

## NATURAL RESOURCES BOARD

### Minutes

The regular meeting of the Natural Resources Board was held on Wednesday, January 26, 2005 in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 4:58 p.m.

#### ORDER OF BUSINESS

1. Organizational Matters
- 1.A. Calling the roll

Gerald O'Brien – present	Dan Poulson - present
Jonathan Ela – present	Herb Behnke - present
Christine Thomas – present	John Welter - present
Steve Willett - present	
- 1.B. Approval of minutes from December 7-8, 2004  
**Mr. Willett MOVED, seconded by Mr. Ela approval of the full board minutes from December 7-8, 2004 as presented. The motion carried unanimously by all members.**
- 1.D. Approval of minutes from December 15, 2004 Conference Call ADDITION TO AGENDA  
**Mr. Poulson MOVED, seconded by Mr. Ela approval of the conference call minutes from December 15, 2004 as presented. The motion carried unanimously by all members.**
- 1.C. Approval of agenda for January 26, 2004  
**Mr. Ela MOVED, seconded by Mr. Welter approval of the agenda for January 26, 2005 as presented. The motion carried unanimously by all members.**
2. Ratification of Acts of the Department Secretary
- 2.A. Real Estate Transactions  
**Mr. Behnke MOVED, seconded by Mr. Welter approval of the Real Estate Transactions. The motion carried by all members.**
3. Action Items
- 3.A. Air, Waste, and Water/Enforcement
- 3.A.1. Approval of committee minutes from December 8, 2004  
**Mr. Ela MOVED, seconded by Mr. Poulson approval of the December 8, 2004 Air, Waste, and Water/Enforcement committee minutes. The motion carried unanimously by all members.**
- 3.A.2. Adoption of Board Order WT-53-04 – revisions to NR 106, NR 149, and NR 219 to incorporate updated toxicity testing methods.  
**Kari Fleming**, Environmental Toxicologist, Watershed Management Bureau stated that monitoring for whole effluent toxicity (WET) is required in WPDES permits in order to determine the potential for impairment of fish and aquatic life from wastewater discharge. Rule changes to chs. NR 106, 149, and 219 are needed to update Wisconsin specific WET test methods. The Department is recommending that proposed amendments be approved. Upon adoption of these changes, permittees and laboratories will have to follow methods in the 2<sup>nd</sup> edition when conducting testing required by a WPDES permit or to maintain laboratory certification or registration.  
  
**Dr. Thomas MOVED, seconded by Mr. Willett adoption of Board Order WT-53-04 – revisions to NR 106, NR 149, and NR 219 to incorporate updated toxicity testing methods The motion carried unanimously by all members.**

3.A.3. Adoption of Board Order DG-33-04 – revisions to NR 809 pertaining to safe drinking water.

**Lee Boushon**, Section Chief, Drinking Water Systems, Drinking Water and Ground Water Bureau stated that NR 809 allows the Department to specify the format for reporting analytical data. The Department intends to clarify that laboratories must submit analytical data electronically. This offers significant advantages and efficiencies to both laboratories and the Department in terms of more timely reporting of data, more accurate data, more timely responses to violations, and lower data processing time and cost. Numerous presentations have been made at meetings with both water systems and laboratory representatives present. To this date one-on-one training sessions with laboratories have yielded six of the largest data volume laboratories either are submitting data electronically or are very close to submitting. Additional training sessions will be conducted in early 2005 for laboratories. The purpose of this proposed revision is to clarify the procedures for determining compliance with the maximum contaminant level (MCL) for nitrates, nitrite, and combined nitrate and nitrite. The proposed revision makes a clear distinction between initial compliance and returning to compliance following a nitrate, nitrite, or combined nitrate and nitrite MCL violation.

**Mr. Willett** asked since this is mandatory testing are there some laboratories that currently aren't testing. Are all labs capable of doing tests?

**Mr. Boushon** stated that yes, they are capable, many just keep on their own database. Now we will train them to share it with us. They don't need any additional software, it's all web-based.

**Mr. Willett** asked why the rule is going from 1 to 4 for the number of times the nitrate tests need to pass.

**Mr. Boushon** stated this is to avoid seasonable variability. We have been doing this for a number of years as a policy.

**Mr. Welter MOVED, seconded by Dr. Thomas adoption of Board Order DG-33-04 – revisions to NR 809 pertaining to safe drinking water. The motion carried unanimously by all members.**

3.A.4. Request authorization for public hearing for Board Order AM-66-04 - revisions to NR 488 pertaining to the salvaging and transport of equipment containing refrigerants that damage the atmosphere.

**Patrick Kirsop**, Section Chief, Emissions Inventory and Small Source stated that these revision will apply to existing refrigerant recovery and safe transport requirements in NR 488 to two types of substances now used as substitutes for ozone-depleting refrigerants, as authorized in s. 285.59(6), Stats. These refrigerants, HFCs (hydrofluorocarbons) and PFCs (perfluorocarbons), are strong global warming gases now found in automobile air conditioners, home appliances and many other types of equipment being salvaged. This proposal will also revise recovery equipment operator qualifications to be consistent with other state agency and federal requirements; require more detailed records of salvaged equipment to provide the industry and Department greater ability to track compliance; and update references to revised Department of Commerce regulations. Affected parties include vehicle and appliance salvagers; scrap metal processors; heating, ventilation and air conditioning (HVAC) and other businesses and governmental units that retire refrigeration and air conditioning systems; waste haulers and others who collect discarded refrigerates appliances; and demolition contractors who arrange for AC or other equipment at demolition sites to be evacuated before scrapping.

**Mr. Willett** stated he doesn't see any documentation for the need of this rule. There is no justification. Has there been a problem with reporting?

**Mr. Kirsop** stated that there has been a problem when we go out and inspect. Right now a slip of paper given to final salvager stating that the refrigerant has been removed. Sometimes the one who removes the refrigerant doesn't keep accurate records. Records must be kept at each step to avoid finger pointing. It's difficult to determine compliance.

**Mr. Ela** asked about jurisdiction and which agency has it when.

**Mr. Kirsop** stated that there are three different programs. Department of Agriculture, Trade and Consumer Protection (DATCP) works with installers and repairers of vehicle air conditioners (AC). The Department of Commerce (DOC) deals with stationary AC equipment, appliances. The DNR deals with salvage of AC units. This rule puts the Department in step with the other two agencies.

**Mr. Willett** asked if the Department meets the federal requirements?

**Mr. Kirsop** stated that the federal rule has added two elements: HFCs (hydrofluorocarbons) and PFCs (perfluorocarbons). Those were not included in the rule and they are in this current rule package.

**Mr. Ela MOVED, seconded by Mr. Poulson authorization of request for public hearing for Board Order AM-66-04 - revisions to NR 488 pertaining to the salvaging and transport of equipment containing refrigerants that damage the atmosphere. The motion carried unanimously by all members.**

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

3.B.1. Approval of committee minutes from December 8, 2004

**Mr. Behnke MOVED, seconded by Mr. Welter approval of committee minutes for December 8, 2004 as presented. The motion passed unanimously by all members.**

### 3.B.2. Approval of Northern Initiatives Update and Review

**John Gozdzialski**, Director, Northern Region stated that since 1996, staff in the Northern Region have provided the NRB with an annual update and review on the Northern Initiatives Project. This project is an outgrowth of a large public involvement effort in the mid-1990s that resulted in the NRB approval of the strategic guide, "Northern Initiatives – A strategic guide for DNR management in Northern Wisconsin 1996-2006." Major issues that emerged from this outreach included the quickening pace of change in the north, impacts of shoreline development, forest management, and DNR's role in the north. These issues guided our management efforts and projects in the north during the past 8 years. We have primarily focused on water-related activities along with forest management. Our Wild Lakes program is a success due to many partnerships. As requested by members of the NRB, this year's update and review will provide a report card on the results of the Northern Initiatives Project since its inception. There has been significant progress on several of the issues identified during the mid-90s. These issues remain relevant today. In the recent past the Department has also invested resources in response to public concern over the emerging issues of invasive species and motorized recreation. Continued focus on the Northern Initiative Project will renew the mandate that we heard from the public 8 years ago – To keep the North the North.

