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## NATURAL RESOURCES BOARD

### MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, October 27, 2010 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 4:20 p.m.

#### ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

David Clausen – present	Preston Cole – present
Jonathan Ela – present	Gary Rohde – present
John Welter – present	Christine Thomas – present
Jane Wiley – present	

1.B. Approval of agenda for October 27, 2010

**Mr. Welter MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.**

1.C. Approval of minutes from September 22, 2010

**Mr. Welter MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.**

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

**Ms. Wiley MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.**

3. Action Items

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

3.A.1 Request modification and adoption of Board Order DG-23-10, creation of NR 850 and revision to NR 142 relating to water use fees, adopted by the Board in August 2010, and modified based on input from the Senate Committee on the Environment, to include a lower cap on fees for small businesses

**Eric Ebersberger**, Water Use Section Chief stated that this rule was adopted by the Board at their August 11, 2010 meeting to set definitions and specified a method for assessing the annual fee, provided for an exemption, and specified a maximum fee. This rule reflects a modification made at the request of the Senate Committee on Environment to place a cap of \$1,000 annually on fees charged to small businesses. The Department estimates that the modification will decrease revenues by less than \$10,000 annually. He requested that the Board adopt modified Board Order DG-23-10.

**Mr. Welter MOVED approval, seconded by Mr. Rohde. The motion carried unanimously.**

3.A.2 Request authorization for public hearing for Board Order DG-39-10, creation of NR 854, Wisconsin Administrative Code, relating to Water Supply Service Area Planning for public water supply systems

**Eric Ebersberger**, Water Use Section Chief stated the proposed rule establishes a continuing water supply service area planning process for persons that operate public water supply systems that serve a population of 10,000 or more and any person proposing a new or increased diversion from the Great Lakes basin. The purpose of water supply service area planning is to

systematically evaluate alternative means of supplying water to a delineated water supply service area and to identify a cost-effective water supply alternative for a 20-year planning period. He requested the Board authorize public hearings for Board Order DG-39-10.

Discussion followed on the 86 hours of allotted employee time for this process, how a water supply service area would be identified, insight as to why the pre-planning horizon is 15 years, whether the entire state will be divided up, and what users will be excluded from this rule.

**Mr. Welter MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.**

3.A.3 Request authorization for public hearings for Board Order WA-33-10, revisions to NR 500, 502, and 518, relating to composting facilities

**Brad Wolbert**, Hydrogeologist spoke in place of **Ann Coakley**, Waste Management Bureau Director. He stated that composting is regulated as a form of solid waste processing that converts decomposable organic materials to a substance with many beneficial uses and avoids the adverse environmental impacts of landfill disposal or incineration. The proposed rule revisions would expand the types and quantities of decomposable organic materials that could be composted with minimal regulation. It would also provide a voluntary set of quality standards for certain finished compost products, allowing commercial and municipal composters to distinguish their high-quality compost products in the marketplace. He requested the Board authorize public hearings for Board Order WA-33-10. **(POWERPOINT)**

Discussion followed on the definition of non-Class A compost, whether the Department of Transportation is a big user of non-Class A compost, and the Class A compost designation process.

**Dr. Thomas MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.**

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

3.B.1 Request adoption of Emergency Board Order IS-49-10(E) and request authorization for public hearings on Board Order IS-47-10, revision to ch. NR 40, regarding the management of bats and white-nose syndrome in Wisconsin

**Erin Crain**, Ecological Inventory and Monitoring Section Chief, and **Dr. Gregor Schuurman**, Conservation Biologist gave a joint presentation. They stated to most effectively manage white-nose syndrome (WNS), the Department proposed the following additions related to the early detection of WNS and preventions of the spread of *G. destructans* due to anthropogenic activities:

1. For purposes of early detection, with permission or pursuant to an inspection warrant, department staff may access caves and mines in order to monitor, survey, and inspect for the presence of *G. destructans*.
2. Equipment, gear, clothing and other objects may not be brought or placed into or near a cave or mine if they have been in or near a cave or mine located outside of Wisconsin.
3. Equipment, gear, clothing and other objects that have been in or near a cave or mine in the state must be decontaminated following department-approved WNS decontamination protocols before they can be brought into another state cave or mine.
4. All equipment, gear, clothing and other objects that have been in or near a cave or mine in Wisconsin must be decontaminated immediately upon exit.
5. All equipment, gear, clothing and other objects that will be or have come in contact with bats (including, but not limited to nets, traps, weighing tubes, bat bags, wing punches, rulers, clothing, gloves, electronic equipment and exclusion materials) and all individuals handling bats must be decontaminated prior to and immediately after contact.
6. In the unlikely event that a cave or mine owner refuses to take requested actions to restrict access to caves/mines to either humans or bats, The department may issue an order requiring such action and if compliance is not forthcoming may take such actions itself pursuant to an inspection warrant.

They requested the Board adopt Emergency Board Order IS-49-10(E) and authorize public hearings on Board Order IS-47-10. **(POWERPOINT AND HANDOUTS)**

Discussion followed on when bats begin hibernating, the level of the Department's confidence they have identified the primary, new, and significant hibernacula, and inspection warrant authority.

