

NATURAL RESOURCES BOARD

Minutes

The regular meeting of the Natural Resources Board was held on Wednesday, February 26, 2003, in Room 027 of the State Natural Resources Building (GEF 2), Madison Wisconsin. The meeting was called to order at 8:37 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
Jonathan P. Ela
Howard D. Poulson - left at 3:00 p.m.
Stephen D. Willett

ORDER OF BUSINESS

1. Minutes to be approved.

1.A. Full Board Minutes of January 22, 2003.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, approval of the Full Board Minutes of January, 2003, as presented. The motion was carried unanimously by those members present.

1.B. Committee of the Whole Minutes of January 22, 2003.

Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler, approval of the Committee of the Whole Minutes of January, 2003, as presented. The motion was carried unanimously by those members present.

1.C. Agenda for February 26, 2003.

Secretary Hassett requested to defer item 3.B.7. Spread Eagle Barrens Natural Area land acquisition – Florence County; move item 4.D. Informational Item - Update on litigation regarding revisions to New Source Review Program to 4.A.; move item G.1. Gene Francisco Retirement Resolution for presentation prior to the Air, Waste and Water Management/Enforcement Committee; and move Resolutions of Appreciation for Former Secretary Bazzell and Former Deputy Secretary Fennessy's to 4.G under the Retirement Resolutions.

With those changes, Mr. Poulson MOVED, seconded by Mr. O'Brien, approval of the agenda for February 26, 2003, as amended. The motion was carried unanimously by those members present.

2. Ratification of acts of the Department Secretary.

2.A. Real estate transactions.

Mr. Ela MOVED, seconded by Mr. O'Brien, approval of the real estate transactions, as printed.

Mr. Willett asked if the Department was going to be evaluating the proposal that was sent to the Governor concerning the new biennium budget on land acquisitions.

Secretary Hassett referred this to **Mr. Dick Steffes**, Natural Resources Real Estate Director. **Mr. Steffes** stated that he was not familiar with any evaluation that would be taking place. He further stated that the Governor supports the program. **Mr. Willett** responded that he would think that the Board would forebear making any major purchases until they see what the state of affairs is for Wisconsin. He didn't want to see any adverse affects to a program in which they worked so hard to build. He stated that at the same time we are laying off employees from key programs and incurring more land that we cannot manage. This could hurt us more, so when we are incurring lands and we

are cutting back on the staff, that allows those pristine properties to not be properly managed. Mr. Willett stated that he thought we should look at this. He also stated that he is very concerned with the payment they make in lieu of taxes. **Chairman Solberg** responded that he understood what Mr. Willett was saying, However, the Board's charge from the Legislature and what they pass until the Legislature changes something or the Governor does something different, he didn't think the Board had a say in what they can do in this area. **Mr. Willett** stated that they do have a say. They don't have to buy land. **Chairman Solberg** responded, you can stop the land purchases but that is not the intent of the order that the Board is given. **Mr. Willett** gave an example of purchasing land and being unable to manage it because of lack of funds. **Mr. Behnke** asked what the difference was from what the Board has been doing in the past. The Board bought lots of land when they were not faced with the budget crisis that they are now, they bought land with the idea that they would buy it now and manage it later. He asked why Mr. Willett was proposing this now. **Mr. Willett** stated that he is raising it for two reasons: 1) they had sufficient money in the program to make payments in lieu of taxes and they don't have that any longer; and 2) they had adequate staff to be able to ask them to do double duty in managing this land. **Chairman Solberg** asked if Mr. Willett was talking about the taxes that the state has to pay on the land they buy and if so, that this has not been withdrawn from the budget. **Mr. Steffes** responded that this is fully funded, it has been well received by local communities. These lands are expensive to manage and develop. Regarding the management issue, the Department works with the counties. **Mr. O'Brien** stated that he shares Mr. Willett's concerns and he was going to bring it up if he didn't. He doesn't know that there is anything they can do as the Board if the Governor says that the money is there. He would like to send a message from the Board that they are concerned and he is concerned during good times when they buy property, a piece here and a piece there, when these pieces are available, that sometime will fit into the master plan. It seems strange that, when we are cutting back programs and personnel, and at the same time we are buying land in the middle of nowhere for no immediate purpose. He thought they could stop buying and they could send some type of a message that the Board is concerned about this. **Mr. Ela** stated there are several issues that need to be sorted out. One is the status of the Stewardship Fund. He stated that the Governor has made it very clear that he is going to support full funding of the Stewardship Fund in this biennium. As he understands it, that is in his control through line item veto, as necessary, if the Legislature doesn't go along with that. He stated that he would support indicating that they applaud that. The second issue is management. In the long term we aren't doing ourselves any favors if we don't acquire some of these parcels of land because it makes the management of the areas that we are interested in more difficult and development takes place in the meantime. We have a strategy for buying land, it is laid out in the Land Legacy Report we will be considering this afternoon.. The answer is not to cut back on our land acquisitions when funding is available for the long term, as the land is going to get more expensive. Thirdly, the taxes. Mr. Ela stated that he is not sure which of these matters concerns the Board Members but he thought they should take them one by one and not lump them together. **Mr. Willett** stated that he thought what the Board was saying is that they are cognoscente that the problem is much more encompassing that affects them in a larger way. What happens is that people become wedded to a program and don't necessarily take a larger view as to how it is going to impact the Department as a whole. This management issue is critical to us. As Mr. Behnke pointed out, it has been a problem for us even in the good times but we have been able to manage and overcome it. Now it will be more serious. He thought they all should review this. He was not proposing to ban the program, he was saying that they should look at it in an overall context and try to evaluate on how it affects the overall operation of the state. **Chairman Solberg** stated that over the years they have been criticized on the fact that sometimes they do buy things that aren't managed properly. It is worthwhile for the Board to pass a message to the Legislature they are concerned about this. **Mr. Behnke** stated that the intent of the Stewardship Program goes way back to the Warren Knowles idea of buying land when it is available for preservation purposes and some of this land has not been managed for many years. He felt there isn't anything different now. He thought they should stay on focus and stay on course with their land purchases when it becomes available and it is a good decision to do it that way. He stated they have a lot of properties that are not managed but someday they will be. But they are there for the future to be managed sometime down the road, purchase them now so they are not lost. He thought that was the important point to keep in mind. **Mr. Poulson** stated that he didn't think there wasn't anything wrong with raising the question. The question, at this point in time this year 2003 with the budget issue, is this something worthy to talk about. Is there a point when you say that the Board is concerned about how much is enough at some point. We are asking people to come up with more tax money to pay for this out of the general fund. **Secretary Hassett** responded that they should not presume that they would be less able to manage this because of the budget issue. They are working through that right now as to which positions are going to go and which they are going to keep prioritizing those things. He stated this is pretty high on his agenda. He asked that the Board would not presume that the Department would be less able to do what they have to do until they have a chance to work through this. **Mr. Tiefenthaler** stated that the question is so what if you don't. You have the land and it is not managed. If you don't have the money and the staff to do it, you are

not going to do it. We have the Stewardship Fund and we are going to continue on buying land, that is what it is for. **Mr. O'Brien** responded that we were sending the wrong message. This is a time when we are in a very critical situation statewide, not just within the Department. **Mr. Ela** stated that they have a segregated loan fund which is dedicated for this purpose, the impact is on the interest not on the principle. So it is relatively a very small amount. We have a strategy, we are adopting a strategy today. To send a message to the Legislature on the very day that we are adopting the strategy that we don't have any confidence in the strategy, that we should cut back on the acquisition program isn't logical. Mr. Ela stated he didn't understand the logic of this at all. He thought if there is a message to be sent it should be sent to the Department to say that yes you have the money, don't spend it on land that has management requirements that we can't meet but spend it on parcels for the long term. We shouldn't undercut our own program by sending out a conflicting message to the Legislature.