**Mr. Willett** stated that he is a supporter of the Northern Initiatives (NI) and the wild lakes and rivers initiative. He is concerned that the partnership with the U.S. Forest Service (USFS) is missing. Their policies are contrary to many of the goals of the NI. They are restricting access. What can we do to get them to get involved in the initiative?

**Mr. Gozdzialski** stated he isn't sure how we can influence them at the Washington level. The USFS superintendent in Wisconsin has been supportive of the NI. The Department is meeting with their leadership tomorrow. He stated that locally there are partnerships.

**Mr. Willett** stated that the NI is a large, comprehensive program, not only for preservation, but also for sustainable, rural economic growth based on tourism. The federal policy on roadless areas is closing off access. USFS doesn't want to discuss some of the critical areas. The Northern residents want to sustain the economy; tourism part of the economy is being effected by federal actions. Preserving the economy was the goal 10 years ago.

**Mr. Gozdzialski** stated when we meet with the USFS tomorrow he will pass on Mr. Willett's comments.

**Mr. Willett** stated he doesn't think the Board is beyond changing the policy.

**Dr. Thomas** agrees with Mr. Willett, if the plan continues the way it is it's going to reduce hunting opportunities, forest products industry, and recreational opportunities. There has to be some natural resources based economy there.

**Mr. Welter** asked what river associations is the Department working with on this plan. Are there non-governmental organizations? DNR related group?

**Mr. Gozdzialski** stated the importance of those local groups are vital. It's not just a DNR initiative.

**Mr. Welter** encouraged the development of watershed groups by making planning opportunities such as river grants or other planning money. He thinks that would be a useful direction.

**Mr. Gozdzialski** stated that the White River project is a good example of a group that got started by winning a DNR sponsored grant. He went on to discuss the county shoreline protection programs.

**Mr. Willett** asked about looking at that program in NR 115 to be used as mitigation.

**Mr. Gozdzialski** stated yes, Burnett County is a good example.

**Mr. Ela** asked if other counties are starting similar programs.

**Mr. Gozdzialski** stated others offer the technical assistance, but not the tax break.

**Mr. Willett** stated that some counties are afraid to move in that direction. The Department should let them know we are in favor of these types of programs.

**Mr. Gozdzialski** stated the Department has worked with county government over the past 8 years to educate them and to build trusting relationships.

**Mr. O'Brien** asked what is the Department doing specifically with ATV issues.

**Mr. Gozdzialski** stated it's a policy issue up north on public land. There is a lot of conflict. We are trying to work with county governments to keep ATV's on the trails. Laurie Osterndorf will give a presentation on a statewide ATV policy later today. The Department needs to work with the ATV clubs.

**Mr. Behnke** asked about the Amery to Dresser trail. He understands that the master planning is taking place at the county board level. There has been a study that there are some rare plant species that should be protected. There's concern that ATV's would damage these plant species. How do you influence the county's decision to yield to pressure groups that want to do a specific thing that may or may not be good?

**Mr. Gozdzialski** stated there are some groups that want it motorized and some groups who don't. The county set up a work group because they knew it would be contentious. The work group was split down the middle. It's before the county board this month. They may want to give it back to the DNR to make a decision. It's a contentious issue that may not get solved any time soon.

**Mr. Behnke** asked if the county makes some decision, can the Department the step in at some point and raise other concerned.

**Mr. Gozdzialski** stated it may come back to the Department and then we need to make the tough decision.

**Mr. Ela** stated this is a good follow up to last month's discussion. As we outsourcing trails program due to budgetary reductions this example should serve as a cautionary tale.

**Mr. Willett** states he sees light at the end of the tunnel. We can't ignore the problem, but we educating ATV users to stay on the trails and it seems to be working.

**Mr. Behnke MOVED, seconded by Mr. Willett approval of Northern Initiatives Update and Review.**

**Mr. Ela** asked if there will be public participation for the NI again.

**Mr. Gozdzialski** stated that the issues are the same that we heard from the public 10 years ago, except for motorized recreation and invasive issues. We would like to use our resources to get the NI work done.

**The motion carried unanimously by all members.**

3.B.3. Adoption of Board Order FH-55-04, revisions to NR 20 related to establishing rules including live-well standards for the bass fishing tournament pilot program.

**Steve Hewett**, Section Chief, Fisheries Policy and Operations, Fisheries Management and Habitat Protection Bureau stated that the passage of 2003 WI Act 249 establishes a bass fishing tournament pilot program that creates a study in which the sorting/culling of bass by tournament anglers in 4 permitted bass tournaments per year is allowed and the impacts are evaluated. Act 249 requires that the Department create a rule live well standards that all pilot program boats must meet to be considered for the program. It also calls for the creation of an advisory committee to advise the Department in tournament rule promulgation. The Fishing Tournament Advisory Committee (FTAC) has been created and met in Stevens Point on August 28, 2004 to discuss and recommend live well specifications. Those specifications have been translated into the attached rule order. Recommended live well standards include 1. Must be an original manufactured part of the boat and have a capacity of at least 25 gallons; 2. Must be in working condition and its operation must be demonstrated prior to fishing in the tournament; 3. Must be capable of continuously pumping freshwater into it; 4. Must be capable of holding, re-circulating, and aerating water. The pilot program sunsets on December 31, 2006, as will the live well standard rules.

**Mr. Behnke** asked how does the Department justify giving special treatment to tournament anglers to use the resource for profit and personal gain that the general public can't have. How do we justify giving special treatment to interest groups?

**Mr. Hewett** stated he can speak from his bureau position, which is the Department's position as well. In general, the Department is not in favor of special provisions for certain class of anglers. However, the public supported this proposal. It was a compromise at the time that allowed the department to move forward with tournament rules.

**Mr. O'Brien** asked if it is justified for the economic gain from the tournament.

**Mr. Hewett** stated that was the justification by the legislature that it would be good for Wisconsin. But the Department's position is that Wisconsin can have tournaments by having them follow the current rules.

**Mr. Behnke** asked how specific is Act 249, is this written so that it will only pertain to bass or is this a foot in the door so this will be expanded to other species. Do you see the possibility this will expand?

**Mr. Hewett** stated that many biologists see this as a possible trend. We don't know what the legislature will do in the future. The good news is that this is a 2-year pilot program on the culling rule that will sunset.

**Mr. Welter** asked about monitoring impact on fish population and long term effects. What will the cost be and who will bare the cost?

**Mr. Hewett** stated that there isn't specific direction on how to evaluate this program. The money isn't there from the tournament or from the sponsors. The Department doesn't have the money.

**Dr. Thomas** asked if the fisheries field staff was cut in the last budget reduction.

**Mr. Hewett** stated yes.

**Mr. Willett** asked about partnering with a university.

**Mr. Hewett** stated that is a possibility or we could try to cover it with regular staff. The problem is culling impact itself is difficult to study. It must follow individual fish as they are moved from one location to another location and released.

**Public Appearance**

**George Meyer**, Madison, Wisconsin Wildlife Federation recommended changing the rule before the Board. There is strong opposition to this rule. 61% opposed the culling concept during a survey. These are special regulation that all anglers don't. There is concern for fish themselves. The recommendation by WWF is that the live well should be increased to 35 gallons because of studies that have been done on survival rates. A future study is critical. The anglers of the state who don't support this rule should not pay for the study.

**Mr. O'Brien** asked what kind of funding method could be used.

**Mr. Meyer** stated that it should be a condition of approving the tournament to fund the study.

**Mr. Behnke** asked about the requirement of a 25-gallon live well being original equipment on the boat. Is that standard and is a 30-gallon live well a special order? What do boats come with?

**Mr. Meyer** stated a number of bass boats have dual live wells that are in excess of 25 gallons.

**Mr. Ela** asked what are the consequences if we increase the live well capacity.

**Mr. Hewett** stated we had an expert group including boat manufactures. 25 gallon is a standard that a lot of boats meet.

