

MAY 27, 2009

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, May 27, 2009 in the Lower Dells Conference Room, Ho-Chunk Casino Hotel & Convention Center, Baraboo, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 3:05 p.m.

Elliott Funmaker, member of the Bear Clan from the Ho-Chunk Nation welcomed the Board and Department to Baraboo. His attire and headdress belonged to his grandfather, Harry Funmaker. He stated the Department is needed to govern the air, water, and land. We all need to work with Mother Nature or she will turn against you.

In honor of Memorial Day weekend, he noted that Ho-Chunk has the highest percentage of people going into the branches of service. Without warriors, we would not have the liberties we have now.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

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

1.B. Approval of agenda for May 27, 2009

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

1.B. Approval of minutes from April 21-22, 2009

Mr. Welter MOVED approval, seconded by Ms. Wiley and to include the following revisions at Section 5 – Board Members Matters, Page 11.

Mr. Welter reported on the Swain – Shot gun/rifle issue and recommended that trees to the south east are obscuring the shot lines and should be tipped in that area to clarify the ~~site~~ *sight* lines. He will contact Lois Swain and update her on his findings. *He also reported that he spoke with various people regarding the rifle-shotgun issue in the CWD area and made a recommendation that no Board action be taken.*

Dr. Thomas thanked Mr. Welter for his report and for taking the time to view the property. *She requested Department staff contact Lois Swain on the findings.*

The original motion as amended carried unanimously.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Discussion followed on the DOT parcel – abandoned wayside.

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

- 3. Action Items
- 3.A. Air, Waste, and Water/Enforcement
- 3.A.1 ~~Request Adoption of Board Order WT-28-04, revisions to NR 115 Wisconsin Shoreland Management Program (Gregory Breese, 60 minutes)~~ **DELETED**
- 3.A.2 Request Adoption of Board Order WT-36-07, revisions to NR 102 and NR 106 relating to water quality standards for heat and associated procedures for the calculation of point source effluent limitations

Russ Rasmussen, Watershed Management Bureau Director stated that the adoption of these rules will establish a more realistic set of standards and procedures for protecting fish and aquatic life from discharges of heat into waters of the state. A primary reason for this is that existing policy does not effectively consider the ability of the receiving water to assimilate heat, nor does it adequately account for the different biological needs of fish and aquatic life over the course of the varying seasons in a year or across different water body classifications. The rules not only allow each receiving water to be evaluated for its own heat dissipating characteristics, but also account for the biological needs of aquatic life during different times of the year, which is addressed primarily through the application of both acute and sub-lethal monthly temperature water quality criteria. The inclusion of the sub-lethal criteria and the application of criteria on a monthly basis is a significant difference between the existing and proposed rules, but one that clearly makes the proposed rules much more water quality-based. He requested the Board approve Board Order WT-36-07 and include the three clarifications motions from the Department. **(PowerPoint and Handout)**

Discussion followed on the Environmental Protection Agency's (EPA's) main objection to the rule, which staff are responsible for working out the objection with EPA, clarification on mixing zone, Sub. 368 of the Clean Water Act, whether there has been any damage done to the fishery from hot water and whether any research has been done, whether any program are currently available to industry to ease financial burden, EPA's concerns with 106.59, how the proposed process will work, whether winter months are more acute, how lethality is measured in mixing sites, the difference between this proposed rule and what EPA wants, what happens to a new POTW that has no history, what staff's recommendation are for the quickest way to deal with this, and when EPA received this proposed rule.

Public Appearances:

- 1. **Helen Sarakinos**, Madison, representing the River Alliance of Wisconsin. She stated they are anxious to see water standards in place. They have criticized different aspects of the rule, but this is a big step in the right direction. Up until Tuesday they had been in general support of promulgating rules. However, recent changes were alarming to her and content of the proposed rule deserves closer scrutiny. In NR 106.59, the section on POTW's had big changes. The rule has put all burden on the agency to demonstrate harm. They have had only a limited time to look at this. They have had no input on the proposed rule in its present form.

Discussion followed on the lateness of the green sheets (rule packages).

