

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Tuesday, December 7, 2004 in Room G09 of the State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 3:00 p.m. for action on Items 1 through 5. The meeting recessed at 6:13 p.m. and reconvened at 8:30 a.m. on Wednesday, December 8, 2004 for item 5 in committees. The full Board reconvened for action on items 6-10. The Board also met in a closed session from 12:00 p.m. There was no action taken during the closed session. The meeting adjourned at 5:50 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

Gerald M. O'Brien, Chairman – present
Dan Poulson, Vice-Chairman - present
Jonathan Ela, Secretary - present
Herb Behnke -present
Christine Thomas - present
Duke Welter -present
Steve Willett – arrived at 3:50 p.m.

1.B. Approval of minutes from October 27, 2004

Mr. Poulson MOVED, seconded by Mr. Behnke approval of the Full Board Minutes of October 2004, as presented. The motion carried unanimously by all members present.

1.C. Approval of agenda for December 8, 2004

Secretary Hassett requested to move item 6.A.16 and 6.A.17 before 6.A.15. to complete all land transactions at one time. He requested also to move item 7.A. because there will not be a representative from the foundation present and to move item 10.C.1.to the 1:00 p.m. citizen recognition because the family will accept the resolution.

Mr. Welter MOVED, seconded by Mr. Ela approval of the Agenda of December 7-8, 2004, as amended. The motion carried unanimously by all members present.

Secretary Hassett welcomed the Board to the remodeled meeting room. He also pointed out the pilot technology using media site equipment to broadcast the meeting live on the internet.

2. Ratification of Acts of the Department Secretary

2. A. Real Estate Transactions

Mr. Welter MOVED, seconded by Mr. Poulson approval of the Real Estate Transactions. The motion carried unanimously by all members present.

3. Action Items

3.A. 2005-2007 Legislative Proposals

Paul Heinen, Policy Initiatives Advisor distributed a list of new senators and assembly members.
Amber Smith, Legislative Liaison highlighted the legislative proposals. For the Division of Air and Waste the highlights are mercury product restrictions, open burning citation authority, and changes to air statutes addressing an EPA notice of deficiency. For the Division of Land the proposal includes a citizen based advisory committee, creation of a “clean list” of fish, CWD management, and the allowable electrical receptacles at state park campsites.

Mr. Behnke asked for clarification of the reimbursement of expense to the DNR for captive animals.

Ms. Smith stated that if there is an escaped captive that the DNR must capture, there is no reimbursement at all.

Mr. Behnke asked who does the reimbursement.

Ms. Smith stated the farm where the animal escaped.

Mr. Ela asked about how local landfills would accept CWD infected deer.

Mr. Heinen stated DOA would have to indemnify Dane County if there would be a leakage or something into the water system that the State would pay for it and not Dane County.

Mr. Behnke asked where that money would come from.

Mr. Heinen stated he did not know.

Mr. Welter asked about the wildlife violators compact and if there was already a compact in effect that other states are a party to. Does this compact ask other states to adapt their program to have this central database or does it already exist?

Mr. Heinen stated that he believes the database already exists.

Mr. Ela stated he has problems with removing the cap on the percentage of campsites provided with electricity in the state park campgrounds. He requested that it be pulled from the package and that there be further discussion of the consequences. He believes that the state park system should continue to be aimed at family camping rather than competing with private campgrounds that cater to the large units.

Mr. Ela MOVED, seconded Mr. Poulson to eliminate the removal of the electrical cap at state parks from the legislative proposal.

Mr. Behnke asked for clarification about the reason for the removal of the cap.

Mr. Heinen stated we are asking for authority to raise the cap to 50% of the campsites could be electrified.

Bill Morrissey, Director, Parks Bureau stated there is a change in the population. As the population gets older the evolution of the camper goes from a tent camper to a trailer camper to a recreational vehicle (RV). This includes families too. We are not serving that population. We have difficulty filling the parks in the spring and fall season and during midweek summer season. He stated that we are not competing with the private campgrounds because we do not provide lodging, basketball courts, video games, or swimming pools. It's a very different experience. We hope there will be some cross over and people that use private campgrounds will come and visit the state parks. Even rustic campers ask for electrical sites. The revenue picture asks us to be more self-sufficient and we are losing revenue because we don't provide the electric service. To get to 50% will take many years. Much of the law enforcement in the parks is devoted to getting campers to turn off the generators. We may be losing some rustic and family campers because they don't like the generator noise.

Mr. Behnke asked how much public input there has been on this proposal.

Mr. Morrissey stated it hasn't been taken out for formal public input, but he has talked with park managers, camp hosts, and friends groups. It is the number one issue.

Mr. Ela stated the state park system cannot be all things to all people. We must define the purpose of our state parks. The statements made by Mr. Morrissey distress him. By simply removing the electrical cap without thinking through how this fits into the mission of the state park system would be an exceedingly dangerous thing to do. He requests that the Board enter into this discussion, but not make any authorization today.

Mr. Behnke stated that Mr. Morrissey makes a valid point. If we are losing business because we do not have the conveniences that people are now looking for. If we are going in the wrong direction, I don't think electrifying 50% of the campsites is going to happen overnight. It will give us direction for the future in case we need to make a further decision on this.

Mr. O'Brien stated that he doesn't think that adding more electrical sites is going to turn the state parks into RV parks. As you look around the campgrounds you see very few tents and more and more pop-ups. I don't think that adding electrical sites destroys the concept of our state parks.

Mr. Ela stated he doesn't necessarily disagree with that. That is what part of a carefully crafted bill should look like so that if we increase the electrical sites that it's for the incidental use of a family camper. We are losing a kind of control about where we are going as a state park system.

Mr. Poulson stated he seconded the motion to get the item on the table for discussion. He thinks that we are missing the mid-week campers and we should fix that. If the problem is lack of electrical sites we should pursue adding more.

Mr. Welter stated that if this is a way to backhanding the way we operate our state parks in a significant way, we probably shouldn't be discussing whether or not it should be included in a legislative proposal. We

should have more information on what consumers are saying and capacity of electrical sites. We should also look at costs/revenue factors.

Dr. Thomas asked about campground capacity during the spring/fall versus electrical capacity during spring/fall. What about midweek capacity? Where would the electrical sites be put in? Which parks? Will there be zoning?

Mr. Morrissey stated that generally the electrical sites are full in the spring and fall. Generally, midweek, the electrical sites are the first to fill and stay full.

Mr. Behnke stated that Dr. Thomas makes a valid point about where we want to go with this.

Mr. Behnke MOVED, seconded by Dr. Thomas to postpone the allowable electrical receptacles at state park campsites portion of the legislative proposal. The motion carried unanimously by all members present. Mr. Willett was absent.

Mr. Ela MOVED, seconded by Mr. Poulson to approve the rest of the 2005-2007 Legislative Proposals. The motion carried unanimously by all members present. Mr. Willett was absent.

4. Information Items

4.A. 2004 9-Day Gun Deer Season Report

Diane Brookbank, Director, Customer Service and Licensing Bureau stated that resident gun license sales were up 1% and archery sales were up 7%. Non-resident sales were down slightly. License sales are gaining ground since CWD. 6,967 CWD Deer Removal Permits were issued.

Mr. Welter asked if these permits cost the same as a license.

Ms. Brookbank stated that there is only a \$2 fee charged. It covers the processing costs.

Ms. Thomas asked why it was necessary for the hunter's height and weight to be displayed on the back tag.

Ms. Brookbank stated that employees at the registration station asked us to look into rearranging some of the information on the back tag. She will keep your suggestion in mind while we assess the back tag arrangement. She went on to give more license sale statistics. The service centers and central office call center handled over 16,687 calls the week before the season opener.

Mr. Behnke asked if this is a normal call volume.

Ms. Brookbank stated that it has not been tracked in the past. The regulations change every year and people are looking for clarification each year.

Tom Hauge, Director, Wildlife Management Bureau stated that with preliminary figures the early archery season set a new record of 85,850 deer a 1% increase over last year. There were 92 units in 2004 vs. 62 units in 2003 that had in the early firearm hunt. There was a preliminary harvest of 68,698 deer. The 9-day firearm season ended up being 7% less than what we had last year. Wet weather tends to dampen hunting success. Earn-a-buck is strong medicine that works. It increases the antlerless harvest.

Mr. Ela asked why there is a disparity of antlerless deer killed in the early archery and gun and the 9-day gun hunt.

Mr. Hauge stated it was because of the weather. He added that deer hunters play a major role in wildlife conservation in the state of Wisconsin. This is the 5th year of the state funded deer donation program. Over 500,000 pounds of venison have gone into the program.

Mr. Welter asked if anyone is doing research about the other deer donation programs in the country.

Mr. Hauge stated he hasn't seen a state by state comparison. Some states use voluntary donation. Most programs are funded by conservation groups. This is the third year of CWD management. It is a statewide issue. Right now there are two distinct CWD zones. The boundaries may need to be expanded, but we are going to wait until more test results are in. He explained that the Department has developed a deer streamlining team to simplify the hunting regulations. The team recommended a unit by unit summary of seasons and harvest limits in 2004 regulations pamphlet and to reword the carcass tags. The team will go out for public review about other hunting simplifications.

Mr. Behnke stated he appreciated the positive spin on Mr. Hauge's presentation, but it's not what he has been hearing from hunters. He has received a number of phone calls complaining about the lack of deer. People were optimistic about the hunt, but with 1.7 million deer population this hunt was an extreme disappointment. Antlerless kill did increase in several units, but what about total kill in those units. Perhaps there are not as many deer as estimated. If the estimates are correct, that means there are still over a million

deer left. Where will that take us for 2005? The number of deer reported and the number of deer killed do not match. This is a big problem and we need to come to grips with it. We need to start questioning how we estimate deer. This is the most disappointing season that I know of.

Mr. Hauge stated that there are 670,000 individual deer hunters in the state of Wisconsin. Each one had their own experience. The numbers he is reporting is the collective experience. It may be one of the top three total harvests. He appreciates that there are a number of deer hunters that saw fewer deer than they desired. Earn a buck is strong medicine, but the results are coming through.

Mr. Behnke stated he doesn't think the results are coming through. There have been measures in the past to reduce the deer herd when there were 1 million deer. We tried to go into the winter with 800,000 deer. Now there are 1.3 million deer this winter. What will there be next hunting season: 2 million deer? What do we need to do now to reverse that trend?

Mr. Hauge stated there are two deer season population projections. Our pre-season projection is an over winter deer population estimate which is the 1.7 million. The final deer population estimate will be based on the kill numbers. He isn't sure of what the final number will be. The unit by unit harvest will be available in January.

Randy Stark, Director, Law Enforcement Bureau stated that this was the safest, yet most tragic season in Wisconsin. The Sawyer County incident overshadowed the entire season. There is sorrow for the victims, families, and communities. There is pride in the professionalism and competency of our people and the teamwork of the law enforcement agencies, relief no one else was killed or injured, appreciation of support for training, equipment, retention of back tags and thankful to the Customer Service and Licensing – ALIS system. He went on to discuss a Law Enforcement/Science Services Hunter Survey. The survey found that urban sprawl is affecting hunting and it displaces hunters on to public land and then there are conflicts.

