

## NATURAL RESOURCES BOARD

### MINUTES

The regular meeting of the Natural Resources Board was held Wednesday, February 28, 2001, at the State Natural Resources Building (GEF 2), 101 South Webster Street, Madison, Wisconsin. The meeting was called to order at 8:35 a.m. All February Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair  
James E. Tiefenthaler, Vice Chair  
Gerald W. O'Brien, Secretary  
Herbert F. Behnke  
Howard D. Poulson  
Catherine Stepp

ABSENT: Stephen D. Willett

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### ORDER OF BUSINESS

1. Minutes to be approved.

1.A. Full Board Minutes of January 23-24, 2001.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson approval of the minutes as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

Committee of the Whole Minutes January 23-24, 2001.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien approval of the minutes as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

1.B. Agenda for February 28, 2001.

Secretary Bazzell announced an addition under Department Secretary Matters, agenda item number seven, presentation by Lloyd Eagan with an update on the Clean Air Act Ruling by the Supreme Court. With this change, Mr. Behnke MOVED, seconded by Mr. O'Brien approval of the February 28, 2001 Agenda. The motion was carried unanimously by those members present. (Mr. Willett was absent)

2. Ratification of acts of the Department Secretary.

2.A. Real estate transactions.

Mr. Behnke MOVED, seconded by Mr. O'Brien approval of the real estate transactions, as printed. The motion was carried unanimously by those members present. (Mr. Willett was absent)

Chairman Solberg gave a special welcome to our new Secretary Bazzell of the Department of Natural Resources.

Chairman Solberg introduced special guest, Senator Harsdorf.

Senator Harsdorf: Representing her constituents, Senator Harsdorf thanked the Natural Resources Board for giving her time to speak. She shared comments with regard to western Wisconsin and the lower St. Croix National Scenic Riverway issue. She thanked Franc Fennessy, who has been involved with this issue, in working with area residents. Senator Harsdorf expressed that she wanted to share some of the local concerns by area residents who are dealing with the regulations affecting the lower St. Croix River. With helping to rewrite this management plan, which is a cooperative agreement between Minnesota, Wisconsin and the National Park Service, Senator Harsdorf stated, she felt it was very important and appreciated that the Department of Natural Resources had utilized public input in helping to put this plan together. She thanked the Department of Natural Resources for delaying action because there are still concerns. She felt, these concerns could be resolved. Senator Harsdorf indicated there is interest in maintaining the beauty of the lower St. Croix River. She also stated, while there are concerns with some of the regulations, how they are implemented and enforced, there is an interest in maintaining the beauty and preserving the lower St. Croix River. She felt that no one was working for regulations that would jeopardize or threaten the beauty of western Wisconsin and the lower St. Croix Riverway. There is interest in putting in place regulations that are reasonable, practical and maintain that mission. There is a frustration by area residents who have been involved in the process of putting together the draft plan. Other concerns she expressed, were consistency in which regulations are enforced on both sides of the river. She stated, as much consistency as possible should be a goal. Possibly the DNR working with how they might enhance the relationship between the Minnesota and Wisconsin side to ensure that there is as

much consistency as possible in the actual implementation of the regulations. Senator Harsdorf expressed that, as this plan is put together regulations should not be written that would increase or create problems for the current conforming structures and make them non-conforming structures. If they have built according to current regulations, they should not put in place regulations that now will create those structures to become non-conforming structures. There is the concern of not offering on the 50 percent rule. Senator Harsdorf stated, they have had many discussions on the 50 percent rule, they have come a long way on that. She discussed the 50 percent rule. Senator Harsdorf expressed these were some of the concerns of the people in western Wisconsin. She indicated there was a great interest in this matter and Senator Harsdorf invited anyone that wished to speak with her personally, she would do so. She added there needs to be reasonable regulations with regard to height restrictions, set back and color restrictions. These things are reasonable and they will help protect the beauty of the riverway. The Senator felt the fear of the resident is what regulations would fall upon them if they become non-conforming, because they are operating with a whole different set of regulations. She felt they need to build a relationship and have that communication about what both sides of the river are doing.

Discussion of the 50 percent rule and NR 118, conforming and non-conforming, grandfathering pursued. The question was raised what authority do we have in a dual state area? What authority can we apply in NR 118 rules to have this equitable fairness issue across the river? What authority do we have to go to Minnesota and coordinate that? This is unique in that we haven't done anything like this before, however, there are two other governmental units involved.

The Natural Resources Board thanked Senator Harsdorf for appearing.

Franc Fennessey: Executive Assistance to the Secretary. The real issue for the two states is the land and water use regulations. There were minor disagreements about language but those have been largely worked out. The challenge will be how we draft the rules on each side and how this will come into the rules process. Mr. Fennessey stated, this will come to the Board later this year.

3. Committee of the Whole.

3.A. Presentation of Shikar-Safari, Wildlife Officer of the Year Award to John Daniel, Retired Deputy Chief Warden, Bureau of Law Enforcement.

Tom Harelson, Director, Bureau of Law Enforcement, announced that John Daniel, retired Deputy Chief Warden, was the recipient of the Shikar-Safari Wildlife Officer of the Year Award. John is a 27-year veteran of the warden service, worked as a field warden for a number of years, worked in under cover special investigations, served with honor his entire career. John eventually became the fiscal and planning officer in the Bureau of Law Enforcement. Most recently, he promoted to the Deputy Chief of the Law Enforcement Program. He has been a great asset and a leader to the Law Enforcement Program. John is a very progressive, integrative man and he has taken the Warden Service and introduced it to mobile data computers to a time keeping system that has saved the program hundreds of man hours of time each year in paperwork that wardens have had to do in the past. These wardens now spend that time serving the people of the state as opposed to doing paperwork. As the Deputy Chief John has served with great honor. John lead us in information technology in terms of creating a committee of people statewide that would ensure in the future that we don't stay in the 1990's. John has ensured us that we move forward and this is the legacy that he has left us to be proud of.

John Pearson, of the Shikar-Safari Club presented the award and thanked John for his excellent years of service.

3.B. DONATION - \$80,000 from the Sadie Nolan Amphibian and Reptile Education and Conservation Memorial Fund to be used to fund amphibian and reptile education and conservation work in the Bureau of Endangered Resources.

Secretary Darrell Bazzell. Kate Nolan has made a donation to the Department in honor of her daughter, Sadie Nolan, who was killed in an automobile accident. She has requested that this donation be used to fund amphibian and reptile education and conservation work in the Bureau of Endangered Resources. One of Sadie's true loves in life were reptiles, particularly snakes and one of her goals was to educate people about these unique and often misunderstood animals. The Sadie Nolan Amphibians and Reptile Education and Conservation Fund was developed to specifically address two areas of education and conservation. These include writing, publishing and the distribution of three books on the amphibians and reptiles of Wisconsin. Two copies of each book will be sent, free of charge, to the libraries of the 2,970 public and private schools in Wisconsin and to Wisconsin's 459 public libraries. Additionally, these funds will be used to conduct rare snake workshops around the state. Secretary Bazzell presented the award and thanked Kate Nolan for her donation.

Mr. O'Brien MOVED, seconded by Mr. Poulson the acceptance of the donation. The motion was carried unanimously by those members present. (Mr. Willett was absent)

3.C. Approval of the joint Cooperative Management Plan for the Lower St. Croix National Scenic Riverway.

This item was deferred to a later date.

3.D. Approval of the Whooping Crane Reintroduction Project, including an update on the results of the successful trial migration with sandhill cranes.

Barbara Zellmer, Chief, Ecosystem and Diversity Conservation Section, gave a presentation on the Whooping Crane Reintroduction Project. She requested the Board's continued support for this project. She stated, the Whooping Crane is the rarest crane in the world. The population was estimated to be between 700 and 1400 cranes in the mid 1800's, by the 1940's the estimate was under 20 herd. An international recover team was formed to bring back this bird to recovery. Down from a population of less than 20, the bird is now up to 411. Ms. Zellmer described the assessment process by which Wisconsin was chosen to participate. She indicated that she felt the real key to this project was they have been able to work together very successfully as a public private partnership on this project. She further explained the requirements and recommended they go ahead and that central Wisconsin be looked and a trial migration be done with sandhill cranes before they actually move on to Whooping Cranes. She then explained the sandhill crane migration process. Ms. Zellmer stated, they were still awaiting the federal rule to be published designating this population as experimental. This project has gotten the attention of several media groups. Managing this outreach, taking advantage of this attention has been critical to the project. They not only want this to be successful for Whooping Cranes but be a real highlight for conservation issues in general and bring about attention to the needs of other species who depend upon the same wetland habitat. They have had a very active outreach team, Bob Manwell with our Communication Education Program is the Co-Chair of that outreach team.

Bob Manwell gave a brief review of outreach information efforts that we have completed during the year 2000 sandhill crane study. Public support for Whooping Cranes in the state of Wisconsin was a priority established by the Whooping Crane Recovery Team. Shortly after the Board's approval directing the Department to move ahead with the reintroduction the whooping crane eastern partnership established the outreach team with members representing all of the partners. The core of this outreach team represents over 112 years of public affairs management experience. They worked with the unbreakable rule of no human contact between the birds and humans or anything associated with humans; no cameras, no photographers, no radios, no cell phones, no direct observation; they could only talk about the project. The second challenge was to emphasize the partnership aspect of the project. To prepare for this, all members of the team, including biologists, medical staff, pilots, support crews, to brief and supply the speaking points emphasizing the partnership, its goals and its purpose. Judging by the content and volume of news clippings that we have collected (Mr. Manwell passed around a binder full of news clippings for the Board to review). From the time the International Recovery Team recommended Wisconsin as a reintroduction nesting site for the project, 102 newspapers and 14 magazines printed 154 stories that appeared in eight countries and 23 states. The migration crews gave dozens of radio and television interviews during the migration. With the very successful arrival of the sandhill cranes in Florida the camera crews from National Geographic, Disney, ABC, CBS and NBC were all present to document the event. Extensive plans for the 2001 season include: a newly designed web site, media tours of the training sites in Necedah; donor recognition event in coordination of the International Crane Foundations Annual Banquet; staffing the migration with at least two outreach staff all the way from Wisconsin to Florida to work with the public; daily internet updates; crane education curriculum for the schools through the efforts of the International Crane Foundation. They hope to be able to track the progress of the birds through satellite transmitters they will be carrying in flight and have plans for the production of future documentary that hopefully will go national. They also will have four segments shot for the kids television show "Into the Outdoors" that will appear during the 2002 broadcast season. Members of the outreach team will continue to fill requests for speakers and media interviews and use these opportunities to express the value of partnership and to highlight the common problems that many endangered species face. It also gives them a chance to demonstrate the presence of an endangered species. Mr. Manwell showed a news presentation of a video clip from Air National News of the arrival in Florida.

Ms. Zellmer gave a special thank you and introduced Scott Hassett, Chair of the Board of Directors of the Natural Resources Foundation of Wisconsin; Lori Ostendorf, Executive Director of the National Resources Foundation of Wisconsin; Beth Goodman, Endangered Resources Program and has now been hired as the project coordinator for this project and has the fortunate job to coordinate and lead this project for the Department; Jim Harris, President of the International Crane Foundation. Ms. Zellmer stated, these folks had been instrumental in helping pull together support and funding for this project. Without all of these partners, this would not have been possible.

Jim Harris: Stated, they were very excited at the Crane Foundation to be involved in this project. He stated, the sandhills performed wonderfully. On Sunday, after winderling in Florida, they have left and are on their way back hopefully to Wisconsin. They will be watching them over the summer. Mr. Harris stated, that he was impressed with the support from all sides of this project. It is a real learning experience in how people and agencies working together can do a tremendous job. They are committed to doing every thing they can to help work with the Department of Natural Resources and Fish and Wildlife Service. Mr. Harris thanked the Board for their support with this project.

Ms. Zellmer: If the federal regulation comes through within the next week or so, if it gets published in the Federal Register, then things should be in place to set to be working with Whooping Cranes this spring. The eggs have been lined up from the captive sites that would be designed for this project. On the part of the biology it is all set to go this spring. They could arrange to have the Board tour this project.

Mr. Tiefenthaler: Do you have an update on the trumpeter swans?

Mr. Manwell: They have 43 nesting trumpeter pairs now, well ahead of our recovery goal schedule. It seems to be doing well. Unfortunately we have lost a few to shootings. Law enforcement has been doing a good job because of community tips.

Mr. Behnke MOVED, seconded by Mr. O'Brien approval of the Whooping Crane Reintroduction Project, including an update on the results of the successful trial migration with sandhill cranes. The motion was carried unanimously by those members present. (Mr. Willett was absent)

3.E. INFORMATIONAL ITEM – Update on the Statewide Forest Assessment and Plan.

