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WISCONSIN NATURAL RESOURCES BOARD

DRAFT BRIEF OF ACTION (rev. 05/02/16)

The regular meeting of the Wisconsin Natural Resources Board was held on Wednesday, April 13, 2016 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 1-3 and 6-7. The meeting adjourned at 12:39 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

William Bruins – present	Gary Zimmer – present
Julie Anderson – present	Preston Cole – present
Dr. Prehn – present	Terry Hilgenberg – present
Greg Kazmierski – present	

1.B. Approval of agenda for April 13, 2016

Mr. Zimmer MOVED, seconded by Ms. Anderson, approval of the April 13, 2016 agenda. The motion carried unanimously.

1.C. Approval of Brief of Action from February 24, 2016

Mr. Bruins MOVED, seconded by Mr. Kazmierski, approval of the February 24, 2016 Brief of Action. The motion carried unanimously.

Chair Hilgenberg recognized Christopher Tall, who supports the NRB and NRB world-wide TV (Mediasite), for his exceptional Board work. This is his last meeting as he will become Chief Educator at the DNR MacKenzie Center. He thanked Chris for his dedicated service and wished him well.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Bruins MOVED, seconded by Mr. Kazmierski, approval of the Real Estate Transactions. The motion carried unanimously.

3. Action Items

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

None

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

~~3.B.1. Request adoption of Board Order LF-02-15, proposed rules affecting chapter NR-45~~

~~related to public use of department properties and chapter NR 51, administration of the Stewardship grant program, specific to state trails~~

REMOVED – WILL BE ADDED TO A FUTURE MONTH'S AGENDA

- 3.B.2. Request adoption of Emergency Board Order WM-01-16(E) proposed rules affecting chapter NR 10, related to establishing the 2016 migratory bird hunting seasons
(PowerPoint)

Discussion followed on the Canadian geese Horicon zone, how the Wisconsin duck harvest compares to southern states in the flyway (whether system favors southern hunters), further explanation on expanding the goose season, and how other states are complying with the downturn in the Canada goose population.

Public Appearances (2):

1. Al Shook, Waukesha, representing Wisconsin Conservation Congress (WCC) as Migratory Committee Chair **(Handout)**

Discussion followed on the program that reestablished the Horicon Canadian geese population.

Public Appearances:

2. Don Kirby, Freedom, representing the Wisconsin Waterfowl Association (WWA) as Executive Director **(Handout)**

Discussion followed on whether WWA is concerned about the decline in Canada goose numbers [Yes.], and the importance of partnering with groups such as WWA.

Dr. Prehn MOVED, seconded by Mr. Kazmierski, approval of the department's recommendations. The motion carried unanimously.

Chair Hilgenberg recognized Rob Bohmann, outgoing Wisconsin Conservation Congress (WCC) Chair, who was at the meeting. He stated that during the past five years as chair, Rob has helped the Congress navigate difficult budget cycles and changes that altered the rule making process to an every-other-year venture. Under his leadership, the Congress undertook a strategic planning process—the first ever in the history of this organization which was 78 years old at the time—and they continue to work on its implementation.

He has helped guide them through the Deer Trustee Report to a place where Wisconsin Conservation Congress delegates now chair County Deer Advisory Councils. There have been some difficult times and some big victories for the Congress during his tenure, but through it all, Rob has always done what he felt was best for the Congress and he knows that more can get done by building bridges and relationships, than by being unwilling to compromise. He has been a strong leader for this organization and when he steps down at the WCC's 82nd annual convention in May, he will leave it well positioned to continue their good work of providing an avenue for citizens to have a voice in resource management. He thanked Mr. Bohmann and presented him with an acknowledgement plaque. Rob received a standing ovation.

Rob Bohmann, Wisconsin Conservation Congress Chair, thanked the Board for this acknowledgement. He recognized Deputy Director Kurt Thiede as well as WCC Liaison Kari Lee-Zimmermann who kept him in line. She is phenomenal.

Deputy Secretary Thiede stated that he could not think of another partner that has given more to conservation. Rob is one of his best friends and unofficial uncle to his boys.

The Board recognized Rob's wife Kelly and thanked her for sharing her husband.

Mr. Cole added two words to describe Rob: uncommon valor.