**Peter Flaherty**, Department Attorney, stated that inspection warrants are used in a variety of Department programs to determine compliance and are used by municipalities for zoning and building codes. Inspection warrants are issued by a circuit court judge or court commissioner in response to a request from a peace officer (DNR warden). A summary would then be returned to the court after the inspection.

Discussion followed on why decontamination protocol is necessary for caves with no bats, whether the Department communicated with Cave of the Mounds and Crystal Cave owners prior to October 21, whether the proposed rule would allow both bats and people in a commercial cave, and the tools used to deal with wildlife diseases over the years.

**Dr. Clausen MOVED approval, seconded by Ms. Wiley.**

**Public Appearances:**

1. **Jeannie Place Cunningham**, Spring Valley, representing self stated she is the co-owner of Crystal Cave. Their annual attendance is 35,000. Their tours have a strong educational focus. The bat population in their cave is approximately 500. They are open for business from April 1 through October 31. She is concerned with the decontamination of school kid visitors which would put an undue strain on operations. She feels it would be more effective to survey visitors at the ticket booth and decontaminate those that have visited other caves by a foot bath. This is inconvenient but cost effective. She requested the Department be clear and simple in directions to the media regarding this. She is also concerned about the impact of the industrial strength decontamination chemicals on the cave itself. She requested the Board reject the emergency order.

Discussion followed on the impact of the emergency order on Crystal Cave, whether bats are important to their operation, whether Crystal Cave would do anything necessary to keep bats free from WNS, whether Crystal Cave have seen a decline in the bat population at their cave, whether they are aware of a decline in the bat population at other commercial caves, and whether Crystal Cave has seen anything in the rule that mandates the closing of their cave.

2. **Joe Klimczak** and **Mark Rooney**, Mount Horeb, representing Cave of the Mounds gave a joint presentation. They stated they just returned from a bat conference in Slovakia. Their cave is the most visited cave in the Midwest with 100,000 visitors. They do not have a bat population. They were concerned that the Department did not distribute the decontamination protocol until the day before the meeting. They do not want to see well intended but not well conceived efforts damage property and business. They are concerned that the Department is proceeding rapidly without consulting with stakeholders. He asked that the use of "decontamination" be replaced with "precautionary measures". They would like to partner with the Department to craft a management plan, language, and approach. They like the model used at Mammoth cave. If Cave of the Mounds does not have WNS, it is in their best interest to keep it out. If someone comes and has been to another cave, they have no options to keep that person from spreading it to another cave. They urged the Board to reject the emergency order. **(HANDOUT)**

Discussion followed on when the Cave of the Mounds' season ends and alternative methods of decontamination protocol.

3. **John Lovaas**, Woodstock, IL, representing Minnesota Speleological Survey, Inc. stated that his single greatest issue is with the idea of excluding bats from a cave. He requested the Board slow down, make the time to review and compare Wisconsin's plan to that of the National WNS Management Plan. He also requested the Board allow for a period of review and consider

rescheduling the November 29 hearing since this falls on the Thanksgiving weekend and many will be traveling. **(HANDOUT)**

Discussion followed on whether there is a seasonal high or low time for cavers.

4. **William O'Connor**, Madison, representing an alliance of cavers and cave owners stated he was appearing on behalf of Crystal Cave, Cave of the Mounds, and the MN Speleological Survey, Inc. They are all interested in supporting caves and bat research. They have a simple message, they ask that the Board table the emergency order and approve the public hearing authorization request. He was concerned that the decontamination protocol was not posted on the Department webpage until the close of business yesterday. The Department would be deviating to authorize a process that has limited opportunity of meaningful comment. What this rule does is it permits staff to close caves to either bats or people. It lacks any substantive standard when that occurs. He questioned what the standard is for acceptability. His request is to provide meaningful opportunity for affected people for comment and that the Board should table the emergency order. The emergency order is in violation of concepts of basic procedure or due process of law.

Discussion followed on the clarification of the Department's inspection authority.

5. **Eric McMaster**, Minneapolis, MN, representing self - Cancelled

**Mr. Ela** noted that Dr. Adena R. Rissman, Assistant Professor with the Department of Forest and Wildlife Ecology at the University of Wisconsin at Madison is at the meeting with approximately 10 of her students. The class is the "Renewable Resources Policy" course in the Forest and Wildlife Ecology Department. Her students will fill out a short set of questions while they are at the meeting. The course challenges students to think critically about natural resources policy and investigates the policy-making process, concepts of property, the role of science in policy-making, and issues of justice and accountability. The goal of the course is to prepare students to engage in the policy-making process by providing a foundational knowledge of US natural resources and environment politics and policy.

**Mr. Ela** requested the Department respond to three categories of issues heard during public appearances: 1) decontamination, 2) legal orders, and 3) adequacy of outreach to-date.