- 2. **Edward Wilusz**, Oshkosh, representing the Wisconsin Paper Council (WPC) stated their opposition to the thermal standards rule. Their opposition is based largely on uncertainty relating to implementation and potential compliance costs, and partly on frustration over the process and how the Department ended up with the final rule. If EPA wants to change the rules of the thermal discharge game, then it should do so openly, in a manner that is subject to public review and comment, and that is applied uniformly to all states. It should not strong-arm an individual state through the rule approval process.

At the end of the day, we are left with the potential for a struggling industry to spend millions of dollars to address a problem of unknown magnitude, if it is a problem at all, in a manner unique to Wisconsin. Our regulatory system should not put companies in this

position. For all practical purposes, we are left at the mercy of the Department to exercise flexibility on a case-by-case basis in a way that will avoid significant cost impacts. This is not a position that we can support. **(Handout)**

Discussion followed on whether there was a potential opportunity to reuse this heat for some benefit at the heat producing facility, whether WPC was suggesting it would go through the legislative process, and why there are hardly any grants or funding available for businesses to retool plants.

3. **Nick George**, Madison, president of the Midwest Food Processors Association, outlined his group's opposition to the final thermal standard rule. MFPA members believe the rule will force the fruit and vegetable canning and freezing industry to consume more energy and increase water use, and will impose additional regulatory and financial pressures on an industry that is highly competitive. They urged the Board to consider deferring action on this proposed rule and to direct staff to seek a statutory change that would allow the state to use an approach that others states use. They are willing to participate in that process. **(Handout)**
4. **Betsy Lawton**, Madison, representing the Midwest Environmental Advocates stated they have not had an opportunity to fully comprehend the implications of several proposed changes since they had only three working days to submit these comments. Their three main concerns with the proposed rule are: 1) There is no language that prohibits lethality within the mixing zone. All other toxic and organoleptic substances may not exceed acute criteria within the mixing zone. Even if we allow that heat dissipates much faster than other toxins, there must still be language preventing mortality from heat in the mixing zone. 2) Proposed General Permit for Noncontact Cooling Water language does not comply with Clean Water Act requirements for general permits and public participation. 3) Significant changes have been made to provisions regarding the calculation of thermal water quality based effluent limits for POTWs that may eliminate necessary protections. **(Handout)**

Mr. Ela asked if Ms. Lawton could work with the staff to have wording for a motion to clarify the language, but to not make changes to the proposed rule, regarding mortality within the mixing zone.

Ms. Wiley MOVED approval, seconded by Mr. Ela, to include clarifying language as follows:

- 1) **Amend section NR 106.59(4)(a) as created by Board Order WT-36-07 (page 31) – (a) The daily maximum temperature of the effluent after mixing with the receiving water may be greater than the applicable sub-lethal water quality criterion specified in s. NR 102.25 or determined under s. NR 102.27. In making this determination the Department may review the following:**
- 2) **Amend section Nr 106.59(5)(b), as created by Board Order WT-36-07 (page 32) – (b) The Department shall establish acute effluent temperature limitations for a new POTW discharge or relocated POTW outfall to a surface water classified as cold water, warm water sport fish, warm water forage fish, or limited forage fish whenever the estimated daily maximum effluent temperature is greater than the applicable water quality criterion specified in s. NR 102.25 or determined under s. NR 102.27. The applicable acute water quality criterion shall be based on the ambient temperature in s. NR 102.25 or approved under s. NR 102.26.**
- 3) **Amend to make the following corrections to Board Order WT-36-07:**
 - i) **Section 26, Page 22: In the subdivision in s. NR 106.53(2)(a)1, the phrase "For and" is a typographical error and should be deleted.**
 - ii) **Section 26, Page 22: The paragraphs in s. NR 106.53(2) are relettered so they are consecutive and letters are not repeated.**

- iii) **Section 26, Page 24: The variable definition for Q_e in s. NR 106.55(6)(b) refers to the wrong paragraph and should read “ Q_e = Effluent flow rate in mgd as specified in s. NR 106.53(2)(b)-(d).**
- iv) **Section 26, Page 33: The paragraphs in s. NR 106.61(1) are relettered so they are consecutive and letters are not repeated.**

The motion to amend to include the clarifying language carried unanimously.

