

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Tuesday, February 26, 2008, in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 2:30 p.m. for action on item 1. The meeting adjourned at 5:16 p.m.

Tuesday, February 26, 2008

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

David Clausen – present	Preston Cole – present
Jonathan Ela – present	Gerald O'Brien – present
John Welter – present	Christine Thomas – present
Jane Wiley - present	

1.B. Approval of agenda for February 26-27, 2008

Dr. Thomas received a request from Randy Stark to amend the agenda so he could present Item 3.A.3 and then attend a hearing scheduled for 9 a.m. on Wednesday, February 27. Item 3.A.3 would be presented first and Item 3.A.1 would be presented second.

The Board agreed.

Mr. Ela MOVED, seconded by Mr. Welter approval of the agenda as amended for February 26-27, 2008. The motion carried unanimously.

8. Information Items

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

8.A.1 Briefing on Ballast Water – Preventing the Introduction of Aquatic Invasives

Matt Frank, DNR Secretary stated the state is working with the Great Lakes Council, the state's congressional delegation, and other congressional leaders to pass legislation to establishing a nationwide ballast water regulatory program.

Roger Larson, Deputy Bureau Director, Bureau of Watershed Management briefed the Board on a feasibility study on the off-ship treatment of ballast water at the Milwaukee harbor and aquatic invasive species. He advised the Board that the Department, according to legal staff, has legal authority under the Clean Water Act to proceed with a regulatory program. The Department needs to address administrative processes, monitoring, compliance, and to ensure that cost effective technology, Best Management Practices (BMP's) and appropriate performance measures are readily available to ensure compliance. The Department may need to move ahead soon to protect Wisconsin waters from the influx of additional aquatic invasives if the federal government does not proceed with a nationwide ballast water program.

Discussion followed as to Wisconsin's legal authority to control ballast water dumping, Minnesota's permit system, what triggers a permit, the ballast water exchange process, Coast Guard restrictions, economic consequences of permitting in Wisconsin and neighboring states, the rule making process, general permit system and alternatives for assuring compliance, ballast water treatment, possible sources of invasive species, the St. Lawrence Seaway, the quantity of Wisconsin ports and usage, and the Great Lakes Compact.

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

8.B.1 Northern Highland – American Legion State Forest ATV Trail Alternative

Feasibility/Suitability Assessment

Paul DeLong, Division of Forestry Administrator gave an overview of the content of the presentation.

Steve Petersen, State Forest Superintendent, Division of Forestry briefed the Board with information on the Department's feasibility/suitability assessment for trail alternatives as well as information collected during the Stakeholder Group process and the public involvement comment period that followed. He stated public comment will be taken at the April Board meeting, at which time he will also provide additional data on the current status of ATV trails on state lands.

Discussion followed as to the make-up of the Stakeholders Group, the outcome of public hearings, estimated trail and maintenance costs, budget, grants, trail standards, township responsibility, law enforcement, timetable for decision, and private easements.

Dr. Thomas requested that Mr. Welter (Land Management, Recreation and Fisheries/Wildlife Committee Chair), herself, and Mary Ellen Vollbrecht work together to ensure this item is on an appropriate month's Board agenda.

Additional discussion followed related to grants and cost-sharing,

8.B.2 **Annual Great Lakes Commercial Fishing Review**

Bill Horns, Great Lakes Fisheries Coordinator, Bureau of Fisheries Management stated that although the Department holds the authority to set harvest limits, the Commercial Fishing Boards for Lake Michigan and Lake Superior are now required by statute to recommend species harvest limits, and the Department is required to give due consideration to those recommendations. He briefed the Board on the trends in Great Lakes fish populations; expected changes in commercial quotas in the next year; review of assessment and analysis methods used in the development of commercial quotas; and significant related developments and issues.

Discussion followed related to transferrable licenses, quotas and value, harvest, and methods of harvest used.

Public Appearance:

Mark Maricque, Green Bay, Lake Michigan Commercial Fishing Board (Handout) spoke on the rapid changes happening to the Great Lakes. He stated there are multiple invasive species impacts on the commercial fisheries. He requested the minimum catch requirement be eliminated and the license year be changed to a calendar year (January 1 to December 31). He requested the Department eliminate lamprey eels and to further reduce cormorant populations. He also voiced his concern over the delay in the rule making process.

Discussion followed on rough and detrimental fish in Lake Michigan, and the timetable for the rule.

