

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, January 24, 2007 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 1-9. The meeting adjourned at 5:15 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

Gerald O'Brien – present	Dan Poulson - absent
Jonathan Ela – present	Dave Clausen - present
John Welter – present	Christine Thomas – present
Steve Willett – present – left at noon	Jane Wiley – present – arrived at noon

1.B. Approval of minutes from December 5-6, 2006

Mr. Ela, as secretary, reviewed the minutes and feel they need additional work.

Mr. Ela MOVED, seconded by Mr. Welter deferral of the December 5-6, 2006 minutes to the February 28, 2007 meeting. The motion carried unanimously by all members present. Mr. Poulson was absent.

1.C. Approval of agenda for January 24, 2007

Secretary Hassett requested Agenda Item 8.A.1 be moved and renamed to 3.A.5 on the Agenda since it closely relates to Agenda Item 3.A.4.

Mr. Willett MOVED, seconded by Mr. Clausen approval of the amended agenda for January 24, 2007. The motion carried unanimously by all members. Mr. Poulson was absent.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Ela questioned an item on page 5 of \$287,000 that was set for Board ratification.

Mr. Richard Steffes, Real Estate Director stated that was an error and that item is on hold and should not state for Board ratification. It should say on hold. There is also a duplicate page.

Mr. Ela MOVED, seconded by Mr. Welter approval of the real estate transactions with exception. The motion carried unanimously by all members present. Mr. Poulson was absent.

3. Action Items

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

3.A.1 Response to Senate Committee on Agriculture and Insurance request for unspecified modifications to Board Order WT-21-05, related to NR 243, Consolidated Animal Feeding Operations.

Russ Rasmussen, Director, Watershed Management Bureau stated the Senate Committee on Agriculture and Insurance has requested unspecified modifications to ch. NR 243, which was adopted by the Natural Resources Board at the May 2006 Board meeting. Ch. NR 243 primarily outlines Wisconsin Pollutant Discharge Elimination System (WPDES) permit program requirements for Concentrated Animal Feeding Operations (CAFO's). The department has reviewed the Senate Committee's request and has met with legislators, agricultural and environmental group representatives and DATCP to identify modifications. The proposed modifications include (1) minor changes to the definition of frozen ground and saturated soils, (2) revision of land application restrictions based on forecasted precipitation, (3) allowing operations to surface apply solid manure on non-frozen ground with some snow cover (less than an inch) during February and March, (4) allowing operations to stack solid manure during February and March and surface apply solid manure on frozen or snow-covered ground during other winter months, (5) clarification of the department's intent to continue to address discharges from small and medium operations by working

cooperatively to address discharges, (6) clarification of applicability of WPDES permit nutrient management requirements to small and medium operations and (7) deletion of some notes.

Mr. Ela asked if change in the definition of frozen ground and saturated soils has any influence in policy.

Mr. Rasmussen stated he did not believe it does. We believe it better articulates the situation where you have saturated soils which essentially the pores are filled with liquid and no more liquid can infiltrate. That is a saturated soil.

Mr. Willett asked if there is a concern about the smaller animals, such as chickens versus cows.

Mr. Rasmussen stated the real impact in poultry operations is that you can have thousands of chickens before you hit a 1,000 animal unit. He thought the real issue there was on the federal side because they reduced the number of chicken equivalents that equals 1,000 animal units. The impact is going to be more from the federal changes than our mixed animal units standard, which we did not change from the current rule.

Mr. O'Brien stated we had received calls on the 180-day requirement. We are trying to prevent it from being spread on frozen ground. 180-days is a long time. We do not have frozen ground for 180-days in Wisconsin.

Mr. Rasmussen stated that some years we do. That is our concern. When you are talking about an infrastructure type item and say that maybe it is one out of five years that you need 180-days of storage, if you do not have it that one year, you now have a problem. You are going to overtop and now you will be spreading liquid manure on frozen ground with a high likelihood that it is going to run off and create an environmental problem whether that be a well contamination or a significant fish kill.

Mr. O'Brien asked if Mr. Rasmussen had checked to see what years we have six months of frozen ground. Have you looked back on the weather records that would go October – March? Have you checked to see if it is 1 in 5, 1 in 10, or 1 in 50?

Mr. Rasmussen stated he did not have that information. 180-days is an EPA region 5 regulation. No other state has less than a 180-day requirement of storage. Illinois has a phased-in that if you existed prior to a certain date. Their worst case scenario in northern Illinois is our best case scenario. We agree that it is somewhat variable but we feel this allows the flexibility. It is not only frozen, but there may be times when it is too wet to get out in April. It is not just a frozen ground issue. It is also a practical issue as to when you might be able to get out. If you had a situation where you had cold weather early in the fall so November you couldn't get out when normally you would and it is too wet in April. You are still going to need 180-days of storage even though you did not have frozen ground for that whole time period.

Dr. Thomas stated she received a call, similar to Mr. O'Brien's. This person said he had never had any kind of a violation, no issue of any kind in his history of operation, and that it would cost his operation \$600,000 to build the storage that he needed to come into compliance. She asked if there are any programs out there, either state or federal watershed protection programs, that would provide any matching funds for people? Her understanding is there are only 15 facilities that are not already in compliance with this. We are talking about 15 operations that are going to be affected by this piece of the rule. Is that correct?

Mr. Rasmussen agreed. The Environmental Quality Improvement Program (EQIP) run through NRCS actually sets aside a portion of their annual allocation for manure storage and we participate on a technical committee that makes recommendations to NRCS along those lines. The last time he was involved in that there was approximately a \$2 million set-aside statewide. It is also a cost-share.

Dr. Thomas asked what kind of a cost share is it.

Mr. Rasmussen stated it is 50%. There may be a maximum too. We have a provision that if it is required by a permit that cost share can not be required as a condition for complying with that provision. That doesn't mean that cost share can not be offered. It is optional. They could apply through some state programs as well. It just is not like we have in the non-point program where you cannot require performance standards to be complied with unless cost sharing is offered. That is not the case here but it does not mean people cannot apply and compete for state dollars in standard allocations or through a county.

