

NATURAL RESOURCES BOARD

MINUTES

A special meeting of the Natural Resources Board (NRB) was held on Tuesday, March 27, 2007 at 2:00 p.m. in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The full Board held a listening session on baiting and feeding deer.

Tuesday, March 27, 2007

ORDER OF BUSINESS

Listening Session on Baiting and Feeding Deer

Dr. Thomas welcomed the attendees. Professor Van Deelen was invited to speak by the Natural Resources Board and Ed Harvey represented a statutorily-created advisory board to the Natural Resources Board.

Professor Tim Van Deelen, University of Wisconsin, Madison, stated that he considered his presentation an addendum to a white paper that he wrote when he was a deer specialist for the DNR in the year immediately following Chronic Wasting Disease (CWD) was identified, entitled "Chronic Wasting Disease and the Science and support of the ban on baiting and feeding deer," and which had already been provided to the Board.

From a scientific point of view, Prof. Van Deelen said, whether baiting and feeding is good for wild deer herds is a settled question. But the science is only one of the pointed to be weighed by the NRB. His remarks centered on the narrow question of impacts of baiting and feeding in Wisconsin in presence of CWD and possibly other wildlife diseases. Key disease issues include the following:

- **CWD is transmitted from live diseased deer to infect other deer.**
Controlled studies have demonstrated that saliva can transmit CWD.
- **Deer can get CWD by ingesting something contaminated with the disease prion**
This has been demonstrated experimentally. Repeated small doses may enhance overall infectivity.
- **CWD prions may be shed in feces and saliva**
Saliva and blood are infectious. Feces and urine still might be. Deer are unable to completely avoid ingesting feces mixed with corn.
- **Disease course and symptoms indicate high potential for transmission where deer are concentrated**
In a new Colorado study, CWD prevalence in mule deer was higher in suburban areas where deer density was higher.
- **In captive situations, deer can get CWD from highly contaminated environments, according to epidemiological studies.**
- **Baiting and Feeding cause *unnatural* concentration of deer**
A study at Sandhill Wildlife Area suggest that deer can concentrate at baiting sites 3-6 times more tightly than in a winter deer yard situation.
- **Reduction of contact through a ban on baiting and feeding is likely very important to eradicating or containing a CWD outbreak.**
Regulating the method and quantity of baiting is largely ineffective in reducing contact, because deer still use bait sites intensely. Recreational hunters as a group, not individually, do not kill more deer with bait.
- **Baiting and feeding continues to put Wisconsin's deer herd at risk to other serious diseases**
Bovine Tuberculosis (TB) is the most worrisome deer disease for deer biologists in the Midwest. TB is transmitted to healthy deer by shared feed apart from other contact. Michigan has had a long history of dealing with TB. Michigan biologists found that TB infection rates in the wild herd declined at the same time that they implemented the bans on baiting and feeding. TB is thought to be transmitted to other species and to livestock through shared feed.

2. **Ed Harvey, Wisconsin Conservation Congress (WCC)** said the Congress supports a statewide ban on baiting and feeding deer. In December 2006, the WCC's Big Game Committee voted unanimously to

pursue a ban on baiting and feeding. On January 5, 2007, the WCC's Executive Council voted, nearly unanimously, to pursue the ban. Between the Big Game Committee's meeting and the Executive Council meeting, he received many comments in favor of a ban on deer baiting and feeding. During the next few weeks, he received many more comments supporting the vote to prohibit deer feeding and baiting. Now a couple months later, it is now a 50/50 mix of comments from people either in opposition to a ban or in support of a ban. He thought the biggest concern is for what is going on in the north part of state. He then referred to the votes at last year's Spring Hearings, the Behnke resolution passed by 56% and passed in 48 counties and the question to outlaw baiting for deer had similar results. However, a question on banning deer feeding was defeated.

He noted two particular comments that he had received. 1) Tree stand hunting is safer when hunting over bait. 2) A statewide ban would affect hunting for the handicapped. Disabled hunters need some provision that allows them to bait. Right now there is no classification for handicapped hunters. This needs to be looked at after the fact. For the time being, WCC wants to continue with pursuing the statewide ban on deer baiting and feeding. Their position keeps in mind the best interest of the resource and future hunting in Wisconsin as a whole.

3. **Glen Ogel, Medford, representing himself** stated that he is in support of the baiting and feeding of deer. He has hunted all of his life. He hunts with a bow and arrow over bait. He stated that Wisconsin will lose hunters if baiting and feeding is banned.

Mr. Welter asked how long he had hunted over bait.

Mr. Ogel stated he bow hunted for 20 years. He doesn't hunt over bait with a rifle. Over time he has shot six bucks over bait with bow and arrow.

4. **Mr. Ron Sromeck, Medford, representing himself** said he supported feeding and baiting of deer. He is an instructor for the Wisconsin Trappers Association and spends his winter trapping. Six years ago he started a sportsmen's club mostly because he felt the Department was not doing enough for the handicapped. Most of the money from their non-profit club goes to support hunting by the handicapped. He also stated that everyone should be able to individually vote on this when you buy your license instead of by organization vote so their voices are carried throughout Wisconsin.

5. **Kurt Staab, Medford, representing himself** said he supported baiting and feeding deer. He said that over the years he has noted that there is contact in the wild between deer when they eat. Maybe not as concentrated, but it is definitely happening. If we cut out baiting we would lose 25% of our hunters. This is a big issue and impact on the Department's resources as far as future funding.

6. **Mark Noll, Alma, Co-Chair of the Big Game Society of the Conservation Congress** spoke in opposition to the baiting and feeding of deer. He has concerns as a dairy farmer with the Bovine TB disease issue. He is concerned over the conflict being generated over this issue. Land owners are competing against each other. Hunters need to hang together. The issue needs to be resolved. Attempts to design laws that deal with the many concerns of baiting and feeding have been well intentioned but have fallen short and failed. The only workable answer is very simple: a total statewide ban. Some find fault with the Department for not enforcing current rules. It is not that the Department can not enforce the current baiting and feeding laws because they are enforcing it as shown by the large amount of arrests. The fact is that those arrests take up a disproportionate amount of time. We could probably have three times as many wardens and they still would not be able to enforce it. If baiting and feeding were banned, a citation could be written out when the Warden finds the pile in the motion detector light. Wardens are spread thin enough as it is in enforcing the current law as it is written.

Mr. Ela gave a historic clarification that the terms of the baiting system were negotiated by the Legislature and in 2003 he did not think there was anybody sitting on this Board who thought it would work.

7. **Terry Buchman, tree farmer near Hayward, and DNR forester, representing himself** stated he was on leave today from the Department. He spoke in opposition to the baiting and feeding of deer. For the last 17 years he has spent every spring working on reforesting the open areas. He grows forest products, timber and Christmas trees for income, and plants anywhere from 3,000 – 25,000 trees each spring. His efforts have gone for naught the past five years, because the deer are either killing his trees or browsing them severely. He has replanted in some of the areas two and three times trying to stock up again and is

looking at the same failures now. He has an order for 10,000 trees for this spring and is not optimistic about planting them. He said he believes his problem is that feeding and baiting is contributing to a higher deer population than what we would normally have and would like to see it stopped. Two of his neighbors are baiting & feeding. One brags that he has 60 deer coming into his feedlot. No forest regeneration is seen anymore because the deer are killing it. He cannot stop the problem by himself, because it is a problem all over the state. Fencing is too expensive and repellants need to be repeated over the season which is too labor intensive.

Mr. Ela asked how long trees are vulnerable to deer.

Mr. Buchman stated they are vulnerable when they are within reach of the deer. At this point, the deer browsing is also lethal. If trees have been repeatedly browsed, they are stunted and will not regain the growth that they normally would.

8. **Wright Allen, Omro, President of the Wisconsin Bow Hunters Association** stated they took a neutral stand on baiting and feeding deer. At the annual membership business meeting held March 4, 2007 in Appleton, members voted for a neutral stand on baiting and feeding of deer.

Mr. Ela stated that there was some email correspondence on this that referred to an earlier vote which was essentially overturned by this vote in March. Is this correct?

Dr. Thomas stated it was her impression that one was from the WI Bow Hunters Association.

Mr. Ela stated that the impression he received was that there had been a vote by an Executive Committee and then according to one side of the issue at least a whole bunch of new members signed up to pack the meeting.

Mr. Allen stated this is a controversial issue. At a Directors meeting, the Board of Directors had voted 15 in favor, 2 against, and 2 abstained to the position to oppose baiting and feeding of deer. This was overruled at the membership meeting.

Mr. Welter asked how many attended and voted at the membership meeting.

Mr. Allen stated there were approximately 160 members. The first vote they had was 79-80 motion that lost on the floor was to reject the Boards' vote and support baiting and feeding. The second vote was brought up under new business for a neutral position was 109-20. It was not the case where it was overruled by new members. There were 52 life members in attendance.

9. **Donald Bublitz, Lake Nebagamon**, retired field biologist from Brule and area wildlife manager in the 1970's and 1980's, spoke in opposition to baiting and feeding deer. He said leadership needs to come from hunters themselves. He is a member of an informal group of about 18-20 retired DNR biologists and foresters from around the state who came together last December to bring some attention to the problems caused by baiting and feeding, which today are completely out of hand. Economically, deer hunting generates over \$1 billion annually in Wisconsin. Some diseases of deer are shared by domestic livestock causing concerns within the agricultural community. Baiting and feeding are not necessary for the proper management of the Wisconsin deer herd, and actually confound management. Baiting and feeding contribute to the chronic overpopulation of deer that is also causing undesirable impacts on plants and other wildlife. Deer are held in public trust in the state as an obligation to properly protect and manage the resource for the benefit of all citizens.

10. **James Pelley, Fountain City, representing himself** spoke in opposition to the baiting and feeding of deer. He stated that this is a public trust and not just for hunters. There are a lot of non-hunters in Wisconsin. This resource needs to be protected for everybody. We need to think not just about ourselves in this room but also future generations. He is against baiting and feeding for these reasons. He has experienced the negative side of baiting and feeding and hopes the ban would also include incidental feeding. People stockpile waste grain and food products for spreading in the spring. This is a magnet. Are we making decisions based on science, money, or political issues?

Mr. Ela asked what part of the state he is from.

Mr. Pelley stated he is from the west central part of the state.

Mr. Poulson asked what the piles are that you allude to.

Mr. Pelley stated the waste grain products are from feed mills.

11. **Tom Thoresen, Madison, Board President for the WI League of Conservation Voters**, retired conservation warden and a hunter for 40 years. The WI League of Conservation Voters has supported the

banning of baiting and feeding in the past and urges the Board to take strong steps to get this accomplished for future generations. This message against baiting and feeding of deer is based on strong science to prevent the spread of disease, the fair chase implications, and the negative social impact baiting and feeding are having across the state. At the time of proposed legislation in 2003, it was suspected that one potential source of the spread of CWD was by saliva from baiting and feeding. Today, that science has been confirmed. It is also known that Bovine TB can be spread from bait piles. This is a threat to both the wild deer population and to the dairy/cattle industry in Wisconsin. It is clear that we need to protect the dairy industry by banning baiting and feeding of deer. In the early 1990's, the Natural Resources Board received a report on the ethics and fair chase issues. The report stated that baiting is unethical and should be discouraged. There should be no hunting within 300 yards of bait. Anyone who does feed animals should be doing so on a sustained basis rather than interrupting the normal patterns of the animal only to abandon after hunting seasons. Unfortunately the Board did not take action 17 years ago. Baiting and feeding is not just a problem with science but with law enforcement. The problems are getting worse.

12. **Ed Logan, Dousman, representing himself** stated his support of baiting and feeding. He said the Department considers baiting and feeding as disease transmission sites. Yet the Department chooses to set up these sites to harvest CWD deer. If they did any risk assessment, apparently, the bait poses less of a risk than the large deer population. Otherwise, why would they take the chance of spreading the disease if it exists?

13. **Greg Kazmierski, Waukesha, WI Hunters' Rights Coalition** stated their support on baiting and feeding deer. He discussed their concerns on the report by Abby Thompson. He stated that nowhere in the report does it state that baiting and feeding with two to ten gallons of feed congregates deer. The only mention of deer congregation was the natural seasonal feeding behavior. What bothers him is that we are not being honest about the science. If truly we had an issue with the science and spread of disease that would be one thing but we have spent \$30 million on CWD surveillance to find out where it exists in the state. We know where the isolated areas are. We are going to continue that surveillance and we are also surveying for TB. If the disease spread was really the concern, he thought we would adopt something like Michigan did where every hunter is given a pamphlet because every hunter can identify TB at the time they process/field dress their deer. Yet, we are not going to give hunters that information probably because we are considered too stupid to figure out if a deer has spots on its lungs or not. That would be surveillance. That would be 500,000 – 700,000 people out there surveying for TB. He would rather see us doing this rather than picking on baiting and feeding. Risk assessment on baiting and feeding has been done by the Department. The risk assessment they concluded was that harvesting deer in the CWD zones is more important than not baiting. This study that he is citing was not part of the conclusions, but the deer populations where the study was done was at 13 deer per kilometer the first year and reduced to 7 deer per kilometer the second year. What was really interesting about that is the rate of contacts. The herd was reduced by about 40% but the deer unit minutes went from an average of 97.45 to 33.9. If we are looking at this from a scientific standpoint and baiting is as determined by our Department one of the most effective methods of harvesting deer, the science indicates that reducing the herd is more important than the disease risk.

Dr. Clausen stated that you quoted figures at the beginning saying there was no difference in the concentration from the baited sites and the control sites and you quoted those several times throughout. If that is true, then you just told me that obviously there is no benefit as far as harvesting deer for putting bait out so we are just dealing with the psychological aspects of this.

Mr. Kazmierski stated they are not his numbers. These are from scientists hired by the Department. As far as hunting over bait, he does not hunt over bait. He hunts in southern Wisconsin. His woodlots are surrounded by cornfields. When you are getting into northern Wisconsin, it definitely must make a difference or people would not do it.

Dr. Clausen stated that is not what you said but that is enough.

Mr. Ela asked what the WI Hunters Rights Coalition is.

Mr. Kazmierski stated they are an organization that includes the National Rifle Association (NRA), U.S. Sporting Alliance, WI Bear Hunters Association, SCI Chapters of Wisconsin, and the Wild Turkey Federation.

Mr. Ela asked how it was organized.

Mr. Kazmierski stated they are a loose organization and they get together on certain issues and items that come up and discuss between our groups and decide if we want to support something or not to support something.

Dr. Thomas stated she is a member of some of those organizations. She asked if you are telling her that SCI, the Turkey Federation, and the NRA all support baiting and feeding.

Mr. Kazmierski stated they have all supported it.

Mr. Ela asked if they had authorized you to be their representative.

Mr. Kazmierski stated correct.

Dr. Thomas inquired at the chapter level or at the national level.

Mr. Kazmierski stated that as in anything, for example with the Conservation Congress, there has never been a statewide delegate count to the Conservation Congress members either to determine whether we should ban baiting and feeding. That was done by their Executive Committee and their Big Game Committee. We all have committees. For SCI he is the President of the statewide chapter which has two board members from every chapter on their board. They look at things from a hunter's right standpoint. This is taking away a right and really there is only anecdotal evidence that it is really going to be of any benefit.

Dr. Thomas asked about the Turkey Federation. They voted in favor of baiting and feeding?

Mr. Kazmierski stated the Turkey Federation also voted in favor of it.

Mr. Ela asked if he could supply the Board with copies of those resolutions.

Mr. Kazmierski stated they could get resolutions if you would like them. We did it on a conference call and took the position.

Mr. Ela asked who was on the conference call.

Mr. Kazmierski stated the presidents of the different organizations.

Mr. Ela asked if you consider baiting to be a right.

Mr. Kazmierski stated they consider it to be a right. Mankind has been using bait to kill deer since the beginning of time. We use bait to fish, to bear hunt, we use bait to catch mice at our homes. That is what really bothers him when you have people talking about the ethics of baiting. Where do we draw the line on ethics? We have taken care of the ethics arguments years ago. Are tree stands unethical?

Mr. Poulson asked if there is a national Hunters' Rights Coalition group.

Mr. Kazmierski stated no. It is only a state chapter.

14. **Jim Johnson, Hixton, representing himself** stated his support for the baiting and feeding of deer. He questioned the studies that were discussed today. Over the years, he has made a list of what deer do in the wild. Baiting and feeding would be a small issue. He has seen a doe licking her fawn to licking a salt block in a farm field. In the wild, he saw many deer lick the same branch. We can not stop their behavior.