**Laurie Osterndorf**, Land Administrator spoke on decontamination concerns. She distributed the protocol the Department is advocating to the Board. It is posted on the website and is the same as the U.S. Fish and Wildlife Service (F&WS) and the National Park Service (NPS) protocol. The Department met with the WI Speleological Society. The National Speleological Society sent out a letter supporting decontamination. Ledgeview Cave is already doing this. Teachers are happy as it gives them another tool to educate their students. **(HANDOUT)**

Discussion followed on when this protocol was made available, whether the Department has reviewed the draft Federal WNS policy which may include decontamination, whether the Department would have the necessary tools in place if today's emergency rule is not approved, whether the Department has inspection authority without the emergency rule.

**Mr. Flaherty** stated that right now the statute under which we adopted our invasive species rules requires the Department to promulgate rules for procedures for inspection and investigations. He respectfully disagreed with Mr. O'Connor's suggestion that the Department already has statutory authority to do inspections. The invasive species statute does require the Department to adopt rules articulating when we would conduct inspections. This early detection component in the draft rule is a form of inspection. It is to inspect to see if the pathogen is present in any particular cave or mine. The Department needs to articulate a rule with sideboards indicating where we would go and what we would do.

**Mike Lutz**, Legal Services Acting Bureau Director agreed with Mr. Flaherty. He stated that what the Department is looking for is clarification of our authority. Inspection warrants like search

warrants have to be reasonable. When judges look at them, they are looking at what the outer limits are for what can be sought under the warrant. Can we search for WNS at any location? Under the general inspection authority under NR 40, we are looking to limit this authority to caves and mines at this point in time. This authority is not for everywhere a bat could be found.

Discussion followed on whether the Department can inspect without the rule.

**Mr. Lutz** stated the Department can always look with permission. This rule clarifies what the Department can do upon refusal.

**Mr. Ela** stated it was unfortunate that the decontamination protocol was not available until yesterday. Many things happen late with emergency rules. He asked if there was anything in the protocol that a cave operator would find surprising.

**Ms. Osterndorf** started out with an apology. She stated that the Department does not normally work on a 24 hour basis. They try to be a very transparent agency. She did not believe this protocol would be surprising to a cave operator. The National Speleological Society had already supported and published the wild caving element which refers to the F&WS protocol.

Discussion followed on crafting an amendment to pull out commercial caves from the emergency rule, what impact would adopting a 45 day stay on the implementation on commercial operations have on Crystal Cave, and whether representatives from Crystal Cave are willing to work with staff to draft rules.

**Mr. Cole MOVED to amend the rule, seconded by Mr. Rohde as follows:**

**Add to SECTION 1.:**

**NR 40.02**

**(7r) “commercial cave or mine” means a cave or mine that has more than 1,000 visitors per year and charges a fee.**

**Add to SECTION 3.:**

**NR 40.07 (8)**

**(f) Paragraphs (b) and (e) do not apply to a commercial cave or mine until 45 days after [Insert the effective date of the emergency rule].**

Discussion followed on concerns with early detection.

**Ms. Wiley** stated that in a time of so little civil discourse with everyone angry with the elections and everything else, we have introduced a certain amount of civility in this whole thing.

**Mr. Ela** congratulated the public appearances for making a difference and being conducted in an extremely civil manner.

**Mr. Cole** stated to the students in the room that policy is like sausage making. He thanked the Secretary and staff for recognizing that government can be responsive to the needs of the people. If people have issues, we can stop the horses and work out something that is plausible to protect both the interests of wildlife as well as commercial operations.

**Secretary Frank** stated this is an issue of great concern for the bat population. The Board has supported very aggressive action and we appreciate that. The public has responded tremendously in the kind of cooperation the Department is receiving. Obviously we need to do more to get the word out. He will commit to you that if the Board passes this motion as introduced, the Department will sit down rather quickly with the cave representatives that are here today. They have raised legitimate concerns. We will make every effort to come back to the Board at the December meeting before the 45 days expire with hopefully a good resolution to this. We are all moving forward together to protect the viability of those operations but also taking the action needed to protect Wisconsin and its bats from WNS.

Discussion continued on the accelerated physical jump of the disease, staff accomplishments in a short period of time, and concern with the Department's public noticing and outreach.

**The motion to amend carried unanimously.**

Discussion continued regarding the public hearing scheduled for November 29 and the process involved to telecast all four of the public hearings on the same day.

**The original motion as amended carried unanimously.**

**Mr. Ela** moved the meeting to agenda item 3.B.5.

3.B.5 Request approval to rename DNR owned parcel to commemorate deceased Aircraft Pilot Heath Van Handel

**Matt Frank**, Secretary, stated that Heath Van Handel was an experienced Department aircraft pilot who died on April 8, 2009 when the aircraft he was piloting crashed in Wood County during part of the Division of Forestry's response to a wildfire in Wood County. Heath is survived by his wife, Jennifer Van Handel and two sons, Matt and Brett.