The motion was carried unanimously by those members present.

- 4.G.1. Gene Francisco Retirement Resolution. Secretary Hassett read Mr. Francisco's retirement resolution in full, emphasizing and reflecting on Mr. Francisco's 34 years of dedicated service to the people and natural resources of the State of Wisconsin.

Mr. Francisco responded, that it was a pleasure and an honor to serve the people of the State of Wisconsin for 34 years. He reflected on his history in the Forestry Department doing it freely of partisan politics, consistent with good science, and consistent with the needs of the citizens of this great state. He reflected on the future employees and reviewed his adventure in the Forestry Department. He spoke of the 100 years of management in the state and the history of the Wisconsin forests. Mr. Francisco further spoke of the forestry industry. He stated that what they have today is in danger of being lost with the local competition, the forest industry, and foreign competition. He spoke of the capacity of the forest industry and the impact that it has on the economy. He stated that during his career he had the pleasure of working with many dedicated conservationist both within the agency and from outside government who unselfishly volunteered countless hours for betterment to the environment. Conservationists that have set personal goals aside to protect, manage, and improve Wisconsin's natural resource. He observed that same kind of leadership with the Natural Resources Board throughout his career. He hoped that his small contribution to the Department Forestry Division will help in the upcoming years, as they work with a very able replacement, Paul DeLong, and the outstanding forestry staff that the Department has within the Division of Forestry. Mr. Francisco thanked the Board for the recognition.

3. Operating Committees.
 3.A. Air, Waste and Water/Enforcement Committee.
 3.A.1. Minutes of January 22, 2003.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, approval of the minutes of January 22, 2003, as presented. The motion was carried unanimously by those members present.

- 3.A.2. Authorization for hearing on revision of Chapter NR 216, Wis. Adm. Code, pertaining to storm water discharge permit program.

Russ Rasmussen, Runoff Management Section Chief, presented the authorization for hearing pertaining to storm water discharge permit program. Mr. Rasmussen reviewed the following:

- EPA Storm Water Regulations
 - Phase One-municipalities over 100,000 plus state designed (70 total); construction sites of five or more acres (500/yr); industrial sites (certain SICs)(4,800)
 - Phase Two-enacted December 1999; effective March 10, 2003

Mr. Willett stated that if there isn't a way to insure that public education, an outreach program, or public involvement isn't actually up and running, this program isn't going to work. **Mr. Rasmussen** responded that this would be done through the permit process. He continued with explaining this process.

- Phase Two Permit Requirements
 - urbanized areas (>500/mi and >50,000)
 - construction sites of one or more acres (3,000)

-industrial sites previously exempt must certify no-exposure (16,000)

Mr. Tiefenthaler asked what the backlog of time was for the processing of the permits. **Mr. Rasmussen** responded that the estimated backlog time that they were caught up. The average time to process a permit is close to 14 days.

Mr. Rasmussen continued with:

- NR 216 History
- NR 216 Revisions
 - municipal-establishes simplified permit application process
 - six storm water control components-public education and outreach; public involvement and participation; illicit discharge detection and elimination; construction site runoff control; post-construction site runoff control; pollution prevention
 - industrial-elimination of tier three permits; no-exposure certification; all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to storm water
- Construction Sites
 - five acre threshold reduced to one acre
 - 14 day passive approval maintained
 - authorized local programs
- Workload Analysis
 - program supported by storm water fees
 - phase two impacts
 - 60 FTE needed to implement the program statewide

Mr. Tiefenthaler asked what they were going to do if they didn't have the resources to hire staff now. He asked if the government were going to give them ten new water resources people. **Mr. Willett** responded that is the situation in many of the programs. The answer is if, in fact, the federal EPA pulls our delegated authority, it will fail to issue permits without individual consideration and the citizens of the state will suffer greatly.

Mr. Rasmussen continued with:

- Fee Proposal
 - municipal; current law; proposed graduated fees based on population
 - industrial; current; proposed
 - construction sites; current; proposed; locally approved program
- Fee Impacts
 - section 283.33 (9)(b)
 - fee proposal support
 - fees first established

Mr. Rasmussen handed out a copy of page 21 of the Green Sheet Packet reflecting the population and annual fee schedule.

Discussion pursued regarding: revenue; staff shortages; fees, increases in fees; possibility of students from the University of Wisconsin Madison being used as staff; and concerns regarding having enough staff to cover and run this program.

Mr. Willett requested a report on the Storm Water Discharge Permit Program, after it has been in effect for some time, showing measurement of the success of this program.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler authorization for hearing on revision of Chapter NR 216, Wis. Adm. Code, pertaining to storm water discharge permit program. The motion was carried unanimously by those members present.

- 3.A.3. Authorization for hearing on revision of Chapters NR 162 and NR 165, Wis. Adm. Code, pertaining to small loan program projects.

Bob Ramharter, Environmental Loans Section Chief, presented the authorization for hearing pertaining to small loan program projects. The bureau proposes to repeal Chapters NR 162 and NR 165 and recreate Chapter NR 162. Currently Chapter NR 162 contains four subchapters with requirements for general Clean Water Fund Program loans, hardship financial assistance, and priority scoring. Chapter NR 165 contains the requirements for obtaining interest rate subsidy from the Clean Water Fund Program on loans made by the Board of Commissioners of Public Lands. Rewriting Chapter NR 165 as a subchapter in Chapter NR 162 completed the Clean Water Fund Program's administrative chapter, enhancing clarity, and convenience in locating the requirements for all types of Clean Water Fund Program financial assistance. The proposed revisions to the interest rate subsidy language include adding and modifying definitions, as needed, for clarification and inclusion of interest rate subsidy in the chapter; adding eligibility items that have been program policy but not previously codified; modifying existing notice of intent to apply requirements for clarity; addition of a joint treatment works score for projects that meet criteria specified in s. 281.58 (8e) (cm), Statutes; and general language changes for clarity and consistency between subchapters. He stated they consulted with their partner agencies which included the Department of Administration, Department of Commerce, Wisconsin Rural Water Association, the Board of Commissioner of Public Lands, and the Wisconsin Community Action Program Association, they all concurred with the changes being proposed, and they don't expect any controversy.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett authorization for hearing on revision of Chapters NR 162 and NR 165, Wis. Adm. Code, pertaining to small loan program projects. The motion was carried unanimously by those members present.

- 3.B. Land, Management Recreation and Fisheries/Wildlife Committee.
 3.B.1. Minutes of January 22, 2003.

Mr. Behnke MOVED, seconded by Mr. O'Brien, approval of the minutes of January 22, 2003, as presented. The motion was carried unanimously by those members present.

- 3.B.2. INFORMATIONAL ITEM - Standards for shore erosion control in lakes and impoundments.

Mary Ellen Vollbrecht, Rivers and Habitat Section Chief, reported on the status of the work on this rule. With a PowerPoint presentation Ms. Vollbrecht reviewed the following:

- Beginning of the statutes
- Why shore protection rules
- With a graph, showed the main types of activities statewide
- Rule development process
- Features of littoral zone habitat

Paul Cunningham, Systems Ecologist, presented the technical background and the standards for shore erosion control in lakes and impoundments. With a PowerPoint presentation Mr. Cunningham covered:

- Impacts of development on tree falls
- Development impacts on fish growth and production
- Development impacts on bluegill growth
- Lake characteristics influencing muskellunge reproduction
- Shore protection study
- Rock riprap
- Retaining walls
- Emergent plants
- Woody cover
- Floating-leaf plants
- Bank cover
- Shore protection techniques
- What causes erosion
- Stability of shore protection materials

- Standards for protecting habitat while managing lakeshore erosion
- The wave height at sites

Mr. Behnke asked what the guidelines were for repair versus construction. **Mr. Cunningham** responded explaining the difference and giving an example.