Mr. Willett stated he agrees with the issue of hunters feeling crowded, but he failed to mention that not only are more people are being forced on public lands, but access to that land is being cut off by the federal government. They are turning into roadless areas.

Officer Stark stated these land use patterns adversely impact hunting and are a recipe for conflict. He highlighted the importance of Knowles-Nelson Stewardship Fund, Managed Forest law and Open Fields legislation. He went on to discuss hunter related shooting incidents. Even in the wake of the tragedy that occurred in Sawyer County, 2004 was the safest deer season on record. There were 3 non-fatal deer hunting incidents and 2 fatal accidents. There were 1,156 arrests during the gun deer season, 8% decrease from 2003, when 1,259 arrests were made. Hundreds were given warnings. There was an increase of 170% for deer shining arrests from 2000-2004.

Mr. Welter asked how many warden contacts end up in citations.

Officer Stark stated it's difficult to determine especially since contacts are different during hunting season versus summer boating season. He estimated that 5 out of 100 end up in citation.

Mr. Welter asked if the wardens report confusion of baiting rules.

Officer Stark stated most violations are for too much bait or bait put in the wrong place.

4.B. U.S. Fish and Wildlife Report on Wolves (USFW Representative, 1 hour)

U.S. Department of Agriculture (USDA) and Animal and Plant Health Inspection Services (APHIS) Report on Wolves. MODIFICATION TO THE AGENDA

Dave Nelson, Wisconsin and Minnesota State Director, USDA-APHIS-Wildlife Services stated they are a service agency and have no enforcement power. He explained the mission of the agency.

Dr. John Shivick, Researcher, Wildlife Services stated that he is organizing a study to research the fate of calves in Northern Wisconsin. They would like to research what is killing the calves, whether it is coyotes, bears, or wolves. They are going to do this study where there is chronic wolf depredation status. He gave some other criteria for farms that could participate in the study.

Mr. Behnke asked what is the next step after you identify some cooperating herd owners.

Dr. Shivick stated that we must find herd owners that meet the criteria. We are looking for as many as we can get. The study will begin in March and continue through the fall for the first year. If everything goes well, we can gear up our study and expand and discuss some other questions such as weight loss in the herd and harassment.

Mr. Ela asked if the DNR was involved in the planning and execution of the study.

Dr. Shivick stated that yes, we just had a meeting right before this meeting to make sure we have our objectives identified. The USDA funds it.

Mr. O'Brien asked if there were any herdsmen involved in the preliminary planning. Where will the report be available once you complete the study?

Mr. Shivick stated that yes herdsmen are involved. There will be a status in progress report during the research. Eventually, it will be a published document after the research is complete.

Mr. Nelson gave an overview of the relationship between the USDA and the DNR and the cooperative agreement between them.

David Ruid, Field Biologist, USDA stated there are many issues that livestock producers are concerned with wolf depredation. The biggest issue is missing livestock. He described some specific missing livestock cases.

Mr. Welter asked if there was any other predator evidence.

Mr. Ruid stated there were some bear track and some coyote tracks.

Mr. Behnke asked of the missing livestock with wolf signs present, what percentage is probably wolf depredation.

Mr. Ruid stated based on his data, 70-80% are depredation.

Mr. Willett asked if there are funds from U.S. Fish and Wildlife Service (USFWS).

Mr. Ruid stated that once the wolf is delisted from the endangered species list in the eastern distinct population they will not be involved in wolf management anymore.

Signe Holtz, Director, Endangered Resources Bureau stated that it won't be spring of 2005, at the earliest it will be late summer, early fall 2005. They will still be involved because the delisting will involve monitoring for 5 years. USFWS doesn't provide any funding for depredation management or damage payments.

Mr. Willett asked where will the depredation payments come from. The Department doesn't have the budget to cover these depredation payments.

Mr. Behnke stated the money will need to come from another source.

Mr. Ela stated that this item could be removed from being funded by Endangered Resources and be funded by GPR dollars. Whether that is accepted or not is the question.

Mr. Willett asked if there were GPR funds to cover it.

Dr. Thomas stated that is up to the citizens of the state of Wisconsin. The people affected by this need to get busy.

Mr. Willett agreed with Dr. Thomas and the Department doesn't have the funds. It's a mistake to mislead the agriculture community that we do have the money.

Mr. Behnke stated we are not at the point where we can say we are funding 80% of missing calves. Our next step is to say how much of this will be covered regardless of where the money comes from.

Mr. Ruid stated there needs to be more discussion, but based on the data we have right now, there is a 77% chance that a wolf killed it.

Mr. Behnke stated that there is a normal mortality rate of calves that is not attributable to wolves. That is also a factor. There is an increasing wolf population along with an increasing bear population.

Mr. Ruid stated that bears are only responsible for less than 1% of depredations, coyotes are 24%.

Mr. Ela stated we need to find an equitable depredation scheme. There are discussions under way for both the scheme and how it will be funded.

Mr. O'Brien stated the important thing we have heard today is this is the first reputable sources telling us that 70% missing calves are due to wolves.

Mr. Ela stated the other issue is the wolf population numbers. The Department goal has almost been reached.

Mr. Ruid stated that in Minnesota they have reached their wolf carrying capacity. Now depredations have leveled off.

Mr. Ela stated there isn't a blanket problem across all of Northern Wisconsin. There are hot spots. One of the hot spots is the Fernago farm where their depredation has dropped off.

Mr. Behnke asked what is the cause of the drop off.

Mr. Ruid stated that the removal of 18 wolves over the period of 3 years has curbed the problem. When we implemented our control measures on 19 farms, on 2 farms the problem continued, the other 17 there weren't additional problems this year.

Wednesday, December 8, 2004 – 8:30 a.m

The Board reconvened at 8:30, and divided into operating committees to consider agenda items 5.A.1 through 5.A.11 and 5.B.1 through 5.B.5. The Board reconvened at 11:00.

5. Actions of the Operating Committees

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

5.A.1. Adoption of Board Order FH-36-04 - revisions to NR 1 - Water Designation.

5.A.2. Adoption of Board Order FH-37-04 - revisions to NR 300 & NR 310 - timelines and procedures.

5.A.3. Adoption of Board Order FH-39-04 - revisions to NR 320 – bridges and culverts.

5.A.4. Adoption of Board Order FH-40-04 - revisions to NR 323 – fish and wildlife habitat structures.

5.A.5. Adoption of Board Order FH-41-04 - revisions to NR 325 – over water boathouses.

5.A.6. Adoption of Board Order FH-39-02 - revisions to NR 328 - shore erosion control structures.

5.A.7. Adoption of Board Order FH-44-04 - revisions to NR 329 - miscellaneous structures.

5.A.8. Adoption of Board Order FH-24-04 - revisions to NR 341 – grading

5.A.9. Adoption of Board Order FH-45-04 - revisions to NR 343 – artificial waterways.

5.A.10. Adoption of Board Order FH-38-04 - revisions to NR 345 – dredging.

**Mr. Willett MOVED, seconded by Mr. Poulson adoption of
Board Order FH-36-04 - revisions to NR 1 - Water Designation
Board Order FH-37-04 - revisions to NR 300 & NR 310 - timelines and procedures
Board Order FH-39-04 - revisions to NR 320 – bridges and culverts
Board Order FH-40-04 - revisions to NR 323 – fish and wildlife habitat structures
Board Order FH-41-04 - revisions to NR 325 – over water boathouses
Board Order FH-39-02 - revisions to NR 328 - shore erosion control structures
Board Order FH-44-04 - revisions to NR 329 - miscellaneous structures
Board Order FH-24-04 - revisions to NR 341 – grading
Board Order FH-45-04 - revisions to NR 343 – artificial waterways
Board Order FH-38-04 - revisions to NR 345 – dredging.
and to require the Department to submit a one-year report document.
The motion carried unanimously by all members present. Mr. Welter was absent.**

5.A.11. Adoption of Board Order FH-27-04 - revisions to NR 198 – Aquatic Invasive Species Control Grants

Mr. Willett, MOVED, seconded by Mr. Poulson adoption of Board Order FH-27-04 - revisions to NR 198 – Aquatic Invasive Species Control Grants as amended. The motion carried unanimously by all members present.

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

5.B.1. Adoption of Board Order LF-52-04 - revisions to NR 1.30, NR 45 and NR 51 – use of department properties modifications.

Mr. Behnke MOVED, seconded by Dr. Thomas adoption of Board Order LF-52-04 - revisions to NR 1.30, NR 45 and NR 51 – use of department properties modifications. The motion carried unanimously by all members present.

- 5.B.2. Adoption of Board Order WM-34-04 - revisions to NR 10 and NR 19 – feeding for hunting and non-hunting purposes modifications.

Mr. Behnke MOVED, seconded by Mr. O’Brien adoption of Board Order WM-34-04 - revisions to NR 10 and NR 19 – feeding for hunting and non-hunting purposes modifications.

Dr. Thomas stated she voted against the rule because of the scent issue. The Department is doing a good job, but in my opinion the scent is the same as baiting.

Mr. Ela stated he agrees with Dr. Thomas.

Mr. Welter stated we need further information.

The motion carried 6-1, Dr. Thomas voted no.

- 5.B.3. Adoption of Board Order WM-48-04 - revisions to NR 10 – Deer Management Unit population goals and boundaries modifications.

Mr. Behnke MOVED, seconded by Dr. Thomas approval of the adoption of revision to the Deer Management Unit (DMU) goal and boundary modifications except Unit #5.

Mr. Poulson asked for clarification on changes to Units 75A and 76.

Bill Vander Zouwen Section Chief, Wildlife and Landscape Ecology, Wildlife Management Bureau stated that the NW part of 75A is heavily forested and there are a lot more deer and the rest of the unit is agriculture land.

The motion carried unanimously by all members present.

Mr. Behnke MOVED, seconded by Dr. Thomas to split DMU #5 down Delta Drummond Road and authorize the Department to determine to delineate a line from the terminus of Delta Drummond Road and the County Highway intersection, north to US Highway 2. The motion carried unanimously by all members present.

- 5.B.4. Authorization for public hearing for Board Order FR-04-05 - revisions to NR 46 - changes to the managed forest law program from 2003 Wis. Act 228.

Mr. Behnke MOVED, seconded by Dr. Thomas approve authorization for public hearing for Board Order FR-04-05 - revisions to NR 46 - changes to the managed forest law program from 2003 Wis. Act 228.

Mr. Willett stated he is concerned about the legislature’s ability to take the fee increases and use it for other purposes.

Mr. Behnke stated that the increases are minor and he doesn’t think that will happen.

The motioned carried unanimously by all members present.

- 5.B.5. Authorization for public hearing for Board Order FR-05-05 - revisions to NR 47 – changes to gypsy moth suppression program to bring into agreement with 2003 Wis. Act 57.

Mr. Behnke MOVED, seconded by Mr. Welter Authorization for public hearing for Board Order FR-05-05 - revisions to NR 47 – changes to gypsy moth suppression program to bring into agreement with 2003 Wis. Act 57. The motion carried unanimously by all members present.

- 5.C. Reconvene as Full Board for Committee Reports ADDITION TO AGENDA

Mr. Willett gave an Air, Waste, and Water/Enforcement Committee Report. He explained that the committee approved 5.A.1-5.A.10 as a package. He stated that the Department promised the citizens of the State that they will do their best to do their duty to monitor these rules. The Department requested that the

Board pass a resolution requiring a procedure to monitor the implementation and how well these rules work and to report back to the Board within a year.