15. **Jerry Karbon, Middleton, representing himself** stated his strong opposition to baiting and feeding deer. He hunts in northwest Wisconsin—Douglas County. He said baiting and feeding is causing many of the new deer hunters to miss out on the joy of hunting. They do not learn how to hunt. Another thing we need to keep in mind is that hunting is not a right. Baiting is not a right. It is a privilege. Regardless of how we feel about hunting, the image baiting and feeding creates in the minds of his non-hunting friends is shooting fish in a barrel. Rightly or wrongly, it is not very favorable. The Department favors a ban. The Natural Resources Board is poised to do the right thing and favor the ban. The glitch is at the legislative level. We need to do what we can to influence legislators to persuade them to let the Department manage the resources.

16. **Wes Domine, Fountain City, representing himself** stated his opposition to baiting and feeding. It is detrimental to the resource and the long-term future of our hunting heritage. From a disease standpoint, sportsmen should not be a catalyst to the spread of CWD, Bovine TB, and other diseases. It is not worth it and it looks bad in the eyes of the non-hunters. It promotes cabin feeding, poaching, conflicts among hunters, illegal use of ATV's in our forests, and it creates an unfair disadvantage to those that can not actively bait and work the resource. In the long run, it costs everyone. The world has changed and the way we approach hunting and how we preserve our hunting rights has to take into account the way the world works today. We are losing a future generation of hunters. Feeding is the worse of the two issues. He truly believes there is a correlation that can be found between feeding and the concern we have today of urban sprawl. They feed and watch deer. There are thousands of little refuges across the state. This makes

it hard for the Department to control. Deer have never had it better. They do not need feed to exist and be healthy. We are slowly domesticating this precious resource and it needs to stop. He also believes there is a correlation between the outfitting businesses in this state. It is growing. Anything we can do to help restrain this economic boost they get. Baiting and Feeding for an outfitter is like putting up a fence on a Texas ranch. It has the same effect. If they can bait and feed they can hold the deer and control that herd. They can almost guarantee their clients success. This takes more and more people out of the hunting picture. He is for retaining hunting as an activity for the common man and woman.

Mr. Ela asked where he lives.

Mr. Domine stated Buffalo County and is a land owner. He can hunt out his back yard but wishes that was the same for everyone in the state and it is not.

17. **Larry Zehner, Madison, representing himself** stated his opposition to baiting and feeding. He is a Madison native, and first hunted in Bayfield County with his dad. With the exception of four years in the Navy, he has hunted each year in Douglas and Bayfield counties. He hunts exclusively on public land and hunts with a modern rifle, black powder, and long bow. Some years you see few tracks. Some years you are fortunate. He chooses not to bait and he doesn't shoot near bait. It has gotten to the point where he is scouting for new areas to hunt because of the many bait piles. Because of that he has to go further back. What bothers him the most is what we are doing to the deer. When you are baiting, you are reducing a wild animal that could get along on its own and you are making him an animal that depends on people. It is like a Holstein. It comes to the feed, just like in a feedlot.

18. **Alan Knop, Madison, representing himself** stated his strong opposition to baiting and feeding deer. He and his brother from Milwaukee hunt Taylor County each year because that is where they were born and raised. He is basically against baiting and feeding for two reasons: CWD and conflict between hunters. They hunt in the Chequamegon National Forest. They started in 1951 although this might be his last year. They scout the area near where his nephew lives. They pick out spots in the national forest. On opening morning last year, he heard someone go behind him. Later than morning, another person comes by and says you have a guy behind you and asks if you are going to stay. He then said you are sitting on their runways that they bait. Mr. Knop told him this is a national forest. The guy said they had been baiting these runs since before archery season started. These runways were theirs. Anyway, to make a long story short, Mr. Knop followed him and listened as best as he could. Within a ½ mile square these guys had nine bait piles with a hunter sitting on each one of them. Every time we tried to move there was one of them that would confront you because you were hunting their runs. It is ridiculous.

19. **Ed Frank, Madison, representing the Knights of the Wildlife Roundtable** stated their opposition to baiting and feeding deer. He owns a cabin near Spooner and retired from the DNR as a wildlife biologist as was Don Bublitz. The issues we have are first biological and lead to too many deer. Deer populations have increased for a number of reasons, including climate change and increased fecundity from feeding. They are also concerned with the impacts of vegetation. From a personal experience, deer have always yarded. A few years ago, some of his neighbors started feeding and now deer no longer yard and stay out and eat ornamentals. There is a negative impact on people around those who are feeding deer. Another issue is disease. We do not question science. Again it is science based. There are probably other things that can contribute but we can do something about the increased concentration of animals beyond the family group that occurs with feeding. We ought to do something to reduce it. They also mentioned the sociological impacts which have also been mentioned today concentrates the deer and changes movements, particularly during the hunting season. Another issue is an increase in vehicle deer/car accidents. There is a big increase in collisions near baiting stations. There is pressure to bait when a neighbor baits. A feeling of entitlement to bait on public lands is very common in the north. Also notable is the fair chase and ethics issue. Another issue is cabin shooting, when deer and big bucks come in to feeding stations. People are tempted to take the big buck at night from their cabin, and this is enabled by the feeding that goes on.

Mr. Ela asked how many members are in the Knights of the Wildlife Roundtable.

Mr. Frank approximated at 20 and increasing.

20. **Joe Caputo, McFarland, Co-Chair of Big Game Committee for the Conservation Congress** spoke in opposition to baiting and feeding of deer. He limited his comments today to actions taken by the Big

Game Committee from December 2006. At their committee meeting, it was apparent that there are still differing views on this subject. There were representatives from the northern part of the state who still hear a great deal of support for baiting and feeding but the discussion seemed to show a shift towards support of a ban, compared to past years. The representatives from the southern part of the state, of which he is one, seem to have the same types of issues with CWD as had been mentioned by other speakers. Law enforcement had numerous issues with hunters resulting in a high number of violations during the 2006 hunting season. The committee considered the health of the white tail deer herd, and focused on disease management and a recent report that CWD spread from direct saliva transfer. TB has also been discovered in Minnesota. One of members on the committee is a veterinarian, and has had firsthand experience with acidosis poisoning in white tail deer in the winter deer yards in the northern part of the state. He told of dead deer with a stomach full of corn that was indigestible and ultimately led to the death of the animal. All of these examples compelled the Big Game Committee to recommend to the Executive Council to unanimously endorse a statewide ban on baiting and feeding of whitetail deer. To be fair, he noted that there were three members who approached him after the meeting who said they did not vote but if they did, they would have voted against the position of the committee. The real onus lies with our Legislature. We can recommend all we want but until we tackle the political, economic, and social things that surround baiting and feeding, things will not move forward until legislators support a ban.

21. **Bob Welch, Madison, representing the Wisconsin Hunters' Rights Coalition** stated their support of baiting and feeding deer. The coalition includes the WI Bear Hunters Association, the Wisconsin Chapters of the Safari Club International, Wisconsin Chapters of the National Wild Turkey Federation, the U.S. Sportsman's Alliance, the National Rifle Association, and Sporting Heritage, Inc. Our one line statement is to defend rights of hunters and expand hunting opportunities. They have been working together with a lot of other sporting groups in making sure that we do not close off hunting on the Mississippi River. On baiting and feeding, unfortunately, the hunting community seems to be fractured. He does not know why there are hunting groups who are out there representing hunters who want to limit the opportunities for their fellow hunters. They do not want to do that. They think it is elitist to say the way one hunts is good and the way another hunts is bad. On enforcement, the Natural Resources Board, Legislators, and the state should not make decisions on enjoying a sport solely based on what is easy or hard for law enforcement

Ms. Wiley asked how long this Coalition has been in existence.

Mr. Welch stated approximately 18 months.

Mr. Welter asked about the privatization argument. Is it illegal to put up a 15' fence around private property in order to try and pen deer so that they are not available to have natural movement patterns?

Mr. Welch stated that before they had the compromise of a couple years ago, you saw that people were abusing baiting and feeding. The compromise was 2 gallons at a time. They are not for feeding deer for the purpose of congregating large groups of deer. They are using it just to enjoy the sport. There does need to be common sense and we are not against it.

Mr. Welter stated that as they have heard from the gentleman that hunted in the Chequamegon for many years that he is surrounded by people who are putting out piles of bait for a couple of months and by the time gun season gets going and they want to run him off their runways in the national forest.

Mr. Welch stated that maybe they would still react the same even without the bait piles? He does not know that the bait piles are going to be the only issue in a National Forest when it comes to who owns that runway for those nine days.

Mr. Welter inquired that you would agree that they are a little less mobile if the incentive is to be near their bait pile.

Mr. Welch stated that people stake out their turf and put up their tree stands. Yes, bait piles are one mechanism to doing that. He didn't think you were going to end that practice in those conflicts.

Mr. Ela stated when the last time this issue was before the Board, he did not think they heard any testimony that there was a difference between putting out 50 gallons once or 2 gallons 25 times. The impact was the same. The size limitation as far as he could tell at the time was a political fall back position so that different sides of the argument would not lose face. Can you tell me why I am wrong?

Mr. Welch stated there was a concern that big dump trucks full of cookie crumbs and things were abusing it and it would cause 50 deer to come there. It would cause a change of patterns and a concern for health. Whereas a couple coffee cans on the ground during hunting season or a few apples under your tree stand

was not going to cause any of those things. They are only trying to attract one and not 30 deer. This is what we tried to do with this compromise: to attract one deer and not to change patterns.

Mr. Poulson asked if you have a concern or feeling relative to the whole temperament change. Is wildlife still wildlife or is it tame wildlife? He is concerned about this from a conversation he had the other day. They talked about stopping the combine in the field and saw the deer come up and almost lick the machine. The deer are there when he empties the trucks. That didn't happen before. Even though it is just baiting and it is two gallons, does it change the whole temperament of deer?

Mr. Welch stated he did not disagree with Mr. Poulson's general thesis, but if you compare 100 acres of corn in the field and what drops out of the combine by accident, the little feed piles in the 40 acres behind the 100 acres of corn is a drop in the bucket compared to what is left behind in the field.

Dr. Clausen stated that he has had communications with a state veterinarian in South Dakota who does a lot of consulting on CWD and is nationally known for his work. He said, "you can confine a deer just as effectively with a pile of corn as you can with a fence". That's privatization. You have talked about this 2 gallons being a solution. Do you truly believe people are limiting themselves to 2 gallons or are 2 gallons of bait like a 65 mile per hour speed limit on Highway 94?

Mr. Welch said that is the law. He thought that a lot of people are obeying the law. Maybe a few probably are not. We saw a lot of citations in the report. Enforcement is an issue. He did not know how you would enforce it completely. If you banned it tomorrow, how would you enforce that? The mind set of hunters for 2 gallons has not come around completely yet.

22. **Al Phelan, Madison, standing in for George Meyer, Wisconsin Wildlife Federation (WWF)** stated he is on the Board of Directors of the WWF, which is the largest conservation organization in the state representing 151 hunting, fishing, and trapping groups. These groups have a combined membership in excess of 100,000 people. The WWF, starting at their Wildlife Committee, on February 3 supported a resolution with a vote of 26 – 0 to ban baiting and feeding statewide. The full Board of Directors of the WWF voted in favor of the same resolution on February 10 by a vote of 42-2. The WWF also recommended the passage of this resolution at annual meeting on February 14. The WWF is concerned about transmission of CWD and TB through saliva transfer not only for the deer but also for domestic animals. Baiting and feeding contributes to the chronic overpopulation of deer and the change in distribution of deer. The WWF does not want liquid scents banned, and does not want a ban on baiting or feeding deer to be extended to bear hunting.

Mr. Ela asked if WWF was asked to become a member of the Hunters' Rights Coalition.

Mr. Phelan said not to his knowledge. Some of those organizations are also members of WWF.

23. **Bob Sietz, Monticello, Vice-President of Sporting Heritage, Inc. (SHI)**, in support of baiting and feeding deer. He differs with the gentlemen who spoke earlier. In Wisconsin, since the passage of that amendment, hunting is a right. It is not a privilege. It is in the Constitution. It is important that this body understand that as a limitation on the power of the Legislature, the Board, and the Department itself. There has been a lot of talk about whether baiting and feeding is good or bad., and whether it is something you consider to be ethical. All those issues are off the table because we have a constitutional amendment that says we have a right to hunt and fish subject only to reasonable restrictions.

24. **Warren DeSmidt, Cedarburg, representing the WI Bowhunters Association (WBA) Board of Directors** stated their neutral position on baiting and feeding deer. During the WBA discussion, he moved to oppose baiting and feeding. There was no mention of a ban. We did that specifically because the ban was not in place. The WBA's membership has the right to overturn the board of directors' recommendations. The first motion came before the annual membership meeting specifically stating that that motion was to oppose the motion from the board of directors to endorse the ban on baiting and feeding of deer. That motion lost 80-79 but technically that motion is out of order and we have not corrected that motion yet because the minutes have not been corrected or approved. The WBA board of directors did not make a motion to endorse the ban. His motion was to oppose baiting and feeding of deer and that motion carried and that was the one that lost at the meeting. There was a subsequent motion for the position of the WBA by the membership to remain neutral, which carried 109 - 20. This conflict has been terrible for their association. He did not want this to cause further conflict in the Association if the Board had the incorrect assumption about the series of votes.

Dr. Thomas thanked Board members for undertaking this listening session, thanked the Department staff for facilitating and for all that participated. She stated that our wonderful wildlife heritage in this country and all of North America is a product born of our democratic system and held in public trust and is flourishing in a way that has not been seen anywhere else in the world. There has been a lot of talk this issue is dividing the hunting community and clearly the hunting community is divided on this issue. The Legislature has been divided on the issue in the past. Good, honest, hard working, tax paying Citizens in this country and state have through our history been divided on many issues. Being divided on this issue is not going to be the downfall of our hunting community. We will work through this and go forward. She believes that all of you will still be out there working for wildlife in the many good ways that you have been in the past and she thanked them for their participation and hard work.

Mr. Ela stated as a veteran of this issue on the Board, that the level of respect and civility shown here this afternoon by everybody on all sides of the issue was outstanding and he hopes as the issue moves forward it will stay that way.

Adjourned at 4:17 p.m.

Natural Resources Board

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, March 28, 2007 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 4:10 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

| | |
|-------------------------|----------------------------|
| Gerald O'Brien – absent | Dan Poulson - present |
| Jonathan Ela – present | Dave Clausen - present |
| John Welter – present | Christine Thomas – present |
| Jane Wiley – present | |

1.B. Approval of minutes from January 24, 2007.

Mr. Poulson MOVED, seconded by Mr. Ela approval of the minutes as presented. The motion carried unanimously by all members present.

1.C. Approval of minutes from February 28, 2007.

Mr. Ela MOVED, seconded by Mr. Poulson to defer approval of the February 28, 2007 minutes to the April 25, 2007 meeting. The motion carried unanimously by all members present.

1.D. Approval of agenda for March 28, 2007

Dr. Thomas requested the agenda be amended. Items to be moved are as follows: 8.B.3 to follow 3.B.1, and 8.B.1 to precede 6.A.1

Mr. Ela MOVED, seconded by Dr. Clausen approval of the agenda as amended for March 28, 2007. The motion carried unanimously by all members present.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

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

3. Action Items

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

3.A.1. Presentation of the 2007 Registered Laboratory of the Year Awards.

David Webb, Section Chief, Environmental Science Services, Integrated Science Services Bureau, stated that the Department presents annually the Registered Laboratory of the Year Awards to recognize Wisconsin's best registered laboratories for their outstanding commitment to producing high quality data. Awards are offered in two categories:

Large Registered Facility and Small Registered Facility. This will be the 12th consecutive year the Department has presented these awards. Over 250 facilities are eligible. It is quite an honor to be able to recognize two of them.

2007 Large Registered Facility Award will be presented to the Stevens Point Wastewater Treatment Plant. The 2007 Small Registered Facility Award will be presented to the Fremont - Orihula - Wolf River Joint Sewage Commission Wastewater Treatment Facility.

The nomination papers for each laboratory along with an overview of the award selection criteria are included in the memorandum.