**Dr. Thomas MOVED, seconded by Mr. Willett Adoption of Board Order FH-55-04, revisions to NR 20 related to establishing rules including live-well standards for the bass fishing tournament pilot program.**

**Mr. Welter** asked if there are two anglers per boat.

**Mr. Hewett** stated they usually operate as a team, but can see both formats.

**Mr. Willett** stated that the reality is that the legislature has passed this rule. Either we craft a rule they can live with or they are going to craft a rule we can't. This is what the Department recommends for a pilot.

**Mr. Hewett** stated yes and the bigger issue is when the permanent rule comes before the Board.

**Mr. Willett** stated that we could use students to do this research and further their skills. Is there a program to run this project and involve those students? The study is critical.

**Mr. Hewett** stated we have had preliminary discussions with UWSP and UW-Madison, but the problem is the timeframe of 4 tournaments this summer and 4 next summer.

**Dr. Thomas** stated she doesn't see the timeframe being the problem because a student can be recruited for two years. At a meeting last month with the federal government, UW-Stevens Point and the Department, we were told that the budget cuts mean no additional projects are forthcoming. The funding is the issue. It's funding a low priority item for anglers in the state while letting their priorities fall by the wayside.

**Mr. Willett** stated that's where we are. Is this an opportunity to reprioritize because it may have national impact because studies are lacking in this area?

**Mr. Hewett** stated there have been discussions with the federal government.

**Mr. Ela** asked when will the Board hear the general tournament rule.

**Mr. Hewett** stated it depends on staff workload, but within the next year. Tournaments this summer follow current rules except these pilot culling tournaments.

**Mr. Ela** asked if the state get any cut of the tournament dollars.

**Mr. Hewett** stated participants must buy a license to fish in Wisconsin just like all other anglers do.

**Dr. Thomas** asked if we can require a fee for the tournaments to fund the research.

**Tim Andryk**, DNR Attorney, stated it would have to go out to hearing for public comment. This would only apply these 4 tournaments. There's not enough time because we could get it back to the Board by April at the earliest

**Dr. Thomas** asked if we could table the rule to work with tournament sponsors.

**Mike Staggs**, Director, Fisheries and Habitat Bureau stated that would be acceptably approach. We could come back with a study plan and funding proposal for next month.

**Mr. Willett** asked about GLIFWC's interest in this issue?

**Mr. Hewett** stated that their position on catch and release is that we are playing with their food.

**Mr. Willett MOVED, seconded by Mr. Poulson to postpone adoption of Board Order FH-55-04, revisions to NR 20 related to establishing rules including live-well standards for the bass fishing tournament pilot program.**

**Mr. Welter** clarified that we are waiting on proposal on where the funding for the research study will come from.

**The motion carried unanimously by all members.**

3.B.4. Adoption of Board Order FH-54-04, revisions to NR 20 related to trout regulations on Pine and Melanchton Creek.

**Mr. Hewett** stated following the public hearing on the revision of trout regulations on the Pine River and Melanchton Creek in Richland and Vernon Counties, we are asking for adoption of the proposed rule change. The revisions remove the catch and release regulations on the upper Pine River and replace it with the county base regulation of a 3 daily bag limit and 9 inch size limit. The regulation on Melanchton Creek is proposed to change from catch and release to a 5-day bag limit, of which only 3 may be brook trout. The minimum size limit would be 7 inches for brown trout and a 6-9 inch harvest slot for brook trout. Artificial lures are required upstream of STH 80 to reduce hooking mortality on brook trout. The STH 80 bridge is necessary to include the best habitat for brook trout. The public comments from the hearing and the written comments were largely supportive of the proposal.

**Mr. Willett** asked about the number of trout per mile.

**Mr. Hewett** stated for the upper and middle upper about 240 to 250, 5-7 inch brook trout per mile. Middle upper about 40-50, 8-9 inch and 7 per mile over 10 inches. Our goal is to have higher numbers of larger fish.

**Mr. Behnke** stated it has been said that more fish die after they have been hooked by live bait anglers than by artificial lure anglers. Did that prompt a research study to determine if that's true?

**Larry Claggett**, Coldwater Fisheries Ecologist, Fisheries Management and Habitat Protection Bureau stated that live bait fishing causes 40% mortality artificial lures 2-4% mortality.

**Mr. Welter** asked about the effects of encouraging harvesting of brown trout and what is impact on brook trout.

**Mr. Hewett** stated it will help the brook trout because harvesting brown trout will open up habitat for brook trout.

**Public Appearance**

**John Slaney**, Merrimac stated that there isn't a DNR biologist that is familiar with this creek and that knows whether live bait will significantly change the population of brook trout.

**Mr. Behnke** asked what he bases that statement on.

**Mr. Slaney** stated that his family has owned the property since 1943. After the spring, two biologist came and assessed that the habitat is restricting the population, not the fishing.

**Mr. Welter MOVED, seconded by Mr. Willett adoption of Board Order FH-54-04, revisions to NR 20 related to trout regulations on Pine and Melanchton Creek.**

**Mr. Welter** stated that the trout study committee and biologists listened to testimony and did a good job trying to reconcile concerns about this stream that will work. We need nursery water in the upper parts of this stream for trout to reproduce. We do not need to review other catch and release regulations in SW Wisconsin other than the normal cyclical review proposed by the Department.

**The motion carried unanimously by all members.**

3.B.5. **Request authorization for public hearing of Board Order FH-09-05 – proposed fishing regulation changes for the 2005 Spring Fish and Wildlife Hearing.**

**Mr. Hewett** stated that several fishing regulation changes are proposed by Fish Habitat and Law Enforcement staff for the 2005 Spring Hearings, including: prohibiting the placement of setlines, set or bank poles and associated equipment prior to the opening day of the season and requiring removal of the gear after the season closed; changing the beginning of the night fishing closure on tributaries to Lake Michigan and Green Bay from October 1 to September 15 and clarify that from September 15-December 31 fishing by all methods is prohibited, while hook and line fishing is prohibited from September 15-the first Saturday in May; authorizing anglers to keep and kill one specimen of any non-indigenous fish species for the purpose of transporting it to a DNR office for positive identification; changing the open season for northern pike on small Lake Michigan tributaries north of US Highway 10 from a continuous open season to the general fishing season of the first Saturday in May to the first Sunday in March. Also included are 22 fishing regulation changes primarily of local interest.

**Mr. Ela MOVED, Seconded by Mr. Behnke to approve Request authorization for public hearing of Board Order FH-09-05 – proposed fishing regulation changes for the 2005 Spring Fish and Wildlife Hearing. The motion carried unanimously by all members.**

3.B.6. **Request authorization for public hearing of Board Order WM-01-05 - proposed wildlife regulation changes for the 2005 Spring Fish and Wildlife Hearings.**

**Kurt Thiede**, Wildlife Biologist, Wildlife Management Bureau stated that the objective of these rule changes is to offer deer, bear, and disabled hunters more hunting opportunities and to simplify application procedures and regulatory requirements. In addition, these rules include provisions to effectively manage wildlife populations and to assure that hunters and trappers are offered a quality hunting experience. These proposed rule changes, would appear on the 2005 spring hearing questionnaire and include: authorizing the National Park Service to establish the deer seasons and to limit access to the Apostle Islands for trapping with Department approval; allowing landowners on private land to shoot and kill any gray wolf in the act of attacking domestic animals provided that they report the shooting to the Department within 24 hours and turn the wolf carcass into the Department; prohibiting tagging, collaring or marking and release of wild animals without the Department's authorization; eliminating the bear hunting "no dog zone" in bear management zone A; creating a subzone in bear management zone C where the use of dogs would be allowed; modifying the bear hunting license application deadline and updating application submission information; creating consistent standards for body-gripping type traps; prohibiting the use of electronic turkey decoys for turkey hunting; establishing a deer hunting season at Kohler-Andrae State Park and correct a drafting error related to hunting season at Yellowstone Lake State Park; allowing "long term" Class B disabled permit holders to participate in disabled hunts; allowing the hunting of other game species on lands open to disabled hunts; eliminating the requirement for bear hunters to declare their willingness to participate in agricultural damage and nuisance situation and modification of the application deadline; establishing a "no entry wildlife refuge" at the Turtle Valley Wildlife Area; requiring the owner to identify tree stands used on state owned lands and lands under management of the Department.