3.B.3. Request approval of Willow Flowage Scenic Waters Area Master Plan (PowerPoint)

Diane Brusoe, Master Planning Section Chief, requested the Board accept an amendment from the department on map 2.5 as follows:

Map 2.5: Planned Road Infrastructure to indicate that both Weber Road and Jerry's Landing Road are open to public motor vehicles, and to update the associated language in the plan to reflect the map changes.

Discussion followed on the Cedar Falls Fire lane language on page 28 [The use of ATV's/UTV's are not authorized.].

Dr. Prehn MOVED, seconded by Mr. Zimmer, approval of the department's recommendations and to amend the Master Plan to remove the Cedar Falls Fire lane paragraph on page 28 and to approve the department's request to amend map 2.5.

Discussion followed on whether access is changed if the Cedar Falls Fire lane paragraph is removed, whether the department would need to bring back the full master plan or a portion of it should the DNR negotiate a lease change, clarification on whether the roads that are marked "closed" would be closed to pedestrians as well, the financial implication of opening up roads, and expanding the boundary.

Deputy Secretary Thiede briefed the Board on the financial implications associated with opening additional roads and the importance of expanding the boundary.

Mr. Zimmer MOVED, seconded by Dr. Prehn, to amend the project boundary as follows:

Amend the project boundary to include a 266.7 acre parcel of land, described as the SWSW, SESW and SWSE quarters in Section 7, Township 37 North, Range 6 East, in the Town of Cassian, Oneida County. This parcel of land was presented to the Natural Resources Board for consideration under the land sales program. At that time, the Natural Resources Board determined that the parcel should be held for future study, as it provides important road frontage and motorized access to significant tracts of land within the Willow Flowage Scenic Waters Area, a property that provides recreational opportunities, particularly for hunting.

Discussion followed on expanding the project boundary, concern about setting precedence on boundary expansions for future approvals, why the boundary expansion was not included in the department's recommendation, and whether easements (another way to secure access) could be utilized instead of acquiring land.

The motion to amend the project boundary carried unanimously.

The original motion as amended carried unanimously.

Mr. Zimmer stated he is from this part of Wisconsin and was involved in the process. He credited Tom Shockley, Diane Brusoe, and department staff. They did a tremendous job of getting this done.

Deputy Secretary Thiede appreciated the comments and stated that a lot of heavy lifting was done locally.

3.C. Scope Statements

- 3.C.1. Request approval of the Statement of Scope for Board Order WY-18-15 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chapters NR 190, 191, 192, 195 & 198 related to the following grant programs: Lake Management Planning, Lake Protection & Classification, River Protection & Planning, and Aquatic Invasive Species Prevention & Control. (PowerPoint)

Discussion followed on whether we are gaining ground or losing ground when it comes to invasive species [Flat.], funding, legislation, future challenges, whether the department foresees being stronger in enforcement and not relying as much on volunteers.

Mr. Zimmer MOVED, seconded by Mr. Kazmierski, approval of the department's recommendations. The motion carried unanimously.

Chair Hilgenberg moved the meeting to agenda item 5. – Information.

5. Information Items

5.A. Air, Waste, Water, and Enforcement

- 5.A.1. Summary results of the Little Plover River Groundwater Modeling and Optimization study funded by the department and conducted by the Wisconsin Geological and Natural History Survey and United States Geological Survey (PowerPoint)

Discussion followed on the groups in attendance at UW-Stevens Point last night for the public presentation and discussion of the model, background of core legislation, and definition of high capacity well [A well that pumps more than 70 gals/minute minimum.].

Eric Ebersberger, Environmental Management Division Deputy Administrator, briefed the Board on core legislation.

Discussion followed on the water table in the Madison area, whether there is a shortage of ground water in the central sands area, water table in the central sands area, and the use of supplemental high capacity wells by municipalities.

Chair Hilgenberg requested that Mr. Ebersberger's narrative be put on paper and shared with the Board.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

Chair Hilgenberg returned the meeting to agenda item 4.A.

3.D. Department Wide
None

4. Citizen Participation

4.A. Public Appearances

1. **Lee Luft**, Kewaunee, representing the Kewaunee County Groundwater Task Force as Chair **(Handout)**
Topic: Water concerns in Northeast Wisconsin and staffing

Mr. Bruins asked Mr. Luft to give a brief synopsis of what his thoughts were for a common sense approach to problem solving.