Mr. O'Brien asked if they had enough staff to issue these permits. **Mr. Cunningham** explained the permit process and he called on Ms. Mary Ellen Vollbrecht. **Ms. Vollbrecht** responded they had completed a work analysis and she explained the staffing situation.

Mr. Behnke asked what Mr. Cunningham's objection to sea walls was and explained a situation that happens every year where rock riprap is pushed out by the ice. He stated that with the sea wall perhaps the ice may push up and over the shore and will not do any damage. He asked why they would want to prohibit most sea walls and asked how that determination is made. **Mr. Cunningham** responded and referred to the Statewide Environmental Section on the implications of sea walls on habitat. He then explained what sea walls do to the habitat. He then compared rock riprap to sea walls. Mr. Cunningham gave examples of ice working against sea walls and rock riprap. He then reflected upon sea wall studies.

Mr. Cunningham continued his presentation addressing:

- Calculating storm-wave height
- Energy category
- Erosion intensity
- Energy category standards for protecting habitat while managing lakeshore erosion
- Regulatory overview
- Summary of hearing comments
- Overview of hearing comments
- Summary of proposed rule revisions
- What the rule does

Mr. Cunningham summarized his presentation by showing maps of the housing areas in 1940, 1990 and what the housing density by parcels would be by 2010.

Mr. Ela asked about the timing of this rule and where they were in the process. **Mr. Cunningham** responded they went to hearings in August of 2002, a draft rule is ready to go to adopt this rule, however, before coming before the Board they wanted some feedback from them. **Ms. Vollbrecht** added that if the Board wished to have individual briefings on this item staff is available for these briefings.

Chairman Solberg asked if staff had heard anything about ice damage this year. **Ms. Vollbrecht** responded they have not heard anything about ice damage yet, however, this may be coming because it is too early to tell. She stated they continue to look at the issue of ice.

Mr. Behnke stated that he still has a concern about Mr. Cunningham's sea wall position. He stated that he has lived on Shawano Lake, the north side of the lake, for several years. He stated that he knows people that still live there and those that have riprap, are constantly, every year, having to repair that. A lot of these people have gone to a concrete sea wall and, when properly constructed, the ice does not go under that sea wall and push it up like it does the riprap. There may be other lakes like it, or this may be a unique situation, but in this particular case, it is a matter of repairing, getting the rocks off the lawn and repairing the lawn, bulldozing, and replacing the riprap year after year. It is not only a nuisance but it is expensive. Sometimes sea walls will also be pushed out but for the most part those that were properly constructed, that doesn't happen. The ice gets pushed up and over the sea wall. He stated this is his biggest concern about the Department's position on sea walls. **Mr. Cunningham** stated they would be happy to take a look at the performance of this. He then explained the impact of ice in the spring. He stated that if the rock is large enough at the toe, it shouldn't move that, it should move up and over. **Mr. Behnke** stated that on the south shore there isn't a problem, it is only on the north west shore of Shawano Lake. He stated that he is not disagreeing with Mr. Cunningham on his philosophies or his findings but he is saying there are specific instances where the sea wall should not be disallowed. He stated that this is a general rule that is being used. **Mr. Cunningham** then spoke of the high energy sea walls on Shawano Lake. He stated it would be considered and

critically reviewed. He then spoke of low energy sites. He stated they should take a look at the Shawano sites and have the Department critically review these and continue to critically review them. If they take sea walls and bring them into a long form everywhere, their workload would be a big difference because in 99 percent of these sites across the state the science is there and the evidence is there saying there are better alternatives and they cause environmental damage. They would be going through a lot of work projects that they would oppose. **Mr. Behnke** stated that the problem that he has is that the better alternative objective is based on an individual water regulation person that may disagree with an engineer who understands the situation and that the water regulation person is not an engineer. **Mr. Cunningham** responded that this rule seeks to get the staff out of this type of situation. **Mr. Behnke** stated that as long as he agrees with the rule, he agrees with the philosophy, with what they are trying to do. But, the application and who does it is what he is concerned about. He stated that he has seen so much inconsistency of application depending on who is there at the moment. **Mr. Cunningham** responded that they are aiming to fix that and they are happy to improve on the consistency part. **Ms. Vollbrecht** stated that the rule sets the numbers that staff and everyone else needs to go by. What they are proposing will eliminate much of what Mr. Behnke is concerned about. This rule will be the law that everyone will have to abide by.

Mr. Tiefenthaler stated that they are looking at NR 115, NR 116, and NR 118 in a package. He expressed interest in the provision of NR 328 and how this might interact with these other three. He thought they should look at this so there aren't conflicting issues, provisions, and they coordinate. **Ms. Vollbrecht** responded as to the provisions of each of these and how they are related. She reflected on the meetings in Waukesha County and the concerns raised there. **Mr. Tiefenthaler** stated the Board has had a lot of interaction with these folks and would like to be kept in the loop as these things are being developed.

No action was taken on this informational item.

3.B.3. Authorization for hearing on revision of Chapters NR 16 and NR 19, Wis. Adm. Code, pertaining to development of standards for possessing, purchasing and selling captive wild animals and white-tailed deer fence requirements and the harvest, possession, purchase and sale of reptiles and amphibians.

Tom VanHaren, Natural Resources Policy Officer, presented the authorization for hearing pertaining to development of standards for possessing, purchasing and selling captive wild animals and white-tailed deer fence requirements and the harvest, possession, purchase and sale of reptiles and amphibians. Mr. VanHaren explained the purpose of the rule and gave background information on the rule. The rule proposal, in 2001 Wisconsin Act 56 removed Wisconsin's captive wildlife laws from Chapter 29, Statutes, and created Chapter 169, Statutes. As of January 1, 2003, game farms, fur farms, and other holders of live captive wildlife will be subject to regulation under Chapter 169, Statutes. This will include new license requirements and requirements of operation. This rule implements those license requirements and requirements of operation. Mr. VanHaren highlighted the implementation of the rules and presented the following:

- Harmful wild animals
- Reptiles and amphibians
- Captive wild animal farms
- Wild fur farms
- Bird hunting preserves
- Stocking
- Exhibitions
- Humane care and housing
- Farm-raised white-tailed deer fence specifications
- Records and reports

Discussion, questions, and answers pursued regarding: the Department's authority of captive deer farms; DATCP; regulating fences on captive deer farms; testing for other diseases along with chronic wasting disease; harvest programs, and testing; number of deer farms and those that have gotten out of the business; establishing new fences; specific deer farms and fencing issues.

Mr. Behnke asked if other diseases, besides chronic wasting disease, could be added to this rule. **Mr. VanHaren** responded that he would refer this question to Legal Services to see if they have the authority to require additional types of testing.

Mr. VanHaren stated that there are a number of partnerships that are involved and will continue to be involved in this rule process. He spoke of the public involvement and the rule process. These rules were developed with the assistance of the Bureaus of Wildlife Management, Law Enforcement, Legal Services, and Customer Service and Licensing as well as external partner groups.

Mr. Behnke MOVED, seconded by Mr. Poulson authorization for hearing on revision of Chapters NR 16 and NR 19, Wis. Adm. Code, pertaining to development of standards for possessing, purchasing and selling captive wild animals and white-tailed deer fence requirements and the harvest, possession, purchase and sale of reptiles and amphibians. The motion was carried unanimously by those members present.

3.B.4. Authorization for hearing on revision of Chapter NR 17, Wis. Adm. Code, pertaining to standards for dog training, trialing and dog clubs.