Mr. Welter asked if there is additional Targeted Runoff Management Grant program (TRIM) money available in the next three or four years would you contemplate that money would be also available for helping construct manure storage.

Mr. Rasmussen stated it is available. It is a competitive process. They would have to compete for it and see where the different projects fell out according to what other projects are there. There are no guarantees.

Mr. Welter asked if there is a set match for TRIM right now.

Mr. Rasmussen stated the match for TRIM is 70%.

Mr. Gordon Stevenson, Section Chief, Runoff Management Section, Watershed Management Bureau stated however point sources are not eligible. CAFO's would not be eligible for TRIM.

Dr. Thomas stated she was trying to establish how much of an economic burden this actually is on someone. She knew from her own farming history that through the years there have been federal tax

incentive programs for capital equipment like investment tax credit. Dr. Thomas asked if anything like that is in existence.

Mr. Rasmussen stated it may exist but he was not aware of the details on that.

Mr. Ela MOVED, seconded by Mr. Welter, adoption of the modifications proposed by the department.

Mr. O'Brien moved for an amendment that the 180-days deadline be changed to 2012. He stated he is influenced by the phone calls that he had received from people with a substantial financial burden and also from the letter that was just handed out from the Dairy Business Association (DBA). The DBA letter indicates there is technology available. The operators need other options to update their facilities without having to spend \$600,000. Maybe there would be another way of handling this. We already have regulations preventing them from spreading it so if they need the 180-days they would have to put it in. If they do not, they would be in violation if they spread.

Mr. O'Brien MOVED, seconded by Mr. Willett to amend that the 180-days deadline to changed to 2012.

Dr. Thomas asked whether the 14 facilities have been in violation.

Mr. Rasmussen stated he does not have any information. He does not know.

Dr. Thomas asked if this could be tabled until information is found. If there has never been any problem with any of the 14, she would be inclined to be more lenient.

Mr. Ela stated that when this was discussed in May in Elkhart Lake, we talked about the deadlines. He asked what the construction horizon was for building one of these things. As he remembered, the planning, design, and construction was in the order of months rather than years.

Mr. Clausen stated when one starts and when one ends, it can be months. One takes into account financing and other things that can extend the construction. When this came up at Elkhart Lake, there was a motion to advance the date to 2009. He voted against that amendment at that time because he felt 2010 was a reasonable time. The producers that were there were asking for 2010. It is still reasonable today. This is not a process that is brand new. This process has been open and on-going for a long time. These issues did not really come forward or seem to be a problem at that time now they are a problem. With regard to technology, it is coming along. If we delay this until 2012, there is always something new on the horizon and something better down the road. He thought 2010 was reasonable when it was proposed last year and will stick with that position.

Mr. Welter asked Mr. Rasmussen if we have a situation where producers are faced with the requirement of 180-days storage and there are some sort of unique physical conditions in the area of where their operation is located, topography, soils, or whatever, is there some room to give them some modifications to the provision to cut them slack in 180 storage requirement in granting them a permit?

Mr. Rasmussen stated different topography or something like that, unless it creates something unique as to where you could build the storage, he doesn't believe that exists anywhere. We have had in Door County, not a CAFO, but because of shallow soils, they had to build something up above, it was not in ground storage. That was pretty unique but that was accomplished in the course of a couple years. They had to come up with some significant priority watershed money to help them do that. There is a variance clause in the rule. We are reluctant to use it. If you had someone that was 190 days out with their storage and making a good faith effort because of construction delays or something they couldn't get it done, he did not think that would create too serious of permit violation. He would want to hold pretty strictly to whatever limits that we have there because we feel this is an important issue to get adequate storage for liquid manure in place. One of the things to point out is we have an emergency provision in the rule that if you are going to overtop your storage that you can under certain controlled conditions spread liquid manure on frozen ground. We really do not want to go there and it represents a significant environmental risk. That is one of the reasons we have 180-days of storage requirement.

Mr. O'Brien stated he wasn't as concerned with the length of time that it takes to construct it. He assumes they can do that. Mr. O'Brien is concerned with someone spending \$600,000 - \$700,000 and in two years from now there is a technology available to handle it.

Mr. Ela stated he had a procedural observation. The first peep he heard from the stakeholder community was a letter that was emailed to the department yesterday. There is a letter that we have on this complicated subject that he received today. If there is anyone in this room who wants to lobby this board in the future on complicated regulatory matters, this is bad practice. He is not in any position to take these arguments into consideration because he hasn't had a chance to discuss them with anyone who is affected. For that reason alone, he will vote against this amendment.

Dr. Thomas asked if he now had the list of violators.

Mr. Rasmussen stated no. They have a list of the operations that do not have 180-days storage but then we'd have to go back and make sure that there weren't any enforcement issues associated with them. It should take only a few days and would try to get it today. They'd need to check with regional staff.

Dr. Thomas stated she is in favor of clean water and supported and voted right down the line on this the last time. If the people have never violated and are really trying to do a good job and they get to a point in what we are looking now because of another 6 months – year going by of a three year time from to put together \$600,000 to build a storage. If they can not get a loan for it or there's not enough matching money to go along, are we shutting them down?

Mr. Rasmussen stated he would not say shutting them down but to reduce the number of animals they have for a while. These 1,000 animal facilities produce as much manure as a town of 18,000 people. The difference is the town has a wastewater treatment system.

A roll call vote was taken:

Dave Clausen – no	Jonathan Ela – no
John Welter – no	Steve Willett – yes
Chris Thomas – abstain	Gerald O'Brien – yes
Mr. Poulson - absent	

The Amendment FAILED.

The original motion carried unanimously by all members present. Mr. Poulson was absent.

Dr. Thomas stated she abstained because she did not receive the information that she asked for.

3.A.2, 3.A.3 ,3.A.4

Mr. Bruss requested that the presentation and comments for 3.A.2-3.A.4 be combined since they are all related. The Board agreed

3.A.2 Part 1: Staff presentation. Adoption of Board Order AM-03-06, related to NR 432, pertaining to NO_x and SO₂ reductions from major electric generating units in Wisconsin to address interstate transport of pollutants.