This year, the winner of the small registered lab of the year is a lab that serves the communities of Fremont, Orihula, and Wolf River Joint Sewage Commission in Waupaca County. It is operated by Midwest Contract Operations (MCO) and Larson Engineering is also involved.

John Wilson is the sole operator listed at the facility and Mark Mayer from Larson Engineering is the primary engineer that works with the plant. Mr. Wilson does a fabulous job as a sole operator. No deficiencies were noted in their last laboratory audit. This is fairly uncommon. John Wilson was asked to come up and accept the award from Secretary Hassett.

John Wilson acknowledged the opportunity to speak to such a distinguished group of people. It has been an honor to protect the environment and water of this great state of Wisconsin. His hat is off to all of you that have to weather the politics in Madison. He acknowledged the River Alliance and the Stream Monitoring Program of Trout Unlimited. He thanked everyone for the award.

Mr. Webb then announced the winner of the large registered laboratory of the year as a facility that serves the city of Stevens Point. People here from Stevens Point are Kim Halverson, who is the Director of water and waste water facilities, Eric Niffenegger, the Superintendent, Jeremy Cramer, the Chief Operator, and Dave Slebcheck and Dan Roskowski, two key operator analysts. Key accomplishment of the facility was there were no deficiencies in the last audit, which is fairly uncommon that this occurs. They are a large operation that achieves extremely precise analytical control and all the things that make chemistry important and quantifiable. Quality control is done more frequently than required and is rotated around staff as a consistency check. Facility staff was asked to come up to accept their award from Secretary Hassett.

Eric Nifenegger stated the plaque would be displayed at UW-Stevens Point. On behalf of staff, he thanked the Department and Camille Johnson, the city of Stevens Point for their support, the mayor, and the commission. Last but not least, he thanked the actual operators that do the lab work. They do a great job.

3.A.2. Approval of FY 2008 Laboratory Certification Fee Adjustment.

David Webb, Section Chief, Environmental Science Services, Integrated Science Services Bureau, stated state Section 299.11 (9), Wis. Stats., requires the Department to promulgate a graduated schedule of fees for certified and registered laboratories to recover the costs of administering the Laboratory Certification and Registration Program. The fee schedule for each fiscal year is determined using the formula specified in s. NR 149.05, Wis. Adm. Code. The formula uses a relative value system to distribute equitably the costs of administering the program among all participating laboratories. Different fee items are assigned by rule a number of relative value units (RVU). The cost of a relative value unit is determined by dividing operating costs, after subtracting any refundable expenses, by the number of RVUs available for a fiscal year. Section NR 149.05, Wis. Adm. Code, requires the Natural Resources Board to approve all annual fee adjustments.

For FY 2008, the program is projecting operating costs of \$638,318. This figure represents an increase of \$70,018 from the program's FY 2007 budget and is needed to offset salary and fringe benefit increases for the program staff. Nevertheless, the program's FY 2008 budget is \$71,782 below its FY 2008 spending authority of \$710,100. The number of laboratories participating in the program has remained relatively stable, with a loss of 8 laboratories that contributed 237 RVUs, or a decrease of 2.5% billable units. The cost of an RVU for FY 2008 will be \$64.50.

Mr. Ela asked why the number of labs is on the decrease.

Mr. Webb stated that 2% of labs, approximately 8, have been lost due to consolidation, municipalities joining forces, and a little less work here and there. The rate of decline has slowed or stabilized.

Dr. Clausen MOVED, seconded by Mr. Welter, approval of FY 2008 Laboratory Certification Fee Adjustment. The motion carried unanimously by all members present.

3.A.3. Adoption of Board Order DG-37-06, revisions to NR 820 pertaining to ground water quantity protection.

Mark Putra, Section Chief, Private Water Supply stated that the 2003 Wisconsin Act 310, enacted in April 2004, expands the Department's authority over high capacity wells to include consideration of impacts to certain sensitive water resources, requires annual reporting of groundwater pumping from high capacity wells and directs the department to designate two groundwater management areas. The proposed rule implements the provisions of 2003 Wisconsin Act 310.

Under the proposed code, all owners of high capacity wells will be required to submit annual pumping reports to the department. The rule also establishes the area extent of two groundwater management areas, one in the southeast part of the state and another in the northeast part of the state. The two areas include the entire area of each city, village and town in which the level of the underlying groundwater has dropped by at least 150 feet due to groundwater pumping.

Ch. NR 820 establishes processes and criteria to guide the review of proposed high capacity wells that are located near springs or within a groundwater protection area (within 1,200' of a trout stream, outstanding resource water or exceptional resource water). Applicants for wells near springs or in groundwater protection areas will be required to submit information to demonstrate that the proposed well will not result in significant adverse environmental impacts to the surface water resource. The department will review all wells proposed in such locations to assess the extent of environmental impacts related to the proposed well. The rule includes screening criteria that will be used to determine the necessary level of environmental review for these wells. If it is determined that a proposed well could result in significant adverse environmental impacts, the applicant may be required to submit an environmental impact report and the department will prepare an environmental assessment prior to approving or denying the proposed well.

Ms. Wiley asked if reporting to the Department annually is often enough for these types of wells. What happens if there is a glitch in a system and it is just after a reporting period to the Department?

Mr. Putra stated they submit monthly data to the Department on an annual basis. They are now in the process of contacting approximately 10,000 high capacity well owners around the state to alert them to the new requirement and to get them up to speed on what the requirements are.

Public Appearances (limited to 3 minutes)

1. **Carol McCartney**, Madison, Co-Chair of the DNR Groundwater Advisory Committee urged the Board to adopt the Board Order that revises NR 820. The Groundwater Advisory Committee has endorsed these rules and they are important to our assessment of how well Act 310 is working. They are also important to the recommendations the Committee will provide in their report at the end of this year.
2. **Ron Kuehn**, Madison, agriculture appointee and Co-Chair to the DNR Groundwater Advisory Committee urged the Board to adopt the Board Order that revises NR 820 that was brought before you today by Department staff. It is very reflective of the consensus process that this

group has worked on, and of the concerns that the Department's staff had with the rule. To the extent the law allows, it responds to the most material of the comments that were received throughout the hearing process. He emphasized that Wisconsin has an exceptional groundwater resource. The Committee, the Legislature, and Department staff are attempting to strike a balance between the need for that ground water for the development of industry and the need for conservation of that ground water. That is not an easy balance to strike. The Committee will continue working with Department staff to make recommendations that may result in changes in this rule. Rather than make piecemeal change at this time, we would like to get the next year's work done and then come back before you if we believe there are any changes that are necessary.

3. **Bob Nauta**, Oregon, geologist, member of the DNR Groundwater Advisory Committee and representing himself urged the Board to accept the draft code as written and to allow the Groundwater Advisory Committee to complete their work and present their final recommendations in a year from now. At that time, there may well be groups and individuals who take exception to portions of the rule, or may present alternative language. But that will be after we and the experts working with the Committee will have had the opportunity to complete their work, and present a comprehensive product.
Mr. Ela stated the law as it was written and the regulations that have been submitted apply to high capacity wells that are close to a rather small body of waterways or trout streams that have the benefit of being easily definable. Are you going to be looking at other bodies of water and the appropriateness of putting them in this regulatory system, and how would you go about this? Seepage lakes have been suggested, for example.
Mr. Nauta stated that through the process there probably will be some of those incorporated simply because we really have a very narrow definition right now for what a spring is. There are a lot of other possible springs that could be defined and it is possible that some seepage lakes may end up being a spring. They are also going to look at the environments that are established by springs. Another aspect is we really do not have a definition yet of adverse environmental. That is really a corner stone so more can fall out of that definition.
4. **Jodi Habush-Sinykin**, Milwaukee, representing Midwest Environmental Advocates and Groundwater Advisory Committee Member requested the Board adopt the Board Order revising NR 820, with the understanding that consideration of future revisions to the rule can be anticipated following completion of the Groundwater Advisory Committee's final report at year end. In looking at the Committee's statutory charge, as delineated under Act 310, the Groundwater Advisory Committee is asked to assess and to formulate recommendations for Legislative and Administrative rule changes relating to Act 310's present statutory treatment, which include designated high capacity wells, the definition of a spring, adaptive management strategies for high capacity wells, and the assessment of significant environmental impact.
5. **Will Hoyer**, Madison, representing Clean Wisconsin stated they support NR 820 as it is before the Board right now and believe that if the Groundwater Advisory Committee is going to be able to perform its tasks over the next nine months, NR 820 needs to be implemented as it is right now. In their comments they are most concerned that there is no guarantee of a thorough environmental review of proposed high capacity wells in groundwater protection areas. The Department's response to that issue has alleviated many of those concerns. There are significant gaps left by Act 310 that need to be addressed. We still have lakes and rivers that are drying up in the state. Groundwater levels continue to fall. Proposed new wells are threatening wetlands. Communities continue to face contaminants in their drinking water as a result of declining water levels. Communities are paying higher energy bills because of the water levels falling. Water conservation, often the cheapest source of water, is still something that is not practiced to a great extent in the state. The statutory limits within Act 310 remain extremely arbitrary and are not necessarily based on sound science, an example being the 150 draw down requirement before a region is called a groundwater management area.

Mr. Ela asked whether the concern on the need for an environmental assessment was based on that somewhat confusing language with the screening criteria.

Mr. Hoyer stated yes and that their concerns have been alleviated.

6. **John Van Lieshout**, Appleton, Village of Sherwood stated they have a concern with NR 820, specifically the NR 820 section of the Administrative Rule that establishes the northeast Wisconsin regional groundwater area. They unfortunately were not aware of the hearing process until three days or so after the conclusion of the public hearing process. They believe, based on local information, that Sherwood does not belong in that groundwater management area and asked the Board to reopen the public comment process.

Dr. Thomas asked what is wrong with being included in the current unit and why would you rather be in another unit.

Mr. Van Lieshout stated they would rather not be in any. The reason for this is looking at the Groundwater Advisory Committees report, the area they defined is somewhat fuzzy. It is not well defined. Based on local information and their own high capacity wells, none of their wells are in the aquifer that is being addressed. However, we realize that perhaps some other areas may be. The data used to designate groundwater management areas need to be publicly reviewed and we would like an opportunity to do so. There is no good evidence for the Village of Sherwood to be included. They do not have an argument with the necessity of the program.

Mr. Poulson asked where the Village of Sherwood is located.

Mr. Van Lieshout stated it is near High Cliff State park

Mr. Ela stated that it was his impression that the Statute was fairly prescriptive as to what the groundwater management area would be and is not sure either we or the Advisory Committee have a whole lot of flexibility to opt people in or opt people out.

Mr. Van Lieshout stated that he would disagree with that. The Statute says Brown County area loosely and the Administrative Rule defines individual municipalities.

Mr. Ela stated that the Statute talks about the groundwater drop of 150 feet, which he presumes is an objective measurement, and then it talks about units of government within which this happens. Are you challenging the science?

Mr. Van Lieshout stated they would like to review the science.

7. **Gary Rosenbeck, Village of Sherwood** was unavailable for comment.

Dr. Thomas suggested that for the people making comment that we listen to them, we ask for clarification, and then we do our discussion on whether we agree or disagree with what they had to say at a later point.

8. **Terry Farago**, Plainfield, representing the Wisconsin Water Well Association stated they have three concerns. Firstly, the Department's interpretation of what's a high capacity well should be based on the actual amount of water pumped instead of the pump capacity. Secondly, the gathering of information of installing a residential well on high capacity property needs to be reduced a bit because all the paperwork they ask us to complete takes too much time and time cost us money. Thirdly, change the fee schedule so a residential well on a high capacity property would pay the \$50 fee for the well instead of \$500 that is required for a high capacity property.

Mr. Welter asked for clarification on the handout that begins with your comments. They had just been given a handout of revised exemptions for domestic wells. Is that yours?

Mr. Farago stated yes, this is language we propose for the Board to adopt.

Mr. Welter asked if the distinction that you are suggesting about on the high capacity well having a pumping capacity of 100,000 gallons per day vs. just saying a capacity. You want to add pumping to that. Could you explain why it makes a difference?

Mr. Farago stated that the way he looks at it is as an installer. If he cannot drill a well that is going to produce 50 – 70 gallons per minute for residential it is not a well. The aquifer in the area where he drills produces a tremendous volume of water. A well is capable of producing more gallons per minute than what the pump will produce. We put in a pump in the well that

is sized for the residential application. You are looking at roughly 35 – 40 gallons per minute at peak demand, which might be two hours in the morning and then late in the afternoon. Then it drops to 7-8 gallons per minute when the heat or cooling system is running. This is why we want to change it to the pumping capacity instead of the well. Irrigation wells are pumping 1,000 gallons per minute.

9. **Terry Marshall**, Wisconsin Dells, representing the Wisconsin Water Well Association expressed concerns on wells used for domestic purposes in groundwater protection areas. If you want to put in a low capacity well on high capacity property, the low capacity well is considered high capacity and has to go through the assessment, paperwork, and more cost. He then referred the Board to Form 3300-256 High Capacity, School or Wastewater Treatment Plan Well Approval Application. This is the form that would currently need to be completed for any well, if it is low or high, on a high capacity property. The cost is \$500. He would like to see the language changed. In the rule as drafted, the Department may exempt if a new well has a capacity of 20 gallons per minute or less on a high capacity property. With variable speed pumps, we are using more water today. They would like to see it changed so that a person would not need to go through this process if the new well had a pumping capacity of 70 gallons per minute or less.

Mr. Welter asked if your Association submitted these suggestions to the Ground Water Advisory Committee in the process of developing these rules or did you submit them to the public hearings in advance of our consideration today.

Mr. Marshall stated yes they had been submitted. They have submitted this information at the hearings and with Mark Putra and everyone else at the Department.

Mr. Ela, stated he just did the math and less than 70 gallons a minute is essentially 100,000 gallons per day and that is the cut off point.

Mr. Marshall stated that was correct, if you ran the pump steady all day long.

Mr. Ela asked if there are actually residential applications that require 70 gallons in any minute.

Mr. Marshall stated that most of the newer residential installations that he is dealing with today are dealing with variable speed pumps that were running anywhere from 40 – 60 gallons per minute because they want a sprinkler system at 20.5, they want to use a geothermal for cooling in summer, and then they have high volume spas in their homes. Everyone wants volume and pressure. We went from the 10 gallon per minute that we did 30 years ago to 20 approximately 10 years ago, and are now up to variable speed pumps that are pumping much more water. This does not hurt the basin any. It basically has no impact on streams. The lower volume wells under 70 do not affect streams and rivers.

Mr. Ela asked how this concept going from 20 gallons to 70 gallons relate to the definition by pump capacity rather than well capacity.

Mr. Marshall stated it is still pump capacity. The well has to yield more than what you are pumping. We want to make sure it was totally understood that the well itself is capable of pumping more than that. It is the actual pump in the well that you need to regulate and understand what you regulate.

Mr. Welter asked if the rate of withdrawal of that well is the pumping capacity.

Mr. Marshall stated yes.

Dr. Thomas asked Mr. Putra to address the issues of the last two speakers.

Mr. Putra stated the high capacity law and the historic definition of a high capacity well property has been a property where the collective capacity through one of multiple wells to pump at greater than 70 gallons per minute, which you now know translates to 100,000 gallons per day. That is the tripwire for a high capacity well property. What they are telling you is once it is a high capacity well property all of the wells on the property are considered high capacity. When it comes to application of the new law when someone needs to replace an irrigation well, a barn well, or a home well, or to construct a new well for a home on a high capacity well property, that is the tripwire that gives the Department an opportunity to review the project for these impacts to trout streams and springs. High capacity well properties that have a continual series of these small wells have the potential to impact some of these protected water resources. He has talked to the Water Well Association about their concern.

Dr. Clausen suggested we look down the road. What happens if we make this change and exempt wells up to 70 gallons per minute, and a watershed get a lot of heavy development pressure? Wells all of a sudden start going dry, and what can we do? We come to you and you say we can do nothing because these wells are all exempt.

Mr. Putra stated the proposed rule language gives them an opportunity through the approval process to look at the impact of all the wells on the whole property. Once you obtain approval it is good unless you go into noncompliance or has an adverse impact to a surface water. It is not like a permit that only lasts five years. It is true when you are on a high capacity well property the application fee is \$500. This fee is set by statute. You can have multiple wells on one application.

Mr. Ela stated looking at the written response to essentially the same question, the whole definition of high capacity property seems to be set in statute, so we seem to be fairly limited as to where we can maneuver as well. The residential exemption and the level of the residential exemption are 20 gallons per minute. Is that set in Statute or Administrative Code?