Heath had a great love of life and of nature, and a generosity of spirit that compelled him to share much of himself with those he loved. In recognition of Heath's dedication and to honor his sacrifice, the Department requested approval to name in Heath's honor a parcel of land purchased by the Department in 1998 near his hometown of Appleton. The "Heath Van Handel Memorial Forest" will serve as a living reminder to current and future generations of Wisconsinites that the natural resources they enjoy every day are protected and maintained through the dedication and hard, sometimes risky, work done by individuals such as Heath Van Handel. He noted that Heath's parents, Roger and Joyce Van Handel, were in attendance to accept the Natural Resources Board's commemoration certificate.

**Paul DeLong**, Forestry Administrator, stated that Heath was a valued colleague and is missed greatly. He thanked the Board for taking up this issue for a lasting memorial. This parcel consists of 39.6 acres and is located in Outagamie County, just west of Appleton on Highway JJ. It was purchased from the Institute of Paper Chemistry in 1998 by the Division of Forestry. This property has an established and maintained trail for hikers and hunters. The intent of the Department is to build a kiosk on the property to honor Heath and to include a fire message.

**Mr. Welter MOVED approval, seconded by Dr. Thomas. The motion carried unanimously.**

**Mr. Ela** returned the meeting to agenda item 3.B.2.

3.B.2 Request authorization for public hearing on Board Order CF-28-09, amending ch. NR 51, Administration of Stewardship Grants

**Mary Rose Teves**, Community Financial Assistance Bureau Director and **Karen Blodgett**, WCR Community Services Specialist gave a joint presentation. They stated the proposed rule accomplishes several tasks:

- 1) NR 51 has not been updated since 1999. The proposed rule makes numerous "housekeeping" changes, provides administrative clarifications, provides several new definitions, and clarifies program practices that have evolved since NR 51 was last updated.
- 2) 2007 Wis. Act 20 also added two new grant programs, and required that the recreational boating facilities grant program be funded under the Stewardship program. Three new subchapters have been added to NR 51 to be in compliance with these requirements. These new subchapters address grants for county forests, grants to counties when the DNR asks for assistance, and recreational boating facilities grants.
- 3) 2007 Wis. Act 20 also required that lands purchased with funds from the Stewardship Program under ss. 23.0915 and 23.0917, Stats., be open to hunting, trapping, hiking, fishing, and cross country skiing unless the Natural Resources Board determines it is necessary to prohibit one or more of the nature-based activities to protect public safety, protect unique

plant and animal communities, or to accommodate usership patterns. Provisions have been added to NR 51 to be in compliance with this requirement, and with ch. NR 52, Wis. Adm. Code.

They requested the Board authorize public hearings for Board Order CF-28-09. **(POWERPOINT AND HANDOUTS)**

**Dr. Thomas MOVED approval, seconded by Mr. Cole.**

Discussion followed on whether any objections have been brought forward, timeframe of the public hearings, amending the threshold for levels of funding for grant approval by the Board for the public hearing stage,

**Mr. Ela** distributed a worksheet on NRB Review of Stewardship Grant Decisions. **(HANDOUT)**

Discussion followed as to whether and when decisions by the Board should be made in this process and whether lay of the landscape briefings from grants staff that highlight potential budget busting grants be done during executive sessions.

**Tim Andryk**, Department Attorney, stated the Department would treat this the same way as Department acquisitions in that specific information pertaining to a parcel or values being negotiated that may affect the outcome of closing be withheld until after the closing.

Discussion followed on the Board's authority on approving grants and how the Board could address Board approval on grants during the public hearings process.

**Mr. Andryk** stated the rule proposal would put some threshold for Board approval for these grants and then we would handle the same as Department acquisitions pertaining to confidentiality – the seller and purchase price would be handled the same way. This would be in the form of a note in the rule.

Discussion followed on whether to propose an amendment to the rule or to the Manual Code and whether \$750,000 threshold is the proper level.

**Ms. Teves** offered two options for amendments.

Discussion followed on modifying second option for an amendment to a \$500,000 threshold, and the rationale behind locating the Board threshold language (b) to after the Joint Finance Committee review.

**Mr. Welter MOVED to amend the rule, seconded by Mr. Rohde as follows:**

**Add to existing Section 22, s. 51.005(12)**

**Grants awarded under this chapter must be reviewed by**

- (a) the Joint Committee on Finance of the Wisconsin legislature, pursuant to s. 23.0917(6)(m), Stats.**
- (b) the Natural Resources Board for grant awards of \$500,000 or more.**

Discussion followed on why the process from grant application to grant award can take two years, the concern with the time delay in obtaining multiple appraisals when required by the Department, and whether this proposed rule alleviates concerns with the Friends groups.

**The motion to amend carried unanimously.**

**The original motion as amended carried unanimously.**

3.B.3 Request authorization for public hearing for Board Order FR-38-10 to develop a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo

River State Forest

**John Lubbers**, Regional Forestry Staff Supervisor and **Peter Biermeier**, External Relations and Planning Section Chief gave a joint presentation. They stated that s. 27.01 (17) Stats., created under 2009 Wisconsin Act 54, requires the Department to create a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo River State Forest.