Larry Bruss, Section Chief, Regional Pollutants and Mobile Sources Section, Air Management Bureau stated the Clean Air Interstate Rule (CAIR) is a federal rule promulgated by the United States Environmental Protection Agency (USEPA) to reduce the interstate transport of ozone, fine particles and the precursors to those pollutants, NO_x and SO₂. To reduce interstate transport of the pollutants, the USEPA established emission budgets for NO_x and SO₂ for 28 states in the eastern US. The CAIR allows the affected states flexibility to meet the budgets in various ways and to capture a mechanism to meet budgets through a state implementation plan (SIP). To aid in compliance, USEPA created an interstate trading program that established emissions budgets for power plants and three separate power plant emission trading structures addressing annual NO_x emissions, ozone season NO_x emissions, and annual SO₂ emissions. The department proposes that the state participate in the federal CAIR trading programs, but the department also proposes some discretionary alterations to the federal CAIR model trading rule regarding the allocation of the NO_x allowances within the state. The CAIR specifically allows for state discretion in this area.

Proposed ch. NR 432 will specify the process for allocation of NO_x allowances for the NO_x Annual Trading Program and the NO_x Ozone Season Trading Program. Proposed ch. NR 432 also specifies that the remaining elements of the NO_x trading programs will be implemented and proposed for addressing SO₂ emissions under the CAIR program.

Interested stakeholders include electric utilities, major electricity users, the Public Service Commission, and the general public. Public hearings were held in Stevens Point on October 10, 2006 and in Milwaukee on October 12, 2006. The comment period ended on October 23, 2006. The department received both adverse and supportive comments on the proposed rule.

3.A.3 Part 1: Staff presentation. Request authorization to hold public hearings on Board Order AM-04-06, related to NR 433 and NR 484, pertaining to proposed rules to require the application of best available retrofit technology (BART) to address provisions of the federal regional haze regulations.

Larry Bruss, Section Chief, Regional Pollutants and Mobile Sources Section, Air Management Bureau stated Federal regulations require all states, including Wisconsin, to develop State Implementation Plans to address visibility impairment in mandatory Class I Federal Areas (Class I Areas)

by December 2007. One of the provisions of the federal regulations is the application of Best Available Retrofit Technology (BART) requirements to major stationary sources that meet certain criteria relating to amount and type of emissions, installation date and source category. The net effect of the proposed rule would be to examine potential emission control technologies for SO₂, NO_x and particulate matter from approximately 10 power plants and up to 4 pulp and paper mills that meet the criteria in the federal regulations.

BART would be determined for each individual source based on a site-specific engineering analysis considering the following five factors:

- The costs of compliance
- The energy and non-air quality environmental impacts of compliance
- Any pollution control equipment in use at the source
- The remaining useful life of the source
- The degree of visibility improvement that would be achieved as a result of the emission reductions.

EPA has indicated that states may choose to use implementation of the Clean Air Interstate Rule (CAIR) as a substitute for application of BART at power plants. However, the Department proposes to allow CAIR as a BART substitute if a BART-eligible power plant demonstrates that its compliance with CAIR meets its BART requirements for SO₂ and NO_x emissions, since our analysis indicates that application of BART to power plants in Wisconsin provides superior visibility protection. The Department expects this issue to be controversial.

Additionally, the Wisconsin Paper Council has identified several technical issues related to the modeling and identifying of BART affected sources. The Department is continuing to work with the Paper Council and affected sources on those issues.

3.A.4 Part 1: Staff presentation. Request authorization to hold public hearings on Board Order AM-17-05, related to NR 428, pertaining to NO_x RACT performance standards for major sources in Wisconsin non-attainment counties.

Larry Bruss, Section Chief, Regional Pollutants and Mobile Sources Section, Air Management Bureau stated the Clean Air Act requires the implementation of reasonably available control technology (RACT) on major sources of NO_x emissions in the moderate nonattainment counties by 2009. To develop the proposed rules, the Department used the flexibility that EPA allows in creating RACT rules. However, these proposed rules do not exceed federal Clean Air Act requirements.

The proposed RACT rules require emission limits and good combustion technology for emission units at facilities with the potential to emit of 100 tons of NO_x per year in the counties of Kenosha, Racine, Milwaukee, Waukesha, Washington, Ozaukee, and Sheboygan. The source categories include electric utility boilers, industrial sized boilers, combustion turbines, glass and steel furnaces, reciprocating engines, and other miscellaneous large combustion processes. As many as 59 emission units in these counties may be subject to the emission limits in the proposed rule. The potentially affected sources emit approximately 42,000 tons per year of NO_x (2002 emission levels). The RACT emission limits will reduce emissions by approximately 30,000 tons of NO_x per year by May 1, 2013. The maximum control cost (from uncontrolled levels) for all affected sources will be approximately \$2,500 per ton of NO_x removed. The combustion requirements may affect an additional 60 smaller emission units. The combustion requirements will reduce emissions by an additional 40 tons of NO_x per year. The Department estimates that the combustion requirements, due to the increased efficiency of the units, will actually reduce costs for affected sources by up to \$500 per ton of NO_x removed.

Of the 42,000 tons/year of emissions in the seven county area, coal fired boilers at electric utilities emit approximately 40,000 tons per year. This source category is subject to emission limits achieving 50 – 90% control at a cost between \$1,000 and \$2,200 per ton of NO_x removed. The implementation of emission limits for the electric utility boiler sector is phased-in with an interim emission limit by May 1, 2009 and the RACT emission limit by May 1, 2013 to account for engineering and equipment installation timeframes and reliability issues.

The stringency of the emission limits and the May 1, 2009 compliance date may be items of controversy in developing the RACT rules.

3.A.2, 3.A.3, 3.A.4 Part 2: Discussion

Mr. Willett asked whether CAIR is really for the benefit of Michigan. What about the federal EPA standards to the people who are delivering the pollution to us? In a less restricted environment, are we going to receive more pollutants under that provision?

Mr. Bruss stated the trading program addresses pollution in virtually all of the eastern United States. Almost all the states east of the Mississippi except for Maine, New Hampshire, and Vermont and most of the states west of the Mississippi that touch upon it. With full compliance, this will significantly improve air quality not only in Wisconsin but all over. Everybody is playing under the CAIR rules.