Mr. Putra clarified we are not talking about 20 gallons per minute but the fee in which wells have the \$50 fee and which wells have the \$500 are set in statute

Dr. Thomas asked to what the level is.

Mr. Putra stated that in the Administrative Code there is screening criteria that his staff would use on a daily basis to make decision about which wells are having it could potentially have a de minimus effect and are not subject to all of the environmental assessment. We have set that at 20 gallons per minute.

Ms. Wiley asked the effect if someone sells a parcel of property off a large farm that is a high capacity well property.

Mr. Putra stated that if the property is parceled off and is in the buyer's name, the fee is \$50.

Mr. Poulson clarified for the record that all farms do not have high capacity wells.

Mr. Welter asked if he is correct in his understanding that if the Ground Water Advisory Committee sees a problem with either these rules we are adopting or something that is lacking in the coverage of the Statute, that they are going to have the ability on an ongoing basis to come to the Board and the Legislature to ask that modifications be made to address those problems.

Mr. Putra stated yes. Not only will they be reviewing the Administrative Rules they will be reviewing the Department's implementation of the Administrative Rules. They will have that opportunity to make a recommendation.

Mr. Welter asked that if it turns out there is some unclarity in the Statute that results from the way the bill was passed and vetoed in part and then became law, if it would be appropriate for the Ground Water Advisory Committee to suggest to the Legislature that it revisit the question.

Mr. Putra stated yes, absolutely. The Water Well Industry is represented on the Ground Water Advisory Council.

Mr. Ela MOVED, seconded by Mr. Welter adoption of Board Order DG-37-06, revisions to NR 820 pertaining to ground water quantity protection. The motion carried unanimously by all members present.

3.A.4. Adoption of Board Order LE-04-07 related to fees for ATV and snowmobile safety courses.

Gary Eddy, ATV/Snowmobile Warden, Law Enforcement Bureau stated that this rule establishes specialized fees for Internet based ATV and snowmobile safety certification programs. An Internet based course currently exists for Boating Education and is successfully utilized. The Department often receives complaints about the availability, location and times that these courses are offered by volunteer instructors. Internet based courses will provide additional opportunities and convenience for completion, especially for out-of-state residents and adults.

On January 24th and 25th, 2007 the Department held a total of four public hearings regarding the proposed rule. One member of the public attended the hearings and was in support of the rule.

Dr. Clausen MOVED, seconded by Mr. Poulson, adoption of Board Order LE-04-07 related to fees for ATV and snowmobile safety courses. The motion carried unanimously by all members present.

3.A.5 Adoption of Board Order LE-05-07, revisions to NR 5 pertaining to issuing temporary boating certificates and definitions.

William Engfer, Section Chief, Recreation Safety and Education, Law Enforcement Bureau, spoke in place of Roy Zellmer. He stated that the Wisconsin Legislature passed 2005 Wisconsin Act 481 which took effect on June 14th, 2006. This Act exempts boats from the need to pay a fee to be registered and issued a certificate of number when the boat is used exclusively as part of an advertisement being made for the manufacturer of the boat. The department is required under s. 30.52(3g)(a), Stats., to promulgate rules for the issuance of the free certificate of number for such boats. The attached rule will establish the procedure for applying for and issuance of a free 15-day boat registration/certificate of number.

In addition this rule creates three new definitions to clarify terms used in Chapter 30, Wis. Stats. Clarification of these terms will reflect how they have traditionally been interpreted and enforced by the department and will assist the public in understanding the law. This better understanding will help gain compliance with the current law. This rule will clarify the terms "carrying capacity" and "recommended number of persons" as they relate to the information provided on the capacity plate attached to a boat. Section 30.68(9), Stats., states that no person may operate a boat that is loaded with passengers or cargo beyond its safe carrying capacity. Section 30.501, Stats., requires all boats less than 20 feet in length designed to carry 2 or more people and to use a motor shall display a capacity plate which contains the maximum recommended number of persons and the maximum weight of persons, motor, gear, etc., that may be placed aboard the boat. This rule clarifies that neither of these maximums may be exceeded. The term lifeboat is also being clarified for purposes of interpretation of the statutory exemption from registration of a motorboat that is a lifeboat. This rule clarifies that the exemption from registration provided for a lifeboat only applies to a boat used exclusively for the purpose of transporting person(s) from a vessel in distress.

Based on four public hearings that were held on this topic and written comments that were received on this proposed rule, the Department recommends the adoption of the rule as written.

Dr. Clausen MOVED, seconded by Mr. Poulson, adoption of Board Order LE-05-07, revisions to NR 5 pertaining to issuing temporary boating certificates and definitions. The motion carried unanimously by all members present.

3.A.6 Adoption of Board Order LE-06-07, revisions to NR 5 pertaining to mandatory boating education temporary certificate.

William Engfer, Section Chief, Recreation Safety and Education, Law Enforcement Bureau, spoke in place of Roy Zellmer. He stated that 2005 Wis. Act 356 was passed into law in May 2006. Provisions of this Act require all persons born after 1-1-1989 and who are at least 16 years of age, to possess a WI DNR approved boating education course certificate before they may operate any motor boat. There was an exception created for a person who is renting/leasing a motorboat if the person providing the boat gives the renter/lesser instruction on how to operate a motorboat in the manner established by the department by rule. A provision of Act 356 prohibits the department from enforcing the new mandatory boating education certification requirement until the department first promulgates rules that establish the minimum standards and procedures for the instruction to be given to persons who rent or lease a motorboat. This rule order has been developed to establish the minimum standards and procedures for the instruction to be given under and comply with ss. 30.625 (1) (a) and 30.74 (1) (am), Stats.

The process developed under this rule will allow boat rental businesses to provide the minimum basic training required to for a person who will be renting or leasing and operating a motorboat which they have rented or leased. This rule clarifies the minimum age to be eligible for a temporary boating education training and certification will be 16 years of age and that the certification only applies to the operation of boats that are rented or leased by the holder of the certificate. In addition, this rule establishes the process for administering an exam and issuance of a temporary certificate. Motorboat rental businesses will be required to collect a \$10 fee for the temporary boating education course of instruction and issuance of the certificate. Similar to fees collected for regular boating education certification courses, the person or business providing the

training and administering the exam will be allowed to retain up to 50 % of the fee to defray expenses incurred locally to provide the training and issue the temporary certificate. All remaining funds shall be turned in to the department. Based on public comment heard on this proposed rule the Department requests the adoption of LE-06-07

Mr. Welter asked what kind of time commitment is involved in an Internet based course on Temporary renters.

Mr. Engfer stated the course being proposed relates to a 15 page booklet to read with 25 questions on the exam. It should take roughly 30 minutes to complete. It does not prohibit anyone to take this online and get certified. This exam would take an avid boater approximately 10 minutes to complete.

Mr. Ela Asked whether the procedure was that rental agents would hand the potential renter the booklet, say "read this," give them the quiz, and then score it.

Mr. Engfer stated yes. At the bottom of the test there is a temporary certificate that is perforated. Upon successful completion of the exam, the agent would sign the temporary certificate and hand to the renter. It is good for the calendar year.

Dr. Thomas asked what would happen if they do not pass.

Mr. Engfer stated if they do not pass, they are not allowed to rent the boat.

Ms. Wiley asked if this is a mandatory requirement for all boat rental agencies.

Mr. Engfer stated if they want to rent to someone that does not have certification, it would be mandatory.

Mr. Ela asked what kind of certification requirements are necessary if you are under age 16.

Mr. Engfer stated you have to have certification if you are going to operate by yourself. If you are not going to operate by yourself, you can operate with someone else that is an adult. Then you do not need to have certification.

Mr. Ela MOVED, seconded by Ms. Wiley Adoption of Board Order LE-06-07, revisions to NR 5 pertaining to mandatory boating education temporary certificate. The motion carried unanimously by all members present.

3.A.7 Adoption of Board Order WT-36-06 on NR 328, Subchapter III – Erosion Control Structures on Rivers and Streams.

Mary Ellen Vollbrecht, Section Chief, Rivers and Habitat Protection, Watershed Management Bureau stated that the purpose of the proposed subchapter III in NR328 is to create additional general permits (GP) to streamline the review of applications for erosion control structures. The proposed subchapter establishes design, construction and location standards for bank erosion control structures placed in rivers and streams under general permits. General permits for biostabilization and integrated bank treatment meeting Natural Resources Conservation Service (NRCS) technical standards would be available throughout the predominantly agricultural and urban eco-regions of Wisconsin (where flooding is generally frequent and more severe, eroding banks deliver sediment loads that often impair habitat and water quality, and adjacent land uses frequently limit the area available for natural channel movement). A threshold level of bank erosion potential is required for sites to be eligible for the integrated bank treatment general permit so that rock armoring is avoided in areas where aquatic habitat is very good and could be harmed by such treatment. The rule establishes a standard map for identifying eco-regions and urban areas as well as a method for determining bank erosion potential.

General permits are also created for replacing seawalls or unvegetated riprap with biostabilization or integrated bank treatment as well repair of pre-existing riprap in some situations.

Landowners in agricultural and urban areas, including those seeking to restore stream habitat and water quality, will benefit from a streamlined permit process, reduced fee and clear, easy-to-apply standards. Anglers, boaters, tourists and others who use and enjoy Wisconsin's rivers and streams will benefit from a system that encourages protection of the healthy aquatic habitat and natural scenic beauty of their waters.

She thanked all of the folks that helped develop, refine, and test some of the methods. In particular, she recognized Scott Mueller from the Natural Resources Conservation Service.

Mr. Welter asked if we permitted integrated bank treatment on more than 500' per quarter mile or is that some sort of a limit.

Ms. Vollbrecht stated this limit is for the general permit. You could have one project or multiple projects on a permit.

Mr. Welter asked whether while there may be sloping and vegetative stabilization through a greater portion of that project, this rule addresses only limits on rock placement.

Ms. Vollbrecht said that was correct.

Mr. Welter asked why the General Permit for repair of existing riprap was not available to those located outside of a city or village.

Ms. Vollbrecht stated the general permits are supposed to encourage good management practice which would be to make sure slope is correct and to vegetate. The risks to habitat and natural scenic beauty are less in an urban area, and it can be more difficult to remove and replace riprap in an urban setting. In a rural area, someone could apply for an individual permit for that riprap if for some reason they choose not to correct the slope or vegetate. Anyone that has a permit for the preexisting riprap in a rural area can continue to maintain it. If you did not get a permit to begin with and you did something that is not good stream habitat practice, then the Department will try to remedy that situation.

Public Appearance

1. **Paul Kent**, Madison, on behalf of the Riparian Owners and Marine Contractors Association thanked the Department on implementing a successful program for general permits and other efforts to improve the administration of chapter 30 program. There have been some great strides forward. They are noticed and appreciated. For the most part, he has been able to work out issues with the Department prior to speaking to the Board. For the most part, that is true today as well. He stated two remaining issues to note. Their first concern is the repair of existing riprap for unpermitted sites, and secondly, it is their opinion that the limitations on the use of GP's in the proposed rule for riprap repair and where there is actual erosion should be reconsidered. Doing so would improve implementation and acceptance of the rule and would be more consistent with the lake riprap rule. They would like to see the bank recession method used in that additional context.

Mr. Welter asked about whether an existing, unpermitted riprap situation should be allowed to be maintained in a similar status without having to apply for an individual permit.

Mr. Kent stated yes with two minor exceptions. First of all that would be subject to a general permit so you are getting these in to the system. They are not just going out there and doing this at night. They are encouraging people to get in to the system. There is a general permit. The second part of that is that the general permit itself as limitations on what you can do. There are bank height and length limitations. Again, this would be through the general permit process and subject to the general permit limitations.

Mr. Welter stated that then leaves the Department with authority to make sure work has been done and repaired pursuant to the general permit.

Mr. Kent stated yes, subject to those standards. The same would be true if you are getting an integrated bank general permit if available to a somewhat broader reach. It is using all of the same constraints and limitations that are there now, just extending the availability of that permit to areas where there is actual erosion.

Mr. Welter asked if there are particular four eco-regions of the state in which this first change if made would have the most effect?

Mr. Kent said this would be limited to the southern eco-region, which is where most of these riprap permits are with the exception of some of the major river systems.

Mr. Welter asked where these types of unauthorized repair are taking place.

Mr. Kent stated he did not have any specific data. He suspects, based upon the picture from Ms. Vollbrecht, is that it is going to be comparable to where you had permitted riprap. In particular your major river systems. Essentially, areas like the Rock River where you have rivers serving as recreational property outside of the urban areas is where this is most likely to be an issue.

Dr. Clausen asked Ms. Vollbrecht to go through her reason for not including rural areas.

Ms. Vollbrecht said after the choices were considered, the Department decided to stick with the city and village provision because it does reflect the permit data very closely. Field compliance monitoring has shown that those unauthorized ripraps on streams are in close proximity and probably within city and village boundaries. City and village boundaries are a simple proxy for density. When the Department thought about how we might set up a density standard, we concluded that you would have to have specific aerial photography or perhaps bring evidence. It seemed to the Department that would put a higher administrative burden on an applicant than looking at the map that we produce of village and city boundaries. We could map density at a certain point but this mapping does not exist currently. We did not expand availability of the bank pin method because we do not know whether the amount of recession required to qualify corresponds to predicted or actual erosion. For purposes of agreement, we selected the same amount of recession as for lakes. We have indicated our willingness to test and see if it actually does reflect on an amount of erosion.

Mr. Welter stated he was trying to pin down where they would be likely to see a high occurrence of this kind of existing unauthorized rip rap in a non-urban setting. Are there a fair number of river systems which are outside of city and village limits where we see historically a lot of this type of riprap in place.

Ms. Vollbrecht stated she is not certain that is the case. There are not huge numbers of stream riprap permits to begin with. There are a lot in the southwest and up to the northwest part of the state. Many of those are authorized because a lot of them are getting county and NRCS assistance. The other side of the coin is that if they do see those preexisting riprap projects on a river and we have authorized all of them by a general permit, our standard for doing something about it is pretty high because as you recall the general permits are presumptively approved. If you meet standards, you get the permit. The burden for showing adverse impacts is on the Department. This sets a more adversarial tone to some extent for working with someone in getting a practice remediated. Certainly the ones that we are going to hear about are going to be the worst ones.

Dr. Clausen MOVED, seconded by Mr. Ela adoption of Board Order WT-36-06 on NR 328, Subchapter III – Erosion Control Structures on Rivers and Streams.

Mr. Welter stated although we have developed better methods of soil stabilization and erosion control, we do have a fair amount of this work done in the old way being done along particular streams in different parts of the state. It is worthwhile to encourage those old projects to become more appropriate as they are replaced and as they need to be repaired. He sees the concern that was expressed about that kind of situation in a nonurban setting. Throughout our rulemaking in the aftermath of chapter 30 and NR 180 Act 118, we tried to adopt and develop rules that are going to get us in some productive directions for our lakes and streams. If there is a problem that develops as a result of the implementation of this rule, it will come back to us in the form of a request for a discussion as to modifications. He is supportive of these rules but with the understanding that if we have adopted something that appears to not entirely achieve its purpose that it will come back to us with a request for modification.

Mr. Poulsen stated he thought that some of that has passed us already. This is not a popular issue. We have accepted some of this and are beginning to move in that direction and caring for what needs to be cared for.

Mr. Welter stated he is reassured in the context of the various sets of rules that were considered and adopted over the last couple of years in Chapter 30 changes. He is reassured because if there were really serious problems occurring out there the Board would have heard about them. He understands staff has made a decision to go with the urban and city/village definition rather than a particular density. It would be a challenge in calculating that density in relation to any particular situation - a serious administrative headache. He is still willing to consider those things if they come before the Board as people see a problem with the administration of the rules that we are adopting. He supports this rule with a note of caution.

Dr. Clausen asked if he did or did not see something that is going to liberalize the ability of rural areas or townships to incorporate into villages and keep them from being annexed. There has been

a lot of problems with townships that are on the edges of cities and villages getting annexed and now he thought he saw a proposal some place in passing that there is a proposal now that these townships may be able to adopt village powers to keep from getting annexed and was wondering if anyone has looked at this as far as it could possibly expand the urban areas.