Paul DeLong Director, Bureau of Forestry, gave a presentation of the update on the Statewide Forest Assessment and Plan. The assessment concluded that between 1983 and 1996 forest land had increased by 640,000 acres, or about four percent, to 15,965,000 acres. It has grown in stock volume increase by over 12 percent. Saw timber volume increased by over 30 percent, as our forests continue to age. Net annual growth exceeded harvests by 158 million cubic feet (only 68 percent of growth was removed). The number of non-industrial private forest owners increased 20 percent to approximately 260,000. Private individuals continue to own the majority of Wisconsin forests, 57 percent. An average of 1,528 wildfires that burn 2,658 acres each year, an acreage that is kept low due to aggressive suppression activities designed to protect lives, property and natural resources. Over 2.5 million acres of Wisconsin forests are managed through tax programs that encourage sustainable forest management. Only 20 percent of all landowners receive professional assistance when harvesting timber. Forest products and forest based recreation account for 12 percent of the Gross State Product and 18 percent of jobs in Wisconsin. Over 657 vertebrates live in Wisconsin and over 1800 native vascular plants are found in the state, many of which are affiliated with Wisconsin's forest communities. Wisconsin has about 2.2 million acres of urban forest (4.7 percent) with an average canopy cover of 29 percent. The November 2000 Assessment Report provides status on ecological, social and economic aspects of Wisconsin's forest resources. It also identifies key trends and issues that are likely to drive statewide forest resource management for the next 10 years or so. The information in the assessment report provides the basis for statewide forest planning. The Bureau of Forestry has distributed the report to key partners and interested public. The Department Natural Resources Forestry also developed a summary of the report, trends, issues and distributed it more widely in an effort to generate public interest in the planning process. Mr. DeLong discussed the several phases of the development of a statewide forest plan.

Ms. Stepp: Are there were any statistics or correlation between the fires in forested areas versus building?

Mr. DeLong: I could get that information. There is research done on the correlation on human development and fire. It varies a lot by the type of forest and where something is being built. The level of development that existed in the 1960's or the 1970's were the last truly severe elongated fire seasons. Since that time there has been a lot of new development of homes and this creates a real challenge in terms of protecting the resource. Mr. DeLong offered to send the information on the correlation and development.

Mr. O'Brien: Are you recommending that we get more forest land or is it our goal to preserve what we have? Or is it the recommendation just to keep hardwoods, conifers or others?

Mr. DeLong: At the stage that we are in right now which is assessment, it is too early in the part of the planning process to determine that right now. As they move into the next phase of the planning process it is designed to begin that dialogue. He stated, when they come back before the Board we will have recommendations of concrete actions. Mr. DeLong cautioned that this is not a state saying to private landowners here is what you are going to do.

Mr. O'Brien: Would you make recommendations to private landowners? Are you informing the private landowner to become aware that certain kinds of species are better then others?

Mr. DeLong: We would make recommendations to private landowners. That is where we would be working with a ranger public to help assess what level of recommendation makes sense of the statewide plan level. It is a lot easier when you are one to one with the landowner. You can talk about their objectives. At the statewide level we need to be very cautious about blanket statements. That is what this dialogue will help us sort out.

Mr. Tiefenthaler: I was looking at the saw timber volume and see it had increased by over 30 percent and the net annual growth exceeded harvest. Only 68 percent were removed. If they had a no net loss philosophy and if they were looking at pulp verses saw timer then what is harvestable and where. He further questioned about northern Wisconsin where the state owns a lot of forest. Are they all rolled into this forest plan and what goals do they had with state forests versus private?

Mr. DeLong: I would expect that would be part of the discussion and what the roll of state and federal forests are in this plan. We certainly can identify those issues to the extent that we have shared sense of direction of where we would like to go. We can take steps that would facilitate that. Mr. Tiefenthaler inquired about acquiring some industrial forests through the Stewardship Fund. He stated, that had to be part of the management plan, objectives and goals. Yes it is going to be part of this plan.

Mr. Poulson: What is the quality of our sawed lumber? How does Wisconsin compare to other states? Do we have good lumber or bad lumber and what is the marketability?

Mr. DeLong: It is my sense that Wisconsin has good quality lumber. Depending on the species, on what site it is grown, how it has been treated over the years and the condition of the stand. You can have good and bad timber. Wisconsin is very competitive

industrially, not only in paper where we lead the nation but in the wood products sector. Wisconsin, overall, is looked at as having a quality lumber product.

3.F. INFORMATIONAL ITEM – Presentation of the final progress report from Wisconsin’s Pulp and Paper Industry on the Pollution Prevention Partnership Project with the Department.

Tom Schmidt, President, Wisconsin Paper Council, presented the final progress report from Wisconsin’s Pulp and Paper Industry on the Pollution Prevention Partnership Project with the Department. When this cooperative initiative was undertaken in 1993, Mr. Schmidt stated, he was asked if they would be willing to make a public progress report each year. This will be the last formal report presented to the Board. He stated, they felt then and now that P3 and the voluntary cooperative programs like this provide the opportunity for a win win situation. P3 has been a very massive undertaking for their industries. It involved 25 companies and 42 different facilities. He stated, they had been looking at air emissions, waster water discharges and hazardous wastes. (Mr. Schmidt referred the Board Members to the Seventh Annual Progress Report of Pollution Prevention Partnership, February, 2001). The data compiled into this report was from 1999 and reveals that the Process-Related Releases of air emissions and waste water discharges dropped 54 percent, or 55,000,000 pounds during the 1992 1999 time frame. During that same time frame, production increased about 960,000 tons, almost 11 percent. Calculated on a per ton of production basis, the paper industry’s process related releases to the environment declined from 11.67 pounds per ton of production in 1992 to 4.82 pounds in 1999. This is a decrease of 6.85 pounds or 58.7 percent. Almost all of these reductions were voluntary and beyond compliance of state and federal regulations at the time. P3 also includes voluntary reduction goals set by the industries for seven target substances; chlorine, chloroform, formaldehyde, hydrogen sulfide, methanol and phosphorus. Four of those substances, chlorine, chloroform, formaldehyde and hydrogen sulfide have been met. Significant reductions were also posted for methanol and xylene. He stated, chlorine releases, for example, are down 74 percent, chloroform down 66 percent, formaldehyde 37 percent, xylene 36 percent and hydrogen sulfide 33 percent. Almost all of these reductions were voluntary and beyond compliance at the time. He stated, volunteer and cooperative programs between the private and public sectors can and do provide for a cleaner environment both for today and future generations.

Daniel Trettin: Mr. Trettin, Chairman of the Board for the Wisconsin Paper Council, gave a presentation on the Wisconsin Pulp and Paper Industry on the Pollution Prevention Partnership Project. He stated, P3 has become a model program in Wisconsin and has received national and international recognition. P3 symbolizing many things particularly the value of voluntary cooperative efforts and the value of private and public partnerships. P3 represents a new and better way of doing business between the private and the public sectors. In that regard, Mr. Trettin, applauded the agency’s efforts to stimulate similar efforts via the green tier and other regulatory reform initiatives. P3 also represents a major change in the way their industry conducts its business. When P3 was introduced in 1993, Mr. Trettin stated, they pledged to operate their facilities beyond compliance with state and federal requirements with continuous environmental improvements. In 1998, Mr. Trettin stated, they introduced a companion program, The Green Guarantee, that involves nine paper companies that own and manage forests lands or operate pulp mills in the state. It was designed to ensure healthy productive forests for future generations. Two years ago they introduced Wisconsin Paper Councils Environmental Management System. This industry wide program is based on the international standard, ISO 14,001 and marked the first time that any industry sector in the United States embraced an environmental management system. Excellent progress is also being realized with this initiative and Mr. Trettin stated, they were optimistic that most, if not all of Wisconsin papermakers, will have an EMS System in place by the end of next year. Mr. Trettin stated, he was pleased that the Council of the Board of Directors on Monday, February 27, 2001, reaffirmed its commitment to continue this environmental improvement. Their industry has made significant progress but they still recognize there is still more work to be done. This is the last P3 report to the Board but Mr. Trettin assured the Board that P3 and their industries commitment to the environmental improvement lives on. Mr. Trettin and Mr. Schmidt extended his sincere thanks to the Natural Resources Board, the Secretary and the Department staff for the assistance, encouragement and support of these cutting edge programs.

Chairman Solberg thanked Mr. Schmidt and Mr. Trettin. Chairman Solberg stated, when you look at the number of companies that Mr. Trettin and Mr. Schmidt represent and the amount of industrial forest lands they represent, it is extraordinary they voluntarily do things that exceed their limits. It is something for other industries to look at.

Mr. Trettin: Within Georgia Pacific alone it is well over a quarter of a million.

Ms. Stepp: Were there any companies that chose not to participate in this?

Mr. Trettin: Yes, there was one company that did not participate. They came, reorganized after the program was issued that it is a very environmental sound operations.

Secretary Bazzell: Many years ago Tom Schmidt, on behalf of the Wisconsin Paper Council approached the leadership of this agency and indicated that he wanted to enter into a voluntary process to reduce the emissions of toxic chemicals in the environment. The offer was to have the Department list seven substances that we would like to see reduced beyond what is required regulations. This started a wonderful, highly successful partnership. For the last seven years these 24 firms and 46 facilities of the paper industry have reduced pollution levels voluntarily. The firms have set and exceeded goals in each of those years. Overall, the amount of process related releases are down well over 50 percent from 1992 levels. The partnership has set an example for others in the state and industries to emulate. Now would be a wonderful time to celebrate this tremendous success by

recognizing both the Wisconsin Paper Council as well as the Paper Council President, Tom Schmidt. It is also a time to recognize the opportunities that the future holds. The Paper Council has done many wonderful things with the partnership. They have formalized a system to reduce and manage environmental risks and improve environmental performance by the creation of the Wisconsin Paper Council Environmental Management System. Secretary Bazzell presented both the Paper Council and Mr. Schmidt with Certificates for a job well done.

3.G. INFORMATIONAL ITEM – Update on environmental fate and eco-toxicology of mercury in Wisconsin’s environment.

Jack Sullivan, Director, Bureau of Integrated Sciences, gave an introduction on the update of the environmental fate and eco-toxicology of mercury in Wisconsin’s environment. The Department is considering additional rule making in this area. As part of the Board’s deliberation, an update was requested on the current status and scientific knowledge regarding mercury in the environment. Mercury is naturally occurring and has many man made sources that enter the environment. He stated, Mr. Douglas Knauer and Dr. Mike Meyer would present additional information. They would review toxicology, mercury as a substance, an overview for the Board and mercury cycling in the environment.

Douglas Knauer, Bureau of Integrated Science Services, Chief of Environmental Research, stated this covers a tremendous range of science. When they first discovered methyl mercury was a real problem in the environment, causing deaths in Japan. Mr. Knauer further presented the history of mercury throughout the world. In the United States and in the rest of the world basically the consumption of fish containing methyl mercury is their concern. The total source of ingestion input of mercury to our bodies is through the consumption of fish. Most of the states in the union have fish advisories now. Three states, Michigan has 66 percent of the lakes rated ½ part per million 15 over 1.5 per million; Minnesota uses a different scale, 90 percent of the 700 lakes tested they have a mercury advisory; Wisconsin has older data 30 percent of the 900 lakes, now it is up to 1200. These have been changed now that we have new regulations.

Mr. Knauer referred to an EPA map regarding emissions. He pointed out the areas of the United States where the people live and where the power plants are located. They are looking at emissions where mercury gets emitted out of these stacks. They are interested in the chemical physical form of mercury, the atmospheric chemistry that goes on, the neurology, the source characteristics of the stack (if it is a short stack or a tall stack makes a difference), surface characteristics of the terrain, all those things will make a difference. There are three forms of mercury they are interested in looking at. The elemental mercury, the gas that is distributed when it comes out of the stacks; the active gases mercury is an ionic mercury (Hg<sub>2</sub>), very sticky, it will stick to particles and the particles then fall out on the ground, landscape, lakes. This is the important one. They have not been able to measure this one until recently. Mr. Knauer presented an EPA model they ran the results out of in the United States. Basically, the model that was made was the United States and what they looked at was the amount of mercury coming out of these stacks, the reactive mercury. How much was deposited or remained was explained by Mr. Knauer. The model he used showed they expect 70 percent of the mercury to fall within a radius of 60 miles around the power plant. It wouldn’t be equally distributed but there would be a high probability that 70 percent would fall. One of the big emitters is the big power plants along the coast of Lake Michigan. They also have the source of mercury but have not been able to separate nature occurring mercury from sediment mercury.

Mr. Knauer demonstrated a wet deposition illustration of the world. People have modeled deposition, how much would fall on the land surfaces. In this model, in the United States the highest deposition is on the east coast where there are a lot of power plants and incinerators. He stated, they are going to get more deposition in that area and it blows out into the Atlantic. Mr. Knauer pointed out the large area of China, where they know there are a lot of power plants that are producing a large amount of mercury. Closer to home, Mr. Knauer demonstrated on an EPA map, the scale of deposition per square meter on the United States. He spoke of micrograms per square meter, the amount of mercury falling on a square meter of surface area in the United States. This is a setup that the National Program has put out that has monitors that monitor mercury fall out of the sky. Mr. Knauer stated, they are actually measuring mercury. For Wisconsin, they are talking micrograms per square meter.