Mr. Willett stated Wisconsin is being more restrictive and that will benefit Michigan. What about the people who are delivering us the pollution.

Mr. Ela asked for clarification on this. He said that it was his understanding that the state budgets are determined by EPA so the amount

of pollution we are delivering to Michigan or Minnesota is delivering to Wisconsin, is a function of the state budget. What we are doing in this rule in our deviation from the federal model is the allocation within the budget. Whatever changes we make from the model rule will not affect how much pollution we are sending out and whatever modifications Minnesota makes will not affect the pollution they are sending us, correct?

Mr. Bruss agreed. EPA gave us a pie and all we are doing is slicing it up differently than EPA suggested. We are not changing the size of the pie.

Mr. Willett asked if the budget is based on what we are sending out and not what we are receiving.

Mr. Ela stated that in the budget, as he understands it, the baseline is based on what we are emitting now. The future allowances will be based upon a percentage reduction across the board. In other words, of our output, not our input. Not what we are receiving.

Mr. Willett asked if what we receive doesn't have anything to do with what we are putting out.

Mr. Bruss stated EPA leveled the playing field for all 28 states. They used an emission limit of 15 pounds/million BTU for NOx to set the first budget for everyone across the board. A state like Texas, Pennsylvania, New York or Illinois with a lot more emissions gets a larger budget but it is all based on the same amount of pollution per energy. They set the budgets that way. They then said to the states you can distribute these allowances anyway you see fit. We are proposing to take advantage of that flexibility. We are slicing the pie differently than what EPA had originally suggested. We are not changing the size of the budget. The other states are obligated to meet their budgets. For instance, Illinois will go well beyond what is needed because they negotiated some significant power plant reductions in their state.

Mr. Willett stated Minnesota is not our concern. Is it not Iowa and Missouri?

Mr. Bruss stated Minnesota was found to contribute to fine particle pollution and we currently do not have any fine particle pollution non-attainment areas in the state. They were found to contribute to Detroit and Chicago. Minnesota is not necessarily our concern. Iowa, Missouri, Illinois, and Indiana are concerns for us.

Mr. Willett asked how the Governor's proposal to redesignate southeastern counties as being in attainment will affect the RACT rule.

Mr. Bruss stated the redesignation request does not affect RACT rule. There is no effect.

Mr. Ela asked on both BART and RACT on this issue, is there ongoing litigation.

Mr. Bruss stated yes.

Mr. Ela asked if the combustion tuning element was an EPA requirement.

Mr. Bruss stated no. EPA has very little guidance on what RACT should be. It is a requirement and is hardwired in the clean air act.

Mr. Ela asked for clarification on RACT on whether the end product is a rate of emissions for a certain kind of boiler.

Mr. Bruss stated that is correct.

Mr. Ela asked if a utility has already installed major NOx controls and is meeting those limits, this does not require any further investment.

Mr. Bruss stated correct. What they do for BART may help them comply with RACT or what they do with CAIR may help them to comply with either one of those two.

Mr. Ela asked if the relationship between CAIR, BART, and RACT is that the existence of the BART requirement and the existence of the RACT requirement may influence their CAIR strategy as to where they invest to clean-up, and where they buy.

Mr. Bruss stated correct.

3.A.2 **Part 3: Public Appearance**

1. **Elizabeth Wheeler**, Madison, Clean Wisconsin spoke in general support of DNR's proposed allocation of CAIR NOx credits. However, their primary concern is with the treatment of renewable energy units. Clean Wisconsin recommends allowing existing renewable energy units to apply to the

main allocation pool. They also recommend new renewable units be afforded the same opportunity to apply to the new unit set aside as new fossil fuel units. Please consider this provision which would grant new renewable energy products the same accommodations afforded to new fossil fuel generating units.

Mr. Willett asked why we are not doing that.

Mr. Bruss stated they evaluated that and had found it extremely difficult in order to allow renewable units to participate from the new source set aside. We understand that there is an issue that it helps provide funds up front but because of the way EPA structured the rule that we are using as the basis for it, and because of some other technical difficulties, we simply couldn't comply with the request that Clean Wisconsin had. We are allowing them to draw from the main allocation pool rather than the new source set aside and are allowing them to aggregate.

2. **Bill Skewes**, Madison, WI Utilities Association stated their concerns and disappointment to the rule making process that led to the publication of this rule having repeatedly asked the DNR to move forward with adopting the federal CAIR. However, they fully support the Department's decision to participate in the CAIR emission trading program. They oppose the department's proposed emission allocation methodology and its creation of ever changing state baseline.

Mr. Ela stated in the rule there is a table for annual and seasonal NOx allowances by unit based on output. Do you find that incorrect, problematic, vague? The argument as I understand it that your association is making is there is more certainty in the calculation of heat input than electrical output.

Mr. Skewes stated that's correct.

Mr. Ela observed that the table makes allowances by electrical output. Do you challenge the accuracy of that table?

Mr. Skewes stated he would need to consult with his members to say the data is incorrect. That is not the statement we are making at this point.

Mr. Clausen asked if the federal rule called for switching to output.

Mr. Skewes stated no, it is entirely input based.

Mr. Ela said that the argument that the Association is making is that deviating from the federal model rule causes inequities. He agreed that it causes a shift in winners and losers, and asked why the proposed rule is more inequitable than the federal rule.

Mr. Skewes stated the allocation amounts remain the same within the state rule in the way the way the pie is sliced.

Mr. Ela stated that the utilities that are going to gain from the deviation from the model rule would presumably argue that the model rule is inequitable and that the state rule is more equitable. He said he failed to understand the argument that one system is inherently more equitable than the other.

Mr. Skewes stated the additional regulatory burden of compliance is part of the problem.

Mr. Ela asked why there was an additional regulatory burden.

Mr. Skewes stated because they have this moving baseline.

Mr. O'Brien stated he knows the utilities are very anxious to get these rules promulgated so that they know where to go and how to move. He has a problem with the department not getting this out until one week prior to the meeting and we have to move on it. This is an important rule. Mr. Bruss, is there justification in why we were so late in getting this done?