Ms. Vollbrecht stated that she does not know whether the law is changing to make incorporation easier. Continual expansion of areas where old-style rock armoring could be repaired without remedying the impacts is one of the concerns that the Department would have with either a density or city and village standard if it were not tied to a date certain because development moves out and the fact of development does not necessarily trigger bank or shore erosion. In fact, if we make the assumption that the development is compliant with shoreland zoning then there is room and folks probably will be getting sound advice from county staff or others on using the most modern practices for protecting against erosion if there is a problem. In the rule, the Department uses the most recent census data for the boundaries for cities and villages to set the limit as of the date of this rule. The Department has considered how they would use a density standard. We would pick a density as the effective date of the rule. They will come back and look at this and are willing to continue to look at these standards.

The motion carried unanimously by all members present.

3.A.8 Request authorization to hold public hearings on Board Order AM-32-05, revisions to NR 440 and NR 446, pertaining to mercury emissions from coal-fired electric generating units.

Jon Heinrich, Section Chief, Environmental Analysis and Outreach, Air Management Bureau stated that

this proposal was developed in response to a January 2007 Citizen Petition requesting revisions to Chapter NR 446 and to the federal Clean Air Mercury Rule (CAMR). The CAMR is a regulation promulgated by the United States Environmental Protection Agency (EPA). The proposed rules in AM-32-05 would allow the Department to implement the federal Clean Air Mercury Rule (CAMR) in Wisconsin. The CAMR requires the reduction of mercury emissions from new and existing coal-fired electrical generating units through a declining cap on mercury emissions expressed as annual state budgets in two phases, 2010 and 2018. The Wisconsin annual budget for 2010 to 2017 is 1,780 pounds of mercury which declines to 702 pounds of mercury in 2018 and every year thereafter. State mercury budgets are a permanent cap regardless of growth in the electrical sector. In addition, new sources (those that are constructed or modified after January 30, 2004) must meet a standard of performance (pounds of mercury per megawatt-hour) and any mercury emissions from these new sources must also be accommodated under the state mercury cap.

EPA gives states the choice of whether to use their national cap and trade program to achieve compliance with the CAMR or decline interstate trading and develop a state specific approach to meet federal mercury emission reduction requirements. Under the EPA's cap and trade approach, mercury allowances can be freely traded nationwide among electric utilities to meet annual mercury reduction requirements. The rule revisions proposed in NR 446 decline participation in the national trading program. These rule revisions also include provisions that commit the Department to adopting rules by June 30, 2010 that would require all coal-fired electrical generating units affected by the CAMR to reduce their mercury emissions 90% by January 1, 2020.

Public comments are expected on several issues. The proposed rules do not allow participation in the national emission trading program. In addition, the methodology used to allocate mercury allowances to affected coal-fired electrical generating units differs from the federal model rule and the proposed rules commit to future rulemaking that would require a 90% mercury emission reduction by 2020. Interested groups or parties include electric utilities, major electricity users, the Public Service Commission, Department of Administration, Department of Commerce and the general public.

Mr. Welter asked if you are talking about a new plant coming on line and being eligible for new unit set aside allocation for certain periods of time and then the plant is put into the main pool where 95% of the reduction is being sought. Does the addition of the new plant have to be sandwiched in among the existing users, which would mean a ripple effect out to other plants?

Would you expect the ripples to go first to plants operated by that same utility and then across the rest of the pool of existing plants or would you have some other way of adjusting those other allocations?

Mr. Heinrich stated you are right. New units coming into existence and then being included in the main allocation pool will reduce the allocation that goes to all the other units in that pool. That is one of the features of the federal rule that works very well, because the pool will not grow. You have to get more mercury reductions from other units in addition to controlling the new unit well. That will happen within a utility system. If you are a utility and you add a new unit and your compliance responsibility is an annual cap on mercury then you are going to have to accommodate those new emissions by looking at the other units that you operate and determine whether they now need control. If they do, you must create a schedule for them getting control to make sure that on into the future you are maintaining that annual cap.

Mr. Welter asked if we are giving them notice and if it appears four years to seven years for reducing emissions is an adequate time period to allow them to attain compliance.

Mr. Heinrich stated he believed this to be adequate in terms of planning. Utilities know what kind of growth they will engage in. Even without the Department giving a written notification, careful planning will go on to see how to manage this requirement on into the future, not only with the four year notification but even longer.

Dr. Clausen inquired if you are not anticipating that somebody will come in and establish a plant that does not have existing plants in the state.

Mr. Heinrich stated correct.

Dr. Thomas inquired about the public hearings. She asked especially because of Weston coming on line and the paper industry interest all up and down the Wisconsin River Valley, why you had decided not to do a hearing in Wausau or Stevens Point or in that area.

Mr. Heinrich stated that is a good point. That is why he wanted to propose to see if there is an alternative for that. They have gone to Rhinelander before and other points. Our suggestion was that this would be good coverage but they could adjust.

Dr. Thomas asked about what kind of incentives you were thinking about that would bring people on line with greater reductions sooner

Mr. Heinrich stated they have a few options to do that and one of the reasons they were looking at a way to rule making is to get pretty robust as to what those options may look like. An initial option might be you could avoid a unit by unit control technology if you met a reduction level sooner that would be similar or identical to what it would look like if you had the technology on each unit. One encouragement might be to avoid that if you have those reductions earlier could be a possible incentive.

Dr. Clausen asked when this will come back to the Board. When do you need to act on this?

Mr. Heinrich stated they were hoping to come back in August. Not entirely but part of the influence is they need to show EPA that we are moving forward to adopt these requirements. Even though there are a number of states that are in a similar situation as ours, EPA would like to see the utilities get an idea of what their compliance is going to look like in the early years of the program. So they would like to see us get regulations in place.

Dr. Clausen stated utilities have asked about regulatory stability or predictability and we have a commitment to true up with the federal rule. What happens if that federal rule gets thrown out and something more restrictive comes in?

Mr. Heinrich stated it is hard to predict what the federal court may direct in terms of changes. It is possible that we may be able to continue on the path we are on while adjustments are made or it is possible that the changes recommended may stop our process and have us rethink where we are going. In any event, what we have is the current rule in place that we are implementing. That would be another issue that would have to be addressed. We are implementing that rule. We are collecting information and establishing reduction requirements under the current rule and that would not go away even if the federal rule is modified by a court ruling.

Dr. Clausen asked if we could have regulatory certainty if all utilities agreed to reduce voluntarily by 90% by the end of 2015.

Mr. Ela stated that he is concerned about being on a fixed trajectory so that when the rule comes back to the Board we effectively have no options. There are two or possibly three external constraints that we have to look at and prepare for, and one internal constraint.

First, on the external constraints, there is the consistency provision of the existing rule and he wished to put that in perspective. The Department did what it had to do. It was required by Administrative Law to come up with this suggested rule change. He understands that the Governor's office feels a certain amount of commitment although the 90% reduction requirement goes beyond the federal rule. From the point of view of this Board, however, that agreement to have a true-up provision was not the result of a negotiation that was voluntarily entered into. The action we took in June 2004 in agreeing to the Legislature's request was done with a gun at our head when it basically said "accept this or drop dead." That affects the extent to which this Board should feel committed as we move forward. There is a very fundamental constitutional law principle that one Congress cannot restrict the options of a future Congress and he thought there is a parallel here: one Board cannot restrict the options of a future Board. We do not have to make any decisions about this today but he thought it best to lay the framework for how we approach this issue in the next four to six months.

A second external constraint is the consistency provision that exists in statute. It is his understanding that if there is a public health finding that the citizens of the state are best served by a standard that exceeds the federal standard the Board may legally adopt a rule that exceeds the federal standard. Is that essentially correct?

Mr. Heinrich concurred.

Mr. Ela stated if we want this concept to be relevant, we need to start working on the public health finding now. If we wait until August or September or October and we are under the gun of the third external constraint, which is the EPA requirement that we do something in a timely fashion, then we are behind the eight ball and we effectively have no other option than to true-up with the federal rule. He did not know whether a public health finding would in fact determine that the difference between the federal rule and some other standard would have public health implications for the people of Wisconsin. But he feels there should be a consensus on this Board that part of the Department's charge moving forward is to begin the public health finding process, or else it is an absolutely meaningless provision of statute in practical terms.

The fourth constraint operating on us is internal. All too often we adopt a rule that results from the public hearing process because we have an insufficient knowledge base to seriously consider an alternative. He would like to see us in a position of actually knowing what our options are and knowing what the factual parameters are that could affect those options. -Whenever we are in a position to analyze where we want to be in regard to consistency, on the basis of a public health analysis, then we have to know what the options are. We have to know what the technology is, what the cost of that technology is, what the public health issues are, and what the risk for electrical reliability is, and he does not see in the normal way that this Board operates that we are going to be there.

As part of the rule making process we must not get legally locked into a position that if we did anything else other than what is in this draft rule we would have to go back to public hearing. He thought it has to be presented at the public hearings that there are a range of options, of which this draft rule is the primary proposal on the table. But that range of options would include adopting the federal trading rule, which is what the utilities want, or it could mean adopting the citizens' petition, which is what the environmental groups want, or more likely somewhere in between or maybe sticking with what we have. It has to be made clear to the public in a legally appropriate way that our options are not completely tied when it comes back to the Board.

The second issue is knowledge. He would propose we do something analogous to the panel of outside experts we have with Sex Age Kill (SAK) or the Chronic Wasting Disease (CWD) panel that reviewed our work in 2003. This would not be auditing what the Department is doing but enlisting outside experts who know what technology there is and what the cost is. He suggested the board have a one day panel for those Board members who are interested in attending, in which we get the best minds we can find from wherever they are in the country -- academics, utility experts, manufacturers, environmentalists, public health people -- and that we

do this sometime between the hearings and when it comes back to the Board so we can really ask potent questions and get some facts.

Dr. Thomas asked the Environmental Resources Committee to take leadership with staff on constructing what this educational process could look like and maybe even coming out of that with the staff on what this range of options may look like.

Mr. Ela stated he would be happy to take the lead on this.

The Board was in agreement.

Dr. Thomas asked Mr. Shea if he would work with Mr. Ela and the Environmental Resources Committee and work together on a range of options and to come back to the board.

Mr. Shea, Administrator, Air and Waste Division stated this is an excellent suggestion and will work with the Environmental Resources Committee. He had checked with the Department's head legal council and stated that if you want the Department to cue up options at our public hearings that would have to be explicitly articulated in your motion to approve what we have here. Otherwise the rule would be constrained.

Mr. Ela stated that he would work with legal counsel and come back after lunch with this language.

Dr. Thomas asked the Board if there is a motion to table this until after lunch.

Mr. Ela asked if his observations and proposals made sense to the Board.

Mr. Poulson stated yes. We need to have this kind of research and resource at our hands to answer the questions.

Mr. Ela asked if people agree that if we are going to do anything other than what is in the draft rule we have to start working on the public health finding process now or the whole thing is irrelevant.

Mr. Poulson agreed.

Dr. Clausen agreed.

Dr. Thomas stated she has heard utilities saying to us often to do something so that we can get done and get on down the road.

Mr. Shea stated yes, that is an accurate representation of their concern that we have been at this for a while. There is a state rule in place right now that they are committed to follow which will get confusing really quickly unless we get this rule in place. We will shoot for late summer or early fall timeframe to comply.

Mr. Ela stated he thought it would be very difficult to do this by August, but he would not perceive this slipping by more than a month or two.

Mr. Welter stated that your exposition of the factors that we should be considering addresses some of the concerns that he was having about what was going to come back to us and how hard it was going to be to make a decision on this if we do not have answers. Your exposition also added several more than I had thought about. He likes the idea of going through with this process to make sure we consider each of those findings that you talked about. It makes a lot of sense and is a much more informed opportunity for decision making.

Ms. Wiley asked then if the Board going to have a learning/listening session at some point.

Mr. Ela stated we will figure that out.

Dr. Thomas asked for clarity if the Board is tabling this until this afternoon or tabling until next month.

Mr. Ela clarified to table until this afternoon.

Rick Prosis, Director, Legal Services Bureau stated air attorney Tom Steidl will work with Mr. Ela to address what you indicated today and at least try to come up with some language that could be put into a motion by Mr. Ela as to how we would proceed.

Mr. Poulson MOVED, seconded by Dr. Clausen to defer further discussion on this item until afternoon. The motion carried unanimously by all members present.

- 3.A.9 Request authorization to hold public hearings on Board Order AM-12-07, proposed rules affecting Chapters NR 400, 406, 407, and 439 pertaining to the incorporation of changes of federal regulations, streamlining the permitting process for minor sources, clarification of construction permit requirements for certain sources, amending portable source relocation limitations and amending stack testing requirements for certain sources subject to MACT standards.

Jeff Hanson, Section Chief, Permits and Stationary Source Modeling, Air Management Bureau stated that the Department is proposing to incorporate changes in federal regulations. Some changes in chapters NR 400 and NR 407 are updating definitions and other revisions of the federal standards regarding fugitive emissions and permitting standards. Additional changes in chs. NR 406 and NR 407 clarify when a construction permit is needed for sources covered under general operation permits.

Portable source relocation limitations found in ch. NR 406 will be amended, by changing the numerical emission limitations to language limiting the relocation limitations to less than major source thresholds.

Section NR 410.03 will be amended so construction permits can be issued concurrently with operation permits, streamlining the process for minor revisions to those permits. The revision is being made so that the collection of permit fees and the issuance of an operation permit are independent of each other. If fees are not paid, the Department has the ability to revoke a permit or to refer the source to the Department of Justice to collect the fees.

Chapters NR 439 and NR 462 have different and conflicting stack test requirements for boilers that are subject to national emission standards for hazardous air pollutants, maximum achievable control technology (MACT). The proposed amendment to ch. NR 439 allow boilers subject to that MACT standard to use the testing schedule in ch. NR 462 rather than the current requirements in ch. NR 439.

Mr. Welter MOVED, seconded by Mr. Poulson to approve request of authorization to hold public hearings on Board Order AM-12-07, proposed rules affecting Chapters NR 400, 406, 407, and 439 pertaining to the incorporation of changes of federal regulations, streamlining the permitting process for minor sources, clarification of construction permit requirements for certain sources, amending portable source relocation limitations and amending stack testing requirements for certain sources subject to MACT standards. The motion carried unanimously by all members present.

3.A.10 Request authorization to hold public hearings on amendments to ch. NR 140, Wis. Adm. Code - Groundwater Quality.

Michael Lemcke, Section Chief, Groundwater Management, Drinking Water and Groundwater Bureau stated that the amendments are proposed to NR 140 to establish state public health groundwater quality standards for Alachlor ethane sulfonic acid (Alachlor-ESA). These proposed amendments to NR 140 continue the existing policy of protecting Wisconsin's groundwater by establishing numerical groundwater quality standards for substances of public health or welfare concern in accordance with the provisions of ch. 160, Stats.

Alachlor-ESA is a degradation product of the herbicide Alachlor that has been found extensively in Wisconsin groundwater. Groups likely to be impacted or interested in these proposed amendments include agricultural users of herbicides, herbicide manufacturers and environmental protection organizations.

The last Department NR 140 rulemaking effort, completed in 2006, originally included groundwater quality standards for Alachlor-ESA. These standards were developed by the Department of Health and Family Services, in accordance with the procedures specified in ch. 160, Stats., and the Natural Resources Board unanimously approved their adoption on three occasions. During Legislative review of the proposed rule, however, objections were raised to the proposed Alachlor-ESA standards and the statutory time limit for completing rulemaking on those standards expired. These proposed amendments to NR 140 begin again the process for establishing state groundwater quality standards for Alachlor-ESA.

Mr. Ela MOVED, seconded by Dr. Clausen to approve the request authorization to hold public hearings on amendments to ch. NR 140, Wis. Adm. Code - Groundwater Quality. The motion carried unanimously by all members present.

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

- 3.B.1 (Previously listed as 8.B.3) Update on 2006-2007 CWD Management efforts
Alan Crossley, Wildlife Biologist, South Central Region stated that the department will provide an update on CWD management efforts during 2006- 2007 that:
- Reviews the fall surveillance in the CWD zones and west-central Wisconsin.
 - Summarizes winter population surveillance in the CWD zones.
 - Reports on the winter herd reduction efforts by agency personnel.
 - Outlines current and ongoing activities.
- Mr. Ela** asked who is doing the testing.
Mr. Crossley stated the Wisconsin Veterinary Diagnostics Laboratory since 2002.