Mr. Ela MOVED to amend, seconded by Dr. Clausen to include clarifying language on page 33 as follows:

- 1) **Amend section NR 106.61(1)(f), as created by Order WT-36-07 – (f) Discharge does not contain a water treatment additive ~~applied by the permittee, unless approved in writing by the department.~~ including biocides. However, the department may approve in writing the use of water treatment additives that are not biocides.**
- 2) **Amend section NR 106.61(2)(a), as created by Order WT-36-07– (a) Coverage under the general permit for discharges containing water treatment additives, ~~including~~ except for biocides, provided all other requirements of this chapter are met.**

The motion to amend page 33 carried unanimously.

Ms. Lawton shared her motion language with the Board.

Mr. Ela MOVED to amend, seconded by Mr. Welter on page 8, Section 17: NR 102.04(4)(e) Temperature. Water quality criteria for temperature shall be determined and applied pursuant to subch. II. Heated effluent shall not cause lethality, *inside or outside of the mixing zone*, to animal, plant or other aquatic life. The motion to amend NR 102.04(4)(e) carried unanimously.

Discussion followed on the lack of public input.

Dr. Clausen and Mr. Ela requested that if this item comes back before the Board that all affected parties of the rule be allowed to fully participate.

Discussion followed on what would happen if a portion of the rule was not approved.

Pat Henderson, Deputy Secretary, stated that the Department recommends the rule pass with it intact. Without it, it would need to come back before the Board.

Dr. Thomas asked Ms. Sarakinos if they felt they had adequate participation.

Ms. Sarakinos stated they would welcome an opportunity to work with the Department and EPA.

Discussion continued if it was cleaner to pass the complete rule package.

The original motion as amended carried on a voice vote of 5 – 1. Dr. Thomas voted against due to the lack of opportunity for public participation.

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

- 3.B.1 Request Adoption of Board Order WM-01-09, rule change proposals resulting from the wildlife management portion of the annual Spring Hearing Questionnaire, revisions to NR 10, 11, and 15
Scott Loomans, Wildlife Regulation Policy Specialist, stated that the Department placed 28 wildlife questions on this year’s Spring Hearing Questionnaire. Statewide, attendees favored all but the following three Wildlife Management Bureau proposals: 1) Question 42 allowing turkey hunting with dogs during the fall season (Department is recommending adoption); 2) Question 37 requiring mandatory sharp-tailed grouse harvest reporting (not recommended for adoption by Department); and 3) Question 50 eliminating the late archery hunt at Brunet Island State Park (not recommended for adoption by Department). He requested the Board approve Board Order WM-01-09. **(PowerPoint)**

Public Appearances:

1. **Ed Harvey**, Waldo, Representing WI Conservation Congress (WCC) as Chair stated that based on the outcome of the Spring Hearings and the vote of the WCC delegation at the WCC's statewide meeting, the WCC does not agree with the Department's recommendations to advance questions 28, 42, 48, or 53. The WCC supports the Department's recommendation to not advance questions 37 and 50. The WCC supports the Department's recommendation to advance the remaining 22 rule proposals.

NOTE: In accordance with s. 15.348, Wis. Stats., the Wisconsin Conservation Congress shall serve in an advisory capacity to the Natural Resources Board on all matters under the jurisdiction of the Board, and therefore is uniquely granted the permission to address the Board with no time restriction.

Dr. Thomas requested in future years a one page summary from Ed Harvey, Wisconsin Conservation Congress, of where they differ with Department recommendations.

2. **Marcus Bresee**, Fennimore, representing WCC and WI Trappers Association talked about colony trap issues. By trap definition, it cannot take beaver. It is meant for muskrat and mink only. He displayed a smaller size trap and a 36"x36" x 6" trap. It holds muskrats and mink which he is recommending. **(Handout)**

Discussion followed on whether this type of trap is set under water, and whether colony traps are part of this rule package.