Mr. Willett MOVED, seconded by Mr. Ela approval of the report outlined above. The motion carried unanimously by all members.

Mr. Behnke gave a Land Management, Recreation, and Fisheries/Wildlife Committee Report. He explained 5.B.3. and the recommendation for splitting unit 5.

6. Action Items as a Full Board

6.A. Land Management, Recreation, and Fisheries/Wildlife

6.A.1. Authorization for public hearing for Board Order ER-11-05 - revisions to NR 12 – proposed endangered/threatened species and Gray Wolf damage payment rules

Signe Holtz, Director, Endangered Resources Bureau stated the Endangered Resources Program has administered this program since 1985 without permanent rules because the species on the state's Endangered and Threatened list could change from year to year, there were relatively few claims per year, and there was no controversy about the program. There now is now a need for permanent rules because the Endangered Resources Program has responsibility for these payments regardless of legal status, claims have increased due to wolf damage, and there is significant public controversy about the wolf damage payment program. The controversy centers on the following items: 1. Payment for missing livestock that is not confirmed as wolf depredation but assumed to be such based upon previous wolf depredation on the operation; 2. Maximum payment per animal per claimant. The proposed rule differs from existing program in three ways: 1. Proposed caps for maximum payments per livestock animal type; 2. Proposed maximum reimbursement of \$15,000 per claimant per year; 3. Proposed deductible of \$250 per claim. She requested that NR 12.55 damage to personal property be taken out of the hearing proposal.

Mr. Ela stated that there is a requirement for missing captive wildlife that the claimant is in compliance with Ch. 90 fences which is a DATCP administered wild game farm, post CWD standard. He believes that any claim should require a game farm be in compliance with the DATCP fencing rules.

Mr. Welter asked if we approve that change, it would require farmers to have the same fencing as game farms in order to require reimbursement for a missing calf.

Mr. Ela stated only for game farms. Game farms are considered livestock in this rule.

Mr. Behnke stated that from the testimony from Wildlife Services yesterday Mr. Ruid recommended that if there are wolves in the area 75-80% of those animals be wolf depredations rather than just missing and not verified. If we wanted to include that in the rule, would that also go to public hearing or would that be a later action to be taken by the Board to change the criteria.

Ms. Holtz stated that we have expectations of people to receive reimbursement for their losses. Those expectations we have included in the missing calves section. After the research is complete, Mr. Ruid's recommendation may assist with figuring what percentage we will pay for missing calves in 12.54(2)(c)(7).

Mr. Behnke stated it may be 2-3 years before the research is complete. We need to get a rule in place now. He is worried about the criteria.

Mr. O'Brien defined 12.54 (2)(c) missing calves. He stated that 1-3 are procedural and 4 "The department has documented that at least 2 livestock losses on the claimant's property within the same grazing season are verified as confirmed or probable wolf depredations." What does it mean by confirmed or probable? Which is defined under 12.52(6). It appears that it would be covered.

Mr. Welter asked about 12.54(2)(c)(7) is inexact and could be better refined to say "upon investigation has been shown to be probable depredation."

Ms. Holtz stated we wrote the rules on the best available science. As the research is completed we will refine the rules.

Mr. Welter asked if missing calves will be considered to be probable depredation based on circumstantial evidence or based on statistical evidence when the research is available.

Ms. Holtz stated that missing calves fall under unconfirmed depredations. The rule set criteria that the rancher would need to meet to be eligible to be paid for unconfirmed depredations.

Mr. Welter asked about how vulnerable calves are in the first two weeks of their lives.

Mr. Poulson stated that calves don't just go missing. Something has happened.

Mr. O'Brien raised the question of a proposed limit of \$15,000 per year per claimant. Some ranchers have 40 cattle and some have 800 cattle.

Ms. Holtz stated we would like to hear what the public says at the hearing. We would like to take out the limit too. The hearings will be held at Spooner, Black River Falls, Rhinelander, Madison, and Green Bay.

Mr. Behnke MOVED, seconded by Mr. Poulson authorization for public hearing for Board Order ER-11-05 - revisions to NR 12 – proposed endangered/threatened species and Gray Wolf damage payment rules with 12.55 personal property deleted.

Mr. Ela MOVED, seconded by Mr. Welter amend the rule to delete 12.54(2)(c)5. Pertaining to compliance with chs. 90, and 95, Stats and create NR 12.54(1) Eligible Claims. (for all claims) (b) Claimants need to be in compliance with carcass disposal requirements of s. 95.50, Stats., and for farm-raised deer claims the farm-raised deer fencing requirements of ss. 90.20-90.21, Stats.; in order to be eligible for reimbursements.

Mr. Ela explained that we will give depredation payments to probable kills and verified kills to livestock operations who have not met DATCP's fencing standards. We are not obligated to make depredation payments for missing animals that do not meet DATCP's fencing standards. This amendment will say that DATCP's fencing standards for captive wildlife must be met for any captive wildlife claim.

The amendment passed unanimously by all members present.

Mr. Welter stated that unconfirmed deaths should include stress-related deaths. Can vets verify stress-related deaths and would that be sufficient to receive a depredation payment?

Ms. Holtz stated that Wildlife Services does the verification. They would not be able to tell from a calf that is just lying there what the cause of death is. Research will confirm if stress related deaths can be confirmed.

Mr. Poulson asked if there is anywhere in the process where we will help the people understand how the process is going to work. For example, how to report a loss.

Ms. Holtz stated we do want to address that, so people know what the requirements are. We are working with the Farm Bureau and stakeholders to help us with that process.

The motion passed as amended unanimously by all members present.

6.A.2. Adoption of Emergency Order FH-67-04 (E) – revisions to NR 20 – regarding Lake Winnebago System Sturgeon Season Closure

Mike Staggs, Director, Fisheries and Habitat Bureau stated that during the 2004 sturgeon spearing season on Lake Winnebago, spearers harvested a record 1,303 sturgeon on opening day, exceeding the season harvest cap for adult female sturgeon. The spearing season lasted only two days and resulted in an overall harvest of 1,854 sturgeon. The total harvest included 822 males, 348 juvenile females, and 684 adult females, 509 of which came on opening day, exceeding the harvest cap of 425 females. The department limits harvest to 5% of the adult lake sturgeon population in order to prevent overharvest. Population reduction due to overharvest of lake sturgeon could take years to reverse given the life history of lake sturgeon. Female lake sturgeon do not mature until age 20-25, and the only spawn every 3-5 years. In 2004, harvest caps for juvenile females and adult females were 425 for each. The harvest cap for adult male sturgeon was 1,300. When spearer reach 80% of any of the three harvest caps, the season closes at the end of spearing hours the following day. If none of the harvest caps are reached, the season continues for 16 days. The proposed emergency rule would provide the department with additional authority to close the sturgeon spearing season before the next day's spearing if the total allowable harvest is exceeded by 100% or more that day. The current system of closing at the end of the day following reaching the 80% trigger level will remain. There is strong support amongst the public and the Winnebago Sturgeon Advisory Committee for this rule. An identical permanent rule proposal will be placed on the 2005 Spring Hearing questionnaire.

Mr. Behnke stated he agrees with the rule. However, we are allowing essentially spearing in a refuge. We should determine a refuge in the Southern part of the lake where no spearing is allowed. It would spread out the harvest. We are not giving equity to all of the people who buy sturgeon license.

Mr. Willett stated that this is an emergency rule and when the Department writes the permanent rule, Mr. Behnke's comments should be considered. If we don't make some major changes we could be putting this fishery at risk. Perhaps a lottery system would make it fair.

Mr. Staggs stated that the Sturgeon advisory committee has been meeting about this and a refuge is one of the options being considered.

Public Comment

Dick Koerner, Neenah stated he has been spearing Sturgeon for 50 years. He supports the emergency rule. He would like to close the 2005 Sturgeon spearing season after one day (6 hours) if the spearkers exceed the harvest cap. The basic spearing framework is a 16-day spearing season or the harvest cap, whichever occurs first. He gave an overview of the 2004 season.

Mr. Willett MOVED, seconded by Mr. Behnke adoption of Emergency Order FH-67-04 (E) – revisions to NR 20 – regarding Lake Winnebago System Sturgeon Season Closure.

Mr. Welter asked about the season closing triggers: is it when the quota is reached or doubled?

Mr. Staggs stated it is when it is reached for any one of the groups.

Dr. Thomas stated she is worried that this will trigger overharvest the first day because 6,000 people will converge on one spot the opening day.

Mr. Behnke asked Mr. Koerner how many shacks were on the whole lake last year.

Mr. Koerner stated there were about 4,700.

Mr. Behnke shared his spearing experience with the group. He stated that this fishery needs to be protected. The advisory committee and the fish managers need to analyze the method of protection, but for now we need to adopt the rule. How can the harvest be spread out so more people can participate?

Mr. Poulson asked if a refuge could be established.

The motion carried unanimously by all members present.

Mr. Staggs stated a refuge would be possible. The southern end of the lake convergence is a new phenomenon. It may be different next year or years down the road. Most spearkers know that they must be out the first weekend to get a Sturgeon. People already know it may only be a two-day season.

Mr. Behnke stated that the Board should not try to make these changes for the 2005 season. We should adopt the emergency rule. Ron Bruch and the advisory committee is aware of the problem and we should let them formulate a solution to bring before the Board.

- 6.A.3. Land Acquisition, Northern Highland/American Legion State Forest, Copper Falls State Park, Bibon Swamp Natural Area, So. Shore Fishery Area, & Statewide Habitat areas, Vilas, Oneida, Ashland, and Bayfield Counties.

Mr. Willett MOVED, seconded by Mr. Behnke approval of land acquisition, Northern Highland/American Legion State Forest, Copper Falls State Park, Bibon Swamp Natural Area, So. Shore Fishery Area, & Statewide Habitat areas, Vilas, Oneida, Ashland, and Bayfield Counties. The motion carried unanimously by all members present.

- ~~6.A.4. Land Acquisition and Donation, Mead Wildlife Area, Portage & Marathon Counties. DELETED FROM AGENDA~~

- 6.A.5. Land Acquisition, Boundary Modification, and Donation, Kettle Moraine State Forest - Northern Unit, Washington County.

Mr. Willett MOVED, seconded by Dr. Thomas approval of Land Acquisition, Boundary Modification, and Donation, Kettle Moraine State Forest - Northern Unit, Washington County.

Mr. Poulson asked if this item has any connection to the North Branch of the Milwaukee River project. Richard Steffes, Real Estate Director stated he didn't believe the boundary of that project goes this far north.

The motion carried unanimously by all members present.

6.A.6. ~~Land Acquisition and Donation, Statewide Public Access, Waukesha County~~ **DELETION FROM AGENDA**

6.A.7. Land Acquisition, Goal and Boundary Modifications, Jefferson Marsh Wildlife and Natural Area, Jefferson County.

Mr. Steffes stated that Jefferson County officials support this acquisition. It provides better access to existing state owned land that could be developed for parking.

Mr. Willett stated that we got Dane County to provide partial funds for a project last month. He asked if we could ask Jefferson County to provide partial funding for this project.

Mr. Steffes stated he could talk to the County.

Mr. Willett proposed to postpone the item.