Mr. Tiefenthaler: Do you know if the power companies increased production during this time?

Mr. Knauer: Not that I am aware of.

Mr. Tiefenthaler: Wouldn’t that be an obvious comparison?

Mr. Knauer: You would think that might be. But, 41 inches of rain versus 30 inches of rain would make the difference. During a drought season the mercury levels are less. Once we have rain back up to normal we have more mercury. Transport is a problem that we don’t have a model set up for yet. We would like to do that.

Mr. Tiefenthaler: When you are talking about rainfall here, wouldn’t it make sense to check on the power companies?

Mr. Knauer: Yes, the transport mercury is the area where the expediation we are getting. We held up the model until we get the expediation work completed. It has just been completed. Now they are going to run the model. They run it on a daily basis. They are looking at all the mediology that is going on daily. We have not run this testing yet.

Mr. Behnke: How much of the section of river is used for collection?

Mr. Knauer: These samples were taken from collectors that are sitting out there in the open. They are done on a weekly basis. They are there for the entire year. That is every year for 1995, 1996, 1997, 1998 and 1999.

Mr. Behnke: Have they had chosen any other rivers?

Mr. Knauer: These are not rivers, these are sites where we put the collectors. They are not in the river. These are just depositions of what falls out of the sky. Every week someone goes out and samples from these collectors. Another way to do this is by looking at Ice Cores. Mr. Knauer showed a slide with regard to the ice core from a glacier in Wyoming, showing the concentrations of mercury. It can pick up volcanic emissions of Mt. St. Helens of 1980, the gold rush emissions of 1850-1884, the industrialization period of 1880 to the present. Mr. Knauer showed a slide regarding U.S. mercury use and coal combustion. There is a decline in agriculture/paper and paint. Our people are working to try and get mercury out of the environment as far as man hours, tools and things like that. Mr. Knauer explained the collection and testing process. On the aquatic side, what they are looking at is mercury falling into the lakes, comes in as the sticky mercury, mercury two, some of it goes into sediments, some is methylated and goes to the methyl mercury and this goes up the food chain. This methylation process is done by bacteria that lives in the lake. This sulfate reducing bacteria can't live in oxygen. They have to be in an anoxic condition. Some of our lakes will go anoxic in the summer time. Mr. Knauer presented a graphic with regard to the build up of methyl mercury in anoxic bottom waters of Devil's Lake in early fall. It showed the methyl mercury profile as it goes up with the old profile comes down and goes to zero. The bacteria living in there is producing and cranking up the methyl mercury. This gets into the walleyes, the filet, the meat part of the fish. The majority of the mercury in the filet, 99 percent of it, is methyl. The elevated walleye mercury concentrations resulting in fish consumption advisory was shown by Mr. Knauer, showing on a five year old walleye that if they reduce the mercury by 50 percent it will take 18 years before we start seeing a five year old walleye that is going to have load reduction.

Mr. Tiefenthaler? Is it species specific, are certain fish more affected than others?

Mr. Knauer: The food habitat and the food chain are essential here. Basically, the longer the food chain the more mercury will be in that top predator. Because it keeps bio-accumulating. In a short food chain, you won't have as much.

Ms. Stepp: You keep speaking of the sediments, that are naturally occurring. Yet, there isn't any documentation regarding these sediments. How much of that sediment is getting methylized?

Mr. Knauer: We have rates they produce and needs to if one looks at the rates of production. Presently there is a study going on in Canada, that we are a part of, where we are adding stable isotopes to mercury so we can find that out. Right now we don't have that information.

Dr. Mike Meyer, Toxicologist of the Environmental Research Grant, concluded the mercury presentation regarding the loon. He presented an overview of the research project that is currently ongoing in Wisconsin. They are measuring the impact of methyl mercury on fishing wildlife. Dr. Meyer explained that the average loon family of four on a typical Wisconsin lake will consume up to 1,200 pounds of perch and bluegill per year, which is greatly in excess of what a human would consume. The loon and other fish eating wildlife are consuming great quantities of fish and because methyl mercury accumulates in the food chain, those fish eating wildlife species are going to be getting the highest exposure in the state. Their partner in this project is the U.S. Geological Survey out of LaCrosse. They have a research facility on the Mississippi River. Their Agency and the University of Wisconsin, Madison, are a part of the Wildlife Ecology.

In other parts of the country, scientists have found there are changes in the loons behavior and increased mortality when loons are exposed to high levels of mercury. Loons eat nothing but fish, they are always on a lake so during the breeding season they are consuming the highest quantity of fish of any wildlife species on a lake. They are at risk species, have high trophic level and long-lived. Average daily consumption of fish by the human female population was 2.2 grams per individual, being the extreme high rate of consumption. While the common loon, at age 11 weeks, eats almost 200 times that quantity.

Mr. Behnke: How do you measure mercury in a loon?

Dr. Meyer: We take blood samples. No, we do not kill the loon. Of the fish eating wildlife in Wisconsin, we sampled several different species and found that of them, those including mink, otter, eagles, osprey and loons, loons by far have the highest levels of mercury in their tissues. Loons preferentially nest on lakes that are prone to methyl mercury by accumulation of fish. They like to nest on clear water, relatively acidic lakes and unfortunately these are the lakes that the sediment bacteria are present and involving the methylation process.

Dr. Meyer described the type of experiment they are undertaking with their partners and funding sources. To begin their assessment of the level of exposure in common loons, they night lighted and trapped over 675 individual birds over a 20 day period of each summer beginning in 1990. He described the process by which they collect blood samples, marking the loons and their young for tracking. This process included documenting feeding amounts, times, loon checks hatched and survived and measuring mercury level.

Dr. Meyer explained the laboratory study began by collecting one of two eggs from a nest. They leave one behind so there is a normal rate of reproduction on the lakes. They are collecting eggs from acidic lakes and eggs from neutral pH lakes because these eggs from acidic lakes have about 50 to 100 percent higher mercury already. They include that in the experimental design. Some of these chicks that are hatched out already have twice as much mercury in them because they were formed in eggs on acidic lakes. These eggs with high and low levels of mercury exposure were collected from lakes in north central Wisconsin. The eggs are then transported to the upper Midwest Environmental Sciences Center, artificially incubated and hatched. This is a facility in LaCrosse where they are doing the experiment. They have a fish culturist that has produced 120,000 hand raised fish that we have individually feed to all these loon chicks. They keep the chicks indoors from hatched to 30 days of age. They then take them outdoors and maintain them in predator proof facilities to the end of the experiment at 105 days. There is a crew of 15 technicians and four scientists working on this project seven days a week about 18 hours per day. The mercury is delivered into the birds by placing methyl mercury in a jell capsule, which is then placed in a rainbow trout and hand feed them to the birds. The amount of mercury they receive comes in different doses. Some birds receive no mercury, some birds receive the amount corresponding to the level in perch on neutral pH lakes, some birds receive the amount which corresponds to the amount of mercury in perch on acidic lakes in Wisconsin and some receive three times that dose. Through the course of the experiment they have several end points that are measured. Some daily, some weekly and some at the end of the experiment. They are measuring their daily food consumption rate in their body mass every three to five days. Every three to five days they measure their growth rates and their wing lengths and leg lengths. They have a variety of behavioral end points they challenge the birds with. This is because mercury is a neurotoxin, it affects their nervous system and alter some of their behaviors that are important to their survival in the wilds. Physiological endpoints they know mercury affects in laboratory animals and they look to see if they can find that in their loon chicks. How well their immune system is working, is there genetic damage, is there any evidence of tissue damage to the birds. These tissues that are examined at the end of the experiment to see if there has been any physical damage based on the exposure to mercury. Dr. Meyer presented data from 1999 as the 2000 data is still being evaluated. He stated, they achieved four different levels of mercury in the experimental perch in the laboratory. They achieved their target of getting low exposure birds and high exposure birds in Wisconsin. Plus they produced some birds that had extremely high levels of mercury in their systems, higher than any birds encountered in nature. One of the findings that surprised us is them was they saw no overt neurological symptoms in these birds. Despite this high level of mercury these birds did not exhibit the tremors, the types of toxicological endpoints, that are seen in humans. They did see in their dosed birds a high level of occurring bacterial infection that required antibiotic treatment and found that their immune function was compromised. They looked at the amount of antibodies that produced a foreign protein injected into them and it was much lower than all the dosed birds. So they have a signal that their immune systems might be compromised by exposure to this mercury. Right now they are analyzing the year 2000 to find if they have a similar finding. They also found their growth rates were lower when they were exposed to mercury. All those other endpoints that he described are still in the process of analyzing. They should begin to have the final results of this experiment in about six months and their final report is due in a year.

Mr. Tiefenthaler: Do you test for any other toxics or contaminants in addition to mercury?

Dr. Meyer: We are testing all of their food and all of the fish they are fed during the course of the experiment. They have a complete scan of the selection of birds early on in the experiment so we will know there has been no other exposure to any other chemicals other than mercury. This whole experiment is designed under the EPA laboratory practices. This is a standard that the FDA requires for screening food chemicals and we have quality assurance agents and officers overseeing this product. So, if this is ever in court this is a completely defensible study and there is paperwork behind everything. This level of research required this from the USGF standpoint. We screen their tissues and their food for any other chemicals that would affect this experiment.

Ms. Stepp: The statement was made that the methyl mercury is a bigger problem on acidic lakes and that loons tend to nest on acidic lakes more than pH neutral lakes. Is there was any information out in the wild studies that loons were near any mercury emitting facilities? Is there were any power plants near acidic lakes or is there a correlation there so we can see if there is mercury producing?

Dr. Meyer: The studies being conducted in Vilas, Oneida, Iron and Forest Counties is where all of the sources are.

Ms. Stepp: So far you seem to be concluding is with sedimentary.

Dr. Meyer: That is the primary source of the mercury for the loons.

Ms. Stepp: Not having anything to do with the mercury emission facilities.

Dr. Meyer: The loons are getting their mercury from the fish they are consuming. The fish are getting their mercury through the process previously described. So, it includes the emissions from the utility sources and other sources including incinerators that are then transported. On the acidic lakes the water chemistry is such that the mercury is methylolated and goes up the food chain more readily.

Ms. Stepp: On the fish advisory the lakes that have been tested so far, are they primarily acidic lakes that have been tested or is it all? What are the statistics relating the pH balance lakes with the acidic lakes?

Dr. Meyer: This will be addressed in the next item.

Ms. Stepp: Loon physiology verses human physiology. I imagine there have been some studies on that. If we are going to draw our conclusions from loon studies, how does that correlate to humans?

Dr. Meyer: The risk assessment process now defines human health risks in a different box than ecological risks. So we are solving a goal. Our goal is to see if we need even greater or lower concentrations of mercury in fish to safeguard the wildlife.

Mr. Tiefenthaler: Have you looked at naturally occurring concentrations of mercury? Have we looked at that versus the 1200 lakes and how it correlates?

Mr. Knauer: I will respond for Dr. Meyer, if we could get down and eliminate the natural mercury as much as we could, we would get closer and closer to that background.

Mr. Tiefenthaler: Is the background higher in the areas of high pH lakes? I am talking about naturally preindustrial falling into the lakes from volcanoes, emissions and so forth. How does that affect this study and what concentrations are there and have we looked at that?

Mr. Knauer: No, we have not been able to separate that out. We have not been able to trace it and separate it from that product. That is hard to do and I don't know how we are going to isolate and tag the natural occurring mercury versus the mercury. We don't have ways of tagging those different types of mercury. The study that was mentioned in Canada, where we are adding with isotopes, where we are trying to get at that question answered. We are trying to get at the mercury that is naturally occurring versus the mercury that we add versus coming out of the sky. Maybe that will help us answer the questions being asked. I think we should be looking at that and we are trying to get involved, as the study in Canada is doing.

Ms. Stepp: If we reduce levels in facilities we still don't know what the outcome will be as far as levels of mercury.

Mr. Knauer: I just reviewed a study in Sweden and in it there was about a 20 percent decline in the fish. They are seeing declines. Mr. Knauer stated, he would like to see is getting it down so we can get these lakes down so we can delist them. We could probably see some positive results within two or three years. We are waiting on the transport issue. We need more data.

Dr. Meyer: As Mr. Knauer was describing modeling, we are also going to include our new ability to model how much mercury is going to wind up in the tissues as the basis of how much is in the fish that we are eating as part of the experiment. We will now be able to predict how much blood and tissue mercury loons will obtain given X amount of mercury in fish of a given lake. By knowing what level of mercury in tissues causes negative responses from our dose response experiment we can then inform the model as to what a target level of fish mercury that will protect loons and with our other modeling efforts will be able to predict what levels of atmospheric deposition will then safeguard loon equosystem health in Wisconsin. New technology we pioneered this year is a transmitter that is implanted in a loon chick under the skin. It is very small and it beams up to a set of four satellites and daily we get the location of this loon chick that was banded on Loss Lake in Vilas County back in September. We were able to model its flight down to Florida. Since it has been in Florida, it has been going down the coast. This is going to allow us to know, if we get sufficient funding, once the birds leave Wisconsin and how much mercury is in them, how they survive as well on the wandering grounds or for a year after they leave Wisconsin. That will be our final test.