2. **Travis Mueller**, Porterfield, representing self **(Handout)**
Topic: Current bear baiting/hunting rules

3. **Jodi Parins**, Algoma, representing self **(Handouts)**
Topic: Practice of manure irrigation

Discussion followed on whether Ms. Parins has hard evidence of health related illnesses that she referred to in her testimony [Yes, she distributed various studies to the Board after the meeting.], whether the studies included any mitigating factors for manure irrigation, and what the department is doing currently.

Deputy Secretary Thiede requested that staff have the opportunity during break to look in to the status of the study, permitting, the future steps, and then report back.

Chair Hilgenberg approved Deputy Secretary Thiede's request to respond to Board questions after the closed session.

Discussion followed on timing, when the application of aerial manure spraying began, public concern on cumulative impacts, agriculture's ability to broaden the window for spreading manure using other methods, department's need to prepare for what is coming around the corner, the need to be more proactive, that there are many farms just under the CAFO threshold and CAFO regulations and are the responsibility of each county, and the need to work hand in hand with the Wisconsin Department of Agriculture.

Deputy Secretary Thiede stated the Board's discussion is not lost on the agency. There is nothing larger than these water issues and it is on their radar. They are on the cusp of making great strides with work groups, engaging with sister agencies and the legislature to make sure we are all pulling in the same direction.

Discussion continued on the rules process that takes way too long and is exhausting, the county role and jurisdiction, the evolution of the livestock industry, and sustainability.

4.B. Citizen Recognition
None

Chair Hilgenberg asked that Rob Bohmann, WCC Chair, give a brief review of the April 11 spring hearings.

Mr. Bohmann gave his summary and reminded those in attendance and viewing on-line that the WCC convention and banquet is May 14 and 15.

Discussion followed on the County Deer Advisory Council (CDAC) committees and how they are doing.

Chair Hilgenberg moved the meeting to Information Item 5.B.1.

5.B. Land Management, Recreation, Fisheries, and Wildlife
5.B.1. Overview of the 2016 Field Trips offered through the Natural Resources Foundation of Wisconsin (PowerPoint)

Mr. Zimmer commended Ruth Oppedahl, Natural Resources Foundation of Wisconsin Executive Director, for her effort.

Chair Hilgenberg encouraged Natural Resources Board Members to participate in the Natural Resources Foundation.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

5.B.2. Natural Resources Foundation of Wisconsin update on the Cherish Wisconsin Outdoor Fund (PowerPoint)

Discussion followed on whether Cherish Wisconsin is part of any giving campaigns.

Mr. Cole requested that Ruth Oppedahl contact him regarding adding the Cherish Fund to the City of Milwaukee and Milwaukee County Vision Campaign.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

- 6. Department Secretary's Matters
- 6.A. Retirement Resolutions
- 6.A.1. Russ Anderson
- 6.A.2. Brad M. Biser
- 6.A.3. Mary Farmiloe
- 6.A.4. Brad Kildow
- 6.A.5. Nasrin Mohajerani
- 6.A.6. Kathryn Nelson
- 6.A.7. Carol Nielson
- 6.A.8. Richard Rideout
- 6.A.9. Julia Riley
- 6.A.10. Kenneth Royseck
- 6.A.11. Daniel Schuller
- 6.A.12. Diana Shoemaker
- 6.A.13. Stephen Timler

Deputy Secretary Thiede asked Mary Farmiloe, who was in the audience, to approach the podium to receive her retirement resolution. He thanked her for her service.

Dr. Prehn noted that there is a great need to digitize department archives and thought Ms. Farmiloe may want to do some part time work to do so.

Mr. Zimmer MOVED, seconded by Dr. Prehn, approval of the retirement resolutions. The motion carried unanimously.

- 6.B. Donations
- 6.B.1. The Ruffed Grouse Society will donate \$28,478 to support seven habitat projects across Wisconsin. The Drummer Fund Program was started in 2010 and has provided valuable support to the management of young forest habitat across the state

Public Appearances:

- 1. **Scott Walter**, Viola, representing The Ruffed Grouse Society

Deputy Secretary Thiede presented Mr. Walter with an acknowledgement of donation plaque and thanked him and the Society for their partnership.

Mr. Kazmierski MOVED, seconded by Mr. Zimmer, approval of the department's recommendations and to acknowledge the donation. The motion carried unanimously.