3. **Jon Freis**, Bonduel, representing American Wild Turkey Hunting Dog Association stated that years ago he had questioned why he could not use his dogs to hunt turkeys. His dog hears them walking in weeds or smells them. He hunted the nine county trial area. Overwhelmingly, landowners were happy to have them hunt. He asked what other game bird they are not allowed to hunt with dogs? He stated this is the right thing to do and it will involve more hunters. Many more hunters now understand how turkey dog hunting works. He asked the Board to change the rule and approve question #42. **(Handout)**

Discussion followed on the type of dog breed used, and credit was given to Mr. Freis for working hard to get this portion of the rule passed.

4. **George Meyer**, Madison, representing WI Wildlife Federation enthusiastically supports fall turkey hunting with dogs. This is another hunting opportunity that can be done without causing other problems in WI. He commended Jon Fries and the impact he has made in the state.
5. **Doug Aziz**, Mosinee, representing self spoke on Mead Wildlife Area questions #38-41. He stated the ability of Mead Wildlife Area to hold and provide sanctuary to migrating waterfowl has become drastically reduced since the advent of the early goose season. Continued hunting pressure during the traditional waterfowl buildup period of mid to late September pushes birds out with no resultant buildup as in the past. He asked for a 1 p.m. closure, early suspension of Early Goose Season on Mead Wildlife Area, and to increase the refuge size. **(Handout)**

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

3.B.2 Congress Matters: 2009 Conservation Congress Advisory Question Summary and Annual Convention Report

Ed Harvey, Waldo, representing the Wisconsin Conservation Congress (WCC) as Chair restated their annual request that fisheries questions come before the Board in May along with wildlife management questions. He briefed the Board on WCC's 75th annual convention which was held in Stevens Point and gave a summary of the officer elections. He then thanked all Board members who attended the convention.

Discussion followed on colony traps from the 2008 hearings and revisiting the four questions they did not recommend for advancement.

Dr. Thomas requested staff take a further look at the pros and cons of 2008 WCC Advisory questions 46, 47, 50, or 56 and go from there.

- #46 - Allowing the use of a bow under the authority of a gun deer license;
- #47 - Creation of an either-sex Junior Gun Deer License tag;
- #50 - Allowing the quartering of deer in the field; and
- #56 - Allowing the use of colony traps for muskrat and beaver trapping.

INFORMATION ITEM – NO ACTION TAKEN

- 3.B.3 Request Authorization for Public Hearings for Board Orders WM-13-09 and WM-14-09(E), revisions to NR 10 establishing the 2009 Migratory Game Bird Hunting Seasons and Regulations
Kent Van Horn, Migratory Game Bird Specialist stated that this rule order establishes the season length and bag limits for the 2009 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60-day seasons. The season begins at 9:00 a.m. September 26 and continues for 60 consecutive days in the north, closing on November 24. In the South the season begins at 9:00 a.m. on October 3 and continues through October 11, followed by a 5-day split, and then reopens on October 17 and continues through December 6. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, 3 wood ducks, and 2 redheads. For scaup the daily bag limit will be 2 scaup for 45 days and 1 scaup for 15 days . The canvasback season is closed.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 66 days (three hunting periods, September 16 – October 4, October 5 – 25, October 26 – November 20); Horicon Zone - 92 days (2 hunting periods, first period beginning September 16 and the second on November 2); Exterior Zone in the northern duck zone - 85 days (Sept. 19 – Dec. 12); Exterior Zone in the southern duck zone – 85 days (Sept. 19 – Oct. 11 and Oct. 17 – Dec. 17) and Mississippi River subzone - 85 days (Oct. 3 – Oct. 11 and Oct. 17 – Dec. 31). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones. He requested the Board approve Board Orders WM-13-09 and WM-14-09(E).

Discussion followed on initial water conditions for scaup nesting, if the scaup harvest could increase, and where the public hearings will be held.