Dr. Thomas asked why this item that was approved by the Board in December 2007 did not go over to the Legislature until February 8, 2008.

Mary Ellen Vollbrecht, Executive Assistant, stated she will look into this issue and will report back to the Board.

Discussion followed on minimum catch and property rights.

Mr. Cole MOVED, seconded by Mr. Welter to recess the meeting until 8:30 a.m. Wednesday. The motion carried unanimously.

The meeting was recessed at 5:16 p.m.

February 26-27, 2008

The regular meeting of the Natural Resources Board resumed on Wednesday, February 27, 2008, 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 2:05 p.m.

Wednesday, February 27, 2008

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

David Clausen – present	Preston Cole – present
Jonathan Ela – present	Gerald O’Brien – present
John Welter – present	Christine Thomas – present
Jane Wiley - present	

1.B. Approval of minutes from December 4-5, 2008

Mr. Welter MOVED, seconded by Mr. Ela approval of the minutes as presented. The motion carried unanimously.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Welter MOVED, seconded by Mr. O’Brien approval of the real estate transactions.

Mr. Ela requested clarification on Shar Pen item “prior to admin approval” within transaction status and what the date of 2/13/08 refers to.

Richard Steffes, Real Estate Director, Bureau of Facilities and Lands stated he will email Mr. Ela Clarification on the Shar Pen item.

The motion carried unanimously.

3. Action Items

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

3.A.1 (previously listed as 3.A.3) Presentation of the Shikar-Safari Club International Wildlife Officer of the Year Award for Wisconsin

Randy Stark, Law Enforcement Bureau Director, Division of Law Enforcement and Science and **John Pierson**, Safari Club jointly presented the award to Steve Dewald.

Steve Dewald, Warden Team Supervisor, Bureau of Law Enforcement thanked all the people that helped him achieve this award.

3.A.2 ~~Request adoption of Board Order AM 23-07, revisions to chs. NR 400, 404, and 484, Wisconsin Administrative Code, pertaining to air quality standards for particulate matter.~~ Deleted from agenda.

3.A.3 (Previously listed as 3.A.1) Request adoption of Board Order AM-24-07, proposed rules affecting NR 406, 407 & 445 pertaining to the timeline for implementation of air permit and hazardous air pollutant requirements for emissions associated with agricultural waste

Eileen Pierce, South Central Regional Air and Waste Leader, Division of Air and Waste noted that this rule was tabled at the January 2008 meeting. She stated that the purpose of this proposal is to extend the compliance deadline to July 31, 2011 for air permit and hazardous air pollutant requirements associated with agricultural waste, under chs. NR 406, 407, and 445. Results of ongoing state and federal air monitoring studies of animal feeding operations will not be available in time to support implementation of current rules by the July 2007 and June 2008 compliance deadlines. Extension of the compliance deadline to July 31, 2011 will allow sufficient time for

completion of these studies and development of compliance plans by affected sources. She requested the Board adopt the proposed rule.

The Board reviewed motions made at the January 2008 meeting.

Mr. O'Brien withdrew his motion.

Mr. Welter withdrew his motion.

Discussion followed regarding control installation, federal standards, and the compliance deadline.

O'Brien MOVED, seconded by Mr. Ela approval of the request for adoption of Board Order AM-24-07, proposed rules affecting NR 406, 407 & 445 pertaining to the timeline for implementation of air permit and hazardous air pollutant requirements for emissions associated with agricultural waste. The motion carried unanimously.

Dr. Thomas moved to Agenda Item 3.B.6 since Mr. Hennessy was not available for his presentation for agenda item 3.B.1.

3.B.6 Land Acquisition – Ice Age Trail – Marathon County

Dr. Clausen MOVED, seconded by Ms. Wiley approval of Land Acquisition – Ice Age Trail – Marathon County. The motion carried unanimously.

3.B.7 Land Acquisition and Project Boundary Modification – Willow Flowage Scenic Waters Area – Oneida County

Mr. Welter MOVED, seconded by Mr. Ela approval of Land Acquisition and Project Boundary Modification – Willow Flowage Scenic Waters Area – Oneida County. The motion carried unanimously.

3.B.8 Easement Acquisition – Forest Legacy Program – Forest and Marinette Counties

Mr. Ela stated his wife works at The Nature Conservancy but that she did not take part in this transaction. He does not need to recuse himself from the vote.