Mr. Willett MOVED, seconded by Dr. Thomas approval of Land Acquisition, Goal and Boundary Modifications, Jefferson Marsh Wildlife and Natural Area, Jefferson County.

Mr. Willett MOVED, seconded by Dr. Thomas to postpone the item. The motion passed 5-2. Mr. Ela and Mr. Welter voting no.

6.A.8. Land Acquisition, Statewide Natural Areas, Door County.

Mr. Willett asked if this is the first purchase in the boundary.

Mr. Steffes stated the Department has some easements, but this is the first purchase.

Mr. Ela MOVED, seconded by Mr. Willett approval of Land Acquisition, Statewide Natural Areas, Door County.

Mr. Welter asked if this is publicly accessible recreation use land.

Mr. Steffes stated yes.

The motion carried unanimously by all members present.

6.A.9. Land Acquisition, re-sale, and project boundary modification, Evergreen River Fishery Area, Langlade County.

Mr. Ela stated he received a letter from the chair of the Langlade County Board of Supervisors and asked if his concerns have been addressed.

Mr. Steffes stated he hadn't heard of his involvement.

Mr. Poulson stated he believes this is a good action. He doesn't believe there will be any trouble selling the land.

Mr. Welter asked if there is public access right now.

Mr. Steffes stated it is privately owned. Years ago the state bought some frontage and the landowner allowed public access across his land for fishing and summer use. He did not allow deer hunters.

Mr. Behnke MOVED, seconded by Mr. Poulson approval of Land Acquisition, re-sale, and project boundary modification, Evergreen River Fishery Area, Langlade County. The motion carried unanimously by all members present.

6.A.10. Land Acquisition, Prairie River Fishery Area, Lincoln County.

Mr. Willett MOVED, seconded by Mr. Welter approval of Land Acquisition, Prairie River Fishery Area, Lincoln County. The motion carried unanimously by all members present.

6.A.11. Land Acquisition and Donation, Prairie River Fishery Area, Lincoln County.

Mr. Willett MOVED, seconded by Mr. Welter approval of Land Acquisition and Donation, Prairie River Fishery Area, Lincoln County. The motion carried unanimously by all members present.

6.A.12. Land Donation, Ice Age Trail, Waushara County

Mr. Willett MOVED, seconded by Mr. Behnke approval of Land Donation, Ice Age Trail, Waushara County. The motion carried unanimously by all members present.

6.A.13. Easement Donation, Statewide Natural Area, Rock County.

Mr. Willett MOVED, seconded by Mr. Behnke approval of Easement Donation, Statewide Natural Area, Rock County. The motion carried unanimously by all members present.

6.A.14. ~~Gift Lands Easement Donation, Waushara County~~ **DELETION FROM AGENDA**

6.A.16. Land Acquisition and Resale, Dorn Creek Fishery Area, Dane County **ADDITION TO AGENDA**

Mr. Willett MOVED, seconded by Mr. Welter approval of Land Acquisition and Resale, Dorn Creek Fishery Area, Dane County. The motion carried unanimously by all members present.

6.A.17. Easement Acquisition and Donation, Willow Creek Fishery Area, Richland County. **ADDITION TO AGENDA**

Mr. Willett MOVED, seconded by Mr. Welter approval of Easement Acquisition and Donation, Willow Creek Fishery Area, Richland County. The motion carried unanimously by all members present.

Mr. Welter MOVED, seconded by Mr. Willett to meet in a closed session under the authority of s. 19.85(1)(e), Wisconsin Statutes, for the purpose of discussing potential real estate land transactions.

Roll Call Vote

Mr. Behnke-Yes	Mr. Ela – Yes	Mr. Welter – Yes	Mr. Poulson - Yes
Mr. Willett - Yes	Dr. Thomas – Yes	Mr. O’Brien - Yes	

There was no action taken at the executive session.

6.A.15. Budget recommendations and revenue proposals for the 2005-07 biennium

Secretary Hassett gave a general overview stating that the Department submitted the cost to continue budget to the Board in September. We are now returning with a budget reduction plan and fee proposal. Reductions are difficult to manage, but the state is still in a crisis with a projected deficit of \$1.5 billion. All state agencies including the DNR must help solve this. We are proposing staff cuts to meet DOA budget directive to accomplish our mission with smaller government in the future. We have tried to focus on fully preserving functions that we feel are critical to the mission of the Department and that includes protect the public health and welfare, restore and enhance ecological systems, and provide quality outdoor recreation opportunities. We believe the proposed reductions are in areas that are less mission critical or in areas where there is a potential to continue providing services with other methods than permanent staff. Examples include recreational trail, private forestry assistance, license sales at ALIS vendors. This was a long and painful task to make the cut decisions. With regards to the fee package, we have gone for 9 years without a fee increase for many of our hunting and fishing licenses. We are projecting a \$20 million deficit in the conservation seg. hunting and fishing budget.

Joe Polasek, Budget Director, Management and Budget Bureau stated that the 2005-06 dollar reduction is \$4,436,900 with 71.47 FTE positions eliminated. The 2006-07 dollar reduction is \$4,890,900 with 173.22 FTE positions eliminated. He explained the budget reduction selected items. The first was trail operations. The state owns 34 trails and 14 of those are operated by the state. There are 20 cooperative agreements where other entities that operate the trails. We suggest we eliminate 8.25 FTE and take the remaining 5 positions and establish regional trail coordinators. The second item is to discontinue operation at selected low-revenue properties: Aztalan, Hoffman Hills, and Chippewa Moraine Ice Age Reserve Center. We have two and a half years to find partners to run these facilities. The third item is the Endangered Resources Whooping Crane Coordinator. We are looking for alternative ways to continue our partnership for this program. The fourth item is the elimination of forestry maintenance the management of private forestlands.

We plan on contracting the services out to private contractors. Other reductions would come from the air management Chloroflourocarbons (CFC) program, waste management hazardous waste regulations and mining regulations, watershed management-WPDES permit issuance and compliance, fisheries management-long term resource monitoring, customer service and licensing – service center reductions.

Mr. Behnke asked where the money goes from these reductions.

Mr. Polasek stated it varies. In some cases, GPR positions are eliminated, probably a couple million dollars worth of the reductions. Other cases involve segregated funded positions, environmental fund, conservation fund. The dollars are likely to lapse back to the sources from where they came. Other cases, the money would stay in the fund and be used to serve the public in a different way.

Mr. Behnke asked about the private land forestry reductions. What are the savings in eliminating the FTE positions and hiring consultants?

Mr. Polasek stated the reductions are about \$1.2 million. The same amount of dollars would be used to hire the private foresters.

Mr. Behnke stated he doesn't know what a private consultant would charge, but he assumes it would be expensive. What are we losing in the way of service to the public in these private lands?

Mr. Polasek stated the hiring of a private forester will be higher than the price of a state employee. However, there can be more efficiency about where we target the contracts to areas of the state where workload is highest.

Mr. Behnke stated the way he sees it, we are providing a service to the public in a different way. He questions whether that can be done by hiring expensive private consultants. He doesn't believe we should cut back on this valuable service to the public.

Dr. Thomas asked of the 173 FTE positions. How many are GPR funded?

Mr. Polasek stated about 48 positions at about \$2.2 million.

Dr. Thomas stated that 125 families are going to be disrupted and services cut in areas where they provided service and there will be no savings to the state budget deficit as a result of those cuts.

Mr. Polasek stated he doesn't know yet because in the past money has been transferred to the general fund. Our goal that when these positions are actually eliminated in two and a half years the human disruption would be limited.

Dr. Thomas stated that many of these cut positions are coming from federal funding, grant funding or segregated fees and there isn't any way that state budget repair can happen as a result of these reductions. Why are we disrupting families when state budget repair isn't a result?

Mr. Polasek stated the other concern is downsizing the number of state employees. One of Governor Doyle's objectives has been to reduce 10,000 state position.

Mr. Ela asked if local units of government take over trail operations, the actual master planning for the trail remains in state control. For example, ATV could not just start using trails as a result of a cooperation agreement.

Bill Smith, Deputy Secretary stated that we have relied on trail councils and trail commissions that are staffed by the counties where the trails are. They have to work within some guidelines, but they have a lot of latitude about the uses of the trails.

Briget Brown, State Trail Coordinator, Parks and Recreation Bureau stated the state signs memorandums of understanding with the counties assigning them the responsibilities and rights to operate our trails. We also give them the responsibility to master plan the trails. The Board does not approve the master plans. The trails are state trails in name because we retain fee title ownership, but they essentially become local trails.

Mr. Willett asked if we share the fees that are collected from the trails.

Ms. Brown stated that currently the state statute allows the county to decide whether they want to charge a fee. The current fee is \$15 per year. We can give the counties up to 70% of those fees collected. Only about half of the counties who operate our trails charge a fee.

Mr. Ela stated this is not only a budget issue, but also a policy issue. What does it mean to have a state trail system, when we have no control of the product. He asked that this be discussed at a future meeting.

Mr. Behnke asked how many dollars are involved in eliminating the Whooping Crane position.

Mr. Polasek stated \$59,300.

Mr. Ela asked how many dollars are involved in eliminating the Chippewa Moraine position.

Mr. Polasek stated \$45,500 and one FTE.

Mr. O'Brien asked about the elimination of the foresters. Are there enough private consultants in the field to perform the services of the state-employed foresters who are being eliminated?

Mr. Polasek stated that today the answer would be no, but the market will orient itself to meet the capacity.

Mr. O'Brien asked about the Whooping Crane Coordinator. He stated that all the goodwill, good publicity, a successful program and public awareness this position has gotten the DNR, he doesn't think it's worth cutting the position.

Mr. Polasek continued by discussing the revenue package. The fish and wildlife account fee proposal addresses a \$20 million deficit by the end of 2006-07. The Bureau Directors affected by this account have been working with the Conservation Congress' alternate funding and fee committee. They have gotten input from the conservation community. They looked at four different options of solving the \$20 million deficit. He explained each option in detail. He explained the Fishing and Wildlife Account 2005-09 Funding Plan which includes a \$1.5 million GPR in alternate CWD funding, \$1.50 Wildlife damage fee increase – included within license price, turkey tag fee, pheasant tags on public hunting grounds, creation of a ruffed grouse/woodcock stamp, commercial fishing fee increase elimination of junior patron parks/trail sticker and magazine benefits, hunter education fees, sale of hook and line sturgeon tags and hunting fees increased on effective date of bill.

Mr. Welter asked if the \$1.50 Wildlife Damage Fee would be available for wolf depredation in the future after the delisting occurs.

Mr. Polasek stated that this account is used for game species. It would depend on if the wolf becomes a species where licenses are sold to harvest it.

Mr. Poulson asked if it's statutory that those fees only be used for game species.

Mr. Polasek stated yes.

Mr. Behnke asked if the Patron license fee will increase .

Mr. Polasek stated no it will stay the same. The increase is only to the general license. The stamps aren't going to be a benefit that the patron would automatically receive.

Mr. Behnke asked about the \$20 million deficit in the Fish and Wildlife fund. The CWD costs that come out of this fund, 2005 is \$2.5 million and 03 it was \$7.8 million was reallocated. What will we do in the future? He is opposed to taking money from the segregated account to pay for CWD. Can we justify raising fees and then use it to fight CWD. This is a statewide problem, not a problem of the hunting and fishing community. We need to find another source to pay for CWD. We are going the wrong direction when we ask people to put out additional dollars and then offer fewer services.