**Mr. Poulson** asked why there is no waterfowl hunting in Walworth County.

**Mr. Thiede** stated that sporting groups and biologists requested a resting area for the waterfowl in that area. That's the purpose of the refuge. It was delayed from last year.

**Mr. Welter** asked for clarification of question #1. The language of question needs to be reworded and made into two sub-questions.

**Mr. Thiede** stated this has come up by other reviewers about this question. It needs clarifying.

**Mr. Welter** asked about #11 regarding the limiting access to Apostle Islands. Does this say that the National Parks Service (NPS) would be able to regulate trapping?

**Mr. Thiede** stated for trapping it is allowing or limiting the number of people allowed to trap. The seasons are the same as our season.

**Mr. Willett** asked why would we do that. It is asking the Board to give up authority. He is going to oppose that question because article 10 of constitution gives this power to the state of Wisconsin.

**Mr. Thiede** stated it was a request from federal government. Permits are needed for deer hunting on the island already. NPS can decide not to issue any permits. That's their prerogative. We just clarifying that the Department wants to be consulted with about these decisions.

**Mr. Willett** asked why would give up our power and allow them to regulate access to the islands.

**Mr. Andryk** stated that the Department isn't giving up authority. We are just delegating the authority.

**Mr. Thiede** stated this question is only dealing with the access permits, not trapping regulations.

**Mr. Willett** reiterated that it is taking authority away from the Board and giving it to the Department and Federal Government.

**Mr. Thiede** stated the Department wants to give NPS the same liberal harvest because of deer population.

**Dr. Thomas** asked why this is being asked because it is not the concern of average citizen.

**Mr. Thiede** stated that the concern is that specifically those individuals who do hunt and trap on the islands would like some say in this matter.

**Dr. Thomas** stated that this Board should decide if, philosophically, we are in favor of this before it goes out to public comment.

**Tom Hauge**, Director, Wildlife Management Bureau stated that is the whole reason why we come to the Board in January to approve the questions. If something isn't right then we can address it early.

**Mr. Willett** stated that he has a problem with the Federal Government trying to reduce the state power given in article 10 of the constitution. It doesn't give the Federal Government the authority to manage fish and game.

**Mr. Hauge** stated that as a federal landowner they can control access to that land.

**Mr. Willett** stated when NPS initially took those lands from his family, then there were access restrictions put in the laws.

**Dr. Thomas** asked for clarification on question #1. She believes it's more of a modification of deadline of spring turkey permit. Currently it's December 10<sup>th</sup> correct?

**Mr. Thiede** stated yes, this proposal will give hunters an extra month to apply for their permit.

**Dr. Thomas** stated she doesn't agree with changing the spring turkey deadline. Hunters need to know as soon as possible when their turkey permit period is. She doesn't think the public understands that will happen by the way the question is worded.

**Mr. Thiede** stated the reason for the modification is to consolidate due dates so hunters don't have to remember so many dates.

**Dr. Thomas** stated that people don't have all the information for this question about how this will affect their lives She asked why can't we have one date, August 1<sup>st</sup>.

**Mr. Thiede** stated it is a customer service and licensing issue.

**Mr. Welter MOVED, seconded by Mr. Behnke approve request authorization for public hearing of Board Order WM-01-05 - proposed wildlife regulation changes for the 2005 Spring Fish and Wildlife Hearings.**

**Mr. Willett MOVED, seconded by Mr. Poulson to exclude questions 11 and 12.**

**Mr. Willett** stated it is a jurisdictional question with legal implications. The Board should not give up its jurisdiction. It will get to the point where we will be asking why have a Board. It's an issue of restricting access for the public. It should be up to the Department and tribes.

**Mr. Ela** stated he doesn't understand how this provision affects state/federal jurisdiction.

**Mr. Willett** stated it recognizes the fact that the federal government can in fact have a say in the management of game.

**Mr. Behnke** stated he doesn't understand it that way. The state still makes the regulations. NPS can restrict the access.

**Mr. Thiede** stated that the federal government could write a letter to ask for a September hunt and the Department would either authorize it or not.

**Mr. Ela** asked if it come before the Board.

**Mr. Thiede** stated no because of the limited time frame. This gives annual flexibility depending on wildlife populations.

**The motion carried 6-1.**

**Dr. Thomas MOVED, seconded by Mr. Welter to amend that question 1 to be divided into 2 questions to clarify by voting yes that moving deadline of turkey permit that notifies hunters of their season one month later.**

**The motion carried unanimously by all members.**

**The main motion carried unanimously as amended by all members.**

3.B.7. Authorization for public hearing for Board Order ER-11-05 - revisions to NR 12 proposed endangered/threatened species and Gray Wolf personal property damage payment rules.

**Laurie Osterndorf**, Administrator, Land Division stated the Bureau of Endangered Resources has administered a damage payment 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 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 a significant public controversy about the wolf damage payment program. The proposed rule continues the Department's practice of paying up to \$2,500 per animal for pets and hunting dogs killed by wolves. The proposed rule differs from the existing program in four ways: 1. Proposed maximum reimbursement of \$15,000 per claimant per year (same as the Wildlife Damage payment program) 2. Proposed deductible of \$250 per claim (same as the wildlife damage payment) 3. Proposed limit on hunting dog payments whereby the Department will not pay for additional dogs killed by wolves within 5 miles of a previous dog kill site that the Department has publicly noticed. 4. Proposed that the loss of personal property other than pets and hunting dogs will not be eligible for reimbursement.

**Mr. Behnke MOVED, seconded by Mr. Poulson to approve authorization for public hearing for Board Order ER-11-05 - revisions to NR 12 proposed endangered/threatened species and Gray Wolf personal property damage payment rules. The motion carried unanimously by all members.**

3.B.8. Land Acquisition and Donation, Statewide Public Access, Waukesha County.

**Richard Steffes**, Real Estate Director stated that the Department has obtained an option to purchase 6.59 acres of land from Thomas and Elaine Kraus for \$1,125,000 for the Statewide Public Access program in Waukesha County. The North Lake Management District has concerns about this site and has proposed an alternate site across the lake. It would be nice to go to the other site (Kuchler site), it's less expensive, but it's not less impact on community. The alternate site has shallow depths and wetland conditions.

**Gloria McCutcheon**, Director, Southeast Region stated that the handouts were finished late yesterday based on information from the North Lake Management District to make a comparison using criteria of the two sites. She gave a brief history of the North Lake Public Access issue. She also compared the access issues of the two properties. Issues included year-round access, ease of use, maneuverability, ADA access, and maintenance.

**Mr. Behnke** asked if there is a current access on the Oconomowoc River.

**Jim Morrissey**, Regional Program Manager, Southeast Region stated that there is an access for small boats, no access for boats of similar size as the boats currently on the lake.

**Mr. Behnke** asked what is the average current boat size on this lake.

**Mr. Morrissey** stated there are boats up to 24 feet on this lake. He stated it is a 437-acre lake. There is good fishing and it's 78 feet deep. It's the second largest lake in the region.

**Mr. Behnke** stated this is not big lake, why do you need big boat launch.

**Mr. Morrissey** stated we need a property that has adequate facilities. The Kuchler property doesn't have adequate room to turn around.

**Ms. McCutcheon** stated we haven't discussed why there needs to be adequate facilities to launch a big boat. We are trying to provide the same type of access to people who do not live on the lake as people who do live on lake.

**Dr. Thomas** asked if the current access is on lot 5 and 6.

**Mr. Morrissey** stated it is a private access owned by an oil company that allows people to park there and has a ramp that can launch a 16-18 foot boat.