Mr. Tiefenthaler: What was the simulation in a loon?

Dr. Meyer: It is part of our experiment. Right now during the course of chick, most of the mercury that is being ingested is being shunted out to the feathers and there may be a period of time when they could not be at risk to mercury.

### 3.H. INFORMATIONAL ITEM – Update on change in the fish consumption advisory for mercury.

James Amrhein, Environmental Toxicologist, Bureau of Fisheries Management, gave a presentation on change in the fish consumption advisory for mercury. He stated, the more they look for mercury contamination in fish the more they find. It is currently responsible for 70 percent of their advisories nationwide. It is responsible for 90 percent of the advisories they issue here in the State of Wisconsin. A change in mercury advisory would hopefully allow them to do a better job of advising people on how they can continue enjoy eating meals of fish while at the same time reducing and controlling mercury. Testing they have been doing has been showing that mercury levels in fish are relatively steady. They are aware of the concern on the part of some stakeholders of the potential negative affect that this change will bring. There may be the perception that all waters are contaminated and that people should avoid fish consumption all together. Nothing could be further from the truth. This could affect anglers and subsequently the fishing industry. It could also affect native Americans and other minority populations such as the Hmong who, because of their custom or culture, may eat more fish than the rest of us. They are going to want to know how this new consumption advice fits into their consumption habits.

Mr. Amrhein stated, they are choosing this new approach because toxicology is not a static science and new research is occurring continuously. Their job is to keep abreast of new science to make sure they are giving the most sound, scientifically defensible

health advice. They always take a broader look at range of scientific studies to determine the proper course of action. They have reached such a point with mercury where the science of risk assessment has shown the need to change their approach to issuing fish consumption advice based on mercury. Questions remained about potential health affects associated with longer term exposures to lower levels of mercury. Several studies were conducted in the 1990's to look at people who had high rates of fish consumption with fish having relatively low levels of contamination, much more similar to the concentrations found in fish in North America and Wisconsin. Mr. Amrhein reported on studies in the Faroe Islands, Seychelles Islands and in New Zealand.

In comparing the old mercury advisory with the new one they were proposing, the old advisory gives advice to two populations, sensitive and non-sensitive. The new approach will do the same thing. There are two categories, a new range of advice where old advisory groups fall because of the number of fish that were tested over the past 20 years. Most fish are over the minimum advisory level for the sensitive group. At the levels they find in Wisconsin fish, they would be required to list all sites and species they have tested (over 1200 waters) and will test in the future. Mr. Amrhein felt that it would be more appropriate to issue general advice for the entire state. General advice for sensitive group populations: you can eat one meal per week of pan fish, game fish and other species with a few exceptions. General advice for general populations: pan fish, game fish and other species, advisory listing would drop. Advantages are it is an easier message to understand and convey to more people. Consistent with other states issuing general advisories including Michigan, Minnesota and 10 other states. This is consistent with nationwide advice coming from EPA and FDA. It applies to waters that we have not yet tested and is consistent with our monitoring program.

Mr. Tiefenthaler: As far as the human consumption of fish and the build up of mercury, lets say that someone comes from Illinois on vacation and they eat fish five times every other day. What effect does that have on them and what dangers lie in that? And, they go home and don't eat fish for two months.

Mr. Amrhein: The good thing about mercury is that your body can get rid of it. If you ingest a certain amount today, in 50 days half the amount will be gone. In another 50 days, another half of it will be gone. If you go on vacation and you eat a lot fish that week, for the non-sensitive population it has much less of an effect. The effects of increased blood pressure and the effects on your immune system occur at much higher levels. However, for the sensitive population, particularly a woman who is pregnant, who wants to become pregnant, what you really want to do is avoid peaking that mercury concentration into your blood. That is why we would put special emphasis on the sensitive group, they really need to space their meals out over this particular time period. For instance, if you eat your fish in the one meal per week group, you should wait a week before having another one. If you keep that mercury level in your blood you subsequently transfer that to your fetus as well.

Mr. O'Brien: Do these figures apply to fish that we eat in a restaurant or that we buy in the market? How do we know what the mercury levels are if you buy red snapper or fish other than pan fish?

Mr. Amrhein: The FDA, last month, came out with some recommendations for fish. They were particularly aimed at pregnant women and women who were planning on having children should not eat shark, swordfish, king mackerel and tile fish because they were above one part per million. Most of the fish that you find, such as your Friday night fish fry, which include cod, haddock and perch are relatively low. They would fall within the one million part. What we want to do is use these as guidelines. Trying to make the message more simple to give the people something to go by.

Mr. Amrhein stated, he felt it is important to note that all of the fish here are above .05. Essentially what they could do is list all of the lakes and all of the species they have tested from every water body they have tested which now includes over 1200 water bodies and every lake they will test this year and next year on all of those species. They have come up with, what they think, is a better idea and a much simpler approach. That is to issue general statewide advice for all waters with the state that are not effected by PCB's or other contaminants that are more prevalent. That advice is: women of childbearing age and children under the age of 15 can eat one meal per week of pan fish, this includes the popular species of blue gills, guppies, yellow perch and bullheads. The kinds that most people are going to catch. That same group could eat one meal per month of game species. Such as walleye, pike, bass and several others. The advice for the general population would be much more liberal. They could eat unlimited amounts of pan fish and one meal per week of game fish. They feel in this way the one meal per week or one meal per month are categories that we feel most people can relate to on a calendar basis.

There are several advantages to doing this. First of all, it is a much easier message to understand and convey. You don't necessarily have to have an advisory booklet in your hand to follow this advice. It will be easier, not only for those of us in the Department to convey this message to the public but also for health professionals. Especially, those that are working with people that may not use English as their primary language. It is also consistent with other states. Michigan has been issuing this type of general advice for over 10 years now. Minnesota is planning on adopting the same approach that we are this year. There are 10 other states across the nation that issued this general advice to cover all of the waters. It is also consistent with the federal advice coming out of the EPA and FDA. EPA is now recommending that sport fish consumption should be limited to one meal per week and that takes into account things like consuming the other commercial species like tuna. It applies to waters that we have not yet tested. We are very fortunate to be water rich in this state with over 15,000 lakes and 14,000 rivers. It could be a challenge to get to these waters on a timely basis, therefore, we have a number of waters out there that haven't been tested. We get questions all the time asking what advice should I follow? This will allow them to have a level of protection. It fits nicely in our monitoring program. We will no longer have to go out and sample all species and all sizes of fish. We can basically choose an indicator

species, such as a top level fish such as a walleye or pike, sample various sizes of those and if they fit into the general advice we wouldn't have to worry about those sites anymore.

Mr. Amrhein further stated, their outreach strategy, their implementation plan was easy. It is to help people understand this and increase awareness. Because of a new advisory, there is a potential concern for a negative impact on fishing in the state. There was a great deal of concern on the part of the charter groups on the Great Lakes when we changed our PCB advisory several years ago. They were able to convey a positive message to those folks regarding fish consumption, keeping their risks of contaminants relatively low. They have had banner years of fishing ever since we have put out that advisory. This advisory would not affect the Great Lakes or other waters affected by PCB's. Those still will be listed separately. We are sensitive to the concerns of affected groups statewide. They are also preparing fact sheets and informational items to help people understand this issue, to be aware, but not to be alarmed. They are using our website to put out more materials and use related links for people to get information. They are instituting a promotional campaign that will help emphasize the positives that includes fish in one's diet and will encourage people to put their own consumption habits in the context of this advisory. Mr. Amrhein stated, he thinks that most people will not have to change their consumption habits due to this new advice. They will work with local interest groups such as lake associations, fishing guides, health associations, HMO's, to exchange ideas on avenues to provide good, sound advice and increase the advisory awareness. They have been working with the Division of Health to create materials which will get people's attention about fish advisories in a non-threatening way and turn them on to sources for more personalized information such as physicians and health clinics. These items were designed not only to reach anglers, but especially to reach women and children in angling households, physicians and community clinics. The new mercury advisory will fish nicely into this scheme because the message is more simple, covers most waters and is easy to understand.

Mr. Poulson: We have the other culture industries within the state, somehow I think that we need to recognize that probably those fish are not quite the same as sport fish. How do we help people differentiate between that and how do I help people understand?

Mr. Amrhein: We are essentially telling people that if they eat fish more than twice per week, sport fish commercial fish, any type of fish, that you should pay particular attention to the advice that was given here today regarding sport fish consumption. Most of the farm raised fish that we have are generally low in contaminants. In order to get the mercury concentrations in fish going you need that food chain component. You need the walleyes and northern feeding on the perch.

### 3.I. Retirement Resolutions:

1. Joseph Drabek.
2. Bernadette Gilleski.
3. Gary Homuth.
4. Beth Lane.
5. Raymond Peters, Jr.
6. Donald Tills
7. Jeanne Witt. This item was deferred.
8. Brian Fellrath

Secretary Bazzell reviewed the careers of each retiree and commended them for their years of exemplary service to the citizens of Wisconsin. Mr. Tiefenthaler requested that he have his name added to the Retirement Resolution for Mr. Tills. Secretary Bazzell stated, this would be done. Mr. Poulson MOVED, seconded by Mr. O'Brien adoption of the retirement resolutions. The motion was carried unanimously by those members present. (Mr. Willett was absent)

### 4. Board Members' Matters.

#### 4.A. MMSD Tour.

Ms. Stepp: Mr. Tiefenthaler and I went on a tour of MMSD that was arranged by the Department, which I am very appreciative of. I felt that the conversations that we had with the parties there were very informative. I know that the Department will be coming forward with a report in about two weeks. We are anxiously awaiting the final report.

#### 4.B. Mutt Swans.

Ms. Stepp: With regard to the mute swan issue in the Waterford area, I would like a written statement in seven days that I could supply back to the town chairman of Waterford.

#### 4.C. Archery Season and December T Zone.

Mr. Tiefenthaler: I have two questions that I would like to submit for the spring hearings as a Board Member. Both issues are going to be sensitive because they involve the extended archery season that we have already began and the T Zone in December. I have had a lot of fall out from that vote both from the archery people and the Conservation Congress people in looking at the numbers. I understand that we are going to have this yet this year and it is going to be in place but that doesn't mean that we can't revisit it. In order to revisit it, we need to look at the public's take on this. The question of the T Zone, I just asked what the votes

really were in the areas affected. Essentially, Bayfield, Burnett, Douglas, Florence, Forest, Lincoln and Vilas Counties has zero votes in the hearings last time. They were zero yes, zero no. These are all affected counties. But, we don't have a take on what their thoughts are. Knowing full well that it is not going to be in the December zone, I would like to get a read on this as to local support from other sportsman. This is a major concern to Conservation Congress and others that are affecting Deer 2000. The second item is the extended archery season on those opportunities which is the Thursday before deer season. That essentially passed two to one at the time of the hearings last year. Actually, it was 10,700 to 5,000 to extend the archery season those four days that we have now taken away. I have heard an awful lot about that, since the vote. In an effort to take a look at this, I would like to add these questions as advisory board questions to see what kind of support that we would have for this. To see if it would be worthwhile revisiting in the future because we are not going to do it unless we do have some support for it. Let's take another look at it from a statistical standpoint where we are going to go with this possibly two, three or four years from now. Therefore, I would like to add those questions into the spring questionnaire as an insert. I checked with Al Phalen and he said that we could do this.

Ms. Stepp: Do we even need to do that, because I know what the sportsmen in the Conservation Congress' answers are going to be. I don't know if that particular survey is going to be an adequate reflection. I don't think it would be an accurate reflection of the public at large in those areas. I can already tell you what the response will be from the Conservation Congress, they want more opportunities to hunt in that area. So, I wouldn't even need to see that result.

Mr. Tiefenthaler: There are six or seven counties that never even voted on it. The question was never brought up to them in those affected areas in the hearing process. Those counties that I read had a zero vote. That question, essentially, never really came up or was considered. Now that we ruled that it isn't going to be in the top quarter of the state, I think we should give them an opportunity to vote on it.

Ms. Stepp: Your not talking about Conservation Congress hearings? Or are you?

Mr. Tiefenthaler: Yes, DNR hearings. They would be in March or April of this year, I don't know.

Chairman Solberg: Right, but he could put that on. You have the right to put a question on.

Ms. Stepp: Oh sure, it would be a driving factor in the decision. I already know how those people feel. I was just trying to take into consideration all the other people that recreate to that area.

Chairman Solberg: They have the opportunity to vote to. So, we will see.

Mr. Poulson: Under the circumstances, it is in our best interest to put this to rest. Or, wait for a response from the spring hearings and have the Board react to that. I guess you have the right to do that.