Mr. Polasek stated that CWD costs are declining.

Mr. Ela asked what is the projected CWD annual cost for the next two years and how much federal money will we receive.

Mr. Hauge stated he believes it will be between \$5 million to \$6 million per year. We will receive \$1.2 million federal money and \$500,000 from Pittman-Robertson.

Mr. Ela stated there is a \$2-3 million shortfall that will come from the segregated account.

Mr. Welter asked about the pheasant tags. Will that fee used solely to support the Poynette facility pheasant production? How is it currently funded?

Mr. Polasek stated yes. Right now it is paid for out of general hunting license dollars.

Mr. Welter asked how much money is currently going into ruffed grouse and woodcock habitat.

Mr. Hauge stated timber sales are the largest habitat technique for ruffed grouse and woodcock. He estimated \$100,000.

Mr. Polasek explained the park fee increases. The reason for these increases is the parks program faced a \$3 million deficit without them.

Mr. Willett asked if the parks are funded self-sufficiently.

Mr. Polasek stated that park fees have never covered the total cost of parks. The original concept was 50/50 GPR/park segregated account.

Mr. Behnke asked if the money that funded the 32 FTE in the forestry division comes from the mill tax. Can that mill tax be used in other areas of the Department?

Mr. Polasek stated that about 70% of forestry's revenue comes from mill tax. The mill tax must be used for forestry activities.

Mr. Behnke asked Mr. Delong if we can fill the gap of the state employees with the private consultants.

Paul Delong, Administrator, Forestry Division stated it's a difficult question to answer. Right now, the answer is no, however in 2.5 years time will tell. We don't know what private consultants will bid to do this kind of work, therefore it's hard to say if we can afford it.

Mr. Behnke asked what would be the level of service provided by to the public with the elimination of 32 FTE and going to private consultants.

Mr. Delong stated he thinks the level of service would be reduced on the basis that we still have an obligation the reviews and approvals of the plans under statute.

Public Appearances

1. **Steve Oestreicher**, Harshaw, Conservation Congress stated the conservation agenda includes a fully funded fish and wildlife program. We support a fee increase that will be good for at least 4 years. Other agenda items include establish an Outdoor Heritage Youth initiative, increase trout and waterfowl stamp funding, create a ruffed grouse/woodcock stamp, create a dedicated pheasant stocking and sturgeon funding, eliminate the wildlife damage account deficit, improve outreach on public lands, GPR funding for CWD and wolf damage, public confidence in investment of license dollars, and create a long-term funding strategy. **Mr. Welter** asked if the congress supports the pheasant stamp and the ruffed grouse stamp. **Mr. Oestreicher** stated that the pheasant stamp was the Congress' idea. The ruffed grouse stamp ideas was just brought up last week at the alternative funding meeting. The entire congress has not had a chance to look at that. **Mr. Poulson** stated he liked his comments on the depredation. He asked for his thoughts on how we may find alternative funding for depredation. **Mr. Oestreicher** stated that we need to make it clear to the people in the capitol that this funding must come from GPR. The wildlife in the state belongs to all citizens, not just the hunters and anglers.

2. **Diane Tomlinson**, Poynette, representing herself on behalf of the MacKenzie Environmental Center stated the center is a part of many schools' curricula and has been for many years. We have approximately 6,000 children that come to the overnight program and another 6,000 that come to the day programs. There are many handicapped students who come year after year. She explained the many programs at the center. **Mr. Willett** stated he had suggested several months ago to enhance the programs for inner city children. Are we going to lose these types of programs due to our budget reductions? **Mr. Polasek** stated it depends on what kind of cooperators we can get to run the facility. **Dr. Thomas** asked how many volunteers work at the MacKenzie Center. She also asked how many FTEs would be eliminated. **Ms. Tomlinson** stated there are over 250 volunteers. 3.9 FTE would be eliminated. **Mr. Willett** suggested that forestry money be used to fund programs like the MacKenzie program.

3. **Mike McFadzlen**, Plymouth, Governor's State Trail Council stated the State Trails Council represents all trail users in the states and they advise the Department about trail management and acquisitions. Trails generate over \$650 million annually. Our trail system is a national leader and model for many reasons including trail network plan. Trails help promote a healthy lifestyles. The Board should do the right thing and take the Park and Trails cut out of the budget.

4. **Waldo Peterson**, Madison, Friends of Wisconsin State Parks stated some important facts about the parks system. The park system earns over \$16 million annually. The park system employs over 907 positions with 214 FTE and 693 limited term employees. He compared the Wisconsin Park System to the five other largest park systems in the country. Wisconsin is ranked first in the nation in rail banked trail miles. **Mr. Ela** asked if Friends of Wisconsin State Parks support the fee increase package. **Mr. Peterson** stated that they do support it because it helps the system become more self-sufficient.

5. **Jeff Nania**, Portage, Wisconsin Waterfowl Association stated they agree with the comments of Mr. Oestreicher. The people who hunt, trap, and fish in the state are willing to pay higher fees if the field staff of the Department is made whole. The Outdoor Heritage Fund was established in 2001. We ask that there is a 50 cent surcharge on the sale of every license. The purpose of the fund is to give kids the opportunity to appreciate and know the outdoors. We need to get kids interested in the outdoors. It would bring in \$1 million annually.

6. **Peter Murray**, Madison, Wisconsin Association of Lakes explained ideas to fund the fight of invasive species such as a boat sticker or a fuel tax. He recommended relying on the Department's data and allows them to make the budget recommendations. He supports the cuts where volunteers and other organizations can step in to assist. They also support the fee package increase, but suggested raising the non-resident license fees.

7. **George Meyer**, Madison, Wisconsin Wildlife Federation (WWF) stated WWF passed a resolution supporting hunting and fishing license fee increases to maintain strong fish management, wildlife management, and conservation law enforcement. He also asked for non-fish and wildlife account funding for management of CWD and wolf depredation payments, a study by the Department to determine whether the expenditure allocation formula for the Conservation Patron's Licenses is fairly allocating a sufficient amount to Great Lakes Salmon and Trout Stamp account, and increase in commercial fishing license fees. WWF recognizes that GPR deficit needs to be dealt with, but 128 of the 173 positions are not funded by GPR. In 1995, the DNR had 3100 positions. If this proposal is adopted DNR will have roughly 2600 positions, a reduction of 500 staff. That's one out of every six positions in the DNR will have been eliminated. These reductions will substantially compromise the DNR's ability to successfully manage the land, air, and water resources of the state.
Mr. Welter stated that one of the conditions of the WWF support is a study be done by the Department. He suggested that other stamps besides the Salmon and Trout Stamp be examined.
Mr. O'Brien asked Mr. Meyer if he understood that these cuts are being done as a directive from the Governor. He asked if Mr. Meyer thought the Board should not approve these budget cuts.
Mr. Meyer stated he understood that. However, at these staffing levels you will not be able to adequately manage the natural resources of the state. He suggested the Board adopt a resolution or write a letter to the Governor asking him to explore these concerns.
Mr. Behnke asked Mr. Meyer where he thought the staffing cuts should happen.
Mr. Meyer stated the Board should try to maintain as much of the field operations as possible.
8. **Marjorie Ward**, Madison, Wisconsin Bicycle Federation urged the Board to maintain staffing levels for the state trail system. Wisconsin is a national leader in trail programs. Local units of government are already struggling with their own budget woes and it's unlikely they will be able to maintain the state trails. Turning trails over to counties will create a disjointed a system without an overall state vision for the system.
9. **Anne Sayers**, Madison Wisconsin League of Conservation Voters stated her organization prepares an annual book, Wisconsin Conservation Briefing Book, outlining the policy priorities of Wisconsin's conservation community. The budget is one of nine conservation priorities. She is concerned that individuals and corporations that degrade Wisconsin's natural resources are getting a pass from fee increases. The polluters, developers, and others are asked to bear none of the responsibilities.
10. **Andrew Hanson**, Madison, Midwest Environmental Advocates stated the budget does not include any increases in fees for the Title V air pollution control program. During the 1990s the Department stated that it need 200 staff to administer and enforce the Title V permit program. At last count, the DNR has less than 90 staff working in this program. These additional staff are needed to issue permits and meet the minimum inspection guidelines handed down by USEPA. He suggested removing the existing cap on fees for emissions over 5,000 tons that would generate approximately \$6.6 million.
11. **Pam Schuler**, Madison, National Parks Service (NPS) stated that NPS provides significant financial and other support for the Departments work in nationally significant areas. She is concerned about staffing cuts that already have significant funding partnerships with federal, local, and private interests. Specifically, the NPS is concerned about the discontinuation of services at the Chippewa Moraine State Recreation Area.
Mr. Behnke asked if the position is cut at the Chippewa Moraine would the NPS still contribute funds?
Ms. Schuler stated yes, we will still match \$800,000 per year for the entire system.
12. **Alison Dwyer**, Madison, representing herself stated she is a trail user who is opposed to the cuts to trail staff. She fears the standards we have come to know will deteriorate on the trail. The trails are not only for recreation, they are transportation corridors for traveling from town to town. The trails are a great form of exercise.
13. **Tim Van Deelen**, Madison, The Wildlife Society, Wisconsin Chapter supported the fee increase package for hunting and fishing. The increase is warranted because CWD has drained resources from many programs, the agency has reduced staffing and hours at field stations, habitat improvement projects have stopped in

many areas, the DNR has been unable to hire wardens in 2003 and 2004, it has been 7 years since the last increase and is considerably below Minnesota's fees.

14. **Adam Greene**, Madison, representing himself stated he lost 100 pounds by using trails. He bikes 23 miles a day on state owned bike trails.
15. **Richard Smith**, New Auburn, Chippewa County Tourism Council stated that the almost 5,000 school age children visit the center each year. Kids are taught to respect the natural resources of the state. He gave center statistics. The Chippewa Moraine has only a small group of volunteers, a short history of programs, a history of small donations, and a limited area population from which to draw volunteers. The area is also not well endowed with individuals or businesses capable of significant financial support.
Mr. Willett asked if Chippewa County or Chippewa County Outdoor Resource Alliance contributed any funds to this center.
Mr. Smith stated the county does not and individual members of the Alliance make donations and volunteer time.
16. **Christine Thisted**, Madison, Ice Age Park and Trail Foundation stated they are a private partner in the Ice Age National Scenic Trail. The volunteers have contributed over 87,000 hours of volunteer work this year. She stated they have gotten involved politically to win back federal money for the project. She distributed the letters that she took to Washington DC that are written mostly by school children. Senator Obey got the \$796,000 back that support FTE positions, including the one at Chippewa Moraine.
17. **Bruce Speight**, Madison, Wisconsin Public Interest Research Group stated their biggest concern is that it is the citizens of Wisconsin that are being asked to bear the brunt of hard budgetary choices in the form of increased fees but the private sector has largely avoided increased fees even though they have been granted guarantees of quicker and more responsive service from the DNR in the last legislative session. The most significant shortcoming of the budget is the lack of increase in Title V permit fees.
Mr. Ela asked what is the current per ton Title V fee and when EPA will give a number for what they want from us.
Al Shea, Administrator, Air and Waste Division stated \$35.71. He is not sure of the timetable.
Mr. Willett asked if it will require legislation.
Mr. Shea stated that Department staff would not agree that we have failed to demonstrate as to the exact language that we have sufficient funding with the current fee structure.
18. **Gene Roark**, Madison, Wisconsin Woodland Owners Association stated his organization expresses concern for the proposed Division of Forestry staff reductions. The division anticipates reducing staff by 32 FTE, of which 20 will come from private forestry. He stated that private consultants say they have all the work they can handle at this point. If private consultants do Managed Forest Law (MFL) plans, it's usually as a fill in when they are not too busy. They don't make very much money doing it.
Mr. Behnke asked how many new entries there are into the MFL program each year and how many would use a professional forester to help them with the plans and what are the fees.
Mr. Delong stated there are about 4,000 new entries each year. This year it was only 1,000 due to a short application period under the new law. About 1% come with a plan, the other 99% ask for a plan. They pay their application fee and the Department does the plan or contracts it out due to workload.