Before the Department took ownership of the lands now consisting of the State Park and State Forest, golf cart use was occurring on certain Wisconsin Public Service (WPS) property and boat landings. The use was not formally authorized by WPS and WPS had no way to effectively prevent the use on their lands. Golf cart use did not occur on the former privately owned resort land that became the majority of the Governor Thompson State Park. The Town of Stephenson passed a golf cart ordinance to regulate and allow golf cart use on certain town roads that lead to the historically used sites on the forest and park.

To create the rule state forest and park staff met internally to discuss and view possible golf cart use locations. A meeting was held with leaders of the golf cart users to discuss their list of desired golf cart locations. Other meetings and discussions between department staff and the users took place that led to agreement for a framework of the golf cart rule. That framework was used by Department legal staff to create the draft rule we wish to go to public hearing with. They requested the Board authorize public hearings for Board Order ER-38-10. **(POWERPOINT)**

Discussion followed on whether these places for golf carts are places that cars can go anyway, whether the rule allows for ATV's on the golf cart trail, whether there are any other golf cart areas on state land, and whether the Department has authority to allow golf carts on town roads.

**Dr. Clausen MOVED approval, seconded by Mr. Welter. The motion carried unanimously.**

**Mr. Ela** moved the meeting to agenda item 4.A.

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation

**Public Appearances:**

1. **Ann McCammon-Soltis**, Odanah, representing Great Lakes Indian Fish and Wildlife Commission as Intergovernmental Affairs Director  
*Topic:* Deer management units and overwinter goals; and the results of the Department's consultation with the Voigt Task Force.  
She stated that given the change in goals in Units 2 and 6 since October of last year, she thought they were in agreement biologically speaking about where the goals should be for now. Their concern will be whether those goals might change again in a few years, recreating the biological issue that they originally presented to the Board. The tribes remain concerned about the process that was used to eliminate Unit 5. They have talked with the Department on deer management units. There is no crisis. Goals for unit 2 and 6 came up into the range that the tribes established for their unit 5. States goals are now the same as tribal goals. This has temporarily solved the management issue for the time being.
2. **Patricia Randolph**, Portage, representing self  
*Topic:* follow-up on democracy proposal and bear kill, proposed wolf de-listing and kill.  
She then followed up on their proposal for a fair, safe, and transparent alternate Congress for the majority non-consumptive public to participate in setting nature and wildlife policy as equal informed citizens. Killing license funding is a bias that has destroyed democracy for our commons. The rural bias also needs reformation. Menomonee County with 4,597 residents has five delegates as does Milwaukee County with 915,097 residents in 2006. She requested the Board and Department Secretary complete the citizen questionnaire attached to her handout and return it by November 20, 2010. **(HANDOUT)**

Discussion followed on clarification that Board members are all volunteers.

3. **Anne Emerson**, Madison, representing self  
*Topic:* Citizen disenfranchisement of the WI Conservation Congress (**HANDOUT**)  
She stated that the Conservation Congress does not represent the majority of Wisconsin citizens. Most citizens are non-violent and would love to see wildlife as part of our nature experiences. Almost 90% of the WI public are non-hunters who are drawn to the outdoors to find balance and peace. A proposal to create an alternate Congress and tie it to other statewide elections would make this issue more accessible and less confusing to the average citizen.

**Mr. Ela** moved the meeting to Agenda Item 3.B.4.

- 3.B.4 Request approval of the Capital Springs State Recreation Area Master Plan  
**Dan Schuller**, Parks and Recreation Bureau Director, and **Jeff Prey**, Program and Planning Analyst gave a joint presentation. They stated that the state of Wisconsin partnered with Dane County in 2002 to begin a master planning process for the 2,519 acres of land that is the Capital Springs State Recreation Area (CSSRA). Continuing in the tradition of the original 1969 E-Way planning effort, the primary goal of the CSSRA is to further the vision of an educational, ecological, esthetic, exercise, and environmental corridor system. While these goals and recommendations apply to the entire property, the Capital Springs landscape has been broken into eight units for ease of planning, which are E-Way Unit, Jenni and Kyle Preserve Unit, MMSD Wildlife Observation Unit, Monona Wetland Conservancy Unit, Nevin Springs Unit, Upper Mud Lake Unit, Capital Springs State Park Unit, and Lake Farm County Park Unit. Each of these units offers a different outdoor recreation experience and creates numerous opportunities for outdoor recreation and environmental education. They requested the Board approve the Capital Springs State Recreation Area Master Plan. (**POWERPOINT**)

**Public Appearances:**

1. **Matt Carlson**, Marshall, representing Friends of Capital Springs Recreation Area, Inc. as president. He stated this is a wonderful and unique property that has many opportunities and some challenges. He spoke in support of the master plan. The Friends group has been trying to promote and support the park in advance of the master plan approval which will take the park to the next level. He commends the diligent work by the county and Department. County officials were very responsive to hearing comments. The Plan contains many excellent improvements and features that they support and believe will enhance visitor's experiences. He emphasized a cooperative nature of Capital Springs and the need for continued efforts by the state and County in order to realize the potential of the park. He requested the Board approve the Capital Springs Master Plan.