Mr. Tiefenthaler: The Board, at the time, said that we would go along with the majority. We chose to go, clearly against the majority. The question now is and the comment was made, why don't we try this for a year or two. I can understand that. But if we bring it up two years from now or a year from now we still need some raw data. That is the reason that I am putting this out there again. To get more feed back to see if these were legitimate at the time. We are going to start all over again and that is going to take another two or four years. This is the reason that I am doing it and it is based on numbers, purely on the numbers.

Mr. Poulson: I just hate to see the Board being the one tearing apart the deer 2000.

Ms. Stepp: I had a part in that. I really felt that it was important to try and represent the other people besides the hunters in that area.

Mr. Poulson: I am just saying that we agreed.

Mr. Tiefenthaler: I don't want to get involved in the issue again. One of the reasons that I am putting this question in there is to take another look at the numbers. I was asked to do this by a number of people and I agreed to do it.

Chairman Solberg: Yes, you have a right to do it.

## 5. Special Committees' Reports.

There were no Special Committee Reports this month.

## 6. Operating Committees.

### 6.A. Air, Waste and Water/Enforcement Committee.

#### 6.1. Minutes of January 24, 2001.

Mr. Poulson MOVED, seconded by Mr. O'Brien approval of the minutes as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.2. Adoption of Order CF-36-00 – creation of s. NR 1.445 and revision of Chapters NR 50 and 51, Wis. Adm. Code, pertaining to the Stewardship Program.

Kathy Curtner, Bureau Director for Community Financial Assistance, gave a presentation on the Stewardship Program. Ms. Curtner reviewed the history of the order. She stated, they made two changes to the emergency rules in response to the public comments. The first, two trails groups were concerned that eligibility criteria and priorities in the State Property Development Grant Program would unfairly limit participation by Friends groups that support state trails managed by counties. This was not the intent and changes were made to ensure that this would not be the case. The second addressed a concern raised by a county forest administrator. That Stewardship restrictions in ss. NR 51.03(3) and 51.904(8)(d) regarding income accruing to a property would make it difficult or impossible for governmental units to enter property acquired with Stewardship grants into the country forest law program. Ms. Curtner stated, this was not the intent and the language has been revised. They did not change the definition of nature-based outdoor recreation despite considerable dissatisfaction with it. The decision to limit Stewardship funding to nature-based outdoor recreation and to require the Department to define this term by rule was made by the Legislature and incorporated into the statutes for the new Stewardship Program. The Department received legislative direction on the definition and believes it is consistent with legislative intent, and therefore, they did not make any changes to it. She further stated, additional changes were made to reflect recommendations contained in the Legislative Council Rules Clearinghouse Report to the Department. The proposed permanent rules contain no significant changes from the emergency rules. Local governments will no longer receive grants for land acquisition or development for sports fields, playgrounds, tennis courts, pools and similar local parks projects, items that were eligible for funding in previous Local Park Aids programs (Local Park Aids is one of the components of the Stewardship Program). They have stated, this will place a hardship on local communities that are attempting to meet the recreational needs of their citizens.

Nonprofit conservation organizations are eligible to receive Stewardship grant funds to acquire land for any of the purposes available to the Department and local governments. However, they expect that nonprofit conservation organizations will continue to focus their efforts on natural areas and wildlife habitat.

The revisions to s. NR 1.445 and Chapters NR 50 and 51, Wisconsin Administrative Code, pertain to rules for the Stewardship Program. These rules are applicable to municipalities, nonprofit conservation organizations, conservation organizations and Friends groups eligible for grants under the Stewardship Program and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19(3M), Stats, a final regulatory flexibility analysis is not required. The Bureau of Integrated Science Services has determined that these rule revisions are a Type III action under Chapter 150, Wisconsin Administrative Code, and no environmental analysis is required.

Harold Jordahl, Government Relations Director for the Nature Conservancy's Wisconsin Chapter, spoke with regard to the Stewardship Program. He is also a member of the Stewardship Advisory Committee, which works with the DNR staff to provide input on the administration of the Stewardship Program. He stated, he supports the adoption of NR Chapter 50 and 51 relating to the Knowles-Nelson Stewardship Fund.

The Nature Conservancy's mission is to protect native plants, animals and natural communities by protecting the places they need to survive. Since their founding in Wisconsin, the Conservancy has protected over 55,000 acres and their currently own and manage approximately 18,000 acres of land at more than 50 preserves throughout the state. Mr. Jordahl stated, they have approximately 25,000 members in Wisconsin and more than 1,000,000 nationally. They are proud to work together with the Department to protect some of Wisconsin's best, last great places for future generations. Mr. Jordahl further stated, over the last ten years, Stewardship has accomplished great things for our state's citizens and our heritage – more than 200,000 acres of parks, forests, trails and natural areas have been protected for today and tomorrow using Stewardship funds. Stewardship has helped the state to protect land for big headline grabbing projects like the Willow Flowage, the Great Addition and the Ice Age Trail as well as hundreds of smaller projects throughout the state.

The Nature Conservancy is a strong support of the entire Knowles-Nelson Stewardship Fund program and the proposed NR 50 and NR 51 rule packages. Mr. Jordahl highlighted the important partnership that the Board, Legislature, Governor and DNR staff have nurtured between the state and private conservation organizations and local governments using Stewardship Fund grants.

Mr. Jordahl encouraged adoption of these rules that will help to continue and strengthen the protection of critical natural and recreational lands throughout the state.

Cynthia Olmstead, Executive Director of the Mississippi Valley Conservancy, LaCrosse, gave a presentation on the Stewardship Program. Ms. Olmstead stated, she would be speaking in support of the DNR Stewardship Program rules related to how beneficial this program has been to their organization and to their local citizens. As a land trust, they work with landowners and local communities on voluntary conservation projects throughout their six county regions in southwestern Wisconsin along the Mississippi River. Over the past few years they have protected over 900 acres of land through donated conservation easements, land donations and land acquisitions. Although they focus on the conservation of environmentally sensitive land, their projects

range from conservation easements on active bluff land and farms that include forests, streams and productive farmland to ownership of high quality natural areas.

Their acquisitions at the Sugar Creek Bluff project in Crawford County over the past two years were made possible by grants from the DNR Stewardship and River Protection Grant Programs. As a relatively new land trust, these grant programs enabled them to leverage their funding from donations and foundation grants to purchase 110 acres of threatened bluff land and stream corridor. Mr. Olmstead stated, the Stewardship Program was a critical link to their collective ability to conserve those special places in the Coulee region of western Wisconsin.

Mr. O'Brien MOVED, seconded by Ms. Stepp adoption of Order CF-36-00-creation of s.NR1.445 and revision of Chapters NR 50 and 51, Wis. Adm. Code, pertaining to the Stewardship Program.

Mr. Poulson: On page 12 (referring to the handout), it has to do with the comment that is made relative to the Stewardship rule that should require that the purchased productive farm land be minimized under the new Stewardship Program. I feel that as I look at the idea of a long range plan, such as this, I would like to see it nailed down a little more solid on the protection of agricultural land as much as possible.

I would like to MOVE that the Department staff develop an operating guidance consistent with the Board's policy to minimize the purchase of productive agricultural land. The guidance/manual code would require Department's feasibility study for each proposed Department acquisition project to address the acquisitions project's impact on agricultural production and how conservation needs and production agricultural values would be balanced in order for the Board to approve the project or acquisition.

I also MOVE that for grants to local units of government and non-profit conservation organizations Department staff explore with these groups a workable procedure to minimize purchase of production agricultural land. I request that the Department report on their progress with this motion at the April 2001 meeting of the Natural Resource Board. I think that as I make this, I have talked with the legal staff, they would indicate where it would fit in and makes the most sense.

The motion was carried unanimously as amended by those members present. (Mr. Willett was absent).

Discussion:

Mr. O'Brien: Isn't it likely where we have an over production of milk, an over production of cranberries, over production of potatoes, over production of just about every kind of agricultural products, that some farmers might welcome the opportunity to sell their farm and take it out of production?

Mr. Poulson: Very possibly. Because we certainly become a buyer, we are very competitive price wise. My whole point is that we look and make a decision based upon what is the impact to agriculture of taking a particular piece of property out of production. Does the Board have that ability to do that?

Chairman Solberg: Your not saying that we could never buy it?

Mr. Poulson: No, that the Board would have the opportunity or take a look at what is the impact upon taking that on.

Mr. O'Brien: I understood the motion to include language that said something to the effect that would minimize the purchase of agricultural land.

Mr. Poulson: That is minimize, yes. I certainly have no objection to the Board taking a look at it and understanding the impact on agricultural land. But, I may have some concerns to say that we are not going to buy it or that we should minimize or restrict in anyway a purchase.

Mr. Poulson: The word minimize to me does not keep you from doing it. It causes you to not do a wholesale purchase of agricultural land. Mr. Poulson was requested to again read the amendment.

Mr. O'Brien: That isn't the Board talking.

Mr. Tiefenthaler: That is already in the green sheet. That language is already in there.

Mr. O'Brien: It is already a part of the rule.

Mr. Poulson: I am not making a rule, this would be guidance and manual code. Something that you would go to and look at. That the operating guidance would require Departments to use feasibility studies for each proposed Department acquisition project to address the acquisition projects impact on agriculture production and how conservation needs and production agricultural values would be balanced in order for the Board to approve the project or acquisition.

Mr. O'Brien: I like the later part. I am just concerned with the word minimize.

Chairman Solberg: I might ask that someone from the staff answer this. If you are looking at information before you bring it to us, how do you agree with that?

Steve Miller: The Board already has a policy in which we avoid purchasing prime agricultural land. We have been working on this issue much harder in the last few years. We have tried to avoid purchasing good agricultural land in the community and we have made a number of attempts to sell back some land to share croppers for a long length of time because of the concerns of local farmers. This would move it up another level, which is rather consistent with what we have been trying to do with James Kurtz's work, in working with the agricultural community. We also know that through the land legacy study that is going on now, this whole concept of using agricultural lands in and near our Department's properties for buffers and compatibility are going to rise to the top as an issue in terms of the land decision. We can work with this, with the manual code policy or Board policy in how we bring the feasibility study to you. I feel that we are already into that. This will formalize what I think we have been doing more informally. We already work along those lines.

The motion was carried with a vote of five to one by those members present. (Mr. Willett was absent)

6.3. Adoption of Emergency Order RR-13-01(E) and Permanent Order of Order RR-06-01 on creation of Chapter NR 754, Wis. Adm. Code, pertaining to Insurance Requirements Related to Natural Attenuation for the Voluntary Party Liability Exemption.

Mr. Michael Prager, Land Recycling Team Leader, Division of Land, requested to have the Board adopt an emergency order and a permanent order. He stated, which would describe the environmental insurance requirements that must be met for parties seeking a voluntary liability exemption for a site which is using natural attenuation for a cleanup. Mr. Prager stated, they have been working with this Brownfield Study Group and a rule advisory group to put together the rule. The reason they are asking to adopt this as an emergency rule is that the 1999-2001 budget required the adoption of this using the emergency rule making process without providing evidence of the emergency. Also, there are a number of important redevelopment projects that are waiting for this rule to take effect. He stated, they had public hearings around the state and took public comments and, therefore, they are requesting that this also be adopted as a permanent rule. They did not get any significant comments regarding the policy issues in the rule. Mr. Prager stated, they see this as a win for the Department, for the people of the state and for the people doing voluntary cleanup. It revised a way to address the risk of the environmental fund. If natural attenuation were to fail at a cleanup site, it would allow people to get a liability exemption so they could redevelop property. This will ultimately result in more voluntary cleanup and more brownfield redevelopment in Wisconsin. The program is designed to be cost effective and easy for people who are doing voluntary cleanup. It is the first kind of program of its type in the nation to use environmental insurance as part of the states cleanup program. The rule is very simple, it requires everyone to get insurance through a state master policy. First a request for case closure is needed, where they have to demonstrate they have met the cleanup standards and they will bring the ground water into compliance with the standards using natural attenuation, they pay an insurance fee and submit a short application. Mr. Prager stated, they would then issue a certificate of completion. Some of the comments they received were from people regarding the insurance policy and the fees that would be needed would be paid. Generally, the range would be between \$9,000 to \$18,000 per site. It would be much more cost effective and take less time as opposed to people going on the open insurance market and getting these policies. It would also be easier to negotiate these policies using the state system that the rule puts forth.

Mr. Poulson: We have a brownfield situation, we go in, we have the agreements, we are confident that we have everything cleaned up. After that, someone thinks they are harmed. Does that insurance carryover and protect us against that? At what point have we taken over from where the original liability was? How does that liability move along if we have the insurance involved or if someone thinks they are harmed after a brownfield closure? Whose responsibility it is?

Mr. Prager: The liability exemption, under the voluntary party liability exempt process only exempts people from the state coming in and using the site for someone to do a cleanup action. It doesn't provide exemptions from third party liability where a neighbor could potentially take action. There is third party insurance out there available that people often purchase if they are concerned about buying a property, there was a cleanup and maybe the neighbor would sue them. But this doesn't cover third party insurance.