**Mr. Behnke** asked how much it would cost to develop the Kraus property.

**Ms. McCutcheon** stated \$350,000.

**Mr. Willett** stated we need to take into consideration impact on the lake.

**Mr. Morrissey** stated that NR 1.91 addresses that issue. That's how we came up with 15-car/trailer parking lot minimum.

**Mr. Willett** stated there are certain exceptions to rule.

**Mr. Behnke** stated this is a relatively small lake, to accommodate 15 boats/cars to go there to fish, not to go up and down the lake with a big boat with a big motor. What is the practicability of developing a site that could cause damage to the lake?

**Mr. O'Brien** asked how do current residents get their 24-foot boats on the lake.

**Ms. McCutcheon** stated there is a yacht club that we had the option to purchase the land. It was sold to another party and the yacht club was then established.

**Mr. Welter** asked if there are other lakes in this area. Do Beaver Lake and Pine Lake have public access?

**Mr. Morrissey** stated that it has carry-in at Beaver Lake and car/trailer at Pine Lake. There are ski boats, but mostly fishing boats.

**Dr. Thomas** asked if at the yacht club, do you need to be a member to get boat in. Could we contract with yacht club to lease 15 boat slips for public use?

**Ms. McCutcheon** stated the Department explored that option, but the owner stated he was not authorized to continue discussions.

**Mr. Morrissey** stated that the North Lake Management District stated that the Kuchler site is their preferred site. They didn't provide any other options.

**Mr. O'Brien** asked if the Kuchler site is for sale.

**Mr. Steffes** stated that the North Lake Management District states that they have a signed agreement that they would transfer to the Department. It all sounds good and it was selected because it's available and it's too wet to develop. The North Lake Management District has blocked public access efforts for more than 20 years, now they are willing to work with the Department because it's a limited access site.

**Mr. Ela** asked if lot 5 and 6 are wetlands.

**Mr. Morrissey** stated no, it has been filled.

**Mr. Welter** asked about access for ice fishing in other area of lake.

**Mr. Steffes** stated that anglers do access the ice near Kuchler property, but they trespass on condo property.

### **Public Appearances**

**Representative Don Pridemore** 99<sup>th</sup> Assembly District stated he is representing the constituents of the North Lake Area and local anglers and boaters. This community wants the best possible site for public access for North Lake. There are two sites identified by willing sellers: Kuchler and Kraus. We do not want to rush a decision. Equal and prudent consideration must be given to each site. We must consider the effect of this decision on lake residents and existing properties including project cost, impact on residents, and the environment. He gave pro and cons for each site. He stated his mail is running 10-1 in favor of the Kuchler site. He urged the Board not to make a purchase decision on the Kraus site until all options are researched.

**Mr. Welter** asked about ice anglers and how will they have access to the lake from the Kuchler site.

**Rep. Pridemore** stated he is not an expert on the site, but he is here to reflect the concerns of the constituents.

**Dr. Thomas** asked for Rep. Pridemore's opinion about the idea of leasing access from yacht club.

**Rep. Pridemore** asked for a representative from the yacht club to answer the question.

**Sam Bradt** stated he is a member of the yacht club and it is an option we can consider. The current members pay to have their boat stored there and if there is public access from the club, they would cease to be members. There is also concern about increased traffic on that road. He stated that 90% of members live on lake.

1. **Ted Lind**, Milwaukee, Wisconsin Council of Sports Fishing Organization stated he would be interested in knowing how many public boats are on this lake. The two properties being considered are the same price when you do the math of per acre cost. There is a 35 MPH speed limit on the lake. He requested that the Board authorize this purchase. If this opportunity is lost, we may not have another chance. It will only get more expensive in the future. The residents of North Lake all of the sudden have another option on this lake. An option that's too shallow, a wetland, no ice fishing access, and it floods in the spring. It will most likely be more costly in the long run. He gave statistics of boat regulations vs. car/trailer parking spots in the SE district: 137,740 registered boats and 1,664 parking places.  
**Mr. Welter** asked ice fishing interest on other area lakes.  
**Mr. Lind** stated there is a great interest.
2. **Margo Hanson**, Hartford, North Lake resident representing herself stated the lake has unique characteristics of lake and adverse affects of public lake access. She stated a proposal to put a public park and boat launch on Little North Lake were abandon two decades ago. The reasons were cost and the motorboat affects on morrow sediment.  
**Mr. Behnke** asked how deep is the water in those shallow areas.  
**Ms. Hanson** stated it's about waist high.  
**Mr. Ela** asked how much is the lake used.  
**Ms. Hanson** stated there is a lot of lake use: sailboats, motorboats, and water skiing. The lake could handle 15 more boats. She understands that the proposal is for 29 boats.  
**Dr. Thomas** asked about impacts on water quality. Is this the general concern voiced by lake residents?  
**Ms. Hanson** stated she did not know.
3. **Christopher Dix**, Brookfield, North Lake resident representing himself distributed research that he and his daughter had done on-line through Waukesha County. He stated that much of the Kraus property is in a flood plain and a significant portion is wetland. The decision process needs to slow down and needs to be researched from an environmental, safety, economic, and community development standpoint.
4. **George Meyer**, Madison, Wisconsin Wildlife Federation (WWF) stated there are always opposition to public access acquisitions. This is costly, but when will another opportunity like this arise? Ice fishing is important for public access. He

gave the reasons not to consider the Kuchler property and the reasons to purchase the Kraus site. He encouraged the Department to purchase the Kraus site because it may be the last opportunity to gain public access to this lake.

**Dr. Thomas** asked if WWF would support an easement or permanent lease with yacht club.

**Mr. Mever** stated that if it provided the same access as Krause site it could be a consideration.

5. **Don Camplin**, Dousman, Waukesha County Conservation Alliance stated he lives on Pretty Lake and felt the same way as these residents when we first opened our lake up to public access. He realized that the lakes belong to all the residents of Wisconsin. He stated that Kuchler property isn't a very accessible property.
6. **Sam Bradt**, Chenequa, North Lake Management District distributed a map showing that the 437-acre lake is really two lakes that are 334 acres and 104 acres. He stated there is overwhelming support for the Kuchler property site for the public access site. He asked the Board to postpone purchase of Kraus property and consider other proposals.  
**Mr. Welter** asked if the Kuchler property doesn't offer safe access for ice anglers, then why buy a site that only offers summer recreation.  
**Mr. Bradt** stated he was going to defer that question to the next speaker.
7. **Dan Aicher**, Hartland, North Lake Management District distributed handouts that address the fishing issue. There are pictures of Kuchler site showing frozen water. He stated he has launch his boat from that site, not exactly at that point, but the question of silt is overplayed. Without a turn around, it's tricky to back up that far, but if you drive trailers quite a bit, you can do it. He stated there were snowmobiles using the ice in front of the Kuchler property. Although you can see open water because of the river inlet, he thinks it's safe.  
**Mr. O'Brien** asked about the ice fishing issue.  
**Mr. Aicher** showed from his pictures that it's not an issue.  
**Mr. O'Brien** asked about envisioning a turn around and if its possible to pull a 20-foot boat around it.  
**Mr. Aicher** stated he thinks it could be worked out with the site engineers.  
**Mr. O'Brien** asked if he backed his boat into water  
**Mr. Aicher** stated yes, it's deeper than 2 feet, there is silt. He stated he didn't think it would have to be dredged again if there is boat traffic.  
**Mr. Poulson** asked what needs to be done to this site to allow for driving maneuverability.  
**Mr. Aicher** stated he is not an engineer, but the reason there is a road end there is because there used to be a resort and a launch there.
8. **Fritz Hanson**, Hartford, representing himself stated the reasons why the Kraus site should not be purchased. He described the environmental impacts on the site including fill problems to build a road and cutting down many trees. The expensive price is another issue. The Kuchler property used to be a resort and launch. He stated there is food, bait, tackle, and emergency services close by. He urged the Board to not purchase the Krause property.
9. **Jackie Geib**, North Lake, representing herself distributed pictures. She stated her property neighbors the Kuchler property. She doesn't want the launch on North Lake, but if there is going to be a launch, it should not be on the Kuchler property. It's too narrow and shallow. It floods every spring and it's filled with silt. There is open water all year long. People who access this property in the winter are trespassing on the Evergreen Condo property. She doesn't understand how someone can be taking donations to allow people to launch their boats on his property.  
**Mr. Welter** asked what is her problem with the donation system at the private boat launch.  
**Ms. Geib** stated that certain people are getting access and now the DNR wants access. She thinks the donation system should stop.