- 6.B.2. Friends of Peninsula State Park will donate \$25,500 to fund three Limited Term positions at the park including a Naturalist, Invasive Species Coordinator, and Trail Laborer for the 2016 season

Discussion followed on whether the limited term positions would actually work for the department [Yes.].

Ms. Anderson MOVED, seconded by Mr. Kazmierski, approval of the department's recommendations and to acknowledge the donation. The motion carried unanimously.

6.C. Department Secretary's Matters

Deputy Secretary Thiede presented updates on 1) the strategic alignment and core work analysis, 2) NR 45, 3) Go Wild, 4) VPA (voluntary public access) Program, and 5) CDAC's.

Chair Hilgenberg applauded Deputy Secretary Thiede for his leadership on the NR 45 rule (April item 3.B.1. LF-02-15) which was removed from the April agenda.

7. Board Members' Matters

Mr. Kazmierski noted that we are in the first year of this new deer rule and he thinks the process is working as it should. He asked that the public be more respectful to the CDAC members - they are volunteers. He is hopeful that the meetings next week come off without a hitch. He feels this is moving in the right direction. CDAC's have many tools to use. People need to understand what these tools are and how to use them.

Dr. Prehn reported that since being asked by Chair Hilgenberg to engage on behalf of the board with staff on water related issues that he along with Bill Bruins and Gary Zimmer had a chance to receive a briefing from staff on a number of key issues last Friday.

During the briefing, we had an overview of Confined Animal Feeding Operations (CAFO) regulations and requirements that they must meet in order to do business in our state. For the record, CAFO's are by definition 1,000 animal units, or about 700 cows, some 75,000 turkeys; all depending on the amount coming out the back end of those units. We also learned of the authority we have over certain aspects of these operations and of their effect as well as smaller operations on state water. Much of this issue is topography and location of these operations and if Best Management Practices are being adhered too. I have instructed staff to bring forward more informational issues regarding these to the Board soon. I am hopeful the different Government agencies and stakeholders will come up with some suggestions. Wisconsin is a dairy state and we need to give tools to farmers that they can use to continue this important part of their business safely.

We also reviewed the report of the EPA list of 75 issues dating back to 2007. These issues have been accumulating for years before this Board and this administration started to work on them. We have already passed many rules to aid completion and Secretary Stepp and staff have done much to address these largely administrative issues that have surfaced. To finish the list off will require further work by us and work from the legislative branch of government. I'm certain that these issues should be completed as soon as possible.

We also had an excellent briefing regarding Kewaunee County. I would like to commend Secretary Stepp and her staff for the efforts regarding this issue. I have asked

department staff to bring forward recommendations coming out of the citizens work group efforts. I am looking forward to our staff giving us sound, scientific, solid, measurable, recommendations to address this important issue.

One thing I noticed are the multi-agencies that are necessary to address these concerns. Not only DNR but the Department of Agriculture along with the legislative body and the Governor will need to work in harmony to make good solid recommendations based on fact.

I would like to say I was pleasantly surprised that all of these issues clearly have been on the forefront of DNR staff's daily work tasks and they have been working very hard behind the scenes to rectify concerns.

I would like the citizens of Wisconsin to know that there is no question in my mind that DNR staff, along with the Natural Resources Board, does take clean water in Wisconsin very seriously. In my opinion, no one takes the public trust of our land and water more seriously.

Finally, I would like to report that our next briefing will be on lead, copper, and arsenic which are naturally occurring materials in some parts of Wisconsin's water supply. I have also asked for briefings on phosphorus runoff and high capacity wells and their effect on our water supply. I will bring forth information as it becomes available.

I encourage each of you to study your packets, ask questions of staff, and contact the citizens about this issue as the department brings solutions to the Board for discussion and possibly implementation. As mentioned before, these are complex issues that are going to take multi-agency complex solutions of which we are going to be a very important part of.

The public water and trust the public puts in us to maintain the water is probably one of the most important roles each of us take serving on this Board.

Mr. Bruins stated that Dr. Prehn did a fine job in summarizing the briefing. It is also important to understand that these are huge issues that are not going to be resolved overnight. We have to understand the breadth of the scope and have patience. We need to make sure we are moving in the right direction.

Mr. Zimmer added that this is definitely a cumulative and complex issue. We need answers to the questions we have before us in how we can do this better. He agrees with Dr. Prehn that what he sees in staff and he sees as an interest in the Board, we want this to start moving in a positive direction.