Secretary Hassett acknowledged the support for our programs and staff that we have seen here today. The Department has tried to work with stakeholders throughout the budget reduction process. He stated that the Department only intends to move services to the private sector where it is cost effective. We will not be offering less service for more money or for the same amount of money. We have tried very hard to protect our field staff positions throughout the agency. There will be and have been some significant administrative cuts both in region and central offices. He understands that the Board may want to make some changes to the budget, but he asked them not to make large changes because the Department has agonized over the alternatives. Mr. Meyer suggested that you pass a resolution to send to Department of Administration or the Governor. He would encourage that, but a cover letter would do the same thing and he is willing to sign on to that letter as well.

Mr. Willett stated he understands the Governor's goal and agrees that it's good to keep government in check and shrink it when possible. Would it be appropriate to ask the Governor not to cut these positions because of our revenues?

Secretary Hassett suggested it may be appropriate in a separate resolution or letter from the Board expressing your concerns on that issue.

Mr. Behnke stated that this \$20 million shortfall that we are making up in fee increases in hunting and fishing license fees needs to demonstrate that we are not cutting field services and emphasize the need to shift dollars back into resource management that have been spent on CWD control.

Mr. Ela suggested Chairman O'Brien and Secretary Hassett draft a letter and then we approve it during a conference call at a future date.

Dr. Thomas asked if there are vacancies that are sitting open that are being left in the budget in addition to the 173 we are cutting.

Mr. Smith stated that the last vacancy report showed 320 positions. Some are long-term vacancies because we don't have the long-term revenue stream to fill them, some are held vacant for budget purposes, and others are short-term vacancies that we would like to fill as a priority. There is a lot of flexibility with those vacancies. We have identified functions to be cut, but not individual positions or staff. When the final budget is done, we will identify specific positions. We will use the current vacancies for other assignments for staff that are in cut positions to transfer, reassign, or promote to those positions. Our goal is two fold in this budget reduction. We must meet a financial goal and a reduction of staff goal. The staff reduction goal is much more challenging, but we do have some flexibility on where those cuts are made.

Mr. Ela MOVED, seconded by Mr. Willett the budget recommendations and revenue proposals for the 2005-07 biennium.

Mr. Behnke MOVED, seconded by Mr. Willett to reinstate the Whooping Crane Coordinator position.

Mr. Behnke stated that this is an international program that is heavily supported. For \$59,000 if we cut this position, it is sending a horrible message if we cut out the coordinator position.

Mr. Ela added that he is going to vote for it because he agrees about the perception and image. He is offended at the misinformation that appeared on the operationmigration.org website. It was an irresponsible exploitation of hundreds of extremely wonderful dedicated people.

The motion passed unanimously by all members present.

Dr. Thomas MOVED, seconded by Mr. Behnke to add the McKenzie Center back in to the budget.

Dr. Thomas stated that it was one of the first projects in what eventually became one of the most admired environmental programs in the country, which is now a shadow of itself because of previous budget cuts.

Mr. Willett stated he applauds this type of program and would like to see it expanded to include the urban forestry programs. It's imperative, as our state becomes more multicultural.

Mr. Ela suggested keeping some of the positions to maintain the infrastructure, but perhaps using partnerships to restoring the program.

Secretary Hassett stated the original proposal called for cutting 1.9 of the 3.9 positions there. There was a debate that if we were going to cut that much, we should just cut all the positions or fully fund it. However, that may be a good compromise so we still have some staffing there. We are going to spend the next couple of years trying to work on a way to keep that place open.

Mr. Ela MOVED, seconded by Mr. Willett to only restore 2 FTE positions.

Dr. Thomas asked if the center can be run with 2 FTE positions.

Vance Rayburn, Administrator, Customer & Employee Services stated it would be difficult to run the facility with only 2 FTE positions.

The motion did not pass with a 3-4 vote. Mr. Welter, Mr. Ela, and Mr. Willett voted yes. Mr. O'Brien, Mr. Behnke, Dr. Thomas and Mr. Poulson voted no.

The motion to restore all the positions at the center passed unanimously by all members present.

Mr. Willett MOVED, seconded by Mr. Welter to add the Chippewa Moraine position back into the budget. The motion passed unanimously by all members present.

Mr. Behnke MOVED, seconded by Dr. Thomas to include the ruffed grouse and woodcock stamp and hook and line sturgeon stamp in the patron license with no additional fees.

Mr. Polasek stated those designated revenue sources would lose the sales from the patrons. We would have to prorate other GPR revenue to cover those stamps.

Mr. Welter stated that the entire stamp program needs to be examined. We have conservation groups that are concerned with resource allocation. We should ask the Department develop a committee to work with user groups to examine the allocation of stamp income in the patron license and to come back to the Board with a recommendation whether it should be continued or not.

Mr. Polasek asked for clarification on what items were included in the motion.

Secretary Hassett stated that the pheasant tags were created to generate new revenues so the game farm can be brought back up to former production levels.

The motion was approved unanimously by all members present.

Mr. Welter MOVED, seconded by Mr. Behnke to direct the Department develop a committee to work with user groups to examine the allocation of stamp income in the patron license and to come back to the Board with a recommendation whether it should be continued or not. The motion passed unanimously.

Mr. Poulson asked about CWD money. Where are we going to find GPR to help fight CWD?

Mr. Polasek stated that this budget package does include \$1.5 million GPR and \$1.2 million of USDA money. There is total of \$5.6 million needed to fight CWD.

Mr. Behnke stated there is a need for an additional \$3 million on top of the \$15 million already taken out of the resource management program that could have been used in other essential programs.

Secretary Hassett stated he is concerned about asking for more than \$1.5 million because we run the risk of losing it all.

Mr. O'Brien stated we can include that concern in the letter.

Mr. Willett stated he is concerned about the Board and the way this budget and other budgets have treated the Board. If high quality people to serve on the Board, the budget is insufficient. He hasn't attended a number of meetings and visited a number of sites because of the driving distance to these locations. The airplane allows for access to the entire state.

Mr. Willett MOVED, seconded by Mr. Behnke to negotiate with the Department of Administration to increase the budget to sufficiently fly the Board as in the past.

Mr. Behnke stated that as chairman of the land committee he doesn't feel he is doing a duty to the citizens because he isn't looking at the possible land acquisitions.

The motion carried 4-3. Mr. Willett, Mr. Behnke, Mr. O'Brien, and Mr. Welter voted yes and Mr. Poulson, Dr. Thomas, and Mr. Ela voted no.

Mr. Ela MOVED, seconded by Mr. Welter to increase the budget to increase the warden recruitment class to 15 recruits per year.

Mr. Polasek stated it would be an increase of about \$115,000 annually.

Mr. Poulson opposed the motion. It's the wrong moment to bring this up. He wants to wait and see how the budget plays out.

The motion did not pass with a vote of 3-4. Mr. Behnke, Mr. Ela, and Mr. Welter voted yes and Mr. O'Brien, Dr. Thomas, Mr. Poulson, and Mr. Willett voted no.

Mr. Willett called a motion on the budget.

Mr. Polasek asked that the Board include the technical changes and the vehicle title environment impact fee sunset and the pheasant tag fees.

The motion to pass the budget with technical changes and amendments passed unanimously by all members present.

7. Citizen Recognition – 1:00 p.m.

7.A. DONATION – Heritage Hill Foundation Inc. will donate enhancements to the Restoration Center valued at \$235,000 to Heritage Hill State Park to enhance the Restoration Center. MODIFICATION TO AGENDA

Mr. Willett MOVED, seconded by Mr. Behnke approval of DONATION – Heritage Hill Foundation Inc. will donate enhancements to the Restoration Center valued at \$235,000 to Heritage Hill State Park. The motion carried unanimously by all members present.

7.B. APPRECIATION - Marlene Messling work on Partners in Giving Campaign. ADDITION TO AGENDA Secretary Hassett presented the appreciation award to Marlene Messling.

Ms. Messling thanked the Department for the award and stated the campaign raised over \$101,000.

8. Board Members' Matters

Mr. Behnke stated he is concerned about nighttime shining practices. In Northern Wisconsin there have been some recent incidences of cattle being shot by shiners. Others have voiced their concerns about a light being shined across their bedroom window during the night. He would like the Department to take a look at the shining policy.

Mr. Ela stated recent legislation was passed to establish the Gaylord Nelson Wilderness Area at the Apostle Islands National Lakeshore. He suggested sending a letter of appreciation to Rep. Obey.

Mr. Welter stated he is pleased with the hunter safety statistics. His heart goes out to the people in the communities of the Sawyer County Tragedy. He believes the Department should research hunter conflict issues to learn lessons to reduce future conflicts.

Mr. Poulson stated he gave Dep. Secretary Smith some information about a farm that has a high population of bear in Sawyer County.

Dr. Thomas stated we shouldn't lose sight of the cultural aspects of the deer hunt and focus solely on the kill numbers.

Mr. Behnke stated he agrees with her, but it is our responsibility to manage the resource.

9. Special Committees' Reports

None.

10. Department Secretary's Matters

10.A. Retirement Resolutions

10.A.1. James E. Roebke

Mr. Poulson MOVED, seconded by Mr. Welter approve the retirement resolution. The motion carried unanimously by all members present.

10.B. Donations

10.B.1. The Willow River Organization for Wildlife Learning (OWLS) will donate a gift of an installed playground in the beach picnic area of Willow River State Park valued at approximately \$30,225.

Mr. Behnke MOVED, seconded by Mr. Welter approval of The Willow River Organization for Wildlife Learning (OWLS) will donation valued at approximately \$30,225. The motion carried unanimously by all members present.

- 10.B.2. The National Wild Turkey Federation will donate \$5000 to Crex Meadows and Fish Lake Wildlife area for habitat projects. **ADDITION TO AGENDA**

Mr. Willett MOVED, seconded by Mr. Poulson approval of the National Wild Turkey Federation will donate \$5000 to Crex Meadows and Fish Lake Wildlife areas. The motion carried unanimously by all members present.

- 10.B.3. The Ruffed Grouse Society will donate \$8,680 to the Bureau of Wildlife Management for the Mead McMillan Wildlife Area. **ADDITION TO AGENDA**

Mr. Willett MOVED, seconded by Mr. Poulson approval of the Ruffed Grouse Society will donate \$8,680 to the Bureau of Wildlife Management for the Mead McMillan Wildlife Area. The motion carried unanimously by all members present.