**Mr. Behnke MOVED, seconded Mr. Ela that any action about purchasing a property on North Lake be delayed until at least the February NRB meeting.**

**Dr. Thomas** stated that the Kraus option expires on February 15<sup>th</sup>. We will loose that option before our next meeting. She suggested a conference call before February 15<sup>th</sup>.

**Mr. Steffes** stated he will ask the Kraus' for an extension.

**Mr. Behnke withdrew his motion, Mr. Ela withdrew seconded.**

**Mr. Behnke MOVED, seconded by Mr. Ela to delay action until we have the correct information and/or have to act on option.**

**Dr. Thomas** asked the Department to explore the yacht club option.

**Mr. Ela** suggested a site inspection visit for members of the Board who would like to see the properties.

**Mr. Behnke** stated a 9-hour drive is unreasonable expectation for him to visit this site.

**Mr. Steffes** stated we will research the environmental impacts, approach the yacht club, and any option extensions.

**Mr. Welter** stated his concerns about the safety at the mouth of the Oconomowoc River and whether we are paying for a year-round access or summertime access site.

**Ms. McCutcheon** stated the Department would continue to work with the North Lake Management District. We will continue to hard work. We will ask wardens to assist on the ice safety access issue.

**The motion carried unanimously by all members.**

- 3.B.9. Land Acquisition and Donation, Jefferson Marsh Wildlife and Natural Area, Jefferson County. (postponed from the December meeting)

**Mr. Willett MOVED, seconded by Dr. Thomas approval of Land Acquisition and Donation, Jefferson Marsh Wildlife and Natural Area, Jefferson County. The motion passed unanimously by all members.**

- 3.B.10. Land Acquisition, Willow Flowage Scenic Waters Area, Oneida County.

**Mr. Behnke MOVED, seconded by Mr. Willett approval of Land Acquisition, Willow Flowage Scenic Waters Area, Oneida County. The motion carried unanimously by all members.**

- 3.B.11. Easement Acquisition, North Branch Milwaukee River Wildlife Area, Sheboygan County.

**Mr. Willett MOVED, seconded by Dr. Thomas approval of Easement Acquisition, North Branch Milwaukee River Wildlife Area, Sheboygan County.**

**Mr. Ela** asked if there would be public access.

**Mr. Steffes** stated that there would be no public access. It would be agriculture and natural habitat lands.

**Mr. Poulson** asked when a property like this has Conservation Reserve Program (CRP) land on it. Will it be maintained in CRP?

**Mr. Steffes** stated yes.

**The motion carried unanimously by all members.**

- 3.B.12. Land Acquisition, North Branch Milwaukee River Wildlife Area, Sheboygan County.

**Mr. Welter** asked if there would be public hunting

**Mr. Steffes** stated yes.

**Mr. Welter MOVED, seconded by Mr. Poulson approval of Land Acquisition, North Branch Milwaukee River Wildlife Area, Sheboygan County. The motion carried unanimously by all members.**

- 3.B.13. Land Acquisition, Statewide Wildlife Habitat, Racine County.

**Mr. Welter** asked what would be the future of the sod farm area.

**Mr. Steffes** stated that Duck Unlimited will assist the Department in restoring it to grass cover.

**Mr. Ela MOVED, seconded by Mr. Welter approval of Land Acquisition, Statewide Wildlife Habitat, Racine County. The motion carried unanimously by all members.**

- 3.B.14. Land Acquisition, White River Marsh Wildlife Area, Marquette and Green Lake Counties.

**Mr. Willett MOVED, seconded by Mr. Welter approval of Land Acquisition, White River Marsh Wildlife Area, Marquette and Green Lake Counties. The motion carried unanimously by all members.**

- 3.B.15. Land Acquisition, Pike Wild River, Marinette County.

**Mr. Behnke MOVED, seconded by Mr. Willett approval of Land Acquisition, Pike Wild River, Marinette County. The motion carried unanimously by all members.**

3.B.16. Lands Easement Donation, Waushara County.

**Mr. Willett MOVED, seconded by Mr. Ela approval of Lands Easement Donation, Waushara County. The motion carried unanimously by all members.**

3.B.17. Land Donation, Statewide Public Access, Jefferson County.

**Mr. Willett MOVED, seconded by Mr. Poulson approval of Land Donation, Statewide Public Access, Jefferson County. The motion carried unanimously by all members.**

4. Citizen Participation4.A. Citizen Participation

**Steve Oestreicher** reviewed the Conservation Congress Executive Council Advisory questions. The first question outlined a new deer season framework. He predicted the support for this question will be 85% or greater. He read a resolution passed at the January Conservation Congress meeting. The resolution stated that the Board should approve Zone T and Earn-a-Buck deer management units and associated deer quotas before the Department can implement them. In addition, the Board should approve bear season structure, quotas, and permit levels before the Department can implement them. He requested that this resolution be included on the February Board meeting agenda.

**Mr. O'Brien** asked if there was any objection to including this on the February Board agenda. There were no objections.

4.A.1. **Brook Waalen**, Luck, Friends of Log Greenway – ATV Damage showed video with images of ATV damage on the Cattail Trail near Amery. He stated the entire trail is spider-webbed with ATV damage. There are wetlands that have been turned into mud pits and sand dunes that have been stripped of all vegetation. He has asked DNR staff what affects ATV's have on trail users and trails themselves. Some staff are straightforward and some give the runaround, but all DNR officials should be aware of the scope of vandalism that is caused by ATV's. Why isn't anything being done? He suggested that the trails like Cattail should be closed until repairs can be made.

**Mr. Welter** asked where the trails intersects other cleared tracks, paths, or walking trails, is that where the damage is taking place.

**Mr. Waalen** stated he doesn't know which trails are legal, but the images shown are illegal. They are diversions from the monotony of the linear trail.

4.A.2. **Greg Kazmierski**, Waukesha, Wisconsin Deer Hunters Coalition, Deer Hunting Survey shared a survey with the Board. He would like the Department to change their Earn-A-Buck (EAB) and Zone T policy.

**Dr. Thomas** asked how many people filled survey and how did they get it in their hands. 87% of the people surveyed would support a much longer deer season. Did you ask what the start date of longer season would start?

**Mr. Kazmierski** stated that 1000 people answered the survey. It was available in the Outdoor News and several websites, distributed at sport show and deer classic. We did not ask the start date, but on the survey it stated it would start at the traditional opener.

**Mr. Welter** asked about the requested audit of deer population. Where would the funding come from?

**Mr. Kazmierski** stated that it would cost less than \$.05 per license.

**Mr. Poulson** stated that his comments about in 1970 killing two buck for every doe and today killing two does to every buck is because we have EAB.

**Mr. Kazmierski** stated that EAB was only imposed on non-CWD units in 1996 and this year. This year EAB had negative impact on the antlerless deer.

5. Board Members' Matters

**Herb Behnke** recognized Linda Guelig from the Northern Unit of the Kettle Moraine. A citizen had contacted him regarding winter camping and he referred them to the park office. Ms. Guelig assisted the citizen and he was happy with the response and received great customer service. Secondly, he requested that the waterfowl zoneline changes consideration be brought to the Board's attention long before we need to know so we don't have to wait an additional five years to request changes. Thirdly, there has been a lot of publicity about opposition to automated duck decoys. He requested that the Department provide information on that pros and cons of them.