Mr. O'Brien: Are we underwritten by an insurance company or is the Department doing that?

Mr. Prager: We are working with the Department of Administration Risk Management Program. Their broker has been talking to different underwriters who would underwrite the program. Yes, we are going to use a private environmental insurance company.

Mr. Tiefenthaler: If we issue a closer letter on a property, how does the liability of risk affect us based on our closure letter?

Mr. Prager: The closure letter and certificates of completion are somewhat different. Typically, with a closure letter the Department is able to reopen that closed case. If there is a problem in the future and require the party responsible to take further action. In this case, where we are talking about certificates of completion, we provide them with an exemption (the statute provides them an exemption from future liability). So, if there were some situations found in the future where natural attenuation didn't work as expected, we wouldn't be able to reopen the case and require that responsible party to cleanup the site. The risk for the

state is that potentially the state would have to use the state environmental fund to cleanup the site in the future. That is a very slight risk. That is why the insurance would be put in place.

Mr. Tiefenthaler: Closer doesn't really mean closure. It is a misnomer. That is my opinion of it.

Mr. Prager: I think that is why the voluntary party liability exemption process was put forth in state law in the first place. Because people realize that when you get closer it doesn't necessarily mean closure. So they put forth this process for people to get exemption from liability that really does need closure because it can't be reopened.

Mr. Poulson MOVED, seconded by Mr. Tiefenthaler adoption of Emergency Order RR-13-01(E) and permanent order of Order RR-06-01 on creation of Chapter NR 754, Wis. Adm. Code, pertaining to Insurance Requirements Related to Natural Attenuation for the Voluntary Party Liability Exemption. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.4. Adoption of Order WT-34-00 – revision of s. NR 116.08 and Chapter NR 333, Wis. Adm. Code, pertaining to Dam Design and Construction Standards and Zoning Downstream of Dams.

John Coke, Water Management Engineer, Bureau of Watershed Management, requested the Board to adopt of proposed changes to NR 333 and section NR 116.08, Wis. Adm. Code, pertaining to dam design and construction standards and zoning downstream of dams. In August of 2000 the Board approved to go to hearing for the proposed changes. A public hearing was held in October of 2000 in Madison. There were no attendees at that public hearing and the only submitted written comments were received from the legislative council rules clearing house, which mainly pertain to grammar, punctuation and form. The proposed changes are the same as were presented to the Board in August.

Ms. Stepp: It was in August that you were here. I had asked about why there was a change of doubling the time for review before the permit is issued and tripling the time that it takes to get your money back from the Department after they had posted a bond or lean. I was hoping that it wouldn't be in there anymore when it came in front of us. I always get concerned when I see either longer permit times or longer response times coming back from the Department. The reason that I am most concerned, at least in the aspect of getting their lean on their home released or getting their money back. Especially in a case of a lean, it stops a family. It could stop a private landowner from getting a second mortgage, refinancing their home or kids college education getting financed. I am troubled by how we have added 75 business days to the entire turn around time.

Mr. Coke: I think the majority of the added time is in the final stage of the project by the number of activities that need to occur before we can sign off on the project. We need to have the application from the consulting engineers of the project, the plans, specifications. Many times it might involve a list of contracted items or additional items that need to be cleaned up before they can comply with their contract.

Ms. Stepp: But 60 days from release after you have everything approved, the Department has 60 days to release the funds. Am I reading that correctly?

Mr. Coke: Yes, other actions that the Department needs to do on inspection to find that it is acceptable to us.

Ms. Stepp: Does that happen before the 60 days starts or after the 60 days start? I would think before, right? The property owner needs to give you a certificate from an engineer stating they did the repair according to the way they submitted they would do the repair. So you have an engineer stamped they did it that way. Now we are taking a staff person and going out there to make sure that what the property owner said that the engineer did is already done. So, are you saying that after the inspection is done it takes another 60 days to release the funds. That is where I am bothered. Why should it take three times longer to get some ones money released?

Mr. Coke: Another action that is needed by the dam owners is to submit an emergency action plan. This could be done during the process. Many of the dam projects are done in a one single construction season. They may finish up during the construction season and that isn't all that long of a time frame for consultants to be putting together their dam break analysis and their associated emergency action plans. The Department also needs to review those. There could be a partial release.

Ms. Stepp: Partial doesn't mean anything when you are going for refinancing. I am not worried about small amounts of money but some of these are significant. Someone has to place a lean on their home or piece of property they own. I worry that the Department is holding onto people's money too long unnecessarily. Why does it have to go to three times longer to get their financial assurance released. Not that you would go out and inspect it at that time your release or authorized that release within 60 business days if the Department finds that the construction has been completed. Why does it take double the time to get a permit to make this repair? We have gone from nine weeks to 18 weeks before someone can get a permit to do the dam repair or removal. I am imagining it is a staff problem.

Mr. Coke: It was a part of group discussions that the 20 days that were in place were not really manageable.

Ms. Stepp: So, what do other Board members think?

Mr. Poulson: I hear from time to time that the permit process is slow and I think that some of that is up to the individuals too because they have to get their side done. It seems to me that we are extending time, how long do we drag these out.

Ms. Stepp: You have the certified paperwork saying the job is done correctly by an engineer. Before that 60 day time starts, you have a piece of paper that has been submitted by the person that did the repair that the engineer went out there and certified that it was done. But it still takes three times longer to get their money back. It would be different if you didn't require the property owner to have a certified statement that it is done the way they said they were going to do it.

Chairman Solberg: The question is, can you get it back in 20 days?

Mr. Coke: If we were bound by Department code we would try and stay within those standards. It is just that it has been problematic in the past to meet the 20 day time frame.

Ms. Stepp: Then I would like to make a motion to amend that part of the rule. I am okay with keeping the 90 business days.

Chairman Solberg: You want to make a motion to approve the rule except for the 20 days?

Secretary Bazzell: This isn't something that the staff just came up with. No one has commented or expressed concern about a 60 day period. As Mr. Coke has indicated, if the 20 days doesn't work and I think, obviously, if you do make a motion that we would try and make the 20 days work but then we need to plug another hole somewhere else. In other words, something has to give somewhere else.

Mr. O'Brien responded, I haven't heard why the 20 days wouldn't work.

Mr. Coke: one of the issues that I wanted to get into a littler earlier in the construction season and perhaps getting an engineers certification in late fall or even in the winter time. We may get into a winter season and a lot of the dam could be covered with snow. We can't do a good inspection of dam facilities if they are buried, we can't observe the seepage very well.

Ms. Stepp: That doesn't account for all of the times the rest of the year. This owner already has paid an engineer to come out and certify and he did it the way he should to certify. It is almost like double the work is being done. Then the property owner is being punished further because it is going to take that much longer back from the Department. If you weren't holding his money, that would be another story.

Chairman Solberg: If you continue to read on, it doesn't seem to make sense of what you are saying, "... for release if the Department finds that construction or reconstruction has been completed in accordance with the plan". If it hasn't been completed then you wouldn't sign off. What you are saying, once you sign off, give me my money back. Why does it take 60 days instead of 20.

Mr. Coke: I am reading it as within 60 days of receipt of the request to release the funds. If the Department subsequent to getting that request certifies that it has been constructed in accordance with the plans. We have to verify, that once we get the request to release the funds, we still need to be confident that the dam has been constructed in accordance. That is just not receiving the consultants certification, it also requires an on site inspection by someone from the Department.

Ms. Stepp: So the 60 days starts from the day that I turn in my request to get my money back or does the 60 days start from the day you determine they met all of the requirements?

Mr. Coke: 60 days starts from the receipt of your request.

Ms. Stepp: That is a whole different things. Within that 60 days, there would be an inspection by the Department, pay board processing and then the money would be released within 60 days from the request for it.

Ms. Stepp MOVED, seconded by Mr. Poulson, the adoption of Order WT-34-00 – revision of s. NR 116.08 and Chapter NR 333, Wis. Adm. Code, pertaining to dam design and construction standards and zoning downstream of dams. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B. Land Management, Recreation and Fisheries/Wildlife Committee.

6.B.1. Minutes of January 24, 2001.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien approval of the minutes as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.2. Approval to begin the process of determining the 2001 Zone T season framework and determining the deer management units for inclusion in Zone T.

Bill Mytton, Wildlife Biologist, Bureau of Wildlife, requested permission from the Board to have informational meetings on bow Zone T seasons and part of that package is the proposed emergency rule for the northern forest units. Mr. Mytton presented a slide presentation. He pointed out the units proposed for the 2001 season with the exception of Unit 64. Mr. Mytton stated, even though they had a record last deer kill last year, there are still a lot of deer and they are significantly above goals he would be asking to reinstitute the Zone T coverage. They are also designating certain watch units. As last year, they would like to make a modification to the Zone T structure. To exempt parts from the early and late season components to the Zone T season primarily because there are enough other users, they are small in nature. One of the things they found out in 2000 was by allowing park hunters or permitted hunters to use their free antlerless tags. They were able to increase harvest without going to special seasons, early and late to accommodate user conflicts.

Summarizing the year 2000 season, Mr. Mytton mentioned they had a significant harvest in the early and late seasons across the state, with 82,078 deer being harvested, all antlerless deer. Significantly, this is more than were harvested statewide in the early 1970's for all seasons combined. As amended in the Deer 2000 proposal last year, they would not include that area north of Highway Eight again this year to keep the confusion down in case the WM 40-rule order goes through. There are significant deer harvested in the late season, 5000 may not seem like a lot, but in certain units where they have high deer density that is significant. This would not be included in the 2001 T Zone proposal. The current recommendations are: emphasis on youth participation in October and December herd control hunts; antlerless only gun hunt on October 25-28; either sex gun and muzzleloader seasons; antlerless only gun hunt December 6-9; one free antlerless tags per license; and additional antlerless only bonus permits available for purchase.

Mr. Mytton stated, the other thing that is important to note is the snow. He stated, they have to keep in mind they are looking at the winter severity index. They are taking that into account this year. They are receiving a lot of questions on whether northern units may drop out of the T Zone designation. They will make that judgment call in late March, early April. Even with the WSI index high, the deer populations are high enough in many of those units they probably won't drop out. Staff has been instructed to get enough press information out to keep the public informed.

Mr. Mytton further indicated the WM-40-00 Rule Changes: bow season starts on the weekend closest to September 15; October 4 day Zone T hunt; muzzleloader season extended three days; December 4 day hunt for zones south of Highway Eight two weeks after Thanksgiving; bow hunting resumes the day after nine day gun season; bow hunting extended to the weekend closest for January 15; earn-a-buck after two years of Zone T and when the unit will not be expected to be within 20 percent of goal in the third year.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien approval to begin the process of determining the 2001 Zone T season framework and determining the deer management units for inclusion in Zone T as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.3. Approval of feasibility study and environmental assessment for the Grand River Marsh Wildlife Area 3,440 boundary expansion.

Todd Peterson, Section Chief of Public Service and Users Section, presented the approval of feasibility study and environmental assessment for the Grand River Marsh Wildlife Area 3,440 boundary expansion. Mr. Peterson stated, land use has changed dramatically. Out of this 3,440 acres 630 are Department of Transportation mitigation sites, almost 1000 acres in wetlands reserve program land, so these muck farms are going out of production

Jim Holzwart, Wildlife Biologist, Green Lake and Marquette Counties. Mr. Holzwart stated, he works out of the Berlin Office managing the Grand River Marsh. He reviewed the history of boundary expansion. He stated, the Grand River Marsh is intended for duck and pheasant production, protection of endangered and threatened species, public hunting, trapping and fishing and other compatible recreational and educational opportunities. The purpose of this proposed boundary addition of approximately 3,440 acres is to provide for expansion of Grand River Marsh through acquisition of several major adjacent parcels known to be available at this time.

Ms. Stepp: Regarding small parcels of land, subdivisions, that were kept out of this approval, are these existing places where people have been living for quite sometime, it isn't a prime developing area? These are wetlands?

Mr. Holzwart: There were subdivisions in Marquette County where some trailer houses are located. There was another issue on the north end where there is a road to the Fox River Locks and it was unclear when the plat book was made up and some of the owners were on the wrong side of the road. He stated, they didn't want to include those, so they were excluded. Predominately it is all wetlands, almost 940 acres are in wetland reserve right now.

Mr. Tiefenthaler: In the new proposed 3,440 acres will we expand the refuge or allow hunting on the property?

Mr. Holzwart: It was a goal of the master plan process that would come up in the final action. He stated, he felt they would leave the closed area as is, which is the middle of the property and have the rest all open for hunting (over 3,000 acres). They would have a protected area right in the middle of a big project.

Mr. Poulson: Regarding the east end near the highway, is it farmland?

Mr. Holzwart: There are some rolling terrain here, where there are some low areas that aren't farmed. There are some large marshes in places that have muck farming on it now. It gets a little wooded and recreation a little south of that area.

Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler approval of Feasibility Study and Environmental Assessment for the Grand River Marsh Wildlife Area 3,440 boundary expansion as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.4. Approval of Forest Legacy area boundaries.