The Board went into recess and reconvened at 1:00.

- 3.B.2. Adoption of Secretary's order pertaining to 2007 deer hunting regulation modifications in select deer management units.
Keith Warnke, Wildlife Biologist Wildlife Management Bureau stated that the department annually recommends deer season frameworks in management units where standard hunting seasons will not reduce the population to established goals. For 2007 the department makes the following recommendations.
- Non-CWD Units
The department recommends that the NRB approve the following units for herd control seasons in 2007 (Figure 1); 60 Herd Control units: 1, 1M, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23A, 25, 26, 30, 32, 36, 37, 38, 42, 43, 51A, 51B, 52, 52A, 53, 54A, 55, 56, 57, 57A, 57C, 57D, 58, 59A, 59D, 60A, 60B, 65A, 69, 69C, 72, 72A, 73A, 73B, 73D, 74B, 77E, 77M and 78 and 35 Earn-a-Buck units: 22A, 23, 24, 27, 46, 47, 54B, 54C, 57B, 59B, 59C, 59M, 60M, 61, 61A, 62A, 62B, 63A, 63B, 64, 64A, 64M, 65B, 66, 67A, 67B, 68A, 68B, 74A, 77C, 77D, 80A, 80B, 80C and 81.
- CWD Units
Additionally, the department recommends that the NRB approve the following season structure in deer management units or portions of deer management units 54B, 70, 70A, 70B, 70C, 70D, 70E, 70F, 70G, 71, 73B, 73E, 75A, 75B, 75C, 75D, 76, 76A, 76M, 77A, 77B, 77C which are located in the CWD eradication and herd reduction zones:
- Tagging regulation: Unlimited earn-a-buck in the DEZ and HRZ
 - Archery season: September 15 to January 6
 - Early gun season: October 13-21 (DEZ); October 18-21 (HRZ)
 - Late gun season: November 17 to December 9
- Mr. Poulson** asked if one of the options in the CWD zone is extending the October gun hunt another week.
Mr. Warnke stated by seven days. That is the last extension option we have for increasing harvest.

Public Appearances

1. **Mary Jean Huston**, Madison, on behalf of the Wisconsin Council of Forestry stated that deer herbivory is a serious problem that, if not addressed, will affect the sustainability of forestry in Wisconsin. The Council supports management efforts of the Wisconsin Department of Natural Resources to manage the deer herd at the goals identified in administrative code. Future goal setting must also take into account the impact of deer density on forest sustainability. We recognize that to achieve the goals established in code, deer numbers will have to be reduced in many areas of the state; however, this is a critical step to maintaining the health of Wisconsin's forests and the sustainability of the related forest industry.
2. **Ed Harvey**, Chair of Conservation Congress (CC), stated that the CC is not opposed to the Department's recommendations for Earn-a-Buck, Regular and herd control units for the upcoming deer seasons. He stated they are also pleased that no October seasons are being proposed. The CC does not wish his testimony to be an endorsement of Earn-A-Buck since a

vast majority of hunters in Wisconsin, the Congress, and legislators simply do not like, support, or condone its use. However, to continue using it as a tool, the Department must be able to continue to prove its need and that process towards a unit's desired goal is made. Without taking this into consideration the Department may find itself losing their deer managers in the field – the average deer hunter.

3. **Greg Kazmierski**, Waukesha, on behalf of the Wisconsin Hunters' Rights Coalition spoke in opposition to the current CWD management proposals. He stated it is time to take a serious look at what we are doing in CWD management areas. We have driven hunters out. People do not want to go there to hunt anymore. Driving hunters out of those areas is creating conflicts in other parts of the state in added pressure. They supported this rule in the beginning. Primarily they did this because the belief was it was better to do something than nothing. The facts do not lie and in this case, they would have been better doing nothing than what was done.
4. **Scott Maves**, Madison, on behalf of the WI Hunters' Rights Coalition stated their position against blaze orange rules. Turkey hunters want to wear camouflage in early gun season: October 13-21 (DEZ); and October 18-21 (HRZ).
5. **Tony Grabski**, Blue Mounds, representing himself handed out a statement. He noted differences in the statement with underlined portions which indicate differences with the Department's proposed CWD Zone hunting regulations. He is a Conservation Congress delegate in Iowa County and also chairs the CWD Committee. This was submitted last year and this year again with basically the same statement that he brought to the Board last year. The problem has been a lot of money has been spent to accomplish very little in the CWD zones with relation to managing the herd or the disease. Cooperative deer herd reduction preservation of Wisconsin hunting heritage and fiscal responsibility are necessary for CWD control. Sharp shooters are the most abrasive things that are happening in the CWD zones. Remove them except for the reduction of sick animals.
Mr. Welter asked other than Earn-A-Buck, what tools do you see available to the Department to try to address the areas with the huge numbers?
Mr. Grabski stated by having the season set so hunters believe they are returning to tradition and fun will help get more people back in the woods. One problem that needs to be overcome now is the fear of the disease and to get the people that have quit hunting back out there. He is not sure how you can do that. Some ideas sent to him are to have the black powder hunt begin again. Another way is by the use of cross bows. A lot of states use them. Bow hunters might take issue with them.
Mr. Ela asked that when you look at the map with all the deer population numbers, do you think those areas with very high numbers are that way because of terrain or vegetative cover, or is it because of land owner patterns, and land owners that do not allow hunting.
Mr. Grabski stated it can be both. Additionally it could be refuge areas or standing crops. If you have a 20 to 40 acre parcel of unharvested corn field where are all the deer going to go when there is 20" of snow on the ground?
Mr. Ela noted that they would also be highly visible from a helicopter.
6. **Arne Swanson**, Amiwa, representing himself stated he is from Unit 46 which is near Wausau and Antigo. He feels that there is a major problem of the lack of deer according to the numbers of the Department. He wrote up a petition and received over 900 signatures in two weeks from people that agreed that the count was not what the Department claims it was. Proof of this is that car accident kills dropped by approximately 50%. There was only one crop damage permit issued which tells him the farmers not having the problem with deer anymore. A graph he received from the Department showed 1,500 bucks shot this year in Unit 46. That compares back as far as 1992 in which there were 1,500 bucks shot and also back as far as 1982 where there were 1,500 bucks shot. This is significant since he had a diary back in the early 1990's where he kept track of all the deer he saw while bow hunting. In 1992 he saw between 150-200 deer. This year, he saw 17.

Mr. Welter asked to discuss CWD and non-CWD Units separately

Dr. Thomas opened the discussion on CWD units.

Mr. Poulson stated Mr. Grabski made some good points when it came to the CWD issue. Do we need the continued onslaught in that area? Do we know enough about the disease and can we tell enough by the checks that we do what we have to. Do we have to continue to have that kind of kill or get back to a point where we have a normalcy in season and still know the things about CWD that we know already. How do we get the hunters back?

Dr. Clausen stated this is a good but difficult point to deal with. He looks at this with a couple different hats on. If he puts on his scientist hat, the chance of transmitting disease is directly related to what the population level is. You happen to have an infected population and a susceptible population. The larger the herd is the more interaction you have and so you have a greater opportunity for disease transmission. From another angle, we are not killing enough deer. He does not know how we are going to increase that but does not think we should give up on it either because we would then go the other direction.

Mr. Poulson stated we are in a quandary. He is very concerned on the disease issue as related to animal health. On the other hand, he can imagine that being asked to continue to shoot, pretty soon you do not want to do that anymore.

Mr. Welter stated there was no Earn-A-Buck in the CWD areas last year. The antlerless harvest was down 10,000 deer. If you look at those graphs, you would see that season did not help us move forward. The helicopter surveys do show some interesting things. There are tremendous disparities in distribution and some places there are tremendous numbers of deer that we need to work with. He has been pondering this and trying to figure out if this is the right tool for the job. He is willing to accept the imposition of an Earn-A-Buck regulation on the CWD zone for this season. He does want to see the Board evaluate it and what we are doing with CWD after we are through this. We need to take a look at the use of this tool this year is going to affect the population in those areas and come back. We need to be responsive to the conditions and be able to respond relatively quickly. If something is not working we need to try some other things. On balance, he is willing to accept use of Earn-A-Buck in those units in 2007.

Dr. Thomas asked Mr. Warnke if the Department has done any research brought up by Mr. Grabski, that people are beleaguered and are throwing up their hands and giving up. Secondly, the fear of disease could be another reason as to why there are fewer hunters. Could you shed some light on this social aspect?

Mr. Warnke turned this question over to Alan Crossley and stated he really liked Mr. Grabski's suggestion of 2:1 Earn-A-buck. That would reduce the population fast.

Alan Crossley, Wildlife Biologist, South Central Region stated one of the things we face is we do not have a good measure of what the effort was before CWD. If people left from hunting in 2002 because of CWD or went elsewhere, we have no way of identifying those hunters. We can identify people who hunt in the zones based on where they actually killed the deer and so we can draw our survey population because we have to tie it back to a deer management unit and people do not have to tell us what deer management unit they are going to hunt in when they buy the license. We can only survey people who actually killed deer in the units. It is difficult to figure out if people left in 2002. The Department cannot identify them to understand why they left or how many left. Hunter effort has been in the CWD zones with longer opportunity. Hunter effort has been a little bit longer as measured by number of days hunted as compared to a thirteen day or nine day season. It was not hugely significant. With longer seasons, people shot a few more deer, like nine tenths more deer than people who only hunted nine days out here. The question you asked is hard to answer. Anecdotally, they may have left due to disease or management approach.

Mr. Welter asked how many people are prequalified in those CWD units.

Mr. Warnke stated not in the CWD units specifically. He could add that up quickly. You could say pretty easily how many antlerless do they kill, approximately 31,500 antlerless deer. So there may be somewhere under 30,000 pre-qualified for Earn-A-buck now.

Dr. Thomas noted that a previous speaker said that we had not let people in the CWD zones know that they could prequalify. Is that true?

Mr. Warnke stated he thought that CWD zones were included on their watchlist press release last August or September when they did all the other watch units.

Mr. Poulson asked for clarification on the prequalification in the statement made, is there any credibility left at all. If we tried, then we have done what we could do. What else can we do?

Mr. Warnke stated that the direct answer is he thought that information was wrong. We tried to get that information out quite clearly. Especially after the prequalification with CWD antlerless deer last year that applied to Earn-A-Buck units outside of CWD. The Department made it clearly known in the media this year that if you were in a CWD unit, you were on a watchlist and you should try to prequalify for Earn-A-Buck.

Mr. Welter stated he ran into the hunters who normally describe themselves as buck hunters who were out working to prequalify in the later part of gun season in units on the watchlist. This does have an impact on other units around the state.

Dr. Clausen MOVED, seconded by Mr. Welter adoption of Secretary's order pertaining to 2007 deer hunting regulation modifications in select CWD deer management units.

Mr. Welter stated the Department is asking a lot of hunters in the CWD zones and he appreciates their contribution in trying to get things under control and asked them to bear with the Department because we are trying to manage this difficult situation as we go forward.

The motion carried unanimously by all members present.

Dr. Thomas opened the discussion on non-CWD units.

Ms. Wiley asked about Unit 33 in Marathon County. It looks like our deer are smart enough not to cross Highway 51 which is probably to their happiness. She found Mr. Swanson's comment interesting that we can have two units that are simply separated by Highway 51 and have such very different standards for them for this year.

Mr. Warnke stated it is true. First is the criterion for being in a herd control season, through a regular season. We would not be able to harvest enough deer to get the population in that unit to within 20% of goal. Right now with our Sex Age Kill (SAK) estimate in Unit 33 is at 23. The goal is 20. Right now they are 15% over goal. If we run our standard population estimator out to a prehunt prediction for Unit 33 then subtract off the maximum number of antlerless deer that has ever been killed in a regular season, we can easily get to within 20% of goal. We do not even meet the criteria for recommending that for herd control season.

Ms. Wiley asked then you go over to Unit 46 and suddenly we bounce right up there.

Mr. Warnke stated yes. There may indeed be some very different hunting culture type, habitat, and greatly different deer productivity in that unit. In Unit 46, the goal is 25. Right now it is at 34 in our population leveling which puts it well over 20% over goal. It has been in herd control for the two previous years. Maybe not right next to Unit 33, but within the bigger Unit 46, the deer densities are still substantially higher than in Unit 33.

Mr. Ela inquired as to an email he received from the LaCrosse County Conservation league requesting that there not be a youth hunt in the Mississippi River bottom lands because of the density of waterfowl hunters. Is this a problem in other places as well?

Mr. Warnke stated no that it has not been a problem in other places. There has been the October gun deer season for years since 1996, concurrent with waterfowl season throughout the entire state with the exception of the Mississippi River bottoms. With the advent of the Youth Hunt, that was made blanket statewide for simplicity and for clarity. We do not believe that there will be a big safety issue with the youth hunter being mentored as one of the very safe types of hunting. There may be an issue of conflict over sites or locations with waterfowl hunters or with blaze orange being in the woods. An issue was sharing the land and the landscape for different kinds of hunting. In the past, the October Hunts, which are far more popular than the Youth Hunt have not had safety issues with waterfowl hunting outside of the Mississippi River Bottom.

Mr. Ela asked if this is a safety issue.

Mr. Warnke stated that there have been no incidences during October hunts with waterfowl hunters.

Mr. Ela MOVED, seconded by Ms. Wiley adoption of Secretary's order pertaining to 2007 deer hunting regulation modifications in select non-CWD deer management units. The motion carried unanimously by all members present.

3.B.3. Request authorization to hold public hearings on Board Order WM-16-07, revisions to NR 10 and 12, Wildlife Management housekeeping rules.

Scott Loomans, Staff Specialist, Wildlife Management Bureau stated that annually the Department updates administrative code language to correct inconsistencies, update outdated language and provide clarification where appropriate. This year, the department is proposing the following changes related to hunting,

nuisance wild animal removal, and captive wild animals:

- Clarify that a disabled person is a person who holds a Class A, B or C disabled permit.
- Establish that the rabbit hunting season closes on the last day in February rather than February 28.
- Correct a cross reference in the firearm deer hunting season.
- Update the fisher zone map which is based on the recently updated Deer Management Zone Map.
- Relax bear carcass registration so that bear may be registered at stations that are adjacent to highways that form the boundary of the bear management zone in which it was killed.
- Correct drafting errors in the rule that establishes small game hunting in state parks.
- Clarify that landowners who are removing certain nuisance wild animals are not subject to hunting or trapping seasons.
- Update cross references and terminology so that DATCP's animal diseases and movement and DNR's captive wildlife rules are consistent.

Mr. Welter MOVED, seconded by Mr. Poulson approval of request authorization to hold public hearings on Board Order WM-16-07, revisions to NR 10 and 12, Wildlife Management housekeeping rules. The motion carried unanimously by all members present.

Dr. Thomas stated that the Conservation Congress asked if we could discuss the annual deer hunting season structure at our April meeting next year instead of the March meeting. Would there be a possibility to comply with that request?

Tom Hauge, Director, Wildlife Management bureau stated that they are looking at the request. It is not only just for deer quotas but for bear quotas too. We are taking a look at that system. One of the compounding issues is we start selling new year licenses around March 10. It is for those 60,000-70,000 folks that buy their licenses by June 1. From the time you make a decision, it is probably 25 days before regulations can hit the street. That is what has driven the process. We wanted to have a map in our hunting regulation pamphlet that showed which units are regular, which units are Earn-A-Buck, and that type of thing. That is what we are trying to work though. We will try to figure out a way that we can make an adjustment to let those early license buyers be made aware of the decisions that are made after they had bought their licenses. As soon as we make a decision on putting a unit into Earn-A-Buck after they had bought their license or without any notification, someone at the Department will get some correspondence saying they want their license money back because they do not like the decision that the Department made. Those are some of the tradeoffs that we get into on this timing thing but we are going to try to work with the Congress and see if there is something we can do to make this process better from all perspectives.

3.B.4. Deleted from Agenda.

3.B.5. Land Acquisition – Dell Creek Wildlife Area, Sauk County.

Mr. Welter MOVED, seconded by Ms. Wiley approval of Land Acquisition – Dell Creek Wildlife Area, Sauk County. The motion carried unanimously by all members present.

3.B.6 Easement acquisition and project boundary change – Brooklyn Wildlife Area and Story Creek Streambank Protection Area, Green County.

Mr. Ela asked if Story Creek is channelized. If so, is it good habitat?