5.A. 2005 Spring Fish and Wildlife Hearing Questions

**Mr. Willett** requested to add the question regarding the funding of study for bass tournament be funded by participants or sponsors.

**Mr. Behnke** clarified that would be a separate question.

5.B. Election of Officers (to be taken up at the end of the Board Meeting)

**Mr. Behnke MOVED, seconded by Mr. Willett to reelect the same officers for Board and committees and to suspend one year limit rules. The motion carried unanimously by all members.**

6. Special Committees' Reports

None.

7. Department Secretary's Matters

**Secretary Hassett** provided an update on the budget and the fee package. Governor Doyle will roll out budget on February 8<sup>th</sup>. He stated he would contact the Board shortly after that to tell them how it will affect the Department. The fee package increases have nothing to do with the overall state budget. They are in a segregated account, to be used only for hunting and fishing activities. The USFWS audits this account and the current audit is 7 year old. That audit stated that 20% of fees were characterized as administrative spending. Since then, the legislature passed a law capping that at 16% passed. Since then, the Department is running at 10%. This budget the Board just passed calls for 9%. That is phenomenal in public or private sector. The USFWS is conducting another audit this year.

7.A. Retirement Resolutions7.A.1. Peter A. Witt7.A.2. Bruce E. Nimz7.A.3. Bruce A. Moss7.A.4. Linda L. Meyer7.A.5. Douglas C. Rossberg7.A.6. Patricia A. Matula7.A.7. Alan R. Lulloff

**Mr. Behnke MOVED, seconded by Mr. Poulson approval of the retirement resolutions. The motion carried by all members.**

7.B. Donations

7.B.1. Tim Pufal, a local landowner and conservation enthusiast, will donate a 6-wheeled amphibious ATV to the Department valued at approximately \$5,000-8,000 to the to Bureau of Wildlife Management.

**Mr. Willett MOVED, seconded by Mr. Poulson acceptance of a donation by Tim Pufal of a 6-wheeled amphibious ATV to the Department valued at approximately \$5,000-8,000 to the to Bureau of Wildlife Management. The motion carried unanimously by all members.**

8. Information Items8.A. Air, Waste, and Water/Enforcement8.B. Land Management, Recreation, and Fisheries/Wildlife8.B.1. Update on the North Branch of the Milwaukee River Wildlife and Farming Heritage Area

**Dale Katsma**, Wildlife Biologist, Southeast Region stated at the request of Board Member Dan Poulson he is updating the Board on the project and specifically the role of the Citizen's Advisory Committee (CAC) which was organized to help the Department implement the project. The North Branch Milwaukee River Wildlife and Farming Heritage Area (NBMR) is a new 19,487 acre project within the Milwaukee River Basin. The project was approved by the Board in August 2002 and Governor McCallum in September 2002. The project is precedent setting in its specific objective of preserving the strong agricultural farming tradition of the project area while maintaining and improving wildlife habitat, and providing recreational opportunities in an urbanized area of the state. A 15 member CAC and a facilitator from UW-Extension are used to guide the purchase, use and management of the farmlands and natural resources of the project area.

8.B.2. Statewide All Terrain Vehicle (ATV) Policy Development Update

**Laurie Osterdorf**, Administrator, Division of Land stated that the demand for ATV riding opportunities is expanding on Department and other public lands. ATV registrations have surpassed snowmobile registrations for the first time. Over 200,500 ATVs were registered this year. In July 2003, Secretary Hassett established an internal, ad-hoc, ATV committee to develop guidance for property managers for evaluating requests for ATV trails on Department properties, and to establish standards for ATV trail design and construction. A stakeholder group provided input on the draft products developed by the team aiding in the development of the final draft of the guidance document titled, "All-Terrain Vehicle Use on Department Lands." The guidance document provides a critical based decision-making model to determine if an ATV trail is suitable for an individual property. It is not intended to trigger a comprehensive review of DNR properties to determine if ATV trails should be build but rather is a mechanism to uniformly and comprehensively address requests that

we receive for trails. Fundamental to that policy, and the newly developed design standards is the notion that these trails must be sited, designed, constructed, maintained, and monitored in a manner that protect our natural resources and do not have adverse impacts on the other uses on the property.

**Mr. O'Brien** asked if these are guidelines for staff in the field to follow.

**Ms. Osterndorf** stated that this is a change to the manual code. The manual code is what address newly proposed ATV trails. The trail use designation is determined at the master planning process. Trails that do not have a master plan follow the guidelines in the manual code that refers to this policy.

**Mr. Ela** asked what determines whether or not a trail has a master plan.

**Tim Miller**, Regional Park Manager, Northern Region stated that NR 44 determines the master planning process. All of our properties have master plans. At the cooperative trails the counties do the master plans.

**Mr. Behnke** asked if the state has any involvement in the county master planning. For example, critical concerns like environmental concerns, endangered species, etc.

**Mr. Miller** stated yes, we meet with the county and show them the step by step process. Then the Bureau of Parks review it for outlining problems, code or statute violations.

**Mr. Behnke** asked if the Amery-Dresser trail master plan was complete.

**Mr. Miller** stated that the master plan process went through the normal public participation process. They formed a committee. They could not make a decision, so they passed it on to the Building and Parks committee, they couldn't make a decision, they passed it on to the County Board who accepted the master plan at a 11-10 vote. It does include summer motorized used.

**Mr. Behnke** asked if there is any appeal procedure that can come back to the state, where we would take some action.

**Mr. Miller** stated he thinks certain aspects could be appealed if there were environmental or other issues that didn't meet administrative code or state statute. This has been the most controversial master plan. Other counties have done plans that have gone more smoothly.

**Mr. Behnke** asked how wide the trail is and how far out can you go as far as endangered species.

**Mr. Miller** stated that the corridor for the most part, the state ownership is 100 feet. There was a Natural Heritage Inventory done along the corridor and there were no endangered or threatened species found. There have been some prairie remnants located.

**Mr. Ela** stated the way he understands it is that the state buys the trail and then we enter into cooperative agreements at which point we basically forfeit all management rights as what the future of the trail is going to look like.

**Mr. Miller** stated to some extent, but not 100%. We retain ownership and sign a memo of understanding that tells the county what their responsibilities are and what our responsibilities are. In the northern part of the state, we grant an easement that says the things they can and cannot do.

**Mr. Ela** asked if the cooperative partner decides whether to open it to ATV use.

**Ms. Osterndorf** stated they must go through the master plan process. Up to this point, we haven't said what uses can or can't be on the trail.

**Mr. Ela** stated he finds this to be a disturbing concept that we don't really have a state trail system. We have a bunch of trails, which are independent managed and planned by local entities. He asked if there is a provision to close the trails to ATV use if it is abused.

**Mr. Miller** stated we haven't gotten to that point, but the policy he will be presenting does address that.

**Mr. Behnke** stated it's important that we address this issue now, while we still have control over it.

**Mr. Welter** asked about how many miles of current ATV trails on state-owned land.

**Mr. Miller** stated that besides linear trails, there are not a lot of miles on state-owned land. There are a few miles on Flambeau River State Forest and Gov. Knowles State Forest. There are none in Northern-Highlands, however in the master plan there is a proposed experimental trail. There are several 1000 miles of funded trails in the state. Most miles are on county land and federal land.

**Mr. Welter** stated there is little enforcement on federal land. How can we afford to enforce ATV laws on state-owned lands?

**Mr. Miller** stated he cannot answer the questions, but it was addressed in the ATV bill that was passed last year and it's funded through higher registration fees. He stated that the three "E's" should be addressed in this policy: education, enforcement, and engineering. If we can't address those in the trails that we build, then we have a reason for not building the trail until we can. He reviewed the criteria for developing ATV trails.

**Mr. O'Brien** asked if ATV clubs could help out like the snowmobile clubs helped out.

**Mr. Miller** stated they are not as organized, but the Wisconsin ATV Association is active in getting clubs started. They developed a trail ambassador program, the trail patrol, and ride smart program. Local riders wear a vest, go out and tell others about violations they are making.