Gene Francisco, Administrator for the Division of Forestry, presented the approval of Forest Legacy area boundaries. He stated, the Board was briefed last fall regarding the Forest Legacy Program on purchasing development rights on forested areas. The application was approved and they have received a million dollars this year to begin the Legacy Program in Wisconsin. Mr. Francisco stated, they were on the way to protecting large blocks of forests. The goals of the Forest Legacy Program are to protect those values and attributes that led them to designate the area as environmentally important; maintain the ability of the forest to produce forest products on a sustainable basis; maintain other traditional and non-destructive uses; protect important fish and wildlife habitat; protect existing cultural resources; protect or enhance rare or unique habitats and their associated species; protect watersheds; increase the amounts of continuous forest by maintaining or creating large blocks of forest protected from fragmentation; create public use opportunities where appropriate; and reduce forest fragmentation by retaining large. Mr. Francisco displayed a map to identify the four Forest Legacy Areas. He stated, the northern forestry identifies the different land uses and types. The map that was viewed was approved by the federal government and the staff didn't have time to make the change. What they agreed to in the northern area was to run the line with Highway 29, entire block of Oconto County forest, which includes a lot of private land that is under our tax law program. Highway 141 is turning into a four lane highway and there is extreme pressure for development for residences in the Green Bay area. He stated, his recommendation was to run the line down Highway 29. That application will need to be submitted and it does meet the criteria. In the Central Legacy Area Mr. Francisco pointed out the public lands and the privately owned lands that are primarily industrial forest lands. Also included were the Baraboo Hills area, one of the largest blocks of continuous forests in southern Wisconsin and the Kettle Moraines. The Kettle area contains the largest block of forest in southeastern Wisconsin. Mr. Francisco stated, all these areas were included within the legacy area with the thought that at some point in time in the future they would have the opportunity to purchase development rights and maintain those blocks of land.

Ms. Stepp: What is the goal of the Department development rights in the areas?

Mr. Francisco: That would be the goal of the Legacy Program. To try and get the development rights and access rights. It is up to the Board as to whether or not they wish us to invest public money in doing that. Each parcel will come back to the Natural Resources Board.

Secretary Bazzell: I would point out that there is a larger strategy involved. We have the environment committees looking at the issue of the middle Kettles. They have had prior Board direction to look at ways to secure state ownership to connect northern and southern. I feel that what Mr. Francisco was discussing was one of the tools that will be available to them to accomplish that objective.

Ms. Stepp: But we are not going in a direction of no more development in the Delavan area?

Mr. Francisco responded, if you are a landowner in this area, it is all voluntary.

Mr. O'Brien: What is the advantage when the federal government gives us grants

Mr. Francisco: There is \$50,000,000 a year available and could be increased to the states. There are 20 states involved in the program at this time. We have applied for federal funds, they get the cost share grant up to 75 percent federal money and 25 percent state money. The idea is to purchase development rights and I would assume any other rights that we would want to purchase to protect and maintain those areas as forested areas, managed as forests.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson approval of Forest Legacy area boundaries as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.5. Authorization for hearing on revision of s. NR 1.212(1) and (2), Wis. Adm. Code, pertaining to Private Forestry Priorities for Assistance, and revision of s. NR 1.213(3)(b) and (d), Wis. Adm. Code, pertaining to Cooperating Forester Program.

Paul Pingrey, Private Forestry Specialist, gave a presentation of private forestry supporting the authorization for hearing on revision. Mr. Pingrey stated, the Division of Forestry would like to ask the Board's help in implementing some rules to help bring about some effective changes. The first change relates to how DNR foresters set priorities. Although, they give on-site service to about 10,000 landowners a year, the actual demand is two to three times that amount. To get the job done, DNR foresters cannot do all the work themselves. He stated, they needed DNR foresters to concentrate on what they do well and rely on partners (private foresters, forest industry, landowner groups, UWEX, other agencies) to also play to their strengths. The rule revision recognized that work and some mandatory programs take so much time from our existing staff they seldom get to other services the public says they value most. It reinforces the need for more private forestry assistance resources. Mr. Pingrey reviewed DNR and private foresters phases of operations. He further stated, the rule change requires the cooperators follow sound forestry standards in all their work. The rule also increases the annual continuing education requirement from six to ten hours. Mr. Pingrey stated, in order to provide ample opportunity for comments, they are asking for three hearings in Green Bay, Stevens Point and Eau Claire.

Chairman Solberg: Is the northern part of the state was being covered for these hearings.

Mr. Pingrey: The foresters that helped us pick the sites felt that Eau Claire was easy to get to as well as Stevens Point.

Mr. Poulson: How many different foresters do we have? We have the DNR foresters, private foresters, county foresters are there any other foresters?

Mr. Pingrey : There are three types of foresters that help private landowners. That is the DNR, consulting foresters or independent foresters who work for the landowners (landowners hire them) and industrial foresters.

Mr. Tiefenthaler: How do the counties get DNR foresters to manage county properties? Aren't there U.S. foresters working on the management of national properties?

Mr. Pingrey: Chapter 28 establishes this cooperative relationship between the state and the counties to running the country forests. In that statute, the state agrees to provide technical assistance to the counties. Many counties have country forest administrators who handle the business end but the DNR foresters working on those country forests provide the technical end. The federal employees work the national properties, the state isn't providing assistance.

Mr. Behnke MOVED, seconded by Ms. Stepp the authorization for hearing on revision of s. NR 1.212(1) and (2), Wis. Adm. Code, pertaining to Private Forestry Priorities for Assistance, and revision of s. NR 1.213(3)(b) and (d), Wis. Adm. Code, pertaining to Cooperating Forester Program as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.6. Authorization for hearing on revision of Order FH-12-01, Wis. Adm. Code, pertaining to reproduction by yellow perch in Green Bay.

This item was deferred.

6.B.7. Ice Age Trail – acreage goal modification, various counties.

Susan Black, Director of Parks and Recreation, Division of Land, presented information regarding the Ice Age Trail. She stated, it is a 1000 mile trail, about half of which is completed. It is a cooperation between the National Park Service, DNR and the Ice Age Park Foundation. It has been 50 years since we have been starting to develop the trail. Ms. Black suggested they be more aggressive on its completion. Ms. Black stated, since the year 2002 is going to be the year of the trails they would like to place emphasis on this, put some time lines to it and have a systematic, strategic get it done built.

Peter Biermeier, External Relations Planning and Trails Section Chief, Division of Land, reminded the Board that last month they approved a state trails network plan and the Ice Age Trail is an important part of that plan. He stated, it runs from the northwest section of the state to southern Wisconsin and continues up into Door County. Much of the state trails network plan that was brought to the Board previously has a lot of interlocking trails for hiking and biking that tie into this Ice Age Trail and that cross it. Mr. Biermeier stated, he considers it to be a very important trail from that standpoint. The funding for this trail most recently has been increased by the \$2,000,000 grant from the federal government which DNR is matching with Stewardship moneys in order to buy the parcels necessary for the trail. He stated, they additionally received about \$800,000 for the ice age reserve units. That money is used to fund full time interpretive people in the reserve units. Recent Federal Land and Water Conservation Fund match grants of \$2,000,000 were also available to the Department to assist with the protection of priority properties along the Trail. Mr. Biermeier stated, there is a great deal of urgency with this trail. They would like to get it completed as soon as possible. There are problematic areas in Dane, Washington and Waukesha counties, where the boundaries are being scrunched by the loss of green space. Mr. Biermeier stated, they are trying to move as quickly as they can and acquire the parcels that are available.

Doug Haag Real Estate Section Chief, Division of Land, spoke to the goal of getting the trail accomplished. They are trying to stress real estate activity through the Department efforts on land acquisitions in Washington, the mid Kettle is already a priority, the Kettle Moraine Nordic Unit with Kettle Moraine north unit and the south where the trail needs to connect between those two units.

Washington County is very rapidly developing county, real estate values are escalating rapidly there. Mr. Haag stated, they have the Washington Ozaukee Land Trust, the Ice Age Park and Trail Foundation, Cedar Lakes Conservation Associations and some very strong groups in Washington County. They would like to bring the Kettle Moraine down into the City of West Bend via the Ice Trail so they could celebrate that trail connection in 2002. Mr. Haag stated, they were asking the Board for the approval of expansion of the acreage goal of the Ice Age Trail. The current goal of 233 acres was established based on planning efforts completed for only one county several years ago. The Department surpassed that acreage goal shortly after it was established and the State now owns approximately 3,673 acres. The state land, along with county and federal land, has allowed for completion of one half of the 1,000-mile long trail.

Chairman Solberg: If the National Park Service received authority would we still be the lead agency in purchasing the property?

Mr. Haag: I feel we would still like to take the lead on such as the mid Kettle area where there is obviously a state boundary interest. It is a state project as well. I feel those partnership details would need to be worked out and specifications of geographical areas of priority.

Mr. O'Brien: Are you still looking primarily at Stewardship funds?

Mr. Haag: Yes. Stewardship funds and the Federal Land and Water Funds are turning out to be lucrative funding for the trail. We did get a \$2,000,000 grant for the State of Wisconsin for the Ice Age Trail in federal fiscal year 2000. The National Park Service received a grant for another \$2,000,000 from the Land and Water Conservation Fund for federal fiscal year 2001 for a particular acquisition in Dane County. The Foundation and other hiking interests are very strong active lobbyists and are working now in Washington to try and build a strong land and water conservation budget for the Ice Age Trail in the coming fiscal year. We are looking now that state and federal funding to be a one to one match.

Ms. Stepp MOVED, seconded by Mr. Tiefenthaler the Ice Age Trail acreage goal modification in various counties as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.8. Statewide Public Access land acquisition – Door County.

Richard Steffes, Real Estate Director, Bureau of Facilities and Lands, presented the Statewide Public Access land acquisition from Dean and Lenore Carmody in Door County to the Board. This would provide a permanent boat landing on Little Sturgeon Bay, about 1200 acres. It would also provide an important harbor of refuge for boaters. In addition to this transaction by the Department, the county will be buying two acres from the same owner that will be deed restricted and used as part of the boat landing project together. There will be four acres and 400 feet of frontage.

Chairman Solberg: Is this the property that Mr. Behnke and I toured?

Mr. Steffes: Yes, and it does not include the house.

Mr. Tiefenthaler: What other boat landing are nearby?

Mr. Steffes: There is one at the quarry, about six miles from there and a lot of private landings. The water is shallow. There will be some dredging with this but I feel there wouldn't be a whole lot.

Jeff Pagels, Outreach Team Leader, representing Government Outreach, spoke in favor of the Statewide Public Access land acquisition. He stated, in 1989 the area of Door County became one of their focuses. It heightened in 1996 when they lost private access in that area. They formed a group of local DNR staff, county board, town board and sport fishing enthusiasts. Any site looked at was expensive, other sites they had were discarded because they were wetlands or archeological sites. This site is also expensive, they worked hard with Door County to purchase the land without the house. We have 250 miles of shoreline in our region and we have 35 different launch site areas.

Mr. Behnke: Are there very few boat landings south of Sturgeon Bay?

Mr. Pagels: They are more than ten miles apart and that is one of our standards to try and identify a site every ten miles.

Leo Zipperer, Door County Board Chairman of Sturgeon Bay, spoke in favor of the Statewide Public Access land acquisition. Mr. Zipperer asked the Board to act favorably with this request. He stated, he was proud to report that the supervisors were unanimous in their action that provided the \$40,000 at their December 28, 2000 meeting that was payable on or about January 1, 2001 that held the property. At that same session of the County Board an additional amount of \$497,500 was approved as the county's share of the total purchase price as negotiated by Jeff Pagels, an employee of your Department of Natural Resources. This was not a budgeted item and was accomplished in 40 days. Mr. Zipperer reported to the Board the history of the County of Door with the Department of Natural Resources. The addition of this property, it would allow for access to the waters and green area for use by the public. Future use would include watercraft launching and a protective harbor on the west side of the Bay. He stated, he

enjoyed a very good working relationship with the DNR and requested Board approval of this joint venture in a continuing effort to assure that the natural resources of the State of Wisconsin are retained and remain open to everyone.

Mr. Tiefenthaler: What would the County do with the piece of property that would be the counties?

Mr. Zipperer: Mr. Penney would respond to that when he does his presentation.

Mr. Behnke: With this kind of support and this kind of financial commitment shown by the county, obviously they feel that this is very important to the public in that area.

George Penney, Door County Park Administrator of Sturgeon Bay, spoke in favor of the Statewide Public Access land acquisition. Mr. Penney passed out a handout of Door County. This handout showed Dyckesville, Sawyer Harbor Olde Stone Quarry and Potawatomi County Parks on February 23, 2001. These handouts showed very few or no fishing shanties. The handout of Little Sturgeon Bay showed hundreds of fish shanties. They are fishing and they have a tough time trying to get out there. Access onto Little Sturgeon Bay would be the public access property they are referring to, the Carmody Property.