Ms. Wiley MOVED, seconded by Dr. Clausen approval of Easement Acquisition – Forest Legacy Program – Forest and Marinette Counties. The motion carried unanimously.

Dr. Thomas continued the meeting with agenda item 3.B.3

3.B.3 Request authorization for public hearings on Board Order WM-05-08, related to the control of CWD in White-tailed Deer.

Alan Crossley, Wildlife Biologist, South Central Region stated that the recommended Department modifications to chapters NR 10, 12, and 19, Wisconsin Administrative Code, relating to the control of chronic wasting disease is intended to serve as the deer hunting season framework in the CWD zone beginning in 2008. The proposed rule would combine two CWD management zones into one with one season framework and consistent regulations; establish deer population goals that are 20% below the goals established in 2001; establish season structures that are similar to the rest of the state with the addition of a late antlerless only gun hunt; and prohibit the importation of whole cervid carcasses from areas in Wisconsin and other states where CWD is found. He requested the Board approve authorization for public hearing.

Discussion followed related to the Stakeholders Report and long-term plans and priorities, enforcement of the importation of cervid carcasses, scientific basis for reducing the season, the social and political challenges to make it work, the CWD Management Plan, surveillance, budget reduction and its impact, and incentives for shooting deer.

Mr. O'Brien MOVED, seconded by Ms. Wiley approval of the request for authorization for public hearings on Board Order WM-05-08, related to the control of CWD in White-tailed Deer.

Dr. Clausen MOVED, seconded by Dr. Thomas to amend the Deer Season Framework by substituting an either sex firearm season under Earn-a-Buck requirements from December 15 through January 4 in place of the proposed antlerless only December 26 through January 4 firearm season.

Discussion followed on the sociological factor to a holiday season hunt.

Dr. Thomas MOVED to amend the Deer Season Framework by substituting an either sex firearm season under Earn-a-Buck requirements from December 26 through January 4 in place of the proposed antlerless only December 26 through January 4 firearm season.

Discussion continued on extending the hunting season and the public hearing process.

Tim Andryk, DNR attorney, Bureau of Legal Services stated the Department can have options and have done this before. During the early trout season, the Department had five different alternatives that were taken out to hearing and allowed people to weigh in on each alternative and came up with a preferred alternative and went back to the Board for adoption. The Board will have more flexibility if there are more options or a broader proposal that goes out to hearing. If you add something after the hearing, like a new season, that people did not have an opportunity to comment on, that is where it gets more difficult. People could argue they did not have an opportunity to comment and that it was outside the scope of the rule. If the Board does that, the Legislature upon review could raise that as an issue.

Discussion followed on public hearing alternatives.

Dr. Clausen and Dr. Thomas withdrew their motions.

Discussion followed on the quantity and location of the public hearings.

Mr. O'Brien and Ms. Wiley accepted as a friendly amendment to their original motion a provision to include two additional options for the CWD Deer Season Framework: 1) December 15 – January 4 either sex firearm season under Earn-a-Buck requirements; and 2) December 24 – January 4 either sex firearm season under Earn-a-Buck requirements. The original motion with amendment carried unanimously.

Dr. Thomas continued the meeting with agenda item 3.B.1

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

3.B.1 Request adoption of Emergency Board Order FH-07-08(E), related to proposed trout regulations in the Prairie River, Lincoln County

Joe Hennessy, Natural Resources Staff Specialist, Bureau of Fisheries Management stated that this rule creates a protective regulation for brook trout and brown trout in the Prairie River, Lincoln County, between R & H Road and STH 17. Harvest of brown trout less than 18 inches and harvest of brook trout less than 12 inches would be prohibited by this rule, and anglers would only be allowed one trout in total from this section of river. This regulation is one that was in place between May 2003 and the present but is slated to be replaced May 3, 2008 with a regulation that would allow harvest of three trout in total from the Prairie River, with a 12 inch minimum for brown and rainbow trout and an eight inch minimum for brook trout, with no bait restrictions. He requested the Board adopt the proposed rule.

Discussion followed regarding prior data, purpose of rule, the spring hearing process, and management of the river.