- 10.C. Memorial Resolution

- 10.C.1. Lew Posekany

Secretary Hassett presented the memorial resolution to Lew Posekany Jr., Mr. Posekany's son.

Mr. Posekany thanked the Department for the award.

Mr. Willett MOVED, seconded by Mr. Welter approved Lew Posekany Memorial Resolution. The motion carried unanimously by all members present.

The meeting adjourned at 5:50 p.m.

Air, Waste, and Water/Enforcement Committee

December 8, 2004

Minutes

The Air/Waste and Water/Enforcement Committee was called to order at approximately 8:35 a.m. by Chairman Stephen D. Willett in G09, GEF2, Madison.

PRESENT: Stephen D. Willett, Chair
 Howard Poulson
 Jonathan Ela

ORDER OF BUSINESS

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

5.A.1. Adoption of Board Order FH-36-04 - revisions to NR 1 - Water Designation

Todd Ambs, Administrator, Division of Water stated the promise of this package are speed and consistency, easy to understand, and equal public water protection. He explained the current successes, the differences between the emergency rules and permanent rules. He asked that the Board direct the Department to work directly with the stakeholders. The emergency rules have been in place since May 2004, a second set was put in place in August 2004. We learned that we can achieve the dual goals set by the legislature and the governor when this legislation passed: to achieve regulatory reform while protecting our public waterways. Approximately 50% of the projects undertaken for Wisconsin lakes and rivers for 2004 were either exempt from permitting or qualified to receive a permit in less than 30 days. He gave some statistics about the permitting.

Mr. Willett stated that the review is a very important part of the package. He asked for an indication of how the review will be structured.

Mr. Ambs stated there will be site visit audits as well as weekly staff meetings to discuss general permits and individual permits. We plan to meet with stakeholders to determine exceptions and challenges.

Mr. Willett stated that Mr. Ambs brings up a good point that the waters do belong to everyone. He asked if in the review process how do you get citizens involved.

Mr. Ambs stated that each time there are discussions, it is publicly noticed.

Mary Ellen Vollbrecht, Section Chief, Rivers and Habitat Protection, Fisheries Management and Habitat Protection Bureau distributed a draft motion to direct the Department to submit a report in one year that addresses specific issues regarding the rules and a progress report thus far. She explained the revisions to NR 1 to include explaining the legal and scientific basis of the rules and direct the department staff in rule operations. The purpose of this rule is to establish policy guiding the department's actions as a trustee of public waters and to set the process the department will follow when determining water to be Areas of Special Natural Resources Interest (ASNRI), waters or portions thereof containing Public Rights Features (PRF), and Priority Navigable Waters (PNW).

5.A.2. Adoption of Board Order FH-37-04 - revisions to NR 300 & NR 310 - timelines and procedures

Ms. Vollbrecht stated this rule establishes a new regulatory framework where activities are either: authorized as exemptions; allowed under a general permit through rules adopted by Department; or reviewed under an individual permit process. She added that there can be a delayed effective date in case of public objections. The Department has three days to notify all staff if they receive an objection.

5.A.3. Adoption of Board Order FH-39-04 - revisions to NR 320 – bridges and culverts

Ms. Vollbrecht stated this rule is to establish construction, design and placement standards for projects to be eligible for statutory exemptions, establish general permits, and to establish standards for projects that may be authorized under and individual permit. It defines the stream cross section to replace the flow standards as a method to reduce risk of upstream flooding or downstream scouring.

5.A.4. Adoption of Board Order FH-40-04 - revisions to NR 323 – fish and wildlife habitat structures

Ms. Vollbrecht stated that this rule defines and describes design standards for half a dozen commonly used fish habitat structures that would qualify for exemptions in all waters other than ASNRI and establishes

general permits for those same projects in ASNRI. This includes fish cribs, fish spawning reefs, wing deflectors, tree drops, half log structures and wildlife nesting structures.

- 5.A.5. Adoption of Board Order FH-41-04 - revisions to NR 325 – over water boathouses
Ms. Vollbrecht stated the purpose of this rule revision is to modify the existing rule to reflect the new and existing exception allowed under the statute, and to establish standards and clear procedures for obtaining certification of boathouse repair, or certification that a project is eligible for a statutory exception.
- 5.A.6. Adoption of Board Order FH-39-02 - revisions to NR 328 - shore erosion control structures.
Ms. Vollbrecht stated this rule defines and describes standards for riprap repair, riprap replacement, and biological shore erosion control that would qualify for exemptions in all inland lakes and impoundments other than ASNRI and establish general permits for those same projects in ASNRI.
Mr. Ela asked why there would be a low energy area with a high protective risk.
Ms. Vollbrecht stated ice and boat traffic are two issues of concern. It is a safety valve.
- 5.A.7. Adoption of Board Order FH-44-04 - revisions to NR 329 - miscellaneous structures.
Ms. Vollbrecht stated this rule defines and describes design standards for three activities- dry fire hydrants, intake/outfall structures, and pilings – that qualify for exemptions in all waters other than ASNRI, and establishes general permits for those same projects in ASNRI.
- 5.A.8. Adoption of Board Order FH-24-04 - revisions to NR 341 – grading
Ms. Vollbrecht stated this rule determines what constitutes a bank for priority navigable waterways and other navigable waterways; establishes criteria to define those activities which need a grading permit; and specifies conditions under which general or individual permit coverage is required.
- 5.A.9. Adoption of Board Order FH-45-04 - revisions to NR 343 – artificial waterways
Ms. Vollbrecht stated this rule establishes general permits for three activities: wildlife ponds, landscape ponds, and storm water ponds.
- 5.A.10. Adoption of Board Order FH-38-04 - revisions to NR 345 – dredging
Ms. Vollbrecht stated this rule cross-references the rules for exempt structures where the standards for associated dredging are set. It also sets standards under which manual dredging activities are exempt, and establishes general permits for installation of utility lines and maintenance dredging of up to 3000 cubic yards in established drainage districts.
Mr. Poulson stated he has heard concerns regarding the maintenance ability for farm dredging. It's important to make sure timely maintenance permits are granted.
Mr. Willett asked if it is under a general permit now.
Mr. Poulson stated he can't document specific cases, he has just heard farmers having difficulty getting permits.
Ms. Vollbrecht stated that one of the issues that the dredging general permit has a condition that you must comply with ATCP 48. There is memorandum of understanding set up with DATCP to review their projects when they are getting approved with DATCP. The Department can be ready to issue a general permit right away.
Mr. Poulson stated that he thinks the problem occurs that over time a piece of land has been drained and has a ditch that becomes a fishing pond, when originally it was a farm drainage ditch. The second problem is spreading the spoils because they need to be hauled away. It's difficult for the common layman to understand.
Mr. Ela stated he appreciated the extraordinary effort the staff has done.

Public Comment

Denny Caneff, River Alliance of Wisconsin stated they remain disappointed and concerned with how Act 118 represents a significant setback in Wisconsin land and water policy. On the other hand, the Department has done superb work in keeping the public trust front and center in carefully drafting these administrative rules that meet the spirit and intent of Act 118, but without too seriously compromising the public trust. The section on the department's responsibilities to conserve and enhance waters is very important and needs to be left intact. We ask that the NRB to consider bringing back sturgeon spawning waters as an area

of natural resource interest. Finally, he asked to keep the language in NR 1.06, public rights features, as it stands in the draft rule.

Mr. Ela asked Mr. Staggs to address the Sturgeon issue.

Mike Staggs, Director, Fisheries and Habitat Bureau stated that when we examined the potential impacts on Sturgeon of exempted activities such as shoreline riprap in some waters. Right now either the activity is not allowed because it's in a river situation or we have developed standards in NR 328 that make riprapping so it won't affect sturgeon spawning. It's a valid concern, and we will watch it over the coming years.

Derek Sheer, Clean Wisconsin stated they support the rule package. The water belong to all members of the state who have a right to use, but not abuse them. These rules are necessary to avoid abuse, especially unintended abuse. Clean Wisconsin supports the rules as written especially NR 1.016. We would also like to see protection for Sturgeon waters.

Mr. Poulson asked for an example to support his comment that states Act 118 lessens the rights in public waters.

Mr. Sheer stated that Act 118 allows easier permitting and broad base approach for the waters of Wisconsin. It allows for unintentional abuse. People think they have a right to do certain activity when they don't.

George Meyer, Wisconsin Wildlife Federation stated they are concerned about wildlife and fish habitat protection and other public rights in navigable waters. He appreciates being involved in the process as a stakeholder. These regulations will not protect fish and wildlife habitat and other public rights in navigable waters because of Act 118, not because of the NR rules. Many activities are exempt from regulations. It relies on individual landowners recognizing public rights in navigable waters such as fish spawning areas. Most of us could not identify a fish spawning area and we can't expect the average Wisconsin citizen to identify them. The destruction will be unintentional, but it will happen over time.

Mr. Willett asked if Mr. Meyer is satisfied with the current review process.

Mr. Meyer stated that no system is perfect.

Mr. Ela stated he reviewed the proposed motion and there is nothing that addresses fish habitat or water quality impacts. He asked Mr. Meyer to work with staff to draft language to include that.

Mr. Meyer stated that the rules do as good a job as can be done. Staff has asked stakeholders to fill in gaps where they can. We are asking the NRB to adopt the rules. The sturgeon waters being included because they are the only self-sustaining sturgeon river population in the world.

Becky Abel, Wisconsin Wetlands Association encouraged the NRB to support the rule package. We are encouraged that NR 1.016 "Department responsibilities to conserve and enhance waters" has been restored to the Final Act 118 rules. We are encouraged that NR 1.06 "Identification of public rights features" provides for protection of many wetlands, but concerned about how ongoing DNR staffing cuts will affect protection.

Jerry Deshane, Wisconsin Builders Association stated these rules represent a significant step towards Governor Doyle's goal of the "most aggressive regulatory reform in the Midwest." At this time, although we have concerns, we are not advocating additional substantive changes to the rules. He has concerns about the definition of public rights features being very broad. He has doubts about the science underlying NR 328. We agree with the Department that it is time to let the dust settle.

John Coleman, Great Lakes Indian Fish and Wildlife Commission (GLIFWC) stated the Voigt Intertribal Task Force is concerned about unregulated activities that would harm lake, river and shoreline ecosystems. At a minimum, all general permits should include the requirement that no activity authorized under the Departments rules may impair reserved treaty rights in the ceded territory, including but not limited to hunting fishing and gathering rights. The Task Force is pleased to see that wild rice waters are included in the list of "areas of special resource interests" that do not qualify for exemptions.

Jonathan Ela asked about the concerns of GLIFWC.

Mr. Ambs stated that he has met with GLIFWC and it is a challenge to find the right balance. The Department is including them in the rule making process.

Ms. Vollbrecht stated that wild rice waters are in the list of Special Natural Resources Interest. There will not be exemptions in those waters. We have been meeting with the tribes and taken a look at their water resources management plans to see if we can do mapping.

Mr. Ela stated that in the proposed motion that adverse affect on tribal rights has been addressed.

Mr. Willett stated that many wild rice waters are already public interest areas and Department staff is working hard to identify other areas so they can be on the list.