Chairman Solberg: Mr. Behnke and I toured this property. There were smaller boat landings and this was really the only sizable parcel to get on.

Mr. O'Brien: What are the two star markings just south of where you currently have boat landings?

Mr. Penney: Yes, the farther south marking was Fig Harbor and the closer marking was an open harbor that is not usable because of the low water. Actually, it isn't even a harbor.

Mr. Behnke MOVED, seconded by Ms. Stepp the Statewide Public Access land acquisition – Door County as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.9. Kinnickinnic River Fishery Area land acquisition – St. Croix County.

Richard Steffes presented the Kinnickinnic River Fishery Area land acquisition - St. Croix County. The Department has obtained an option to purchase 110 acres of land from the Kinnickinnic Land Trust, Incorporated for \$275,000 for the Upper Kinnickinnic River Streambank Protection Area in St. Croix County. The item is being submitted because the purchase price exceeds \$150,000. With abutting state land, this purchase will provide a 300 acre block of public ownership for recreation, grassland bird habitat and streambank protection. The appraised value price is \$306,200. They aren't making any money on this they are selling it at cost to us.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien the Kinnickinni River Fishery Area land acquisition – St. Croix County as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.10. Streambank Protection Program Easement land acquisition – Iowa County.

Richard Steffes presented the Streambank Protection Program Easement land acquisition – Iowa County. The Department has obtained an option to purchase an easement on eight acres of land from Richard and Linda Wedepohl for \$16,530 for the Streambank Easement Program in Iowa County. The item is being submitted because the grantor is an employee of the Wisconsin Department of Natural Resources. The easement contains 1,320 feet of frontage on each bank of Conley-Lewis Creek, and 1,320 feet of frontage on each bank of an associated feeder stream. The grantors had no advance knowledge of the Department's interest in the property.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler the Strambank Protection Program Easement land acquisition – Iowa County as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.11. DONATION – 700 acres of land along the Peshtigo River in the Town of Peshtigo, from Badger Paper Mills, Incorporated for the Gift Lands Project in Marinette County.

Richard Steffes presented that the Department proposes to accept 700 acres of land from Badger Paper Mills, Incorporated. This is a parcel that is being paid for by Georgia Pacific. Badger Paper will receive the funds and will deed it directly to the DNR. DNR will do environmental checks to make sure that the land is in good shape before we take title. This is basically wild land along the Peshtigo River. It is needed for conservation purposes. It is environmentally sensitive with this transaction we have six and a half miles of the Peshtigo River from south of Peshtigo. There is a natural area next to it that has full growth, white pine and beach and a lot of Eagle nests. It is related to the NRDA Settlement but there is no obligation on the part of the Department to give this back if it is not approved by the court. It is basically a business need of Badger Paper to make a transfer at this time. It is basically unconditional transfer at this time.

Mark Reimer, representing Fort James Corporation which is now part of Georgia Pacific. Mr. Rimer stated, he was supporting the transfer to the State of Wisconsin with approximately 700 acres of ecologically significant property currently owned by Badger Paper Company. On November 15, 2000, then Governor Tommy Thompson announced that the State of Wisconsin and Fort James Corporation had reached an agreement addressing the states claims for natural resource damages associated with the presence of PCB's in the lower Fox River and Green Bay ecosystem. The purpose of the agreement is to compensate the public for alleged injuries to natural resources caused by the release of hazardous substances into the environment. The agreement is currently out for public comment and will thereafter be placed before the federal district court for its review and approval. Under the terms of the agreement our company will either be obligated to provide funding for the Department of Natural Resources to purchase the Badger Paper Property or acquire that property in Fort James' name and immediately transfer ownership of that property to the Department of Natural Resources. Mr. Reimer stated, while they understand the details of the agreement may change as the result of public comments and federal district court review, they are confident that the agreement, as it stands today, is in the best interest of the state. Even if the specifics of the agreement change, he believes that Badger Paper Property is of such ecological significance that it is almost inconceivable that any final agreement would not include the transfer of that property. In addition, Department staff have assured us they will be granted appropriate natural resources credit for the Badger Paper Property if any final agreement approved by the Board requires more than 700 acres be transferred to the state. Mr. Reimer stated, they support the Department staff's recommendation that the Board approve this real estate transfer.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson the donation of 700 acres of land along the Peshtigo River in the Town of Peshtigo from Badger Paper Mills, Incorporated for the Gift Lands Project in Marinette County as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.12. DONATION – 1.48 acres of land from Norman and June Brod for the Gift Lands in Marathon County.

Richard Steffes presented the Board with a donation of a small end of an island in Mosinee on the Wisconsin River. There is 900 feet of frontage. It is basically a \$4,000 appraised value. The parcel provides fishery habitat along its shoreline. Mr. Steffes recommended that the Board accept this donation.

Mr. O'Brien MOVED, seconded by Mr. Behnke the donation of 1.48 acres of land from Norman and June Brod for the Gift Lands in Marathon County as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

6.B.13. DONATION – 105.84 acres of two land parcels of land from Sheboygan County Conservation Association, 80.15 acres will be added to the Sheboygan Marsh Wildlife Area. 25.69 acres for the Statewide Streambank Protection Program, with a mile of Sheboygan River frontage in Sheboygan County.

Douglas Haag gave a presentation to the Board that the Department proposes to accept a donation of two parcels totaling 105.84 acres in Sheboygan County from Sheboygan County Conservation Association. The item is being submitted because it is a donation. The first parcel is 80.15 acres in size and will be added to the Sheboygan Marsh Wildlife Area. It is entirely outside of the boundary and if accepted as a gift will be included into the official project boundary. The second parcel is 25.69 acres in size and is needed for the Statewide Streambank Protection program, with a mile of Sheboygan River frontage.

Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler the donation of 105.84 acres of two land parcels of land from Sheboygan County Conservation Association, 80.15 acres will be added to the Sheboygan Marsh Wildlife Area. 25.69 acres for the Statewide Streambank Protection Program, with a mile of Sheboygan River frontage in Sheboygan County. as presented. The motion was carried unanimously by those members present. (Mr. Willett was absent)

4. Board Members' Matters.

Chairman Solberg: Mr. Tiefenthaler did you have an item that you wished to bring back up?

Mr. Tiefenthaler: Yes the items that I brought up under Board Members' Matters two questions to put on the Spring Hearing Questionnaire. Mr. Behnke wasn't here at the time and I had a conversation about a procedural question. I feel that this procedure is correct. I didn't want to do it because Mr. Behnke is very oppose to this. Therefore, I request that the Chairman bring this up as an agenda item next month. With Full Board approval, we would then discuss it and either put it on or not put it on the questionnaire. I checked with Jim Kurtz and Jim Henrich and we can do this legally next month. We can talk about it then as an agenda item.

Mr. Behnke: I would speak in opposition to that. Traditionally we had a long standing tradition that it is protocol to approve the Spring Questionnaire in January. In January any member of the Board has the opportunity to place items on the agenda. The fact that this item was debated in January when the deer season was approved, it was defeated, and now to come back as a minority member of a Board decision I consider it not only immoral but unethical to try to do this at this time. The right thing to do would be to wait until next January and then bring it back or have the Congress put it on at that time. To do it now it is absolutely contrary to any protocol, that by tradition, has been established for a long period of time. The Board has spoken. The minority has an obligation to support a decision made by the majority of the Board. If you want to be unethical, if you want to be immoral about it, you can go your route.

Mr. Tiefenthaler: I don't feel it was unethical or immoral. I was requesting that the Chairman put it on the agenda and that the Full Board vote on the question.

Mr. Behnke: The Full Board voted on that very item.

Mr. Tiefenthaler: The question here would be whether or not we put this advisory question on the Spring Questionnaire this year and it will be voted on by the Board. If it is defeated then it won't be on there this year.

Mr. Behnke MOVED, that this not be allowed.

Mr. Tiefenthaler: This isn't a motion, this is a Board Members' Matter. I am requesting that the Chairman put this on the agenda.

Mr. Behnke: If Mr. Tiefenthaler would like something on the agenda, the Board should have a say of whether or not they want it because the Board has already acted on this.

Mr. Tiefenthaler: Mr. Chairman would you give me your thought of clarity on how we should proceed?

Chairman Solberg: Mr. Behnke and Mr. Tiefenthaler are both right. You are absolutely right as to what your saying Mr. Tiefenthaler after you checked with the attorneys that it could go on the agenda that it could go on the spring questionnaire yet?

Mr. Tiefenthaler, yes it can go on. But rather than requesting it without further discussion because there is major opposition here, I am perfectly willing to bring it up as an agenda item, discuss it and vote on it and then vote on it as an item by the Full Board. If it is approved it will go on and if it is not approved it won't go on.

Mr. Behnke MOVED, seconded by Ms. Stepp that the request be denied from the standpoint that this item was decided at the January meeting of what goes on the questionnaire this year. The motion was carried unanimously by those members present. (Mr. Willett was absent)

7. Department Secretary's Matters.

7.A. Lloyd Eagan, Director of Bureau of Air Management, gave a presentation on the Supreme Court decision on the Clean Air Act. On February 27, 2001, the Supreme Court ruled on a case related to national ambient air quality standards for ozone and fine-particulate matter. EPA issued the eight-hour ozone standard and fine-particulate matter (PM<sub>2.5</sub>) standards in July, 1997. Subsequently, several industries and states challenged the standard and standard setting process in court. The Supreme Court decided on four issues:

- 1) The Supreme Court supported EPA's ability to set National Ambient Air Quality Standards. They ruled that it was not an unconstitutional delegation of authority for EPA to set the new ozone and fine-particulate matter standards. This is an important decision for EPA and all other federal agencies that set standards, such as the Food and Drug Administration.
- 2) The Supreme Court ruled that EPA could not consider cost in setting the National Ambient Air Quality Standard to protect public health.
- 3) The Supreme Court ruled that the Court of Appeals had jurisdiction to review how the standards were to be implemented.
- 4) The Supreme Court indicated that EPA must reconsider how to implement the new ozone standard. The 1990 Clean Air Act Amendments (Subpart 2 to Title 1) was very specific on how to control ozone, but the new standard does not fit well into the structure that Congress created under the Amendments. The Court ruled that EPA could not totally abandon the 1990 Amendments and revert to the old structure of the Clean Air Act (Subpart 1 to Title 1).

Reminder of what is included in provisions of Subpart 2 to Title 1:

- 1) Creates a classification scheme for ozone problem areas based on the severity of the problem. (eg. Marginal, Moderate, Serious and Severe Non-attainment Areas).
- 2) Identifies deadline dates for cleaning-up areas based on severity of the problem (eg. 2007 for Severe Non-attainment areas like the six southeastern Wisconsin Counties).
- 3) Identifies specific control requirements such as vapor recovery at gasoline pumps, reformulated gasoline and enhanced inspection maintenance for motor vehicles.

The fine particulate matter standards are not affected by the Court's ruling on Subpart 2.

We should look at this as a victory for air quality, since it upholds EPA's standard setting process. The ozone and fine-particulate matter standards subject to the ruling were designed to protect millions of people from premature death or disease.

Repeated exposure to high ozone concentrations can lead to lung disease, decreased lung function and trigger asthma attacks. Exposure to high concentrations of fine particulate matter leads to lung disease, heart disease and premature death.

It is too early to say exactly what will happen. EPA is likely to go ahead with the identification of non-attainment areas (areas that do not meet the standard) for the eight hour ozone standard. However, to implement the new ozone standard, EPA must create an implementation scheme that reasonably matches the structure of Subpart 2. This means a lot of work for EPA and potentially leaves the door open for more litigation on the issue. Ms. Eagan stated, they would be following this process very closely.

It appears that the Department of Natural Resources will once again be engaged in the development of an ozone control program. Although, the timing for that plan development is uncertain at this point, Ms. Eagan stated, they would work with the other Lake Michigan States on development of a regional ozone control program. They are also likely to be engaged with these same states for development of a fine particulate matter control plan, if the monitoring data reveals fine particulate non-attainment areas in our states. Since there is likely to be a significant delay before ozone control plans are due, they will continue to work with stakeholders throughout the state on voluntary programs to reduce ozone precursors. What they accomplish voluntarily will support any ozone planning efforts, they will need to conduct for the new standard and will enable them to provide healthy air to Wisconsin residents more quickly than waiting for further planning direction from EPA.

The Supreme Court ruling does not affect the existing one-hour standard or plans developed to meet that standard. EPA will continue the approval process for one-hour attainment plan they submitted last December.

The most recent monitoring data, 1998 through 2000, shows continued improvement in air quality over the last decade. However, some problem areas remain. Ms. Eagan handed out two maps illustrating the problem areas. The first illustration indicated the average of the annual fourth highest peak daily running eight-hour ozone measurements, Wisconsin Department of Natural Resources ozone monitoring sites from 1998 to 2000. The second illustration indicated the fourth highest peak daily one-hour ozone measurements, Wisconsin Department of Natural Resources ozone monitoring sites from 1998 to 2000.

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The meeting adjourned at 3:15 p.m.