Mr. Steffes stated it is. It flows into trout water but he is not certain if this particular area is trout water.

Mr. Poulson MOVED, seconded by Dr. Clausen approval of easement acquisition and project boundary change – Brooklyn Wildlife Area and Story Creek Streambank Protection Area, Green County. The motion carried unanimously by all members present.

3.B.7 Land Acquisition and Donation, Black River State Forest, Jackson County.

Dr. Clausen asked what the acres are that are held out on the north. It is not shown on the plat book.

Mr. Steffes stated that the owners are retaining four acres with the existing cabin which has reduced the appraised value accordingly. They kept acreage by the road and not to the river. To the south, the small property is owned by a private party. This is a mistake on the plat book.

Mr. Welter asked if the land owner is going to be holding some sort of a prescriptive easement?

Mr. Steffes stated it is a town road.

Mr. Welter stated that the parcel you are talking about is the one on the south end of the subject property.

Mr. Steffes stated he did not know what their access situation is. Perhaps they are landlocked.

Dr. Clausen asked if there are easements across the land the Department is buying for access.

Mr. Steffes stated he did not believe there are. His access would come from the south or it does not have any.

Mr. Welter expressed Board gratitude to the land owners to help this transaction to go through.

Mr. Welter MOVED, seconded by Mr. Ela approval of Land Acquisition and Donation, Black River State Forest, Jackson County. The motion carried unanimously by all members present.

4. Citizen Participation 1:00 p.m.

4.A. Public Appearances

NONE

5. Board Members' Matters

NONE

6. Special Committees' Reports

6.A. (Information item previously listed as 8.B.1) Stewardship Grant Programs

Vance Rayburn, Administrator, Customer & Employee Services introduced Kimberlee Wright who has been with the Stewardship Program since 2005. She brings over 15 years of non-profit organization administration experience, with more than 10 of those years working in conservation organizations. Dan Kaemmerer is filling in for Tom Blotz who is ill today. Dan began with the Department in 1988 in what was then the Bureau of Water Resource Management. He joined the Bureau of Community Financial Assistance in 1991 as a Community Services Specialist and has administered the Stewardship Grant Program for local units of government and land trusts since the programs inception.

Kimberlee Wright, Natural Resources Financial Assistance Specialist – Senior, Financial Assistance Bureau stated that at its January meeting, the NRB requested an informational briefing specifically on the grants portion of the Knowles-Nelson Stewardship Program.

The informational briefing consisted of discussion of the following items:

1- In recent years, an appropriation of \$8M/year each has been available for Stewardship grant programs for (A) Local Assistance and (B) Nonprofit Conservation Organizations.

2- Each subprogram can be further divided into specific sub-categories.

3- Technical assistance to project sponsors comes from both regional and Central Office staff in the Bureau of Community Financial Assistance.

4- "Partnerships" are what make this part of the Stewardship Program such a success.

5- Project sponsors only receive grants for 50% of eligible project costs; project sponsors match their grant award.

6- Project sponsors are responsible to maintain and manage properties that they purchase.

7- DNR provides project sponsors with signs to post on acquired properties.

8- DNR recently unveiled a GIS mapping tool that makes it possible for the public to see where these grant-funded properties are located and to contact project sponsors for further information.

Dan Kaemmerer, Financial Assistance Specialist, Community Financial Assistance Bureau summarized the Local Units of Government (LUGs) program and the subprograms. Grants to LUGs are very popular. To receive a grant a LUG must have a comprehensive outdoor plan and a citizen participation component. This program follows NR51 in the Administrative Code.

Mr. Ela stated that obviously when you are giving these grants out you have to respond opportunistically as situations come up. But do you look at things like the Land Legacy Report, the SCORP Report, etc. to come up with an overall strategy as to where you want to invest?

Ms. Wright stated absolutely. The best place to get a good feel for the criteria on the non-profit side is NR 51. They look at the Wildlife Action Plans and Land Legacy. Projects are developed in the regions so that the Department Resource Managers work together in that region to identify high priorities.

Mr. Ela asked whether prior to the 2003/2005 budget cycle the legislative Joint Finance Committee looked at every proposed grant of \$250,000 or more.

Ms. Wright stated yes.

Mr. Poulson inquired as to how many agriculture lands have been protected.

Ms. Wright stated she could not answer particularly but the Acquisition of Development Rights (ADR) program more often than not is protecting agriculture land. The purpose of the plan is to buffer already protected areas.

Mr. Poulson asked, assuming that land is still in production, who qualifies for grants. The reason he is asking is that his county has just adopted a farmland preservation program. Can they qualify for any of that money?

Ms. Wright stated that if they had a project that met the goals of some of their existing programs. They do not have any program that is specifically designed to protect agriculture land. They are able to marry their programs together with other partners.

6.A.1 Stewardship Subcommittee

Mr. Welter thanked the people and groups that contributed to the efforts of the Stewardship Subcommittee. They have heard from hundreds of citizens and scores of groups, including the Stewardship Advisory Council (SAC), Wisconsin Conservation Congress (WCC), and the Wisconsin Wildlife Federation (WWF) who had excellent ideas and suggestions and longer experience with the program than the subcommittee. The Subcommittee held several meetings and worked on draft reports to the Board. Stewardship is a program that already enjoys widespread support in state. This was shown by the usefulness and commitment from a broad range of Wisconsin citizens. Wisconsin recognizes the value of Stewardship by the general comments received. A major change in course was not called for by the large majority of commenters. The Subcommittee agreed but had suggestions. He thanked Ms. Wiley and Mr. Clausen for their contributions and ideas. Concerns raised did not consist of major structural concerns. By way of the Governor's proposed budget, stewardship reauthorization has already been proposed to the Legislature. The feeling of the Subcommittee was that it was not necessary for the creation of a Blue Ribbon Commission with this reauthorization. The Subcommittee's charge was to review the advisory groups' and general public's comments and to gather their own recommendations for the Board. Mr. Welter read the Stewardship program reauthorization recommendations of the Stewardship Subcommittee, which are attached to the minutes. The Subcommittee offers these recommendations to the Board and hopes the Board will act on them.

Dr. Thomas thanked the Stewardship Subcommittee.

Mr. Ela asked what the Subcommittee had in mind for a timetable.

Mr. Welter stated that in terms of the recommendations, they want to communicate this to the Governor, Legislature and that we recommend those who are considering reauthorization take these recommendations into account.

Mr. Ela MOVED, seconded by Ms. Wiley that the Board accepts the Subcommittee's report, adopts its recommendations as its own, and requests the Chair to work with staff to communicate this to interested parties.

Dr. Thomas requested minor editorial changes to the report and stated what we are intending to do is to relay our recommendations to the legislature with a cover letter.

STEWARDSHIP PROGRAM RE-AUTHORIZATION

RECOMMENDATIONS

Of the

Stewardship Subcommittee to the

WISCONSIN NATURAL RESOURCES BOARD

MARCH 27, 2007

John W. Welter, Chair

Jane Wiley, Member

David Clausen, Member

I. Introduction

If there is a program in Wisconsin state government which enjoys more public support than Stewardship, it does not easily come to mind. Proposed and enacted in 1961 by the-Governor Gaylord Nelson as the Outdoor Recreation Action Program (ORAP), it was in turn revised and re-enacted by Gov. Warren Knowles in 1969. It provided funds to state and local governments for acquisition of conservation lands and development of recreational facilities. The program was supported by succeeding governors and, under Gov. Tommy Thompson, restructured as Stewardship I in 1989. It was re-authorized in 1999, and will expire in 2010. Though it was originally funded by a penny a pack tax on cigarettes, bonding became the funding source in 1969.

During its tenure, Stewardship and its predecessor programs have provided an extraordinary and delicately balanced means to acquire and preserve for the state a significant number of Wisconsin's special places: 1,591,561 acres of acquisitions or easements, as well as flowages, state forests and parks, riverside lands and wild lakes, the large wild places where we recreate and enjoy nature. At the same time, we have been able to set aside for future generations many high-quality or unique places, from tiny clefts in the Baraboo bluffs with their own mini-ecosystems, to Maiden Rock's bluffs along the Mississippi, the High Falls and Willow flowages, the Pine and Popple Scenic Rivers in the north and the Mink River estuary along Lake

Michigan in Door County. All but one county in the state (Menominee) can lay claim to some Stewardship-acquired lands.

Built into the Stewardship program are subprograms which allow the state's burgeoning land trust community as well as local units of government and Friends groups to combine their resources with Stewardship funds and acquire ownership or other types of interests in notable properties in their geographic or other special interest area. While DNR-purchased properties often do not leverage Stewardship monies, the land trusts and other nonprofit conservation organizations have shown great enterprise in multiplying Stewardship funds several times over.

Generally, the Legislature and our governors have set the course for Stewardship by establishing funding levels and mechanisms as well as broad outlines for the program. They have left the priority-setting for purchases to the Natural Resources Board, which consults with DNR staff and various planning documents (such as the Land Legacy, Natural Heritage Inventory and SCORP reports) to make decisions about which purchases to pursue. Periodically governors have championed certain larger types of acquisitions, such as flowages, new parklands or major forest protection, but most purchases have been directed by the NRB in consultation with DNR staff, NCOs and the public. The board approves purchases over \$150,000, proposals to pay a price over fair market value, or when other questions are raised by a transaction on a case-by-case basis. The board consults with staff on potential future purchases which might consume significant portions of the Stewardship Budget (such as the Forest Legacy purchase in 2006 or the Straight Lake State Park in 2005), which enables the board and department to plan over a one or two year period. Planning for larger transactions can, if necessary, take place over a three year period with the approval of the Legislature's Joint Finance Committee.

The extent to which the Legislature or other bodies have overseen Stewardship purchases has varied through the years of the program's existence. For a detailed history of oversight, refer to Legislative Fiscal Bureau Informational Paper 60, January 2007, pages 6-7.

In his February 2007 budget message, Governor Doyle called for re-authorization of the Stewardship program from the period 2011 to 2020. Prior Stewardship re-authorizations have been preceded by appointment of a Blue Ribbon Commission, each of which has addressed concerns and made recommendations to be addressed as part of the re-authorization. Those concerns and suggestions have, wherever feasible, been addressed and acted upon. This subcommittee feels there is no need for appointment of such a commission in connection with the present proposed re-authorization. The subcommittee's charge from NRB Chair Christine Thomas has been to review the recommendations of advisory groups and develop its own recommendations.

Following a review of the work and recommendations of several major advisory groups, the subcommittee called for Wisconsin citizens and groups to submit their comments and suggestions. Hundreds of responses showed the widespread and heartfelt support for this far-sighted program among the citizens of our state.

II. Recommendations

The subcommittee reviewed other additional recommendations from the Stewardship Advisory Council, Wisconsin Conservation Congress and the Wisconsin Wildlife Federation as well as from other nonprofits around the state, as well as the individuals' suggestions of interested citizens. While they are too numerous to list in detail here, they were all reviewed and considered by the subcommittee. We worked to determine whether in our opinion they warrant the Legislature's attention, the attention of the NRB and DNR through either the rule-making or policy guidance process, or no more than a passing mention.

The Stewardship Advisory Council is a standing DNR citizens' council appointed by the DNR Secretary to make recommendations, to promote better communication between the DNR and its Stewardship partners, and to provide guidance on policy and administrative issues relating to the Stewardship Program.

We concur with the following SAC recommendations to the Governor and Legislature:

- A. Stewardship should remain a capital investment program, focusing on land and water resources and recreation infrastructure; funding for operations and maintenance should continue to come from other sources.
- B. Stewardship should focus on permanently protecting land for conservation and recreation purposes, rather than for farmland protection. Funds for farmland protection should come from a separate funding program, developed by the Legislature and administered by the Department of Agriculture, Trade and Consumer Protection (DATCP).
- C. Development projects should use no more than 25% of Stewardship funds. The rest should be used for acquisition.
- D. Partnerships should be maximized to leverage stewardship funds.
- E. Local units of government (LUGs) should be eligible for no more than \$14 million in land acquisition and development funding, and NCOs for at least \$14.5 million in land acquisition funding.
- F. Historically, the Stewardship program required most grants to be for “nature-based outdoor recreation (NBOR)”. We recommend that this approach continue to be favored rather than broadening the use of program funds for new facilities-and equipment-focused uses. We recommend that DNR staff develop and bring to the NRB recommended rule changes to address concerns about the administration of the NBOR requirement.
- G. Second appraisals should be required by statute in transactions over \$500,000 under re-authorization statute, and costs of the second appraisal should be responsibility of grant sponsor. We recommend DNR staff develop and bring to the NRB recommended rule changes to allow the staff to order second appraisals earlier than is the current practice, and to use a “blended appraisal” in addressing problem appraisal cases, rather than relying on a third appraisal, as endorsed in the 2000 Legislative Audit Bureau report.
- H. Partners (NCOs and LUGs) should, in most circumstances, continue to be required to provide 50% matching funds. The subcommittee recommends that the special circumstances in which a match of between 25 and 50% would be required be defined through the rule-making process. Where multiple project sponsors are involved in a collaborative project, present rules allow a sponsor who raises more than a 50% “match” to bank the extra match for up to three years to apply to another project. We recommend that in such a case a project sponsor may share its banked match with other similar project sponsors. This would require a change in NR 51, for which staff should be directed to develop and bring to the Board a proposed rule.
- I. Stewardship purchases should continue to balance larger land purchases in the north with purchases near the state’s more urbanized areas. Consideration should be given, whenever it is feasible for environmental, safety and management purposes, to encourage partners receiving acquisition grants to include access for hunting, fishing and trapping opportunities. The subcommittee recommends that staff be directed to develop and bring to the board rules which would provide incentives if such opportunities are made available.
- J. Funding should be continued at a level adequate to meet identified needs and maintain the historic purchasing power of the program. The subcommittee recommends the Governor’s proposal to the Legislature to authorize bonding of at least \$105 million annually through FY 2020.

III. Additional concerns

Other concerns were raised in discussions among the Wisconsin Conservation Congress, Wildlife Federation and the SAC. They include (1) adequate signage and publicly available maps to better enable the public to identify and use Stewardship lands; (2) public access to lands purchased with Stewardship funds; and (3) requiring the DNR or other owners of Stewardship funded lands to commit sufficient manpower and financial resources to adequately manage those lands. The subcommittee's recommendations follow.

- A. Lands purchased with Stewardship funds must be adequately posted, whether owned by the DNR or by a partner group. A standard design of sign shall be provided by the DNR, and shall provide information on any restrictions on use or access and how to reach a designated contact person or office. On-line mapping programs are currently being developed by DNR, and hard copies of maps of Stewardship funded properties which are open for public use shall be made available at DNR service centers. Funds for initial signing and mapping should be included as part of Stewardship acquisition cost. The subcommittee recommends that DNR staff develop rules to expand the definition of allowable project costs be expanded to include signs informing the public of allowable uses on properties, within the specifications set for signage by the DNR.
- B. Public Access: Access to lands purchased with Stewardship funds is an important goal, and most such lands are indeed open to public use, whether state-owned or held by another entity. However, requiring all such lands to be open for public use would limit the other worthwhile uses for which Stewardship is an essential tool. For example, some extremely fragile resources could not bear much public use, but are worth preserving. In other cases, purchase of right of first refusal now (which does not presently include access) might give the state or a partner the ability to buy that parcel at a later date (which could then open the parcel to full public access). The subcommittee suggests that access issues are properly within the purview of the NRB in setting overall program directions or in developing guidance or rules for use of Stewardship funds, and that if, after further discussion, the NRB believes expressing specific policy goals regarding access to Stewardship-funded lands will provide a public benefit, it direct the staff to develop and bring to the NRB rules to carry out those goals.

While acknowledging that the following suggestion is not germane to the charge of this subcommittee or the present discussion of Stewardship re-authorization, we recommend that the NRB, DNR staff and stakeholder groups examine ways to develop incentives for local governments to purchase hunting, fishing and trapping access rights. The NRB should discuss other ways to increase public access rights to private lands where appropriate, such as cooperation with federal programs, or development of other partnership programs for similar purchases.

- C. Management: The Conservation Congress has recommended as part of the Stewardship program "...a system to provide funding for staff to manage the lands purchased through the Stewardship Program". We concur with the need for additional management resources. However, the subcommittee does not feel that the reauthorization of Stewardship is the appropriate vehicle for this discussion, since these funds are specifically for acquisition and development, not personnel. We do agree that this issue is a very important one which requires attention, and suggest that the secretary and staff pursue the ways and means to address it, with ongoing discussion at the Board level on these issues. We are confident that a combination of budgeting, partnerships, Friends groups, and possibly the use of outside contractors can expand management capacity and address these land management needs.