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

- 3.B.4 Request Approval of the Coulee Experimental State Forest Master Plan and Environmental Analysis
Greg Edge, Forestry Supervisor and **Jim Dalton**, Forester, gave a joint presentation. They stated that the plan, based on two years of assessment and planning, is designed to sustain the ecological, economic, and social benefits valued by the citizens of Wisconsin. The plan spells out how the property will be managed and the benefits it will provide over the next 15 year period. It outlines forestry and land management practices, recreational uses, and other aspects of the property's future use and development.

The Coulee Experimental State Forest (CESF), located in La Crosse County, is relatively small compared to other State Forests, but it represents a significant block of publicly owned, upland forest in a region dominated by agriculture and non-industrial private forests. The property's character is typical of the Driftless Area of Wisconsin in terms of its geology,

topography, and ecology. Unique ecological features create multiple opportunities in forest management and research, wildlife habitat, and the promotion of rare species and natural communities.

The CESF is unique in Wisconsin due to its extensive research history. This research has helped inform and improve forest and watershed management practices across the entire region. With renewed interest from the USDA Forest Service and other research partners, additional research opportunities exist that may yield more information on sustainable management of the Driftless Area. The CESF offers an opportunity not available on other state lands in the region to increase our knowledge of sustainable forestry practices and to demonstrate best management practices that educate forest landowners. Research and demonstration will continue to be an important emphasis on the CESF. They requested the Board approve the master plan and environmental analysis. **(PowerPoint)**

Discussion followed on what type of tree makes up the Coulee ridges, if there is any historic information that would suggest land cover in that area, if they had considered setting up deer fences for oak regeneration experiments, that there are no ATV trails on the property, if there would be a developed trail system, and if the property is open for turkey hunting.

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

Dr. Thomas recessed the meeting for lunch and reconvened at 1:00 p.m. with Citizen Participation.

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation

Public Appearances

1. **Kevin Isenring**, Sauk City, representing self *Topic: Discrimination* He stated he appeared before the Board last year with Representative Albers. He stated he has not been treated most favorably by the DNR recently yet he continues to drive his land trade with the Department forward. He has volunteered his time and equipment to the Department for river clean up. He asked that the Board direct staff to meet with him to discuss land use agreements. **(Handout)**

Dr. Thomas asked Mr. Isenring to summarize what he would like the Board to do for him.

Mr. Isenring stated he wanted his concerns directed to the internal affairs department. If this department does not exist, then he would like the Board to review his case personally. He stated there is a document sitting on Secretary Frank's desk that would straighten out his property line issues with the Department. He asked the Board to please encourage Secretary Frank to sign it. He said his case is complicated and it would take more than five minutes to summarize.

2. **Lois Swain**, Deerfield, representing self *Topic: Deer-rifle hunting concerns.* She asked the Board to stop the use of rifles for deer hunting on land near her family and neighbors. She distributed letters from others against deer-rifle hunting. **(Handout)**
3. **Greg Kazmierski**, Waukesha, representing Safari Club International (SCI) *Topic: Deer Season* He stated he is also representing members of Hunters Rights Coalition (HRC). Their position is that once population goals are established, non-hunting stakeholders should not be involved in the process of establishing methods of hunting to reach those goals. Without the acceptance of hunters and landowners, any management policy is doomed to fail. He asked the Board to consider expanding the suspension to include Earn-A-Buck statewide and the elimination of the October antlerless hunt until such time that all the issues brought forth at the legislative hearing are addressed. **(Handout)**

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Discussion followed on how many members belong to Hunters Rights Coalition, who the president or director is, if groups pay to be members of HRC, and if HRC pays for lobbyists.

Dr. Thomas continued the meeting with agenda item 3.B.5.

Mr. Cole requested the land items be acted on in the aggregate.

Dr. Thomas asked Mr. Steffes, for time efficiency, to not give his presentations on his land items but to take questions from the Board. Board members would then offer a motion on each item and be open for discussion.

Mr. Cole withdrew his request.

3.B.5 Land Acquisition - Pershing Wildlife Area - Taylor County

Discussion followed on when staff contemplated closing on this property if approved now.