Keith Warnke, Upland Wildlife and Outdoor Heritage Specialist, presented the authorization for hearing pertaining to standards for dog training, trialing and dog clubs. These rules were made necessary by the passage of the Captive Wildlife Law (2001 Wisconsin Act 56). The rules clarify and regulate bird dog and hound dog training and trialing on private and public lands using both captive and free roaming wildlife. The rules clearly establish parameters within which dog training and trialing are allowed. Staff worked in close cooperation with many interest partners to develop clear and consistent rules that promote dog training and trialing. The rule proposal highlights of the implementation rules of:

- Bird dog training, hound dog training, and dog club training licenses
- Dog training and trialing on free roaming wild animals
- Classes of dog training and field trial grounds established
- Bird dog trialing and hound dog trialing licenses
- Record-keeping requirements

Mr. Warnke reviewed the background of the rule and commented on the public involvement.

Mr. Behnke MOVED, seconded by Mr. Poulson authorization for hearing on revision of Chapter NR 17, Wis. Adm. Code, pertaining to standards for dog training, trialing and dog clubs. The motion was carried unanimously by those members present.

3.B.5. Authorization for hearing on revision of Chapters NR 12 and NR 19, Wis. Adm. Code, pertaining to standards for rehabilitation license.

Kurt Thiede, Wildlife Regulations Policy and Outreach Specialist, presented the authorization for hearing on revision of Chapters NR 12 and NR 19 pertaining to standards for rehabilitation license. This rule establishes the qualifications required to obtain a rehabilitation license, the types of activities authorized by a rehabilitation license and the standards, limitations, and requirements of operation. There also have housekeeping attached to this rule moving some rules pertaining to wildlife damage NR 19 and place those under Chapter 12. The benefit is having all of the wildlife damage programmed rules, along with all the permit shooting rules in one location, which is NR 12. Mr. Thiede reviewed the background of this rule and the rule proposal. The primary function of the rule is to develop rules pertaining to wildlife rehabilitation. Mr. Thiede reviewed the public involvement process and the outcome.

Julia Langenberg, Wildlife Health Specialist, was scheduled to appear but could not attend. However, **Barbara Bodenstein**, Wildlife Health Team Technician, appeared to answer any questions that the Board might have.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler authorization for hearing on revision of Chapters NR 12 and NR 19, Wis. Adm. Code, pertaining to standards for rehabilitation license. The motion was carried unanimously by those members present.

Dick Steffes, Natural Resources Real Estate Director, presented the following land items:

3.B.6. Hook Lake-Grass Lake Wildlife and Natural Area easement acquisition - Dane County.

Mr. Tiefenthaler MOVED, seconded by Mr. Ela, that the Board approve the purchase of easement rights on 102.5 acres from Richard and Arlene Nelson for \$207,000 for the Hook Lake-Grass Lake Wildlife and Natural Area in Dane County, as presented.

Discussion and questions pursued regarding the easement and the purchase price toward the easement.

Citizen Participation on this item included:

Beth Hastings, Town of Dunn, as Chair of the Land Trust Commission, representing the Town of Dunn, spoke in support of the purchase of the Hook Lake-Grass Lake Wildlife and Natural Area easement acquisition in Dane County. She stated they were delighted that the Board was considering this easement with two of their goals: extension of farm land and to protect open space. Ms. Hastings urged the Board to approve this easement acquisition and asked the DNR to partner with the Land Trust Commission.

The motion was carried unanimously by those members present.

3.B.7. Spread Eagle Barrens Natural Area land acquisition – Florence County.

This item was deferred to a future meeting.

3.B.8. Ice Age Trail Area land acquisition - Chippewa County.

Mr. Steffes showed a map highlighting the trails for this ice age trail area and how they tie to or will, in the future, other trails.

Mr. Behnke MOVED, seconded by Mr. O'Brien, that the Board approve the purchase of 207.46 acres from Wayward Beaver Lodge, LLC for \$780,000 for the Ice Age Trail and the Chippewa Moraine State Recreation Area in Chippewa County and that the acreage goal and the project boundary of the Chippewa Moraine State Recreation Area be modified to include the parcel, as presented. The motion was carried unanimously by those members present.

3.B.9. Recreational Trails (seven) land acquisitions - various counties.

Mr. Dick Steffes called upon Mr. Hanson to speak on the trail segments.

Mr. Gary Hanson, Northeast Region Trails Coordinator, spoke briefly about how the trail segments fit into the regional networks plan which is a part of the trail network plan that the Board approved a year ago. With a map Mr. Hanson pointed out the areas of the trails.

Discussion and questions pursued regarding: White Lake; railroads and the abandonment process; the purchase price; the rails to trails law; deed restriction; reverting land back to the states from the railroads; conversations with an attorney out of Seattle Washington and Mr. Steffes regarding litigation in many western states with this same type of issue; litigation in Wisconsin; settlement rights; similar litigation in Bayfield County; land rights that may revert back to settler rights; court decisions; declaration of abandonment and levels of abandonment.

Citizen Participation on this item included:

Julie Licht, West Bend, representing the City of West Bend, spoke in support of this land acquisition. Ms. Licht stated that on behalf of the City of West Bend she expressed support for this land acquisition. She stated this would bring an enormous amount of revenue to the downtown area of West Bend. Ms. Licht strongly encouraged the Board to approve this purchase as it would increase their tax base, provide recreational opportunities, increase safety, and improve the quality of life in West Bend.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, that the Board approve the purchase of 1,443.27 acres from Canadian National and subsidiaries, Wisconsin Central and Fox Valley and Western for \$2,945,000 for the state recreational trails network in Kewaunee, Waupaca, Washington, Fond du Lac, Outagamie, Forest, Langlade, and Winnebago Counties.

Mr. Willett made a motion to amend the proposal to exclude Crandon to White Lake, seconded by Mr. Poulson.

Discussion on the amendment included: development cost, partnerships with the trails; trail use; trail use conflicts, and a lawsuit and federally funded railroad beds.

Mr. Tiefenthaler asked if Mr. Willett would recommend that the Department litigate this. **Mr. Willett** responded no. It is up to our partners, if Forest County wants to do it. **Mr. Tiefenthaler** asked why it would be up to the partner to do this if they are going to just manage and retain it. **Chairman Solberg** responded that this is for \$200,000. He asked how many miles that was. **Mr. Willett** responded that it was 25.9 acres. **Mr. Steffes** stated that a gentleman from Langlade County was present today, however, he was late in calling to get on the list of speakers before the Board. His point is that it is difficult to keep the snowmobile trail agreements in place because they are primarily annual agreements by the landowners. This gentleman was excited about this purchase because it is permanent. Mr. Steffes explained where this was located and that it stands alone at this time. **Mr. Behnke** requested that Mr. Willett state his justification for the amendment. **Mr. Willett** clarified that the law provides that it belongs to us, the State of Wisconsin. We are paying for something that we already own and that isn't right. Only to this section. **Mr. Behnke** asked what Mr. Willett proposed to do to obtain this in the future. **Mr. Willett** responded that if it is determined that the State really wants this and the railroad feels that they no longer follow the law then we would need to go into litigation over this. **Chairman Solberg** asked if we had purchased sections of this, or did they want to sell us the whole thing. **Mr. Steffes** stated that he would have to speculate, but if he went back to the railroad and said that the Board authorized the transaction with the exception of that section, and this is not something that he would like to do, his feeling is they would go along with it. He stated that he cannot guarantee that. **Mr. Ela** stated that he gathered from what was said here that the fact situation on this trail is not the same as in Bayfield County, so it might be a much more complex litigation and much more of a problematical issue. **Mr. Steffes** responded, that is correct. He stated these are a lot of good trails and the Department recommends them all but obviously will go with the Board's decision. **Mr. Tiefenthaler** stated that he is going to vote against the amendment because this is too rare a piece along that river to do this. He stated that we should come up with a different plan and talk with Administration. **Mr. Miller** stated that he understands the discussion and Mr. Willett had a good point. He stated when they looked at this and came back to speak to the folks out west about this Mr. Steffes checked with DNR Attorney Henneger and found that the issue is very complex and would take a lot of time. They needed to make the decision of moving ahead with this and looking at the value of \$200,000 and it is not a small amount of money. Then continue to look at this for potential future grades down the road. From his knowledge this is extremely complex and will take a lot of time, their recommendation was to move forward.