Al Shea, Administrator, Air and Waste Division stated that as early as February 2006 we have been talking about this rule so there have been months of negotiations and discussions. In fairness, he said certainly final product was not produced until August 2006 where the Board Public Hearing draft. Public Hearings were held in October 2006. We certainly wouldn't shoot for getting the final green sheet out one week prior to the Board meeting. It is fair to say there was some certainty as to what this whole rule in terms of the formula would look like. The reason we produced all three rules at the same time even though one for adoption, and two for public hearings all do relate to the key issue that Mr. Skewes raises in that they would like certainty not only with the CAIR rule but with the BART rule and RACT rule. Even the CAIR rule by itself is very complicated and when you try to do all three at the same time it adds to the complication. We do not disagree with Mr. Skewes' aspirations for getting a final product prior to that and normally we do that. In this case because of the complications in trying to do all three at once, we were left with that product.

Mr. Willett stated the affected parties were involved in every step. It is not as if they have not had a voice.

3. **Scott Manley**, Madison, WI Manufacturers and Commerce (WMC) stated their support for the federal model CAIR rule. It will address in a significant way the interstate pollution transport problem that we have. WMC has concerns in that the DNR rule departs from the federal model rule in significant and

inappropriate ways. Mostly the allocation of the emission allowances. The manner in which the allowances have been changed makes compliance more difficult and confusing. WMC is not sure, from their perspective, whether or not the existing allocations that are in this rule are correct. He also pointed out on the graph he handed out that shows on a utility by utility basis where each utility comes out in terms of what their allowances are versus the federal rule.

Mr. Ela asked whether it was WMC's utility members' preference that we delay this so that we can go back and instruct the department to go to the federal rule.

Mr. Manley stated their position is that they would like the Board to adopt a rule today but be open to the possibility of a revision through the legislative process.

Decision on Agenda Item 3.A.2:

Dr. Thomas MOVED, seconded by Mr. Ela adoption of Board Order AM-03-06, related to NR 432, pertaining to NO_x and SO₂ reductions from major electric generating units in Wisconsin to address interstate transport of pollutants. The motion carried unanimously by all members present. Mr. Poulson was absent.

Decision on Agenda Item 3.A.3:

Mr. Clausen MOVED, seconded by Mr. Welter, approval of request authorization Request authorization to hold public hearings on Board Order AM-04-06, related to NR 433 and NR 484, pertaining to proposed rules to require the application of best available retrofit technology (BART) to address provisions of the federal regional haze regulations. The motion carried unanimously by all members present. Mr. Poulson was absent.

Decision on Agenda Item 3.A.4:

Mr. Willett MOVED, Mr. Ela seconded approval of request authorization to hold public hearings on Board Order AM-17-05, related to NR 428, pertaining to NO_x RACT performance standards for major sources in Wisconsin non-attainment counties. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 3.A.5 (Previously listed as Agenda Item 8.A.1) Mercury emissions from coal-fired electric generating units
John Heinrich, Section Chief, Environmental Analysis and Outreach, Air Management Bureau stated the Clean Air Mercury Rule (CAMR) is a federal regulation promulgated by the United States Environmental Protection Agency (EPA). This federal regulation requires the reduction of mercury emissions from new and existing coal-fired electrical generating units through a declining cap on mercury emissions expressed as annual state budgets in two pages, 2010 and 2018. He provided background on the significant issues that need to be addressed in the development of state rules to adopt the requirements in the federal mercury rule.
- Mr. O'Brien** asked Mr. Heinrich if the Board had seen a copy of the Citizen Petition.
- Mr. Heinrich** stated he did not know. He would make it available to the Board.
- Mr. Willett** stated he did not understand why this matter has arisen since our rule went into effect in 2004. We are way ahead of everyone else. Is it not in compliance?
- Mr. Heinrich** stated it is different than the federal requirements. It differs in terms of emissions standards, compliance determination requirements, and in approach. Without some modification, it would not meet the muster that is in the federal clean air mercury rule.
- Mr. Willett** asked if our requirements less stringent than their proposal.
- Mr. Heinrich** stated it is difficult because to make a direct comparison. In our state rule we only dealt with existing coal-fire boilers in the state. Under the federal rule, they include growth under their state budget emission caps. That is very significant. Capping growth makes a lot of difference in the terms of the ability to compare and where you go in terms of mercury reductions. Mr. Heinrich stated that the EPA's Clean Air Mercury Rule is being challenged by 15 states including Wisconsin and a number of tribes and environmental groups.
- Mr. Willett** asked how that impacts us. Delay will cause further pollution and we want to move forward in a timely and efficient manner. What difference does it make what happens to the lawsuit?
- Mr. Heinrich** stated we have a state rule in effect and we would continue to implement it. He did not know what the federal court's options are. They could vacate the rule and, send it back to EPA for reasons that would perhaps force them to redo the entire rule or portions of the rule. We have waited so long to address mercury that would be unfortunate.
- Mr. Willett** asked how it would affect us locally, within the state of Wisconsin.
- Mr. Heinrich** stated the state rule would continue to be in effect.

Mr. Ela stated that to him the most significant aspect of the litigation is that it could throw into confusion the truing up provision of the administrative code.

Mr. Heinrich agreed.

Mr. O'Brien asked what the timetable is for presenting this as a rule.

Mr. Heinrich stated our timetable is we are hoping to come back in February, 2007.

Mr. O'Brien stated as a request to go to public hearing.

Mr. Heinrich stated yes. This is very similar to not as what Mr. Bruss is facing in the CAIR RACT and BART situation. If we do not want a federal program in Wisconsin we need a state mercury program. EPA is going to give us additional time to do this and are going to want to see us move timely in that regard. The utilities are certainly going to want to know what requirements are in the state rule.