IV. Conclusion

The Subcommittee proffers the foregoing recommendations to the Natural Resources Board, and will offer them at the Board meeting of March 28, 2007.

Respectfully submitted,

Jane Wiley, Member

John W. Welter, Chair

David Clausen, Member

Dr. Thomas MOVED, seconded by Dr. Clausen to amend the motion to include grammatical edits. Mr. Ela and Ms. Wiley accepted the changes as a friendly amendment. The main motion carried unanimously by all members present.

- 3.A.8 Reconvened to: Request authorization to hold public hearings on Board Order AM-32-05, revisions to NR 440 and NR 446, pertaining to mercury emissions from coal-fired electric generating units.

Mr. Ela stated he has worked with the staff on a proposed motion on mercury that encapsulates what he wanted to say.

He will move to authorize public hearings on proposed AM-32-05 and direct that the public notice include a request for public comments on other options for controlling mercury emissions from coal-fired electrical generation units (EGUs.)

In addition, he will move to direct the DNR staff to initiate an analysis to determine whether the public health findings under s. 285.27(2)(b) support a state hazardous air pollutant (HAP) standard in the absence of a federal HAP standard for mercury emissions from coal-fired EGUs.

Finally, he will move to direct the DNR staff to work with the Board's Air, Waste, and Water/Enforcement committee to conduct a seminar for the Board on mercury. The seminar shall include information from experts who can address issues such as control technology availability and efficiency, costs, and electric reliability. The seminar shall include a status report on the DNR staff's current analysis under s.285.27(2)(b). The seminar shall be conducted prior to the Board's consideration of final action of AM-32-05 or alternative mercury rule options.

Mr. Ela stated that staff had told him that it would not be possible to structure the procedure for going to public hearing so that the contingencies he had envisioned could be met without further public hearings. The problems as he understands it is because of germaneness requirements of sending rules to public hearing and adoption. If we do decide to do something materially different than what is in the rule as it goes to public hearing, we would again have to go to public hearing. He talked to Al Shea about that. It would certainly delay us a bit. Conceivably, we can be on a fast track by October and certainly by December.

Dr. Thomas asked the Board if she could ask Kathleen Standen of WE Energies how does the fast track, October to December, sound to the utilities versus August, which is where Al was saying we might be if we did not add these things in here.

Kathleen Standen, WE Energies stated her understanding of the motion would allow public comment on rule options other than what is expressed in the green sheet package. If the Board were to decide to approve a rule that was in some way within the scope of the current proposal, then the Board could take action at the August meeting. If there was a need to redraft the rule to include substantially different timelines or features, than that modified rule would then need to go through public comment which would happen subsequently.

Dr. Thomas made an inquiry of Counsel: if the Board had thrown out all the Earn-A- Buck units today we would not have had to go out to public hearing though the result would have been substantially different than the notice or hearing that was out there. Why can we not adopt a different timeline on this issue without going back to public hearing?

Richard Prosis, Director, Legal Services Bureau stated that the devil is in the details. If something flows from the current rule package and is envisioned in it, or at least is similar to or flows from it we are fine. What we cannot do is go out and take comments on other options that are not in this rule package and then, based upon those comments, come up with something entirely different, come back to the Board and have the Board approve it. The Public has the right to see something that is close to what we are passing. We are talking about the rule procedure. The rule procedure envisions going out with a package that the Public knows about, gets to read, and gets to comment on so their comments are knowledgeable. It then comes back to the Board with a summary of public comments about a specific rule package and then you approve or disapprove the rule. It depends on how far we stray from rule package.

Dr. Thomas asked about a timeline.

Mr. Prosis stated that a timeline certainly flows from it, yes, that is certainly something that you could change. If they come up with a trading plan or something that is not presently in the rule and we are getting generic comments on something that is just a concept, then we would need to address that.

Dr. Thomas stated that the proposed rule says no trading program. Theoretically, if somebody says what about this trading plan, that is not substantially different.

Mr. Prosis stated it could if we come up with a trading plan that has a lot of details in it.

Mr. Ela clarified that what you are saying is we could make that assessment when it comes time to decide what we want to adopt.

Mr. Prosis said yes. We are not deciding now what is or is not a part of this rule package because we do not know what the comments will be when we do not know what the other options are. The legal advice is simply we can not assume that we can take all other comments and then move forward with this rule package and incorporate all those comments.

Dr. Thomas stated what she is wondering if it is more efficient if you have ideas to work with staff on for the next 30 days and come back so this is going out with your ideas in it.

Mr. Ela stated no. There are many ideas that have been proposed, and they conflict with each other as well as what is in the rule.

Dr. Thomas asked Ms. Standen as to whether or not December works in your timeframe as well as August.

Mr. Ela stated that before Ms. Standen answers, he thought what we would be talking about is going to hearings in June and would probably have this informational session in July. The Board would come back in August and decide on what we wanted to do, and depending on what we want to do we could either pass the rule in August or sent it out to fast track in the public hearing process with the objective of getting back in October.

Ms. Standen stated she understood what you are proposing. It is important for us to have this rule revised before the end of the year for two reasons. First, the current rule contains a mercury cap which applies January 1, 2008. As utilities stand right now, we are faced with the compliance date of January 1 and until the rules change that still stands. Secondly, EPA is ready to issue a federal implementation plan by year-end, December 31, 2007. Our fear would be to have the existing state rules still in place with its provision as well as the federal rule which would get imposed on top of that so we would have two inconsistent rules that we would have to work under. This creates three times as much uncertainty than we are comfortable with or would be prepared to comply with.

Mr. Prosis stated that is for the Board to evaluate after the public hearing. You might find taking into consideration the concerns of WE Energies and others that you wish to move forward with this rule package with whatever tweaks are made to it, and then you would not necessarily have to hold up this rule. It depends on what you find at public hearing.

Ms. Standen stated that the federal rule on compliance start date is January 1, 2010. If we reach 2008, we are less than having two years to be prepared for that federal date to come in compliance. That is a problem.

Mr. Ela stated his understanding is that the numbers that were chosen by the EPA for 2010 were largely chosen because that is what most of the eastern utilities at least would be doing under CAIR and that there be a certain amount of mercury reduction that would happen under the CAIR modifications.

Ms. Standen stated theoretically that is the assumption. We need to know what kind of mercury we are getting from those before it makes financial sense to start adding on additional controls.

Mr. Ela MOVED, seconded by Dr. Clausen to authorize public hearings on proposed AM-32-05 and to direct that the public notice include a request for public comments on other options for controlling mercury emissions from coal-fired Electrical Generation Units (EGUs.) In addition, the NRB directs the DNR staff to initiate an analysis to determine whether the public health findings under s. 285.27(2)(b) support a state hazardous air pollutant (HAP) standard in the absence of a federal HAP standard for mercury emissions from coal-fired EGUs. The NRB further directs the DNR staff to work with the Board's Air, Waste, and Water/Enforcement committee to conduct a seminar for the Board on mercury. The seminar shall include information from experts in the field addressing issues such as control technology availability and efficiency, costs, and electric reliability. The seminar shall include a status report on the DNR staff's current analysis under s.285.27(2)(b). The seminar shall be conducted prior to the Board's consideration of final action of AM-32-05 or alternative mercury rule options. The motion carried unanimously by all members present.

- 7. Department Secretary's Matters
- 7.A.1 Baiting and Feeding

Scott Hassett, Department Secretary stated that the Department has strong feelings about this issue and also stated this reflects wildlife and law enforcement staff concerns too. He then offered a Resolution to the Board for their approval and/or modifications.

STATE OF WISCONSIN
NATURAL RESOURCES BOARD
RESOLUTION

RELATING TO: Encouraging legislative action in opposition to the practices of baiting and feeding white-tailed deer.

WHEREAS, members of the Natural Resources Board hold the view that Wisconsin's white-tailed deer herd is one of the state's most valuable natural resources, that deer are a resource of recreational, economic, and ecological significance to all citizens; and,

WHEREAS, artificially supplementing the diets of white-tailed deer by baiting for hunting purposes and feeding to view or attract and hold deer in an area is a common practice; and,

WHEREAS, the practices of baiting and feeding are a known risk for the establishment and increased transmission of diseases such as chronic wasting disease and bovine tuberculosis in white-tailed deer; and,

WHEREAS, material placed as bait and for feeding is an excess energy input that in some areas unnaturally increases deer fecundity and makes it difficult to manage in a way that balances deer populations with their ecological impacts and effects on agriculture, forestry, and transportation; and,

WHEREAS, baiting and feeding artificially influence deer activity leading to privatization of a public resource, enforcement challenges, and conflict, all of which reduce enjoyment of the hunt; and,

WHEREAS, more than 80% of gun hunters and 60% of bow hunters do not bait; and,

WHEREAS, prohibiting the practices of baiting and feeding is central to resolving the challenges of disease establishment and transmission, deer overabundance, ecological impacts and privatization; and,

WHEREAS, with the passage of 2003 ACT 240 the department's authority to regulate baiting and feeding white-tailed deer was restricted;

NOW, THEREFORE BE IT RESOLVED, that the Natural Resources Board opposes the practices of baiting and feeding white-tailed deer and strongly encourages legislation prohibiting both for the benefits of herd health and ecological integrity; and,

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to legislative leaders and members of the state Senate and the Assembly.

ADOPTED IN MADISON, WISCONSIN, THIS 28TH DAY OF MARCH, 2007

NATURAL RESOURCES BOARD

Christine Thomas, Chair

John W. Welter, Subcommittee Chair

The Board offered minor grammatical modifications to the Resolution.

Dr. Clausen MOVED, seconded by Mr. Ela to approve the Resolution on encouraging legislative action in opposition to the practices of baiting and feeding white-tailed deer.

Mr. Welter stated this is an important step for this Board and it is not taken lightly by anyone on this Board. We have seen the struggles that we have had managing the deer population over the last three or four years that have been directly affected by the presence of bait or feed in the northern environment and this is a step for this Board to express its opinion and ask that we be given the ability to manage deer in a way that has not been available to us for the last several years.

The motion carried unanimously by all members present.

- 7.B. Retirement Resolutions
- 7.B.1 Gregory A. Held
- 7.B.2 Steven C. Jensen
- 7.B.3 Richard L. Ward
- 7.B.4 Kent Goeckermann
- 7.B.5. Jeffrey Krueger

7.B.6. Jay Hochmuth

Dr. Clausen MOVED, seconded by Mr. Ela approval of the retirement resolutions. The motion carried unanimously by all members present.

7.C. Donations

7.C.1. The Friends of Kohler-Andrae, Inc. will donate \$77,000 to Kohler-Andrae State Park in the form of an accessible cabin for people with disabilities to be built in the park's family campground area.

Dr. Clausen MOVED, seconded by Mr. Ela approval of the Friends of Kohler-Andrae, Inc. Donation of \$77,000 to Kohler-Andrae State Park in the form of an accessible cabin for people with disabilities to be built in the park's family campground area. The motion carried unanimously by all members present.

7.C.2. The estate of Lyle Hougan will donate \$60,000 to the Lake Kegonsa State Park

Dr. Clausen MOVED, seconded by Mr. Ela approval of the estate of Lyle Hougan donation of \$60,000 to the Lake Kegonsa State Park. The motion carried unanimously by all members present.

7.C.3. The Mead Grounds Association will donate \$30,374.24 for facilities on the grounds of George W. Mead Wildlife Area.

Dr. Clausen MOVED, seconded by Mr. Ela approval of the Mead Grounds Association donation of \$30,374.24 for facilities on the grounds of George W. Mead Wildlife Area. The motion carried unanimously by all members present.

7.C.4. The Lapham Peak Friends will donate \$26,000 to the Department for the development of a Snowmaking system and pond at the Lapham Peak Unit of the Kettle Moraine State Forest.

Dr. Clausen MOVED, seconded by Mr. Ela approval of the Lapham Peak Friends donation of \$26,000 to the Department for the development of a snowmaking system and pond at the Lapham Peak Unit of the Kettle Moraine State Forest. The motion carried unanimously by all members present.

7.C.5 The Natural Resources Foundation is donating \$202,717 to the Endangered Resources Program to be used for stocking and monitoring the American marten, monitoring Kirtland's warblers, wood turtle field studies, State Natural Areas Program support, and printing the Central Sands guidebook of the Great Wisconsin Birding & Nature Trail.

Mr. Welter MOVED, seconded by Ms. Wiley approval of the Natural Resources Foundation donation of \$202,717 to the Endangered Resources Program to be used for stocking and monitoring the American marten, monitoring Kirtland's warblers, wood turtle field studies, State Natural Areas Program support, and printing the Central Sands guidebook of the Great Wisconsin Birding & Nature Trail. The motion carried unanimously by all members present.

Secretary Hassett invited Bruce Braun and Charlie Luthin of the Natural Resources Foundation (NRF) to speak.

Bruce Braun, Natural Resources Foundation President stated they are the beneficiaries of one of the Stewardship Grants to a non-profit organization. They are in effect the state friends group for the entire Department of Natural Resources. They are in the business of creating opportunities for people to give money for some of their outdoor passions. He then commended the Board for their investment. Predecessors to this Board 20 years ago created the Foundation. The Foundation has really born fruit 20 years later with a 200% return on the investment. That is what you are

receiving today. Coupled with the small grant we gave the Department in January, we are at a point where we have given about a 200% return on your investment. This is just the start. We should at least double that by the time they are done this year. A lot of people love the natural resources and are willing to contribute through our conservation endowment and other items.

Charlie Luthin Executive Director of the Natural Resources Foundation stated that through Mr. Braun's leadership and others on the NRF Board that we went through strategic planning last year with a goal of raising \$500,000 per year minimum for the Department's priority needs. As Mr. Braun mentioned, we have just started. This gift today, added to the January gift of \$59,000 brings to date our gift to the Department in the amount of \$266,000. Every day, with new grants coming in, we will soon be over \$300,000 and that is direct cash support to the agency. Your investment in the Foundation is small compared to the gain that you are hopefully getting back to the Department.

8. Information Items

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

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

8.B.1. Stewardship Grant Programs PRESENTED PRIOR TO 6.A.1

8.B.2 Update on Butler's Gartersnake Conservation Strategy

Signe Holtz, Director, Endangered Resources Bureau stated that the Conservation Breeding Specialist Group (CBSG) of IUCN-The World Conservation Union's Species Survival Commission was asked to design and conduct a workshop process to produce a population viability analysis and a set of draft revised conservation strategies for Butler's gartersnake in Wisconsin.

Terrell Hyde, Assistant Zoologist/Mapping Specialist, Endangered Resources Bureau stated the analysis consists of a computer simulation that incorporates current knowledge of the biology and ecology of the species and projects the relative performance of gartersnake populations under alternative scenarios of management or lack thereof. Using these alternative projections of population performance, a Butler's Gartersnake Stakeholder Workshop was held from February 5th-8th to determine the most effective practices to minimize the risk of extinction. Sixty people, representing more than 40 organizations were in attendance. Participants included private landowners, industry, academic researchers, wildlife managers, state and local regulators, and non-governmental organizations (NGO) representatives.

Workshop goals included: 1) Evaluate species management and research activities; 2) formulate priorities for a practical management program for long-term survival of the species in an urbanized environment; and 3) promote effective collaborations between stakeholder groups that foster maintenance of Butler's gartersnake habitat while accommodating thoughtful economic expansion in the region. Concrete management actions and responsibilities were identified at the workshop and a Workshop Report was drafted. Near the conclusion of the workshop, the participants agreed that further work was needed to translate the Workshop Report into a revised Conservation Strategy. In keeping with the process that CBSG and the Stakeholder Workshop has laid out, the Conservation Strategy revision has been transparent and has been done in a cooperative manner. Post-workshop meetings have been held to develop regulatory framework with flexibility in design and certainty in process, and to revise the target for the number of sites required for successful management.

Mr. Ela inquired as to where we are with the Legislative Rules Committee?

Ms. Hyde stated they sent a letter and are awaiting a response.

Mr. Welter MOVED, seconded by Mr. Ela to adjourn the meeting. The motion carried unanimously by all members present.

The meeting adjourned at 4:10 p.m.