**Mr. O'Brien** asked if ATV trails go across private property like the snowmobile trails do

**Mr. Miller** stated not to the same extent, but there are some clubs who have gotten ATV easements on private lands. Building relationships with the landowners is the key.

**Mr. Poulson** asked about the demographics of an ATV rider.

**Mr. Miller** stated that the average age is in their 40s.

**Mr. Welter** stated that Minnesota is confronting adverse impacts on state and county lands. They are enhancing penalties and requiring forfeiture of vehicles. He doesn't want to get behind the trend and be in a situation where we have not addressed the impacts of cross trail use and freeloading. There are many ATV users who are opportunistic that aren't associated with clubs.

**Mr. Ela** stated that all of this is premised with the assumption that ATV users are satisfied with staying on trails. There is a substantial minority that doesn't want to stay on trails. How do we deal with that?

**Mr. Miller** stated that clubs could purchase abandoned non-metallic mines to be converted into ATV play areas and parks.

**Ms. Osterndorf** stated we asked the stakeholders to identify future issues. One issue was expectations. Dealers and manufacturers show riders out in the mud or in a play area. When someone buys a vehicle, they might assume that state lands should be providing those opportunities.

**Mr. Miller** stated that the design manual is missing the play areas. Some riders are looking for challenge courses where they can take their machines over logs and rocks and through ravines.

**Mr. Ela** stated that one of the criteria should be what are the likelihood and the consequence of abuse. He asked if the advisory committee would be used for next step of implementation.

**Mr. Miller** stated he hopes so.

#### 8.B.3. Federal wolf delisting process and implications on Wisconsin's Wolf Management Plan.

**Ms. Osterndorf** stated that the review of the Wisconsin Wolf Management Plan is ongoing. Any revision to it will come to the NRB for approval. The USFWS has proposed to de-list based on the 1999-approved Wisconsin Wolf Management Plan. The process to remove the gray wolf from the Federal Endangered and Threatened Species List will be outlined. There will be a discussion of the status of federal delisting and the implications on wolf management in Wisconsin. The NRB and Department will be informed of potential ramifications of revising Wisconsin's plan in light of upcoming federal decision.

**Ron Refsnider**, U.S. Fish and Wildlife Service stated the purpose of the Federal Endangered Species Act (ESA) is to prevent the extinction of species. It is not a biodiversity restoration act or permanent federal protection. In 1998, the USFWS began working on delisting the gray wolves. The Michigan wolf management plan was completed. Wisconsin was drafting its wolf management plan that was completed in 1999. Minnesota was holding public meetings in preparation for plan development. In 1999 and 2000, Minnesota DNR's wolf plan failed to win legislative approval. The USFWS dropped its plan to de-list in the Midwest. In 2000, USFWS proposed to reclassify other Midwestern wolves from endangered to threatened. The ESA allows the listing of Distinct Population Segments (DPS). In 2003, the wolf population were subdivided into 3 DPS. USFWS de-listed states in SE that are outside historical range and reclassified wolves in 2 DPS from endangered to threatened. This 2003 reclassification provides a means to subsequently de-list individual DPS as recovery is achieved in each DPS. There is no evidence of a wolf population in Northeast. The Northeastern states were combined with the Midwestern states as part of the "Eastern DPS". There were two lawsuits filed against the reclassification in district courts in Oregon and Vermont. The alleged problems are insufficient recovery across historical range, improper establishment of DPS, inadequate threat analysis, and inadequate threat abatement. He stated that the delisting proposal was published in the Federal Register on July 21, 2004. There was a 120-day comment period and hearings. Right now, USFWS is in the process of reviewing all comments and new information. According to the ESA we are supposed to make our decision within 12 months of the proposal. Litigation may delay this process. The ESA requires that after delisting we monitor the species for at least 5 years. If the species declines or unforeseen threats emerge after delisting, we can return it to the endangered and threatened species list, if appropriate. Emergency re-listing is possible; provides immediate resumption of federal protection.

**Mr. Willett** asked if Wisconsin could file a lawsuit to allow the USFWS to proceed with the delisting process.

**Mr. Refsnider** stated he isn't an attorney. None of the Midwest states have gotten involved in the lawsuits. In the West, Montana, Idaho, Oregon, a farmers group have joined the USFWS in opposing the lawsuits.

**Dr. Thomas** stated she appreciated the presentation and understands your constraints which causes us to have constraints.

**Mr. Refsnider** gave a website for more information: [www.fws.gov/midwest/wolf/](http://www.fws.gov/midwest/wolf/)

**Mr. Willett** asked what are Mr. Refsnider's recommendations for Wisconsin and how to proceed.

**Mr. Refsnider** stated that Wisconsin's wolf populations numbers are accurate, perhaps the best in the Midwest and in the nation. In the middle of the process it gets awkward or even dangerous if we change things.

**Mr. Willett** clarified that Mr. Refsnider is suggesting for us to wait and see what happens.

**Mr. Refsnider** stated yes, wait and see what the federal judges say.

**Mr. Behnke** asked for clarification when he said he expects a minimum population of 200 in Wisconsin. Then you said there are 800 in the Upper Peninsula (UP).

**Mr. Refsnider** stated that federal recovery plan states a delisting minimum in Minnesota 1,250-1,400 and 100 within that population or 200 if it's further away. Michigan and Wisconsin State plans have populations well above that. 800 is the maximum carrying capacity in UP.

**Mr. Welter** stated Wisconsin and Michigan's wolf population as being contiguous with Minnesota population.

**Mr. Refsnider** stated yes.

**Mr. Ela** asked if delisting isn't likely until litigation has run its course.

**Mr. Refsnider** stated that the USFWS will move ahead if we win cases even if the groups move ahead. If we lose then we have to back away.

**Mr. Behnke** asked what is carrying capacity for Wisconsin.

**Mr. Refsnider** stated that 350 is management goal. 500 biological carrying capacity.

8.B.4. 2005 Winnebago System Sturgeon Spearing Season and Future Regulation Options.

**Ron Bruch**, Regional Team Supervisor, Northeast Region stated that at the December Board meeting, an emergency rule was approved to allow the option of closing the 2005 Winnebago System sturgeon spearing season at the end of the first day if the total allowable harvest is exceeded on the first day. The Board expressed concern that this management option not be a permanent solution and so the Department is looking for other options for future regulations that might extend the season while maintaining acceptable harvest rates. Department staff have developed a timeline for 2005: speak to spearers about management options at Sturgeons for Tomorrow Banquets January 15, 29, and February 5; provide information about management options in the pre-spearing season news release, online sturgeon spearing regulation pamphlet and during the 2005 spearing season at sturgeon registration stations; discuss proposal with Conservation Congress District 7 delegates, discuss management options with the general public at public meeting in Winneconne and Sherwood in March; meet with the Sturgeon Advisory Committee (SAC) and meet with regional and central office staff to review SAC recommendations and forward final proposal.

**Mr. Behnke** stated he received a call from Dan Groeshal, Sturgeon for Tomorrow, who wanted to appear. He feels the Department is underestimating sturgeon population. He wondered how the sturgeon are going to exist if there are too many.

**Mr. Bruch** stated there is a decline in lake fly larva (red worm) that is important in sturgeon diet. They decline when zebra mussels increased. In late summer this year there was a return of lake fly. The zebra mussels collapsed. We have ways to determine if sturgeons are overpopulated. We haven't found that to be the case. If sturgeon do start to overpopulate, we can crank up harvest caps.

**Mr. Behnke** asked if the legal harvest size population is still 40,000.

**Mr. Bruch** stated we estimate there are 11,000 adult females, 40,000 adult males. There are probably somewhere between 50,000-70,000 sturgeon.

**Mr. Behnke** asked if there has been a definite recommendation that is being taken out to the various groups.

**Mr. Bruch** stated we still have the list of alternatives. On March 15<sup>th</sup> the committee will make their recommendation. Then the Department will make their recommendation at the end of March.

The meeting adjourned at 4:58 p.m.