Public Appearances:

1. **Rich Ament**, Wausau, representing himself (Handout) spoke against adoption of the emergency rule.
2. **Jack Ament**, Chippewa Falls, representing himself (Handout) spoke against adoption of the emergency rule.
3. **Bob Seetan**, Tomahawk, representing himself spoke against adoption of the emergency rule. He stated access to the river to the south of this section becomes progressively worse and access to the north is almost impossible.
4. **Don Bluhm**, Whitefish Bay, representing himself spoke in support of the emergency rule. He stated there were at least 30 access points in 40 miles of river. Anyone can fish on the Prairie River and can fish where they want.

Discussion continued related to this item being a social versus scientific issue.

5. **John Hager**, Wausau, representing himself spoke in support of the emergency rule.
6. **Bob Martini**, Rhinelander, representing himself spoke in support of the emergency rule.

Discussion followed regarding size limits.

7. **Ed Harvey**, Waldo, Wisconsin Conservation Congress Chair (Handout) stated that adoption of the emergency rule is not appropriate at this time. The Conservation Congress would support an emergency rule if the Prairie River spring hearing question is successful.

Discussion followed related to the April 2008 spring hearing rule question, outcome of lesser restrictions, and the possibility of an emergency rule at the April 2008 NRB meeting.

Mr. Andryk stated that it would be difficult to get the word out for an Emergency Rule since the Department would have one week before the season opens. The Board could take this up at the April Board meeting, when the results of the Spring Hearings will be known.

Discussion followed on the initial regulation and compromise, and whether an emergency rule can be cancelled.

Mr. Andryk stated an emergency rule can be cancelled.

Discussion continued related to the process question of what information was contained in the 2007 spring hearing question, evaluation of the impact of the regulation, Wisconsin Conservation Congress relationship with the Board, and Department responsibility.

Mr. Welter MOVED, seconded by Dr. Clausen approval of the request for adoption of Emergency Board Order FH-07-08(E), related to proposed trout regulations in the Prairie River, Lincoln County.

Discussion continued related to fisheries management, the Department recommendation, and the objective of the initial regulation.

The motion for approval failed in a roll call vote of 2-5.

David Clausen – yes Preston Cole – no
Jonathan Ela – no Gerald O'Brien –no

John Welter – yes **Christine Thomas – no**
Jane Wiley – no

Dr. Thomas stated that if the Prairie River question is passed during the spring 2008 hearings, this item would return to the April 22-23, 2008 Natural Resources Board agenda.

3.B.2 Adoption of a plan for implementing recommendations from the audit of the Sex-Age-Kill model for estimating deer populations.

Keith Warnke, Staff Specialist, Bureau of Wildlife Management stated that the final SAK Audit report was accepted by the Board in February 2007. The stakeholder steering committee recommended implementing the actions below to improve the Department's use of the SAK model and build credibility with the public regarding deer population estimates. Achieving all five objectives may depend on available Department budget resources. The Department budget process is beginning and the availability of money to fund additional deer research is unknown at this time. He requested the Board adopt the proposed plan.

Discussion followed on the timeframe for implementation of the plan, how CWD affects the numbers, and harvest pressure.

Public Appearances:

1. **Ed Harvey**, Waldo, Wisconsin Conservation Congress Chair requested the Board tweak SAK as time goes on and to support this with any money that may be required. He spoke in support of the report.

Dr. Clausen MOVED, seconded by Ms. Wiley approval of the Adoption of a plan for implementing recommendations from the audit of the Sex-Age-Kill model for estimating deer populations.

Discussion followed regarding cost effectiveness, public acceptance, budgetary concerns, and credibility.

The motion carried unanimously.

3.B.4 Request authorization for public hearings on Board Order WM-06-08, modifications to chs. NR 1, 8, 10, 11, 12, 15, 16, 17, and 19, the 2008 Wildlife Management Housekeeping Rule package

Scott Loomans, Staff Specialist, Bureau of Wildlife Management stated that these technical rule changes are minor and non-controversial in nature and can most effectively be handled through wildlife management's annual housekeeping rule package. The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations, expand the types of services that Customer Service & Licensing may provide, and update administrative code language and references. In most cases the policy issues affected by this rule are ones which have already been addressed by previous rulemaking. He requested the Board approve authorization for public hearing.

No discussion took place.

Mr. O'Brien MOVED, seconded by Mr. Ela approval of the request for authorization for public hearings on Board Order WM-06-08, modifications to chs. NR 1, 8, 10, 11, 12, 15, 16, 17, and 19, the 2008 Wildlife Management Housekeeping Rule package. The motion carried unanimously.