Mr. Coleman stated that isn't our concern. Our concern is general permits would be available on wild rice waters and the court has stipulated that the state needs to consult with the tribes when those permits are issued. We do not see how that can happen in 30 days.

Mr. Willett stated that when GLIFWC receives the 30-day notice, there is a mechanism to investigate.

Mr. Coleman stated if we get a notice as soon as a permit is applied for, we have a Board meeting once a month and that Board would need to review the document. The time would have to be perfect in order for that to happen.

Mr. Willett asked if their environmental investigators see a problem they can file an objection and let your Board work out the details.

Mr. Coleman stated the 30-day notice is not an accurate time period for review by our Board.

Mr. Ela MOVED, seconded by Mr. Poulson approval of items 3.A.1-3.A.10. The motion carried unanimously by all committee members.

Mr. Ela MOVED, seconded by Mr. Poulson to require the Department to submit a one-year report document. The motion carried unanimously by all committee members.

Mr. Willett introduced Representative Scott Gunderson, Chair of the Natural Resources Committee.

Rep. Gunderson stated he has been on the Natural Resources Committee for 10 years and he has owned a sports shop for 24 years in Racine County. He stated that his office will always be accessible to the Board and to any of the members of the groups in the public who have concerns on issues.

- 5.A.11. **Adoption of Board Order FH-27-04 - revisions to NR 198 – Aquatic Invasive Species Control Grants**
Carroll Schaal, Lakes Team Leader, Fisheries Management and Habitat Protection Bureau stated the rule specifies eligible activities and costs, requirements for applications and projects, funding limits and priorities and other procedural requirements. There is no known controversy regarding this rule order. He asked that the Board delete NR 198.15 (3) no more than one half of the annually available appropriation for grants under this chapter may be awarded for projects within the waters of the Great Lakes.

Mr. Poulson MOVED, seconded by Mr. Ela adoption of Board Order FH-27-04 - revisions to NR 198 – Aquatic Invasive Species Control Grants. The motion carried unanimously by all committee members.

The meeting adjourned at 10:00 a.m.

Land Management, Recreation and Fisheries/Wildlife Committee

December 8, 2004

Minutes

The Land Management, Recreation and Fisheries/Wildlife Committee was called to Order at approximately 8:40 a.m. by Chairman Herb Behnke in Room 511, GEF2, Madison.

PRESENT: Herb Behnke, Chairman
 Christine Thomas
 John Welter

ORDER OF BUSINESS

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

5.B.1. Adoption of Board Order LF-52-04 - revisions to NR 1.30, NR 45 and NR 51 – use of department properties modifications.

Peter Biermeier, Trails and External Relations Section Chief, Park and Recreation Bureau stated that the Natural Resources Board authorized public hearings to be held on this item at the August 2004 meeting. The public hearings were held on the package on September 2004 in Madison, Wausau and Green Bay. Approximately 100 people attended the hearings. Biermeier further explained in detail the proposed language changes to NR 1 stating that the Ice Age and North Country Trail will be managed primarily as a footpath. NR 45 changes include the following modifications to the camping policy: 1) campsites must be occupied during the first night, 2) extension of a reservation is prohibited and 3) reduce maximum days occupied from 21-14. In addition, a \$3 increase is proposed at eight state parks and forests and the definition of physically disabled person was further defined. Finally, a proposal to prohibit motors on 2 lakes within Tommy Thompson State Park and a prohibition on firearms and airguns in State Natural Areas was explained.

Mr. Welter MOVED, seconded by Dr. Thomas approval of adoption of Board Order LF-52-04 - revisions to NR 1.30, NR 45 and NR 51 – use of department properties modifications.

Public Comment

Drew Hanson, Ice Age Park and Trail Foundation spoke in support of additions to code relevant to the Ice Age Trail.

Tom Gilbert, National Park Service, spoke in favor of the adoption of the new rules related to the Ice Age and North Country Trails. He expressed gratitude to the Department for the work completed to date and indicated that the new rules will help ensure the Trails are used as primarily intended.

The motion carried unanimously by those members present.

5.B.2. Adoption of Board Order WM-34-04 - revisions to NR 10 and NR 19 – feeding for hunting and non-hunting purposes modifications

Kurt Thiede, Wildlife Biologist, Wildlife Management Bureau stated that this permanent rule order is required to continue the ban on the placement of feed for deer in those areas at highest risk for CWD, as required by 2003 Wisconsin Act 240. The proposed language revision is similar to previously adopted emergency rules, which currently prohibits baiting and feeding in 26 southern counties at greatest risk for CWD and Bovine TB. As required by Act 240, this rule bans baiting and feeding in any county where CWD eradication zones or herd reduction zones have been established in the county or a portion of the county; or a CWD bovine tuberculosis positive or free-roaming, domestic or wild animals has been confirmed after December 31, 1997 from the county; or if the county or portion of county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997. Additional counties meeting these

criteria can be included in the ban by Department secretary's order. Two public hearings were held on the proposed rule and both were sparsely attended.

Dr. Thomas asked for clarification on the scent portion of the rule.

Mr. Thiede stated that up to 2 oz. of scent can be placed where deer could come into contact with the scent.

Mr. Behnke asked if you have one bait site on 40 acres closer than 100 yards to a property line, would that preclude another hunter from placing a bait site closer than 100 yards to that property line.

Mr. Thiede responded that the rules do not preclude other owners

Mr. Behnke asked what the minimum acreage is to put out a bait site

Mr. Thiede stated that there is no minimum, a one-acre parcel can have a bait site.

Mr. O'Brien asked about baiting on public land.

Mr. Thiede stated that the bait piles must be at least 100 yards apart.

Mr. Behnke asked how bait sites are enforced on public land

Tom Van Haren, Natural Resources Policy Officer, Law Enforcement Bureau stated that there is discretion and if it was determined that the bait sites are within 100 yards of each other they would work with the hunters to move the bait.

Mr. Thiede then continued by explaining the changes to bear baiting. He indicated that there is a 10-gallon restriction and it has to be covered, inaccessible to deer.

Mr. Welter asked how many counties currently ban baiting.

Mr. Thiede responded 26 counties.

Mr. Welter MOVED, seconded by Dr. Thomas approval of the adoption revisions to order WM-34-04, revisions to NR 10 and NR 19 – feeding for hunting and non-hunting purposes modifications. The motion carried 2-1. Dr. Thomas voting against.

5.B.3. Adoption of Board Order WM-48-04 - revisions to NR 10 – Deer Management Unit population goals and boundaries modifications.

Bill Vander Zouwen Section Chief, Wildlife and Landscape Ecology, Wildlife Management Bureau explained the criteria used to establish deer management units (DMU) and stated the goal of 250-400 square miles of deer range per unit. He also stated the Departments position to change a DMU a significant, demonstrated problem should be present. He further indicated that Native Tribes do not have any objections to the proposed changes. Vander Zouwen then went into specific details on Units 35,38,39.

Mr. Welter asked for clarification on the proposed changes to the indicated units.

Mr. Vander Zouwen then went on to explain the concern the Department has when changes are made to unit boundaries, the unit histories (statistics) become lost. He further expressed the concern that some units are too small already. Next, he indicated that the Conservation Congress has formed an Ad Hoc committee on private vs. public lands deer management issues.

Mr. Welter asked detailed information on unit 5. He explained the possible split scenario due to the high amount of public and private land ratio.

Mr. Vander Zouwen stated that the Department will take a closer look at his concerns.

Dr. Thomas summarized her understanding of the Unit 5 concerns and expressed support to merge the unit into the surrounding units.

Mr. Vander Zouwen explained that currently the Department only track deer kill by DMU and County records.

Steve Oestreicher, Chairman, Conservation Congress, spoke in support of dissolving Unit 5. He indicated that 30 people in the unit are in support of merging the unit with other units. He then read a letter from a citizen in Drummond, Wisconsin supporting dissolving Unit 5.

Mr. Behnke then asked the Department if the Board would vote to dissolve Unit 5 today, would the Department be able to adjust for the 2005 season.

Mr. Vander Zouwen indicated probably not, given this may require hearings.

Tim Andryk, DNR Attorney, indicated that he checked the notice and discovered that the notice was amended to allow the Board to make changes to the DMUs and not require this to come back for a hearing.

Dr. Thomas indicated her procedural concern for various discrepancies in the vote totals at the hearings. She asked if there is a written record of attendance and voting at hearings.

Mr. Vander Zouwen indicated that the DNR procedure is to have participants' sign in at the meeting

Mr. Welter indicated that the discrepancies might arise from people arriving late or voting without signing in.

Mr. Behnke solicited the public comment, but no one was present to speak.

Mr. Welter MOVED, seconded by Dr. Thomas approval of the adoption of revision to the Deer Management Unit (DMU) goal and boundary modifications except Unit #5. The motion carried unanimously by all members present.

Mr. Welter MOVED, seconded by Dr. Thomas to split DMU #5 down Delta Drummond Road and authorize the Department to determine to delineate a line from the terminus of Delta Drummond Road and the County Highway intersection, north to US Highway 2. The motion carried unanimously by all members present.

5.B.4. Authorization for public hearing for Board Order FR-04-05 - revisions to NR 46 - changes to the managed forest law program from 2003 Wis. Act 228.

Carol Nielsen, Tax Law Manager, Forest Management Bureau explained the proposed rule changes. This will involve a new application deadline, development of a plan writer certification program for non-department foresters and modification of open/closed acreage rules, among others.

Mr. Behnke asked if this is similar to the routine review they do every year.

Ms. Nielsen indicated it is not, these are changes to the Administrative Code.

Mr. Welter MOVED, seconded by Mr. Behnke approve authorization for public hearing for Board Order FR-04-05 - revisions to NR 46 - changes to the managed forest law program from 2003 Wis. Act 228. The motion carried unanimously by all members present.

5.B.5. Authorization for public hearing for Board Order FR-05-05 - revisions to NR 47 – changes to gypsy moth suppression program to bring into agreement with 2003 Wis. Act 57.

Andrea Diss, Gypsy Moth Program Coordinator, Forest Sciences Bureau presented an overview of the statewide gypsy moth suppression program rule. Significant changes to the rule include; 1) county coordinators may delegate tasks, 2) applications due on the first Friday in December 3) reducing paperwork and workload.

Mr. Behnke asked what is the difference between a local coordinator and a county coordinator.

Ms. Diss stated that there is no difference. It can be any person in the county who interacts with the Department. Examples include a municipal or county employee or even a volunteer. Counties can also share coordinators.

Mr. Behnke asked what qualifications a coordinator would need.

Ms. Diss responded that the qualifications are task based.

Mr. Welter asked about the objections the Department has received from the spraying.

Ms. Diss responded that the complaints are low and are continuing to go down. She attributed this to the public involvement and education efforts, including urban forestry outreach.

Mr. Welter asked where are the areas where the spraying occurs.

Ms. Diss responded that is predominantly residential areas because that is where the moths are most noticeable. Rural residential areas also are targeted. She also indicated that the program is open to production forests.

Dr. Thomas MOVED, seconded by Mr. Welter Authorization for public hearing for Board Order FR-05-05 - revisions to NR 47 – changes to gypsy moth suppression program to bring into agreement with 2003 Wis. Act 57. The motion carried unanimously by all members present.

Meeting adjourned at 9:55 AM