Chairman Solberg responded, in this area they are looking for more income and revenue. This would be a great, fantastic snowmobile trail in that area. This is an area that is looking for trails. **Mr. Willett** stated that he didn't disagree with that but he said the issue is if not now, when would we litigate. **Mr. Steffes** stated that if you started litigation on this now it could take ten years before it would be settled.

Discussion and questions pursued regarding suing; settlers; grants; even and odd sections; the rails to trails law; railroad abandonment; challenging the rails to trails; and litigation.

The amendment was lost by a vote of five to two.

<u>Negative</u>	<u>Affirmative</u>
Mr. Behnke	Mr. Willett
Mr. Ela	Mr. Poulson
Mr. O'Brien	
Mr. Tiefenthaler	
Chairman Solberg	

The main motion was carried unanimously by those members present.

Chairman Solberg requested a motion to go into Executive Session following lunch. Mr. Willett MOVED that the Board convene into Executive Session following the lunch break under the authority of s.19.85(1)(e), Wisconsin Statutes, for the purpose of discussing possible modifications to the stipulations arising from the Chippewa Treaty rights litigation, Mr. Tiefenthaler seconded the motion. The motion was carried by a roll call vote by those members present.

Chairman Solberg reported that during the Executive Session no action was taken.

4. Committee of the Whole.

4.D. INFORMATIONAL ITEM - Update on litigation regarding revisions to New Source Review Program

This item was moved to the beginning of the Committee of the Whole.

Lloyd Eagan, Director, Air Management, presented the update on litigation regarding revisions to New Source Review Program. With a PowerPoint presentation Ms. Eagan reviewed:

- Air program basics
- What do states have to do
- What's at stake for Wisconsin

Discussion and questions pursued regarding the following: relaxing of existing rules; EPA looking at our rules; what causes ozone; training and education; the number of years these rules had been in the works; the process with Wisconsin groups; basis of what other states are doing; the Clean Air Act; guidance to inspectors; being concerned if industries are within the limits; standards; monitoring; clean unit facilities given the parameters industries need to deal with; potential to emit; actual operations; permits; levels actually emitting; no environmental check; exceeding potential without reporting it; actual and potential emission; estimate of pollution control projects; net benefit data; and rules to protect the environment.

Showing maps, Ms. Eagan reviewed areas of classified ozone non-attainment areas in the United States, counties violating the eight hour ozone NAAQS, preliminary fourth highest peak daily one hour ozone measurements, Wisconsin DNR ozone monitoring sites for 2000-2002, and preliminary fourth highest peak daily running eight hour ozone values Wisconsin DNR ozone monitoring sites 2000-2002. Ms. Eagan continued reviewing the following:

- What happens next
- Legal options
- What is the final rule change
- Applicability test

- Applicability tests
- Baseline actual example
- Applicability test example
- Plant-wide applicability limits
- Clean unit test
- Pollution control projects
- Expected impacts

Mr. Willett made a motion for the Department to convene as an advisory committee, start the process of reviewing our rules, come up with new rules that will achieve and continue to protect the environment, and allow our industry more flexibility and to be competitive, seconded by Mr. Tiefenthaler.

Discussion pursued on the motion. **Mr. Ela** stated that his support for this motion will depend upon the outcome of the second motion that Mr. Willett had announced his intention to introduce. He stated that he agrees that this should be done but he thinks it is equally important for Wisconsin to have a place at the table with the federal litigation. There seems to be virtually unanimous consensus among air professionals that the quality of the air is going to deteriorate under these new regulations relative to the old ones. Second, it is economics. He has been hearing a great deal from State Senators about the problem of disparity, Wisconsin standards versus national standards. Here is a case where that disparity is being created by the federal government taking the rug out from under us. Not only are they creating disparity but they are creating immediate disparity of having three possibly four neighboring states who are our competitors for investment having to meet lesser standards than we have. He thinks it is very important that the State of Wisconsin do everything it can in its environmental and economic interest in blocking these federal regulatory changes and proceeding. And that would include letting our congressional delegation, know which is unlikely to be very effective in the short run. And to participate in litigation if the Attorney General's judgment is to come to this. Mr. Ela stated that he can't go along with downgrading our standards without, at the same time, fighting for the national standards to be adequate.

Mr. Willett stated that his fear is that the State of Illinois has different interests than Wisconsin. He stated that it has become painfully obvious to him that we are a state of only five and a half million people and that our opinion, when mixed with others gets shouted out. So, as a result of that, it would seem that we would be best served by presenting our own position through our own agents.

Mr. Willett made a motion that as the Attorney General judges in consultation with the Department, that it is in the best interest of the State of Wisconsin, it is the Board's request that she commences legal action on behalf of the State as the plaintiff and not as the co-plaintiff.

Seconded by Mr. Ela who suggested that the second motion be accepted as a friendly amendment to the first motion. This was accepted by the maker and the seconder of the first motion. The motion was carried unanimously by those members present.

4.A. INFORMATIONAL ITEM - Chronic Wasting Disease update.

Tom Hauge, Director, Wildlife Management presented the chronic wasting disease update. With a PowerPoint presentation Mr. Hauge reviewed:

- Chronic wasting disease update
- The year in review
- Winter operations
- Rule and environmental impact statement
- Testing progress
- Future plans web site enhancement
- Future plans program review
- Preliminary sampling analysis
- Preliminary hunter poll results

- Baseline question of how many hunters chose not to hunt
- Most important reason for not hunting
- Hunters' perception of risk
- Hunter attitudes-did hunters change their hunting time
- Hunter opinions on DNR control measures
- Hunter opinion on DNR control measures beyond seasons and landowner permits
- Hunter support for ban on baiting and feeding
- Support or opposition to statewide ban of deer baiting
- Support or opposition to a statewide ban on deer feeding
- Factors affecting accuracy of SAK population estimates

Mr. Hauge stated that a map feature will be added to the CWD website showing where samples were collected or where the positive animals were taken at the township level.

(Mr. Poulson left at 3:00 P.M.)

Mr. Hauge thanked all the citizens in the State of Wisconsin and his colleagues for everything they have accomplished.

William VanderZouwen, Chief, Wildlife and Landscape Ecology, with a PowerPoint presentation reviewed the following:

- Deer herd status and herd control options
- Deer populations status
- Expected need for extra herd control
- Criteria for herd control hunts
- Current herd control regulations
- Options for expanding the season
- How many deer are there
- Sex-age-kill formula
- Fall prediction
- Comparison of regional total buck harvests 2001-2002
- Comparison of predicted versus actual total buck harvest
- Predicted versus actual buck harvests 2002
- Statewide population estimate
- Reasons to question post-hunt estimate
- Hunter participation
- Chronic wasting disease impacts
- Weather-fall precipitation
- Weather-brown season
- Week later season with less rut
- No bait
- SAK adjustments needed
- Northern forest SAK adjustment
- Do we need extra herd control beyond Zone T
- Deer 2000 herd control hunt criteria Zone T
- Deer 2000 herd control regulations for units meeting criteria
- Deer 2000 primary goal not realized
- What does the future hold with status quo
- Preliminary 2003 deer management unit map
- What does the future hold with status quo
- What we can do

Discussion and questions pursued regarding: goals; being off 20 percent of goal; population estimates; emergency rule for the 23-day gun hunt; deer kill numbers; baiting; and being over goal.