3.B.5 Request authorization for public hearings of Board Order FR-03-08, revisions to NR 46, related to stumpage rates, definition changes and additions, and procedural changes to petitions and management plan packets

Kathryn Nelson, Forest Tax Section Chief, Bureau of Forest Management stated that the Department is required to assess the value of cut wood products from FCL and MFL lands based

on the current stumpage value schedule. Stumpage values are determined each year by surveying industry, private forestry consultants and DNR field staff on the prices obtained the previous year for wood products by species, product type, and zone. These values are recalculated annually using a weighted three-year average and published in NR 46.30. The stumpage value charts are used to determine severance and yield tax for participants in the Forest Tax Law programs. It is important to adjust these values annually so that landowners are not paying too much or too little in yield/severance tax. The monies collected are distributed to the municipalities within which the land is located to help offset reduced property taxes collected from these lands. She requested the Board approve authorization for public hearing.

No discussion took place.

Mr. Welter MOVED, seconded by Mr. Ela adoption of the request for authorization for public hearings of Board Order FR-03-08, revisions to NR 46, related to stumpage rates, definition changes and additions, and procedural changes to petitions and management plan packets. The motion carried unanimously.

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation

Public Appearances

1. **Craig Stinebrink**, Hillpoint, representing himself. Topic: 2008 leftover spring turkey permits available for sale. He expressed concern about this winter's wild turkey survival in light of the season's heavy snowfalls, and requested that the Board approve reductions to the sale of the 2008 leftover spring turkey harvest permits.

5. Board Members' Matters

Dr. Clausen requested the Board receive a briefing from Bryan Richards, USGS, on Chronic Wasting Disease (CWD).

Mr. Welter stated that the Stewardship Subcommittee will work with staff to schedule a short series of listening sessions around the state as soon as they can be scheduled. The Subcommittee will report back to the full Board upon completion of their report.

Dr. Thomas requested that the full Board receive an annual summary of the wolf management plan.

Dr. Thomas requested a literature review on the sub-lethal damage from wolves be presented to the full Board at a meeting prior to the final Wolf Management Plan coming before the Board. If necessary, staff should contact Dr. Thomas for clarification of her request and/or for examples of a literature review.

6. Special Committees' Reports

None.

7. Department Secretary's Matters

Secretary Frank gave an overview of the Governor's Global Warming Task Force Report with preliminary recommendations. He stated each Board member will receive a copy and hopes that the Board will find it informative. He then briefed the Board on the status of the Great Lakes Compact. The Compact is currently before the Legislature.

Discussion followed related to Legislative concerns, Governor's right to veto, and the Compact's potential impact on Wisconsin economics and the environment.

February 26-27, 2008

7.A. Retirement Resolutions

7.A.1 Kenneth D. Olson

Mr. Ela MOVED, seconded by Dr. Clausen approval of the retirement resolution. The motion carried unanimously.

7.B. Donations

7.B.1 A. Finkl & Sons will donate \$261,500 to provide financial assistance to support tree planting in Wisconsin State Forests from 2008 – 2018

Discussion followed on the history of this donation.

Dr. Thomas MOVED, seconded by Mr. Ela approval of the A. Finkl & Sons donation of \$261,500 to provide financial assistance to support tree planting in Wisconsin State Forests from 2008 – 2018. The motion carried unanimously.

7.B.2 The Johnson Family Foundation will donate \$17,000 in support of the Trumpeter Swan Program and the Piping Plover Program

Dr. Clausen MOVED, seconded by Mr. Welter approval of the Johnson Family Foundation donation of \$17,000 in support of the Trumpeter Swan Program and the Piping Plover Program. The motion carried unanimously.

7.B.3 The Devil's Lake Concession Corporation will donate \$10,000 to help defray costs for the aerial spraying of gypsy moths

Mr. O'Brien MOVED, seconded by Mr. Cole approval of the Devil's Lake Concession Corporation donation of \$10,000 to help defray costs for the aerial spraying of gypsy moths. The motion carried unanimously.

Mr. Cole MOVED, seconded by Mr. O'Brien to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 2:05 p.m.

NOTE: Each Natural Resources Board meeting is recorded. Tapes of each meeting are available for purchase by contacting the Natural Resources Board at 608-267-7420. The following resources are also available: Agenda Item Packets (green sheets), supporting documents, and public comment.