**Mr. Welter MOVED approval, seconded by Mr. Rohde. The motion carried unanimously.**

**Mr. Ela** congratulated Dick Steffes on his recent Kodak Award which was presented to him in Washington, D.C.

- 3.B.6 Land Acquisition – Statewide Public Access – Door County **DEFERRED FROM SEPTEMBER MEETING**

**Ms. Wiley MOVED approval, seconded by Dr. Clausen.**

Discussion followed on whether this location is a safe harbor for all boats and whether the existing boat launch is useable.

**Ms. Wiley MOVED to amend, seconded by Mr. Welter as follows:**  
**The Board direct the Department to negotiate with Wagon Trail, Inc. to purchase only the area of the long pier and**

**adjoining area for future parking but not to include any of the four existing buildings nor the marina.**

Discussion continued on the usability of the current boat launch, the distance a boat would need to travel to find public landings without access at this site, whether there are other launch sites to access the Mink River, the benefits of the state obtaining this parcel for a landing, and the possible risks to boaters that need to navigate past hazards to get to safe harbor on the Lake Michigan side of Door County.

**Chris Groth**, Warden Supervisor, stated his administrative area is the water. This landing offers access to most of their user group, which have registered boats under 26' and approximately 43% of the registered users have registered boats under 16'. This ramp would allow someone with that size boat to access this body of water, for example, for fishing and for waterfowl hunting. Whereas in order to access Rowley's Bay, they would probably need to launch from Bailey's Harbor or someplace else to get to there which means they would need to come out of a protected harbor to get up to Rowley's Bay. If the wind changes or something in the meantime, they would need to make other arrangements to go into another port. Possible risks would be the rock structure near this access. The boater would need some basic knowledge of what is there otherwise they are going to hit props and possibly hit ground with their boats.

Discussion continued on the use of navigation equipment, kayak launch locations, status of the closing date and deadlines, status of negotiations with the landowner, the unknowns of development that include archeological surveys and the possible need for more land, estimated appraisal of purchasing only the long pier and adjoining area, possible planning and construction scenarios of this parcel, whether the southern portion of the property is developable, whether the Department can develop the property within the five year leaseback, why the Department is dealing with the Town of Liberty Grove and not Door County on the MOU, the location of Schauer Park, and how many state owned properties have a leaseback.

**The motion to amend failed in a voice vote of 1-6.**

**The original motion passed in a roll call vote of 6-1.**

<b>David Clausen – yes</b>	<b>Preston Cole – yes</b>
<b>Jonathan Ela – yes</b>	<b>Gary Rohde – yes</b>
<b>John Welter – yes</b>	<b>Christine Thomas – yes</b>
<b>Jane Wiley – no</b>	

3.B.7 Easement Acquisition, Forest Legacy Program, Sawyer County

Discussion followed who owns the property in the "peninsula" within the series of lines.

**Mr. Welter MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.**

3.B.8 Land Acquisition and New Project Establishment, Menominee River State Park and Recreation Area, Marinette County

**Mr. Cole MOVED approval, seconded by Mr. Rohde.**

Discussion followed on the whether the state of Michigan will purchase the property on the Michigan side of the river or whether it will turn into a condominium development.

**Secretary Frank** stated WE Energies owns the property on both sides of the River. The state of Michigan has been involved in the process. He has talked with his counterpart at MI DNR on this purchase many times. They are very interested and it is in their queue for purchase next year. In these economic times, there are no guarantees. This is truly a spectacular wilderness river and acquisition of this parcel would be a tremendous opportunity.

Discussion continued on whether this parcel will be open to nature based recreation, whether the planning process would need to come back to the Board, and how much of the property has restrictions on development.

**Secretary Frank** stated the location of 300+ acres of property reserved for future development by WE Energies is not specified and is located in Michigan and not Wisconsin. WE Energies has worked with the Department in good faith. A few weeks ago he toured this site with Rod Miller from WE Energies. This is something Mr. Miller has wanted done for many years

**The motion carried unanimously.**

3.B.9 Land Acquisition and Donation – Statewide Public Access – Kewaunee County

**Mr. Welter MOVED approval, seconded by Dr. Thomas. The motion carried unanimously.**

3.B.10 Land Acquisition, Kettle Moraine State Forest - Pike Lake Unit, Washington County

**Dr. Thomas MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.**

3.B.11 Land Acquisition, Black River State Forest, Jackson County

Discussion followed on the possible need for a boundary expansion.

**Mr. Cole MOVED approval, seconded by Dr. Thomas. The motion carried unanimously.**

3.B.12 Land Acquisition, Swan Lake Wildlife Area, Columbia County

Discussion followed on whether the east line is a ditch.

**Dr. Thomas MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.**

3.B.13 Land Easement Purchase and Project Boundary Modification, Evansville Wildlife Area, Rock County

**Mr. Welter MOVED approval, seconded by Mr. Rohde. The motion carried unanimously.**

3.B.14 Land Acquisition, Flambeau River State Forest, Price County

**Mr. Cole MOVED approval, seconded by Dr. Thomas. The motion carried unanimously.**

3.B.15 Land Donation, Statewide Wildlife Habitat Area, Chippewa County

**Mr. Welter MOVED approval, seconded by Dr. Thomas. The motion carried unanimously.**

3.B.16 Land Donation, Statewide Wildlife Habitat Area, Shawano County

Discussion followed on the configuration of the property and whether there are improvements on it.