Mr. Hauge again appeared before the Board for questions. He recommended they try an experimental expanded deer gun season. Move the gun season up a week to Saturday, November 15, 23 days. The north, in particular has been experiencing more tourism problems in recent years. While it doesn't necessarily stay out of the early December time period, he stated that he felt this general framework avoids some of the conflict with others. When you add the extra days and couple it with the herd control seasons that are on the books for the 40 some units, it gives them a better chance in avoiding some of the problems in 2004 and beyond. He stated that he knows this isn't an easy thing to do. From the long term management of deer herd, this is his best recommendation to the Board. If the Board is going to do something like this, they would need direction from the Board. The timetable would be to come back before the Board in April for any rule action that the Board would be taking.

Discussion and questions pursued regarding: experimental 23-day season; eliminate T Zone for 2004; T Zones; one standard season statewide; longer seasons; Legislature response to the 23-day season; snow conditions; sharing the outdoors; and details of the 23-day season.

Mr. Tiefenthaler stated that he is very concerned about population estimates being plus or minus 20 percent, and over harvesting in areas where they keep hearing from hunters that deer aren't there. **Mr. VanderZouwen** responded that he felt that is why they are always above goal. They have been very conservative because they are afraid to over harvest and they have almost never been below goal.

Mr. Behnke asked if the 23-day season would include antlerless and stated that he has never been concerned about over harvest. **Mr. Hauge** responded, yes.

Chairman Solberg asked if there were bonus tags in the units and if folks can still get them. **Mr. Hauge** responded, yes that is right.

Chairman Solberg inquired if staff were coming back with something in April. He stated he thought they should. **Mr. Hauge** stated that in April, if the Board would like to bring forth an emergency rule, they would do that. It would be up to the Board. **Mr. Behnke** agreed. **Mr. Tiefenthaler** asked if there would be any interest in looking at some alternatives other than 23-days. **Mr. Hauge** stated they could. Part of the reason that he brought the Board one proposal was because when they have a menu of alternatives, as in the past, no one liked it. Everyone had their own menu.

Chairman Solberg called upon Chairman Steve Oestreicher to speak on behalf of the Conservation Congress.

Chairman Oestreicher presented the Board with a handout entitled Total Deer Harvest Per Square Mile of Deer Range. This handout was for Management Units 29B, 31, 34, 35, 36, 37, 38, 39, 40, 44, 45, 50, and 52 from 1988 through 2002. This handout showed the average number of deer taken per year. Chairman Oestreicher commented on these units as to the number of deer taken. He was showing that the total deer harvest declined in all 13 units in 2001 and in 2002 it declined again in nine of those units, remained the same in two and went up in two. He then referred the Board to the second page entitled Total Buck Harvest Per Square Mile of Deer Range (for the same units and the same years). He reflected on the numbers from year to year in different units. The number of buck harvest per square mile had been declining and in 2002 were down in all units. He stated that the data is telling them that the numbers are declining but they want to be over aggressive. The third sheet that Chairman Oestreicher handed out to the Board was the current goals and estimates in the same units mentioned. He reflected on these percentages and goals. He stated that one thing that wasn't mentioned that would influence the buck recovery rate and that is the fact that the hunters and landowners might actually be right. They have been telling them quietly that there aren't as many animals out there as the Department is telling them. According to the kills, he feels they are right. Local units are being reviewed through the public hearing process, many are complete and some are being held yet this week. The Conservation Congress District Meetings will take place starting Monday, March 3, and he has already started hearing from some folks around the state about the over aggressiveness of 49 T Zones. He stated that there are going to be some folks that will not be happy with this, one area being Bayfield County. It would be the second year that this area will be in T Zone. In the northern half of that unit, there are not a lot of deer. In the southern half of that unit there is. He stated from the Conservation Congress standpoint, he would have more information for the Board at the April meeting. He further stated that in looking at the figures now, the Conservation Congress feels that the Department is being over aggressive.

Discussion pursued regarding harvest numbers and years of harvest; Conservation Congress thoughts on the 23-day hunt; and Departments estimation of the herd.

Chairman Solberg called Mr. Hauge back up for further questions.

Mr. Tiefenthaler stated there have been some scientific studies done on the CWD issue, Cornell University is getting involved in this, on how it may or may not affect prion due to copper and other heavy metals. He asked Mr. Hauge what he knew about this and what could he tell the Board. He asked if there is some science here they need to look at.

Mr. Hauge responded, from what he understood from the leading chronic wasting disease researchers, they are not putting their efforts on a nutrient based cause for CWD. He thought they may tell us that down the line that some imbalances may be cofactors, predisposed, but when you start to look at the geographic range, whether it be White Sands Missile Base, Utah, Colorado, Rockford, or Iowa County, it really becomes a stretch. Being in Iowa County, from his perspective, you couldn't find better deer range. He had never known of dairy cattle or anyone else who feed alpha from that area to ever have any suspicion from the nutrients that they are growing on that landscape in the crops. He thought mainstream science wouldn't dismiss it but they are not putting their money on it.

Mr. Tiefenthaler asked if we were looking at it and if they were going to investigate it.

Mr. Hauge responded, the State of Wisconsin does not have the kinds of dollars to do the basic academic research on that type of question. But there are people across the country that are looking at that. The Defense Department is in the final stages in awarding \$42,000,000 in research grants. It might be, that among the grants that get funded that someone might start to look at that. If it was as simple as just adding some nutrients to the feed you could bet that USDA would have been doing that a long time ago, in terms of their regulations of captive elk and deer farms. They wouldn't be paying an indemnity and calling entire herds if it was as simple as adding a few nutrients to the feed.

Mr. Tiefenthaler stated that it isn't adding a few nutrients to the feed, it is more than that from what he read. He asked if at the meeting being held on April 21 if researches would address this issue. **Mr. Hauge** stated this would be a good time to ask these folks about this. **Mr. Tiefenthaler** asked if it would be beneficial to ask to have an expert that has some experience or researchers to present a paper on this issue. **Mr. Hauge** stated they are having experts come in and it isn't so much they would be presenting papers, they are going to present as much Wisconsin information as possible. They are also going to be bringing their experience to the table. One of the people that indicated willingness to participate is Dr. Beth Williams. She is one of the names that comes up that describes CWD as a disease agent. Dr. John Fischer is another expert that indicated his willingness to participate. Dr. Fischer is the Chair of the Southeast Wildlife Disease Cooperative. They will have the kinds of people that can comment with some authority to this very question. Mr. Tiefenthaler shared the documentation information he acquired with Mr. Hauge.

No action was taken on this informational item.

4.B. **INFORMATIONAL ITEM - Preliminary 2003 deer season harvest summary and future deer management options.**

This item was taken up during Mr. Hauge's presentation of 4.A.

Tom Hauge, Director, Wildlife Management, presented the preliminary 2003 deer season harvest summary and future deer management options. Mr. Hauge presented the Board Members with the Population Estimation Chapter from the Deer Management Handbook.