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

3.B.6 Land Acquisition - Turtle Flambeau Scenic Waters Area - Iron County

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

3.B.7 Land Acquisition - Lower Wisconsin Scenic Riverway - Sauk County

Mr. Welter requested at the end of the year an overall status report on the WI State Riverway be given to the Board and how the Department is doing towards acquisition goals and legislation.

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

3.B.8 Land Acquisition - Hank Aaron State Trail - Milwaukee County

Discussion followed on the extent to which this is a cooperative effort with other agencies.

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

3.B.9 Land Acquisition - Lulu Lake Natural Area - Walworth County

Mr. Ela MOVED approval, seconded by Mr. Cole. The motion carried unanimously.

3.B.10 Land Acquisition and Donation - Baraboo Hills Recreation Area - Sauk County

Public Appearances:

1. ~~**Deb Froese**, Baraboo, representing Riverland Conservancy~~ – She asked to be removed from the list of speakers.

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

3.B.11 Land Acquisition - Peter Helland Wildlife Area - Columbia County

Public Appearances:

1. **Ryan Cook**, Pardeeville, representing self stated his opposition to this purchase due to 1) this would create a lower tax base and every dollar counts right now, and 2) His uncle would like to purchase the 73 acre property and trade back to the Department for farmland which was their intention years ago. (**Handout**)

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Discussion followed on where this farmland is located and additional history on this proposed land swap.

Dr. Thomas asked that staff continue discussions with Mr. Cook's family who testified under public appearances.

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

3.B.12 Land Acquisition and Donation – Kettle Moraine State Forest - Lowe Lake Unit - Washington County

Mr. Cole MOVED approval, seconded by Mr. Ela. The motion carried unanimously.

3.B.13 Land Acquisition and Project Boundary Modification - Wild Rose Hatchery - Waushara County

Ms. Wiley MOVED approval, seconded by Mr. Cole.

Discussion followed on the purchase price and past use of the property.

The motion carried unanimously.

3.B.14 Request Approval of Renaming of the Seymour – New London State Trail and Renaming of the Denmark – Rockwood State Trail **ADDED**

NO PRESENTATION WAS GIVEN

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

3.B.15 Request Approval of Plagge Woods Designation from a Parks Property to a Natural Areas Property **ADDED**

Bright Brown, State Trails Coordinator stated that this property is already a designated State Natural Area and has been managed as a State Natural Area since it was donated to the Department in 1973. Plagge Woods was legally dedicated as a State Natural Area in 1987. The tract is an old-growth forest of sugar maple, red oak, and basswood. In accordance with the wishes of the donors, the property is to be preserved in a natural condition. The Department recommends changing the designation for Plagge Woods from a Parks property to a State Natural Areas property to be called Plagge Woods State Natural Area.

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

5. Board Members' Matters

Mr. Ela requested an update at the June meeting from Secretary Frank related to moving the Stewardship grant program from the CAES division to the Land Division to include the cost savings, why this is more efficient, what the problems are with the current arrangement, and other issues.

Mr. Welter requested an update on his license plate proposal.

Pat Henderson, Deputy Secretary, stated this proposal remains in the budget to partner with Minnesota. So far, it looks like it is on track.

Ms. Wiley encouraged Board Members to be a sponsor at the Department's Leadership Academy.

5.A.1 Special Committee on Herd Management **ADDED**

Dr. Thomas stated that as the Chair's prerogative, she worked with Mary Ellen Vollbrecht, John Welter, and Tom Hauge to establish a committee to study and make recommendations on alternatives to Earn-A-Buck (EAB) as a deer management technique. The charge to the committee is to work with the Department to develop effective alternatives to EAB. These organizations are as follows: Conservation Congress, Wisconsin Farm Bureau Federation, Wisconsin Wildlife Federation, Wisconsin Deer Hunters Association, Whitetails Unlimited, Wisconsin County Forest Association, Wisconsin Woodland Owners Association, Quality Deer Management Association, Hunters' Rights Coalition, Wisconsin Bowhunters. Dr. Tim Van Deelen – UW Madison, and Mr. Robert Wilging – Deer Hunting Historian will be invited members. Department staff (Keith Warnke) will provide active technical support to the committee. **(Handout)**

Dr. Thomas requested staff work with her to draft and send a letter of invite to select one representation each from their organization to the special committee. She asked if the Board had any recommendations for adjustments to the committee. No adjustments were noted.