**Mr. Rohde MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.**

3.B.17 Land Donation, Statewide Natural Area, Sheboygan County

**Mr. Ela** stated this is a Nature Conservancy parcel and that he would abstain from the vote.

**Mr. Welter MOVED approval, seconded by Dr. Thomas. The motion carried on a voice vote**

**of. 6-0-1. Mr. Ela abstained.**

3.B.18 Land Sale, Hank Aaron State Trail, Milwaukee County

**Mr. Cole MOVED approval, seconded by Mr. Welter.**

Discussion followed on whether the Department would need to pay an appreciated value of the land in case of a buy-back.

**Dr. Thomas MOVED to amend the rule to include in the right of first refusal that the Department be credited with the value of the bare land at the date of a potential Departmental purchase but would pay for any increase in building value created by improvements, seconded by Dr. Clausen.**

**The motion to amend carried unanimously.**

**The original motion as amended carried unanimously.**

5. Board Members' Matters

**Dr. Clausen** requested the full Board receive a copy of George Kraft's paper on Groundwater Pumping Effects on Groundwater Levels, Lake Levels, and Streamflows in the Wisconsin Central Sands and that this topic be added to a future agenda as an information item.

**Dr. Clausen** distributed a handout on The Case for Non-toxic Shot on DNR Managed Lands in Wisconsin. He will propose a gradual phase-in of non-toxic shot regulation as his spring Hearing question this January. **(HANDOUT)**

**Dr. Thomas** requested an update on any progress at the Hall deer farm and the Department's fencing authority.

**Mr. Lutz** offered that the Board meet in closed session during their December meeting.

**Mary Ellen Vollbrecht**, Executive Assistant, stated that the Department is looking ahead in continuing regular meetings with the Department of Agriculture, Trade, and Consumer Protection to see if there are any avenues to take. The Department has reached out to a couple partner groups to find a cooperative way to maintain fencing and have reached out to the deer farm group. Options are still open.

**Mr. Welter** requested the Department conduct a study on tree stand injuries.

**Mr. Ela** requested the Department's wildlife staff work with Mr. Welter on this study.

**Ms. Wiley** stated that the road to Rib Mountain State Park is progressing very nicely. This project has been time and money well spent.

**Mr. Ela** requested members of the Board consider what dollar threshold should be used to approve land purchases and donations to the Department. He offered the thresholds of \$15,000 for donations and \$300,000 for land acquisitions. The Board agreed to the \$15,000 threshold for donations and will consider the purchase threshold at a later meeting after reviewing material submitted by Mr. Steffes.

6. Special Committees' Reports

None

7. Department Secretary's Matters

**Secretary Frank** stated that the Department should receive close to a \$1 million grant from the U.S.D.A. Voluntary Access Program. He thanked the conservation organizations and Department staff that assisted in this process. Grant funds will allow the Department to increase rural access for hunting. He will keep the Board informed on the access program.

The Lake Superior National Estuarine Research Reserve, located on the St. Louis River Freshwater Estuary in the City of Superior, had its official dedication on October 26. He thanked the hard work of Department staff, UW-Superior, UW-Extension, and many other parties including Congressman Dave Obey who was a huge supporter of this designation.

After the September Board meeting, the west and central part of the state were impacted by heavy rains. There was a critical period at the Caledonia levy below Portage which is an area the Department has grappled with for years. Department staff worked around the clock over the course of that weekend. The 100 year old levy did survive the flooding event. The Department will be working with local citizens and officials as a partner in the group to look at the future of that area. To get this levy up to standards, it would take tens of millions of dollars.

He attended the groundbreaking at the Charter Street Biomass Plant. Construction will convert the plant from coal to biomass and natural gas. He thanked all Department staff who worked on this issue. The Department has been involved with the Department of Agriculture, Trade, and Consumer Protection, Office of Energy Independence, and the University of Wisconsin and will bring in other stakeholders to make sure sustainable biomass feeds into this plant. This will benefit farmers and enhance the landscape.

Hunting season is strongly underway. So far this year, there has been a 26% increase in participants in the second year of the mentored hunting law.

On September 20, the Department graduated a recruit class of ten from the warden training class. These recruits are needed in the field to fill projected retirements.

Late September, he was privileged to join the Governor's Trade Mission to China. It was an incredible experience. China plans to start spending more money on environmental protection. Eight out of ten of the most polluted cities in the world are in China in terms of air pollution and water pollution. The Department will continue to work with China across government lines to provide them assistance. There is also opportunity for Wisconsin companies to export services and products to China.

Next week Wisconsin will be hosting the EPA's Innovation Symposium. He invited the Board Members to attend. This is late notice but the Department will provide additional information on the symposium if the Board would like. One of Wisconsin's innovations that was recognized nationally and will be discussed next week is Wisconsin Plant Recovery Initiative which deals with plant closings and turning those properties around for a productive future.