Mr. Hauge reviewed the following using a PowerPoint presentation:

- Deer herd status and herd control options
- Outline of deer population status, expected need for extra herd control, criteria for herd control hunts, current herd control regulations, options for expanding season
- How many deer are there

- Sex-age-kill formula based on buck harvest rate, sex and age structure of population, expansion factor
- Fall prediction adds winter severity effect, average recruitment
- Comparison of regional total buck harvests 2001-2002
- Comparison of predicted versus actual total buck harvest
- Predicted versus actual buck harvests 2002
- Statewide population estimate
- Reasons to question post-hunt estimate, what could influence the harvest rate
- Hunter participation
- Chronic wasting disease impacts
- Weather - fall precipitation
- Weather - brown season
- Week later season with less rut
- No bait
- SAK adjustments needed
- Northern forest SAK adjustment
- Do we need extra heard control beyond Zone T
- Deer 2000 herd control hunt criteria - Zone T
- Deer 2000 herd control regulations for units meeting criteria
- Deer 2000 primary goal not realized
- What does the future hold with status quo
- Preliminary 2003 deer management unit map
- Deer season options for 2003
- Why expand the season
- Expanded season considerations
- Wildlife's recommendation

Discussion and questions pursued regarding: what could they do that would be predictable, consistent, and statewide; expanding the obsolete 9-day gun season; providing hunters more opportunities to harvest deer with the most effective weapon; maintaining special Zone T and earn-a-buck herd control authority from Deer 2000; keeping more units out of Zone T; and keeping more units out of earn-a-buck

No action was taken on this informational item.

Chairman Solberg, because of time constraints on the presenter, moved on to item 4.F.

4.F. Approval of DNR Legislative proposals for introduction in the 2003-2005 Legislative Session.

Elizabeth Kluesner, Executive Assistant and Former Legislative Liaison, presented the approval of DNR Legislative proposals for introduction in the 2003-2005 Legislative Session. Ms. Kluesner stated that particular items that are introduced and reviewed to the Legislation at this point are:

- Chronic Wasting Disease Proposal
- Mercury Product Legislation
- Open Burning Citation Authority

Mr. Willett asked if someone was opposed to the open burning citation issue, what the process was. Before he was going to sign on with something like this he wants to have some discussion about it. In northern Wisconsin people have fires to keep themselves warm. **Ms. Kluesner** stated that an alternative approach could be created in more detail from the open burning team about what they have looked at over the past year or 18 months and set this one aside. Ms. Kluesner continued:

- Recycling Enforcement/Hauler Responsibility
- Enforcement Issues
- Independent DNR Board
- Right to Hunt and Fish

- Designate Recreational Use as a Secondary Purpose for a Property

Mr. Ela requested a briefing on Designate Recreational Use as a Secondary Purpose for a Property. Ms. Kluesner stated she would make sure the Board is briefed on this issue.

- Youth Transfer of Bear Preference Points
- Public Water Supply Security

Kate Fitzgerald, Chief Land Management Section, was called up to describe the Designate Recreational Use as a Secondary Purpose for a Property. Ms. Fitzgerald explained that there is a need for an additional designation for Department properties where there is a variety of natural resource management opportunities. The basis for this change is to allow the Department to formally establish and designate areas for multiple use where natural resource management and protection are the primary purpose, and compatible recreational use, the secondary purpose of the property. These types of properties typically do not fit any other designation in s. 23.09(2)(d), Statutes. Mr. Ela stated that the oral explanation did not seem to correspond with the written description, and requested that the issue be deferred until the March meeting, with an explanation to be provided in the meantime.

Mr. Ela MOVED, seconded by Mr. O'Brien approval of the DNR Legislative proposals for introduction in the 2003-2005 Legislative Session removing the Open Burning Citation Authority and the matter of designating recreational use as a secondary purpose for a property. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

Mr. Willett MOVED, seconded by Mr. Ela, that the Board postpone any further informational items and take up the Land Legacy Report. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

4.C. INFORMATIONAL ITEM - Update on Wolf Depredation Control and Damage Payments.

This item was deferred to the March meeting.

4.E. Approval of the Land Legacy Study.

Steve Miller, Director of Facilities and Lands, introduced Land Legacy Study. Mr. Miller reviewed the background of the Land Legacy Study. He stated the Task Force, that was appointed by Governor Thompson, strongly recommended the continuation of the Stewardship Program for the State of Wisconsin. They did recommend some changes for efficiency purposes and they challenged the Department to look at both conservation and recreational needs over a 50 year period. As a result of that Task Force recommendation, the Board then, in 1999, passed a Resolution directing the Department to undertake a study of the state conservation and recreation needs over the next 50 years.

Robert Roden, Retired Director, Bureau of Facilities and Land, presented the Land Legacy Study process. With the Board's concurrence the DNR study was expanded beyond the matter of DNR land acquisitions. The study is not focused on the agency, it is not focused on land acquisition, it is focused on land protection for conservation and recreation purposes by whomever might be involved in doing that. Getting a list or an idea of where most places to be protected is a very important first step. This gave them a sense of what the greatest needs are and the most important places across the state that need to be preserved. Mr. Roden described how the process started and how the public became involved in the process. He stated there are 228 places that are specifically noted without boundaries. He pointed out these areas on an overhead map. These are generally a type of recreational and environmental features that, depending on a particular site, meets the needs (example: wetlands, industrial forest, or large block forest, lands that are important for groundwater). The main focus of the report is on the 228 places, which were organized according to ecological landscapes, which are natural divisions in the state, there are 16 of them. Within each of these, they located specific places on the map for review by the Board. These places are fairly uniformly distributed across the state. Mr. Roden stated that the statewide needs and resources are a different concept, such as large working forests, recreational areas, wetlands, scattered natural areas, a large number of small places, and lakes with undeveloped shorelines. He then spoke of what the report is and what it is not. It is an inventory or a listing of what the Department, with the public input they received, believes are the really special

places in the state that meet the conservation recreation needs. Some of these places are already well protected, some are major Department properties, and a number are in private ownership and there is perhaps no protection right now, other than private land stewardship. They see this report as a starting point. It is an information source to use as a starting point to get discussion going. It is definitely not a plan for the DNR but it could lead to a plan for DNR with certain elements of what is in the study but it certainly isn't that. It doesn't attempt to suggest what land uses should be or what owners should do with their properties. It most definitely is not a DNR land acquisition shopping list.

John Pohlman, Land Management Specialist, presented the public input into the process. Mr. Pohlman stated they had a fair amount of press coverage on this study. He reflected on the number of CD's that were sent out, the number of letters, and e-mails the Department received from the public. He stated that the overwhelming response has been positive. People were impressed that the Board would ask for a long range document like this and they were impressed with the places that the staff and public identified through this process. Not surprisingly, there has been a number of changes that were suggested and Mr. Pohlman referred the Board to the green sheet for these changes. He reviewed the issues that came up more frequently, as indicated in the green sheet.

Mr. Miller stated that they wished to move to the next step in development of an implementation strategy, engaging a wide variety of their partners that the Department traditionally works with and with the public. The locally based efforts is where the action is going to be, how the local people want to use this report, and he feels this report will be used with the smart growth effort that is going on in the state right now. Depending on partner interests and local interests, initiating development of protection or management plans for the highest priority places, as they emerge. They will then need a process of continuing to attack how they are doing. If the Board approves this, and there is a Resolution which gives the Department direction, they would like, within a 16 month period, in June of 2004, if everything works out well with this strategy that describes how this report is going to be used. Mr. Miller stated that DNR is only one partner in this, they have a lot of conservation and outdoor recreation groups that are participating. There is the forestry community and the farming community, which is extremely important. He reflected on potential interests addressing issues in the process and what the appropriate role will be for the Department and the tools they might have in how they are going to protect and manage these lands. He spoke of the current Stewardship Program and stated they need to give the Secretary and the Board some ideas and direction on how they want them to guide the use of that money, depending on what plays out in the budget process. One thing that Mr. Miller wanted to mention was to work with the farming community. They spent some time with the Farm Bureau Board and challenged them to think about doing a land legacy study for the farming areas of the state. They are already working with forestry and the forest products industry with areas in the north.