Mr. Ela observed that this agenda item was for informational purposes only, so Board action is not appropriate at this time. However, he wanted to state that there were several elements that he as an individual Board member with a long interest in this area wished to see in the mercury rule as it goes to public hearing. First, if the utilities need interstate trading as a short-term stopgap, the interstate trading system should sunset as quickly as practicable. There should not be a role for interstate trading in the long-term. Second, if intrastate trading is permitted, either within a utility system or between utility systems, there should be maximum emissions standards to prevent "hotspots" that are deleterious to public health or cause excessive deposition in nearby public waters. Third, there should be a commitment of ultimate reduction of mercury by at least 90% by a date certain, though we are not in a position to say now how that should be achieved. He suggested that the Department return do the Board in a timely fashion, perhaps in 2010, with a plan to achieve at least 90% reduction. Fourth, he requested that the Department periodically report back to the Board on the status of mercury reduction, perhaps every two years. Fifth, consideration should be given to a system of incentives that would reward utilities that reduce mercury emissions faster or to a greater extent than required by law.

Mr. Welter asked to the process of a health risk assessment or a finding that we have a health risk that is being caused by mercury, what is the length of time to go through that process.

Mr. Heinrich stated this will be the first time we have addressed this statutory requirement and we want to address it with integrity. In terms of the timing of doing it, we can not do it in one month. Anyone that has been engaged in health risk assessment knows there are a lot of elements associated with it. From a staff perspective, our best guess is within nine months.

Mr. Welter asked if they were contemplating using a parallel track then

Mr. Heinrich stated that in the timeframe, certainly the implication of the statutes is this is part of your public discussion.

Mr. Shea stated they would suggest that we do have an excellent starting spot on health risks with mercury. He totally agrees with Mr. Heinrich's point that we would want to do this with integrity but I think we could accelerate that because obviously there lots and lots of information available. Our challenge would be to put that in the context of Wisconsin.

Mr. Ela asked what is the procedure for responding to the petition.

Mr. Heinrich stated reasonable response. Quite frankly, we need an opportunity to see it plays out. We know what it wants. We also know there may be some barriers to achieving everything petitioners are asking for.

Mr. O'Brien asked if the petition just came in.

Mr. Heinrich stated yes, on Monday.

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

3.B.1. Adoption of Board Order FH-35-06, related to NR 25, pertaining to commercial chub fishing – outlying waters of Lake Michigan.

Michael Staggs, Director, Fisheries and Habitat Bureau, stated that the proposed rule would repeal a sunset clause pertaining to commercial fishing for chubs in Lake Michigan. NRB Order FH-34-01 revised commercial fishing depth limits, but included a sunset provision by which the changes would expire on July 1, 2007. The proposed rule would allow the present rules to continue indefinitely. Under those rules the minimum depth for commercial chub nets is 45 fathoms from January 16 through April 25. If the proposed rule is not adopted and the sunset clause is allowed to take effect, minimum depths would vary by area and season; during January 16 through the end of February the minimum depth would be 55 fathoms in the northern chub fishing zone and 60 fathoms in the southern chub fishing zone and during March 1 through April 25 the minimum depth would be eliminated.

Mr. Welter MOVED, seconded by Dr. Thomas adoption of Board Order FH-35-06, related to NR 25, pertaining to commercial chub fishing-outlying waters of Lake Michigan. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 3.B.2 Adoption of Emergency Board Order FR-11-07(E) and request authorization to hold public hearing for Board Order FR-09-07, related to NR 45.075, pertaining to management of forest emergencies by the chief state forester.

Andrea Diss-Torrance, Gypsy Moth Program Coordinator, Forest Sciences Bureau stated through the 2005 Act 166, the legislature has directed the department to promulgate rules to implement its provisions pertaining to the chief state forester's authority to specify emergencies on forested lands under the jurisdiction of the department. The Act provides that the rules shall be initially adopted through the emergency rule process followed by promulgation of the permanent rule. The Act also provides the emergency rule shall not lapse prior to promulgation of the permanent rule and requires no finding of emergency.

This rule describes causes of unforeseen damage or threat of damage to trees that could lead the chief state forester to declare an emergency on forested lands under department jurisdiction and take management authority. Included in the list of damaging agents that could lead to the declaration of an emergency are those specified by the legislature: invasive species, pest infestation, disease, and damage to timber from fire, snow, hail, ice, or wind. The rule states that when declaring and responding to an emergency, the chief state forester shall consider the purpose and management plan for the affected property in his or her decisions.

This rule, however, would allow the chief state forester to take actions not described in the management plan for a property if that were the most appropriate response to the emergency. Finally, this rule describes the processes by which the declaration of the state of emergency shall be made effective, canceled or modified.

Mr. Welter MOVED, seconded by Mr. Ela adoption of Emergency Board Order FR-11-07(E) and approval of request authorization to hold public hearing for Board Order FR-09-07, related to NR 45.075, pertaining to management of forest emergencies by the chief state forester. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 3.B.3 Adoption of Emergency Board Order FR-01-07(E) and request authorization to hold public hearings for Board Order FR-02-07, related to NR 1, pertaining to contracting for timber sale setup assistance.

Paul Pingrey, Staff Specialist, Forest Management Bureau stated Section 28.025, Wis. Stats., created by 2005 Act 166, directs the Department to establish an annual allowable timber harvest for state forest lands. The statute instructs the department to develop a timber sale contracting program with private "cooperating foresters" for assistance in meeting allowable harvest goals. The proposed rule in section NR 1.26 would identify timber sale related tasks that could be contracted and a method for calculating the portion of timber sale revenue that would pay for the services. Section NR 1.21(2)(e) would also be revised to make the educational requirements for cooperating foresters consistent with those for department foresters under - 28.045(1), Wis. Stats.

The timetable established by 2005 Act 166 necessitates an emergency rule to be followed by the permanent rule making process.

Mr. Willett stated we are in the process of looking at redoing Stewardship. One of the real criticisms of Stewardship is that once we have the lands, management is becoming an economic burden on us and we have not been able to meet those challenges. Is there an opportunity to use what we are doing here to integrate further Stewardship with this concept?

Mr. Pingrey stated that is precisely the concern the legislature was trying to address. The normal budgeting process of asking for new positions, asking for operating funds is difficult sometimes to happen in a way that you need to get all the resources to manage this land. This tool provides a new technique outside of the traditional budgeting process to provide the department with those resources to manage the land through contract.

Mr. Ela observed that the statute and proposed rule only affected a rather narrow sector of management.