INFORMATION ITEM – NO ACTION WAS TAKEN

6. Special Committees' Reports

None

7. Department Secretary's Matters

Mr. Henderson spoke on behalf of Secretary Frank. He briefed the Board on the mercury ban that was introduced in the legislature last week on household items, that Green tier reauthorization passed through the senate which may be signed into law before July 1, and on invasive species legislation for the Department to have authority to stop cars and trucks on the road with aquatic habitat on their cars/boats.

He then discussed the state budget. Yesterday, the Joint Finance committee finished the Department's budget, which came out unscathed from the Governor's introduction. The additional cuts will be a challenge. Wisconsin's budget deficit is now closer to \$7 - \$8 billion, with significant cuts to state agencies. He did not know what that means for the Department but he assumes additional cuts in the 4% -5% range across state government. Joint Finance will finish with it tomorrow and it is expected to move through both houses by the end of June.

7.A. Retirement Resolutions

7.A.1 Roger L. Jasinski

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

7.B. Donations

7.B.1 The Natural Resources Foundation will donate \$31,375 to the State Natural Areas Program

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

7.B.2 The Friends of Lapham Peak will donate \$15,000 for ski trails and snowmaking equipment at the park

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

8. Information Items

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

None

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

8.B.1 Briefing on Mink River Stewardship Grant

Elizabeth Kluesner, Administrative Policy Coordinator, spoke in place of Vance Rayburn, Division of Customer Assistance & Employee Services Administrator. She briefed the Board on background information on the considerations in development of the Stewardship Access Rule. She then spoke on The Nature Conservancy's (TNC) proposed public access restrictions on the 17-acre property located in the Mink River Estuary, the staff analysis, and on the formal objections received by the Department which were denied. **(Handout)**

Discussion followed on the ownership of surrounding properties and what types of access are allowed.

Mr. Henderson stated that the usership patterns on those properties were established on the adjacent areas managed by the Nature Conservancy. Interim Protocol does not tell us to go back and redo decisions made previously. The Department used historic usership patterns from the neighboring property in dealing with the 17 acre subject property.

Discussion continued on the possible outcomes of basing decisions based on usership patterns on lands purchased prior to adoption of the Interim Protocol by the NRB.

Mr. Henderson stated this is something to look at and consider when making decisions. When updating a master plan, the new law would be used as part of the update. The Department is not mandated to go back.

Discussion followed on whether there is an alternative appeal for Secretary review, the opportunity to provide comments during the interim protocol, and whether the only appeal available to an objector whose objection was denied based on the interim protocol would be a lawsuit under Chapter 220.

Mr. Henderson stated Chapter 220 action is their option for contesting case hearings.

Discussion followed on what would be included in the new rule for objector and grantee appeals, if there are any other proposed restrictions on nature based activities on grant requests, comments from Board members in not giving the same right to appeal to objectors, and a rule timeline.

Mr. Henderson stated the rules would attempt to level the playing field on appeals. The department is working to have the interim rule before the NRB as soon as possible, with August being realistic. The Department needs to finish internal discussions and plans to be back before the Board for final rule adoption in October.

Ms. Kluesner stated the rule is likely to become law in January 2010.

Discussion followed on treating both sides fairly, not having the system frozen up by appeals, and the possibility of losing important parcels of habitat forever due to appeals.

Mr. Henderson stated that \$86 million was authorized prior to the budget deficit. Stewardship is providing public access that would have been closed to most had it not been purchased. The Department needs to make sure the rules comply with the statutory requirement.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

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Mr. Cole MOVED approval, seconded by Mr. Ela to adjourn the meeting. The motion carried unanimously.

*****The meeting adjourned at 3:05 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.