Citizen Participation on this item included:

Dr. Don Reed, New Berlin, as Chief Biologist representing Southeastern WI Regional Planning Commission, spoke in support of the approval of the Land Legacy Study. Dr. Reed stated the Planning Commission agrees with the Department that this is a first step. Follow-up would be implementation, eventual acquisition, and management of many of these areas by the Department and its partners. The Regional Planning Commission staff reviewed the Legacy Report and found the report to be totally compatible with their regional land use plan, their regional open space plan, and their regional management plan. This also was adopted by all seven of their county governments. He stated that the plan encompasses the protection of the areas in their region. Dr. Reed urged the Board to approve the Land Legacy Study.

Mary Jean Huston, Madison, representing Nature Conservancy, spoke in support of the approval of the Land Legacy Study. Ms. Huston stated that the Nature Conservancy applauds the vision and the effort of the DNR in creating this report. She spoke of what the Nature Conservancy is and what they do. She stated that the Nature Conservancy fully supports the idea of looking 50 years into the future and they strongly support the approval of this study. Ms. Huston stated that the Nature Conservancy looks forward to being an active partner in working with the DNR to implement the report.

Vicki Elkin, Madison, representing Gathering Waters Conservancy, spoke in support of approval of the Land Legacy Study. Ms. Elkin stated that the Land Legacy Report gives them a clear understanding of the importance of protecting the land and a blueprint on how to do the work stating it is an excellent resource. She spoke of land trusts

that are private, and non-profit organizations that protect land for their communities. She further stated that they would work with each land trust and their local partners to develop a site specific conservation plan for how to get each of these areas protected. Mr. Elkin stated they could also bring private dollars, citizen involvement, and local support to future protection efforts.

Caryl Terrell, Madison, representing Sierra Club State Chapter, spoke in support of the approval of the Land Legacy Study. Ms. Terrell spoke of what the Sierra Club does. She stated that the core value of the Club is to protect special places for their families and for their future. She thanked the Department and its staff for undertaking this extraordinary report. Ms. Terrell and the Sierra Club State Chapter urged the Board to adopt and implement the report.

Noel Cutright, West Bend, representing We Energies and WI Society for Ornithology, spoke in support of the Land Legacy Study. Mr. Cutright stated that the Department's task to identify, evaluate, and arrive at the 228 Legacy Places that are critical to conservation and recreation over the next half century was extremely difficult. He stated that We Energies has first-hand experience with several of the Land Legacy Places, through donating land, and he mentioned the lands they donated. Mr. Cutright stated that We Energies and the Wisconsin Bird Conservation Initiative urge the Board to accept the report and adopt the resolution to develop an implementation strategy.

Karen Etter Hale, Madison, representing Madison Audubon Society, spoke in support of the approval of the Land Legacy Study. Ms. Etter Hale stated that the Audubon is particularly interested in the three landscapes that cover Sauk, Columbia, Dane, and Jefferson Counties, where their two main sanctuaries are located. She reflected on the areas that the Audubon Society owns and grants they have applied for. She presented the Board with a listing of the partners that the Audubon Society works with. She mentioned a few of the long term objectives of the Legacy Plan. She asked the DNR to take the lead role and use the report to either update or to develop a master plan for all their DNR properties adding project boundaries and acreage goals. Ms. Etter Hale urged the Board to approve the Land Legacy Study.

Alice Morehouse, Madison, representing the Department of Transportation (DOT), spoke in support of the approval of the Land Legacy Study. Ms. Morehouse stated that DOT was concerned that Land Legacy Study does not have an implementation plan. So there aren't any misunderstandings, DOT wants to be involved in the next step of development. She stated they believe they need a broad group of stakeholders and they would like to be part of that group. She stated that DOT can use this Land Legacy Study in their long range planning and specific corridor planning. Ms. Morehouse stated that DOT would encourage the DNR to clarify how the report will be used on a daily basis, it needs language that indicates the balance and identify the legacy places with the statewide goals. For the future implementation plans and be involved to talk about their issues to avoid conflict early in the process. She further stated that DOT also wanted to be involved in land use issues. Ms. Morehouse complimented the Department on the report.

Lisa MacKinnon, Madison, representing the Thousand Friends of Wisconsin, was scheduled to speak in support of the approval of the Land Legacy Study, however, did not attend.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler approval of the Land Legacy Study.

Mr. Ela stated that he has been involved in land conservation efforts for 32 years and this is one of the most extraordinary accomplishments that he has seen both in the intelligence of the approach and the inventory and it is a wealth of information. Mr. Ela congratulated Mr. Miller, the Department staff, and everyone that was involved outside of DNR.

The motion was carried unanimously by those members present. (Mr. Poulson was absent).

4.G. **Retirement Resolutions.**

- 4.G.1. Gene Francisco - this item was taken up at the beginning of the meeting.
- 4.G.2. Craig Karr.
- 4.G.3. Roger Kerr.

Chairman Solberg included Former Secretary Darrell Bazzell and Former Deputy Secretary Franc Fennessy's Resolutions of Appreciation for approval.

Secretary Hassett reviewed the careers of each retiree and commended them for their excellent years of service to the Department and the State of Wisconsin.

Mr. Tiefenthaler MOVED, seconded by Mr. Behnke, approval of the Retirement Resolutions and the Resolutions of Appreciation, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent).

5. **Board Members' Matters.**

- 5.A. **Herbert Behnke** - Requested an update on the Crandon Mine status, process, and the status of the Environmental Impact Statement for the March meeting.

Mr. Behnke also requested to have the Wolf Depredation Control and Damage Payments Program item that was deferred from the February meeting be presented at the March meeting.

- 5.B. **Jonathan Ela** - No items for today.

- 5.C. **Gerald O'Brien** - Requested written communication or a report and a briefing on the Fox River Cleanup.

Secretary Hassett stated he would be glad to accommodate Mr. O'Brien on this matter.

- 5.D. **Stephen Willett** - Asked if they are comfortable that the Board has a sufficient budget within the current budget. His concern is that a number of Board Members had asked and, be assured that they can visit places, participate in meetings without any impediments including transportation. He asked this to be reviewed this and make sure the Governor's Office is aware that this Board is very active and there are certain members that choose to be more active and that sufficient funds should allow them to be. His understanding that the Board's portion of the DNR budget is relatively small. The Board would like and has expressed in the past that they would like to entertain dignitaries from other states, from other parts of the country, from other agencies, even within themselves, they have been somewhat restrained from doing so within their budget.

- 5.E. **Howard Poulson** - Left the meeting at 3:00 p.m. and was not present for this portion.

- 5.F. **James Tiefenthaler** - Presented two names of riparian southeast owners to Secretary Hassett that would like to serve on the committee for NR 115, NR 116, and NR 118.

Mr. Tiefenthaler stated that a gentleman called him that is a waterfowler and asked what they can do about the urban and resident goose flock that is growing every year, 10 percent plus. He requested to have the possibility investigated of having this hunt in the spring or deep winter rather than in the early fall. He asked that this be investigated to see what it would take to change this. It made some sense to do this, have a winter hunt, when they would be much more vulnerable.

- 5.G. **Chairman Solberg** - No items for today.

Mr. Al Phelan, Conservation Congress Liaison, handed out the Spring Hearing Questionnaire. Mr. Phelan stated that the questionnaire had the name of a lake as Kentucky Lake rather than Kentuck Lake.

6. **Special Committees' Reports.**

There were no special committees' reports.

7. **Department Secretary's Matters.**

- 7.A. **DONATION - from the Natural Resources Foundation for a gift of \$5,000 for the Shoreland and Shallows Educational Display Project.**

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

The meeting adjourned at 5:00 p.m.