Mr. Ela asked whether the reconnaissance would include such things as wildlife inventory or rare and endangered species, or whether it would simply be a timber stand inventory.

Mr. Pingrey stated it is based on vegetative cover. It is not just the timber, it is any of the land that is out there. It is mapped and put into a database that they can analyze.

Mr. Willett stated this is an opportunity as we look at Stewardship to take this concept and expand it.

Mr. Clausen asked if they plan on having private consultants do the reconnaissance also or is that going to be department staff and who will then set what the allowable timber harvest is and how, if that is not our department staff, will that fit into the management plans for that particular piece of property.

Mr. Pingrey stated that was one of the concerns when Act 166 was passed and an issue that we are to address in this rule. The rule really does define that contracting is only for technical services. The department retains the authority to determine what the allowable harvest is. The allowable harvest still has to be consistent with master plans and the purpose for which the land was acquired. The Department retains the authority to approve harvest to determine what is going to be set up, what is going to be advertised, and then it is also responsible for maintaining quality control over the work the contractors are doing.

Mr. Clausen asked that you are looking at about \$3 in revenue generated for every \$1 we spend in contracting. He had several timber sales on his land and normally hire private contractor for somewhere between \$10-\$12 and it gets pulpwooded particularly low, maybe 15%. Why are you looking at least double those figures?

Mr. Pingrey stated he would need to look at all the analysis that went into the projection. It is not all directly tied to marking trees, there are also costs associated with reconnaissance and verifying whether or not the sale activities that are scheduled are needed. Some of the work that is done under this provision doesn't directly result in timber being sold. It will also be based on bidding.

Mr. Ela stated that under the structure of this law, the charge-out for this would not go to the Division of Forestry, but to the land management unit – the state park, the natural area or wildlife area. Has that been solved?

Mr. Pingrey stated the cost would be deducted from the income that is coming in from sales on those properties.

Mr. Ela stated that currently, as he understands it from the fiscal note, that is part of the budget of the Division of Forestry. It would appear that there was a shift in cost allocation for these services from the Division of Forestry to the land managing agency where the timber sale is taking place.

Paul DeLong, Administrator, Forestry Division stated in a narrow sense that is true, but keep in mind that basically with what occurs today it is a capacity question because a lot of this is simply not being done. The need is not being accomplished. The work that will be done for this is otherwise further delayed. In that respect, it is not really a cost share and in the net result would be enhanced revenue to Fish & Wildlife and Parks. Because of the fact that more work is designed to be done there is more revenue coming in. This whole concept the way the Legislature set this up was it is paying for something off revenue source rather than the current system which has revenues completely separated from costs.

Mr. Ela inquired whether (outside of the context of this rule) this Act actually requires you to inventory every 10 acre wooded parcel that is owned by the state and justify on a 10 acre basis to the Forestry Council those that are not appropriate for timber management?

Mr. DeLong stated that was the original draft and we did successfully get that revised during the Legislative process so that we could consolidate ownership.

Mr. Welter MOVED, seconded by Mr. Ela adoption of Emergency Board Order FR-01-07(E) and approval of request authorization to hold public hearings for Board Order FR-02-07, related to NR 1, pertaining to contracting for timber sale setup assistance. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.4 Request authorization for public hearings of Board Order FR-03-07, related to NR 1.212, pertaining to the referral of private timber sale request to cooperating foresters.

Paul Pingrey, Staff Specialist, Forest Management Bureau stated the Department proposes revision of the private forestry policy to require referral of all timber sale requests from private landowners to cooperating foresters. DNR foresters would not provide timber harvest set up assistance to private landowners, regardless of the size of the forest tract, unless help is not reasonably available from private enterprise cooperators. By limiting DNR forester assistance on private lands, they may direct further efforts to DNR lands and addressing the allowable cut as provided for in 2005 Act 166. Groups likely to be affected or interested include- private woodland owners, cooperating foresters and forest industry.

Mr. Ela asked if this is all private lands or MFL private lands.

Mr. Pingrey stated it applies to all private lands.

Mr. Ela asked if it is MFL private lands, do these cooperative foresters have an obligation to make sure that the cut is in conformity with the MFL plan.

Mr. Pingrey stated yes and any proposed harvest on MFL lands has to be approved by the department. There is a cutting notice in the report process.

Mr. Willett MOVED, seconded by Dr. Thomas approval of request authorization for public hearings of Board Order FR-03-07, related to NR 1.212, pertaining to the referral of private timber sale request to cooperating foresters. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.5 Request authorization for public hearing of Board Order WM-14-07, revisions to NR 10, 15, 17, and 19 related to annual Wildlife Management Spring Hearing rule changes.

Scott Loomans, Natural Resources Staff Specialist, Bureau of Wildlife Management stated that the following rule changes are proposed for inclusion on the wildlife portion of the 2007 Spring Hearing Questionnaire:

- Reduce the number of Turkey Management Zones from 46 to 7.
- Rename Bear Hunting Zone A1 as Zone D.
- Eliminate the open season for jackrabbits.
- Establish a non-resident trapping season for raccoons.
- Legalize the use of shotgun slugs for hunting species other than game birds and allow buckshot for hunting bobcat.
- Require the use of blaze orange on ground blinds used on department lands.
- Prohibit deer feeding near residences and businesses when that feed is being used by bear or elk.
- Prohibit open water hunting in a portion of pool 11 on the upper Mississippi River National Fish & Wildlife Refuge.
- Create closed areas, modify current boundaries on the Upper Mississippi River National Fish and Wildlife Refuge.
- Establish a closed area and special season in a portion of Pool 10 of the Mississippi River National Fish and Wildlife Refuge.
- Expand the times for use, cable standards and species for which cable restraint devices may be used.
- Establish fees for the course of instruction under the Cooperative Trapper Education Program.
- Apply current trap size, type, and placement standards to licensed wild fur farms.
- Create an archery season for deer and special tagging options for DMU 79, Apostle Islands National Lakeshore.
- Create 9-day, shotgun and eliminate muzzleloader season at Brunet Island State Park.
- Create a 9-day shotgun season for deer at Lake Wissota State Park.
- Establish a 2:00 p.m. closing time for hunting pheasants at Pine Island and Mud Lake Wildlife Areas.
- Create a limited pilot program hunting wild turkeys with dogs during the fall season

Mr. Willett stated his interest in pool 10, Guttenberg Iowa. He asked if it has been determined who has jurisdiction over the new islands that they have created for habitat.

