Hunter Award

Steve DeWald, DNR Officer presented the 2005 Wisconsin Ethical Hunter Award to Steve Johnson, president of the Northern American Squirrel Association of Onalaska, WI.

4.A.3. Renaming of the Bayfield Hatchery to the Les Voigt Fish Hatchery.

Mr. Willett MOVED, seconded by Dr. Thomas approval of the renaming of the Bayfield Hatchery to the Les Voigt Fish Hatchery. The motion carried unanimously by all members.

4.B. Public Appearances

1. **Senator Sheila Harsdorf**, River Falls, 10th Senate District welcomed the NRB to her district. She stated that it's time to resolve the ordinary high water mark issue on the St. Croix Lake. She asked for consistency in its establishment. It's frustrating and controversial for residents who live on one side of the river to see different regulations on the other side of the river.

Mr. Ela asked about NR 118 and how the rules are working out.

Senator Harsdorf stated she thinks there are fewer complaints, but there are still outstanding issues that need to be resolved.

2. **Representative Kitty Rhoades**, Hudson, 30th Assembly District stated that it's a challenge when there are two sets of state regulation affect one waterway. She thanked the Board for their hard work on NR 118. She stated that the ordinary high water mark is still a controversial issue and a solution needs to be worked out. She is also concerned about pharmaceuticals in ground water. She is working on a national taskforce to address these issues.

3. **Bill Tilton**, Town of Troy, representing himself speaking on Ordinary High Water Mark, was not present

4. **Francis Ogden**, River Falls, representing himself – NR 118 and the St. Croix Riverway gave a history of NR 118 and how it pertains to the Lower St. Croix National Scenic Riverway. He stated that the local units of government are not complying on the new regulations. The DNR staff needs to enforce the law. There is still a problem with the Ordinary High Water Mark and consistency.

5. **Barbara Thomas**, Menominee Chippewa Valley Chapter of the Sierra Club discussed Shoreline Development. Local decisions on shoreland development have far reaching effects on non-local people. She gave a tour of the Red Cedar River and how development is affecting it and the residents who live downstream.

6. **Bruce Lenzen**, Hudson, representing himself – NR 118 and slope preservation zoning. He stated that there is a misinterpretation of the definition of a "slope preservation zone" by DNR staff to the St. Croix County Zoning staff which is contrary to the clearly stated definitions. By definition a "slope preservation zone" means the area riverward from the bluffline where the slope towards the river is 12% or more, as measured horizontally from a distance of not more than 50 feet or less than 25 feet. This is leading to unnecessary and costly variance applications and is limiting the rights of landowners for the use of their property.

Dr. Thomas asked how a slope could not be riverward if it's in the riverway.

Mr. Lenzen stated that there are fingers of lands, ravines, and slopes that are not facing the river and are ½ mile from the river.

Mr. Ela requested that Russ Rasmussen write a letter to the Board with the interpretation of the slope preservation zone definition.

7. **Bob Rolle**, Town of Troy, representing himself – NR 118. The Town of Troy adopted a local rule within the timeframe allotted by the state. We are now able to work with landowners to help them know the regulations and that allows the DNR to work on other issues. This has also improved DNR relations with local government and citizens. The Bureau of Legal Services has demanded an unbelievable number of detailed changes to our river ordinances both in form and content. This Friday the town and DNR staff will meet to discuss this and hopefully

common sense will prevail. Personally, he is concerned about the Bureau of Legal Services and the power they have.

Mr. Willett stated he is also concerned about the Legal Services Bureau.

Secretary Hassett asked for specific examples.

Rick Prosize Director, Bureau of Legal Services stated that he is going to sit down with Mr. Rolle and discuss his specific concerns.

8. **Paul Mosbey**, River Falls, St. Croix Landowners Association – NR 118 was not present

9. **Ron Carlson**, Lakeland, MN Sierra Club, St. Croix Valley Interstate Group – NR 118 stated he is concerned to future development along the St. Croix Riverway. Local ordinances need to be re-examined to provide stronger regulations.

10. **Kate Hanson**, St. Croix Falls, St. Croix National Scenic Riverway, National Parks Service was not present

11. **Mark Toso**, Roberts, Representing himself – Restoration on Twin Lake and WPDS Permitting stated that Twin Lake is very degraded due to the waste water discharge located on the lake. The township has expressed interest in cleaning up this lake. We have applied for a grant and offered to perhaps use some of our own money to do it. The wastewater plant wants to expand its operation. Due to the classification of our lake the DNR won't give us a grant.