Ms. Anderson asked to add to Dr. Prehn's list he provided when he talked about lead, copper, and arsenic naturally occurring contaminants. In southeast Wisconsin, we have molybdenum and radium which are huge issues. She would not want those overlooked in terms of the bigger picture.

Chair Hilgenberg thanked this group for having the courage to take on this topic which has been evolving over time. With the amount of publicity, this has reached the level of this Board being fully engaged. He applauds the department in taking the leadership on this. Keep moving forward, that is what we need to do. It is our responsibility and the department's responsibility. It is important that we do not sit back, that we take the initiative and be very aggressive in dealing with these issues.

Dr. Prehn responded to Ms. Anderson's request noting that he did not personally leave out those other ones. We know they are there. We need to put more resources in to see how serious it is. It already has affected Waukesha and it will affect other cities if the naturally occurring contaminants rear their ugly head. We are trying to be proactive but he was not eliminating any of them. He just mentioned those three.

Mr. Kazmierski stated he was a former licensed water well driller. We were given data on wells tested that wouldn't pass the contamination test. He asked whether we have any data on how many of those wells and septic systems in Kewaunee County are not compliant to current code.

Deputy Secretary Thiede stated that the well study will not only share information on the wells but also on the construction and how well it complies with standards.

Dr. Prehn stated he will report out as necessary over the next couple of years.

Mr. Bruins stated that Mr. Travis Mueller traveled all the way from Marinette County to testify before the Board. He would like the department to bring back an informational item regarding Mr. Mueller's bear baiting regulation situation that he brought forward.

Chair Hilgenberg noted that Mr. Mueller referenced a few other states and it might not be a bad idea for us to look at various solutions to the problem that he is encountering.

Deputy Secretary Thiede stated that the department can do that and when we time that out to make sure the Wisconsin Conservation Congress's process works its way through. If his resolution, if it passed in a county, it would go to a Congress Stakeholder Committee which is the Bear Committee. The committee would discuss it on its merits and potentially be a question at next year's spring hearing. What we can commit to is to wait for the Congress Bear Committee discussion to take place and have a joint report out.

Chair Hilgenberg requested a motion to go into Closed Session under the authority of s.19.85(1)(e) Wisconsin Statutes for purposes of discussing potential real estate transactions.

Mr. Bruins MOVED, seconded by Mr. Zimmer that the Board convene into closed session under the authority of s.19.85(1)(e) Wisconsin Statutes for purposes of discussing potential real estate transactions. The motion carried on a roll call vote.

William Bruins – yes

Gary Zimmer – yes

Julie Anderson –yes

Preston Cole – yes

Dr. Prehn – yes

Terry Hilgenberg – yes

Greg Kazmierski – yes

Chair Hilgenberg stated to those in the audience and viewing on-line that the meeting will reconvene at approximately 12:33 p.m.

Chair Hilgenberg reconvened the meeting. He reported that during the Closed Session, no action was taken.

Chair Hilgenberg then returned the meeting to agenda item 5.A.1. and asked Quinn Williams, Chief Counsel to the podium.

Chief Counsel Williams responded to the Board's questions and asked Mary Ann Lowdes to approach the podium for her report.

Mary Anne Lowndes, Runoff Management Section Chief, reported back on the Board's questions and concerns, and conditions on the permits and what the department can legally place on a permit.

Discussion followed on Chapter NR 243 (Animal Feeding Operations), Nutrient Management Plans, Chapter NR 213 (Lining of Industrial Lagoons and Design of Storage Structures), and Chapter NR 214 (Land Treatment of Industrial Liquid Wastes, By-Product Solids and Sludges), and whether non-CAFO farms can irrigate with no permit (yes).

Dr. Prehn asked Deputy Secretary Thiede to outline what the department's plan is.

Deputy Secretary Thiede stated that the Department of Agriculture is looking at their ATCP 50 (Soil and Water Resource Management Program) and ATCP 51 (Livestock Facility Siting). As a result of that, our department will take a look at some of our corresponding rules. It is important with any of our regulations that you have science based information on which to base your regulations. We are poised well timing wise with the Irrigation Study coming out in regards to manure spray irrigation. Now as we enter into potential rulemaking, we want to proceed deliberately and make sure the right people are talked to, walk in step with the Department of Agriculture, and keep the legislature involved as well.

Mr. Cole MOVED, seconded by Dr. Prehn, to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 12:39 p.m.

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