He stated that the WI Conservation Congress Liaison position is getting close to being filled. He is hopeful that the Department will have that person at the December meeting.

He concluded with Governor Doyle's recent announcement that Johnson Controls was accepted into the Department's Green Tier Program due to their long standing commitment to sustainability and commitment to going above and beyond standard environmental requirements. Johnson Controls was recognized at an event celebrating The Nature Conservancy's (TNC) 50 years of conservation in Wisconsin. TNC announced they have a \$30 million land acquisition campaign in WI of which they have already raised \$27 million.

- 7.A. Retirement Resolutions
- 7.A.1 Charles S. Horn
- 7.A.2 Darryl Fenner
- 7.A.3 David Vetrano
- 7.A.4 Thomas M. Aten

**Secretary Frank** stated that you can say something special about everyone that comes before the Board for retirement. David Vetrano is at the meeting. He has been an amazing professional and a great fish biologist. Dave has been a true visionary and great leader at the Department.

**Mr. Welter MOVED approval, seconded by Dr. Clausen of the retirement resolutions.**

**Mr. Welter** seconded Secretary Frank's comments and added that over the past 15 – 20 years of

working with Dave, he has seen the impact Dave has had in not only southwestern WI but also in other states. He has mentored people in MN and IA who had run into problems with watershed conservation and he shared his expertise. Dave always wanted to make a mark and his mark was the development of a LUNKER structure, which is an acronym for an underbank structure. It stands for "Little Underwater Neighborhood Keeper Encompassing Rheotactic Salmonids". He has provided inspiration for a large amount of people.

**The motion carried unanimously.**

7.B. Donations  
None

8. Information Items

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

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

8.B.1 Update on Great Lakes commercial trap net fishing

**Mike Staggs**, Fisheries Management and Habitat Bureau Director, **Chris Groth**, NER Lake MI Warden Supervisor, and **Philip Moy**, UW Sea Grant Institute Fisheries and Invasive Species Specialist gave a joint presentation. They gave a brief rule-making chronology of trap netting restrictions and fishing trends. They then reported on Law Enforcement's investigation into the June 25 death of an angler whose boat he was riding in snagged a buoy line and capsized, resulting in petitions for rule change from sport fishing anglers. The Department has also discussed this issue at meetings of the Lake Michigan Fisheries Forum (LMFF), the Great Lakes Study Committee of the WI Conservation Congress (GLSC), and the WI Federation of Great Lakes Sport Fishing Clubs. Recommendations and possible actions were given to the Department. Sea Grant actions were presented which included trap net handouts and brochures, trap net maps with coordinates, outreach, and amber strobe lights marking the netting. Sea Grant will also schedule trap net workshops for the months of November and December.

As required by statute, the Department will consider the petitions and prepare specific rule proposals for consideration by the Board at the December 8 meeting. The Department may also bring forward a separate rule proposal reflecting one or more of the suggestions taken from the LMFF, GLSC, or Sea Grant workshop discussions. **(MOY HANDOUTS)**

**Mr. Staggs** thanked Department staff Bill Horns and Chris Groth along with Phil Moy for their work with stakeholders.

Discussion followed on the June 25 weather, the size of boat used by the fisherman, whether a risk analysis would be done, and the number of commercial fisherman that gave GPS coordinates of their nets to Sea Grant for mapping purposes.

**INFORMATIONAL ITEM – NO ACTION WAS TAKEN**

8.B.2 Department initiatives to reduce lead in the environment

**Tammy Ryan**, Wildlife Health Section Chief and **Sean Strom**, Wildlife Toxicologist, gave a joint presentation. They stated that a healthy environment is vital to the people and the fish and wildlife populations of Wisconsin. The harmful effects of lead to people are well known and lead is a known environmental pollutant harmful to fish and wildlife. The Department is dedicated to exploring all opportunities to reduce its own use of lead and to educating the public on the benefits of non-lead alternatives for fishing tackle and ammunition with the goal of reducing the amount of lead in the environment. This action plan outlines goals with associated action items, and steps to meet those actions, to reduce the amount of lead in the environment in present day as well as both short and long-term future.

**Ms. Ryan** thanked the Lead Working Group team members in attendance at today's meeting, Department staff Todd Schaller, Candy Schrank, Teresa Stabo, and Scott Loomans, for their efforts on this initiative.

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Discussion followed on whether the Department is committed to following up on this initiative, whether the Department can require lead-free shot on state owned shooting ranges, concerns that the Department is not going far enough, whether conservation leaders can move their organizations to use lead-free shot and tackle, the WI Conservation Congress spring 2010 lead tackle vote, and whether manufacturers would be able to get lead-free alternatives on the market.

**INFORMATIONAL ITEM – NO ACTION WAS TAKEN**

**Dr. Clausen MOVED, seconded by Mr. Rohde to adjourn the meeting. The motion carried unanimously.**

\*\*\*The meeting adjourned at 4:20 p.m.\*\*\*

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