Dr. Thomas asked that basically what would need to happen to get rid of the phosphorous would be improved treatment of the wastewater.

Mr. Toso stated that is correct.

Mr. Willett stated that phosphorous removal is extremely expensive.

Mr. Toso stated that there needs to be a regional approach to wastewater treatment in this area.

5. Board Members' Matters

Mr. Poulson suggested that if you have an opportunity to attend the Rural Living by the road show, please do so. He is committed to maintaining and saving working lands in Wisconsin.

Mr. Ela stated that a few months ago we discussed a utility siting proposal along state trails. Since then other related energy siting issues have arisen. He requested a staff analysis of impact assessments and procedures when energy siting proposals affect lands on which the Department has a conservation interest.

Mr. Welter stated that he is happy we saved the whooping crane coordinator position and he is excited about the hatching of the two chicks.

Mr. O'Brien asked for a report on the Ordinary High Water Mark.

Secretary Hassett stated we will have a recommendation by Sept. 1st.

6. Special Committees' Reports

None.

7. Department Secretary's Matters

7.A. Retirement Resolutions

7.A.1. George Wysock

7.A.2. Patrick Lisi

7.A.3. Victoria Dirst

Mr. Welter MOVED, seconded by Mr. Clausen approval of the retirement resolutions. The motion carried unanimously by all members present. Mr. Poulson was absent.

7.B. Donations

7.B.1. The Fox River Valley Chapter of Pheasants Forever will donate \$30,000 towards the purchase of DNR land for the Glacial Habitat Restoration Area.

Mr. Welter MOVED, seconded by Mr. Clausen approval of the \$30,000 donation from Pheasants Forever. The motion carried unanimously by all members.

7.B.2. Whitetails Unlimited will donate \$10,629 to the Bureau of Wildlife Management for the Upper Chippewa Area.

Mr. Welter MOVED, seconded by Mr. Willett approval of the donation of \$10,629 from Whitetails Unlimited. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 7.B.3. Culver's Restaurant will donate \$59,150 in coupons for custard cones to the DNR to be issued to young children that are wearing their lifejackets or boating in a safe manner.

Mr. Ela MOVED, seconded by Mr. Welter approval of donation of \$59,150 from Culvers. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 7.B.4. The David C. McGlauchlin estate will donate \$33,615.21 to the Endangered Resources Fund.

Dr. Thomas MOVED, seconded by Mr. Clausen approval of donation of \$33,615.21 from David C. McGlauchlin Estate. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 7.B.5. The Johnson Family Foundation will donate \$11,000 to the Bureau of Endangered Resources to assist in the Wisconsin Trumpeter Swan Recovery Program

Mr. Ela MOVED, seconded by Mr. Welter approval of the donation of \$11,000 from the Johnson Family Foundation. The motion carried unanimously by all members present. Mr. Poulson was absent.

8. Information Items

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

- 8.A.1. One year report on public waters rules. (Mary Ellen Vollbrecht, 30 minutes)

Mary Ellen Vollbrecht, Section Chief, Rivers and Habitat Protection, Watershed Management Bureau stated that when the Natural Resources Board adopted the twelve chapters of administrative rules to carry out the changes to the public waters permit system (under 2003 Wisconsin Act 118), the Board directed Department staff to evaluate the performance of the new system and report one year after the effective date of the permanent rules. The Board asked for evaluation of about a dozen different aspects of the rules, and the formation of an advisory group of stakeholders to review the evaluation and make recommendations to the Board on any needed changes to rules or operating procedures. The legislature's Natural Resources Committees asked, and the Board agreed, to adopt the evaluation requirement as a section of NR310, Wisconsin Administrative Code.

Department staff have been working with stakeholders on the design and implementation of the evaluation, review of the results, and development of recommendations. A copy of the evaluation requirement and the executive summary of the report are attached. All aspects required by the Board have been fully explored to the extent possible during a one year period. A system of ongoing evaluation is a top recommendation. The evaluation methods, results and recommendations will be presented to the Board along with a full copy of the draft report. Once the Board's questions, comments and recommendations are incorporated, the report will be forwarded to the chairs of the Senate and Assembly Natural Resources Committees.

Mr. O'Brien asked for the opportunity to review the report for a month and if there are any questions, we will bring them up at the August meeting.

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

The meeting adjourned at 4:06 p.m.