Mr. Loomans stated he was not familiar with those new islands. He doesn't recall working on a map to make them a refuge.

Mr. Willett asked regarding the Apostle Islands receiving a special tag option, are we doing that in conjunction with federal or are they letting us do that.

Mr. Loomans stated we are doing that for them. We will have the season established in our administrative code and the tags. There are some other issues I have heard about. We are not having any regulations in our books on access. It is their private property and we know this proposal doesn't get into that at all.

Mr. Willett asked if Mr. Loomans had been working with them on the structure of the season.

Mr. Loomans stated yes.

Mr. Willett asked why the muzzleloader season on Brunet Island was eliminated. There are many deer there.

Mr. Loomans stated the way it was explained to them; the Parks thinks they will have a more intense season and more people hunting there if they expand to other types of firearms which creates more hunter interest.

Mr. Loomans asked to add advisory questions on experimental fall turkey hunting with dogs provision. We were asked if they could add Juneau County to the provision since printing the green sheet. That is one of the county's that has supported this in the past when it was asked as an advisory question. We should have had it in originally. We were working off of several different proposals and we did not get Juneau County in the final.

Dr. Thomas asked if this was a typo.

Mr. Loomans stated yes.

Mr. Loomans asked to add advisory questions on Canada Goose Hunting to this authorization. He stated he handed out a department advisory question relating to Canada Goose hunting season. This is brand new

information. It is a new option that was given to us by the Fish & Wildlife Service in other states in the flyway. We would like to ask hunters which option they prefer for the exterior zone season if they have 85 days with 2 birds each day or 92 days with 1 bird each day for the first 22 days of that season. We would also like to add that one in.

Dr. Thomas MOVED, seconded by Mr. Welter as amended approval of request authorization for public hearing of Board Order WM-14-07, revisions to NR 10, 15, 17, and 19 related to annual Wildlife Management Spring Hearing rule changes to include three advisory questions 1) Amend local question 5 and Section 16 to include Juneau County in the fall turkey hunting with dogs experiment, 2) Amend statewide question 7 and Section 30 so that blaze orange will not be required for waterfowl hunting blinds and for clarity, and 3) Establishing stable Canada goose hunting seasons.

Mr. Clausen asked to add in two advisory questions 1) Use of non-toxic shot on department lands for dove hunting and 2) Use of non-toxic shot on department lands.

Mr. O'Brien stated we have the department's proposals which are on the green sheet and to that we have added a number of additional advisory questions which was included under Dr. Thomas' motion. The two lead shot advisory questions are intended as an amendment to Dr. Thomas' motion.

Mr. Clausen stated if it will fit there, yes, that is his intention.

Mr. Clausen MOVED, seconded by Mr. Ela to amend motion to include two advisory questions 1) Use of non-toxic shot on department lands for dove hunting, and 2) Use of non-toxic shot on department lands. The motion carried unanimously by all members present. Mr. Poulson was absent.

Mr. Welter stated he circulated an advisory question related to ask whether people support background checks being required of angler education instructors similar to those that are required now of hunter safety instructors, boating safety instructors, and trapper safety instructors.

Mr. Welter MOVED, seconded by Dr. Thomas to amend motion to include advisory question Do you support requiring that before they receive DNR certification, Angler Education Instructor candidates be required to pass a background check similar to those required of hunter and boating safety and other DNR-certified instructors. The motion carried unanimously by all members present. Mr. Poulson was absent.

Public Appearance

1. Ed Harvey, Waldo, Conservation Congress Chairman reaction to 3.B.5, 3.B.6 and introduction of Conservation Congress Questions and recent Executive Council action. He handed out a packet from the Conservation Congress. One of the issues has to do with the Upper-Mississippi CCP. They are asking that informational meetings be held in counties located near the river in advance of the of the Spring Hearings in order to get the word out.

Mr. O'Brien stated we will go back to the motion which had been seconded and attach all the amendments.

The original motion passed, as amended. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.6 Request authorization for public hearings of Board Order FH-15-07 related to annual Fisheries Spring Hearing rule changes.

Joe Hennessy, Natural Resources Staff Specialist, Fisheries Management and Habitat Protection Bureau stated that the Bureaus Fisheries Management and Law Enforcement propose to hold public hearings on recommended fishing regulation changes at the Spring Fish and Wildlife Hearings, April 16, 2007. These proposals were suggested by Fisheries Management and Law Enforcement staff to address fisheries management and law enforcement issues. The proposals were reviewed and developed by the Bureau of Fisheries Management with input from Law Enforcement, Legal Services, and considerable public input. Many of these proposals have been discussed with committees or county delegations of the Conservation Congress.

At this time, the Department proposes to solicit public comment on three questions of statewide interest:

1) to eliminate the restriction on maximum allowable size of landing nets; 2) to implement a 50" minimum size limit in Wisconsin waters of the St. Louis River, to match action taken by the State of Minnesota, and 3) to require that spears and arrows used for fishing have barbed tips. The Department will also seek comment on approximately 34 questions of local interest, which propose to make modifications to daily bag and size limits for specific species in specific water bodies.

The Department further proposes to offer three questions as Department advisory questions: 1) to extend the open season for muskellunge to December 31 in waters south of Highway 10; 2) to gauge public interest in requiring quick-strike rigs with live bait larger than 8 inches in total length; and 3) to create a legal definition of "guide" and create record keeping requirements and inspection authority. The latter question would require legislative action to initiate.

Mr. Willett asked what the St. Louis River requirement now.

Mr. Hennessy stated 34".

Mr. Willett stated 50" would put it out of the game.

Mr. Hennessy stated that the states of Wisconsin and Minnesota both feel it has the potential to grow fish to that size.

Mr. Willett stated there are three counties that are affected by the size requirement: St. Croix, Burnett, and Polk. Why just St. Croix?

Mr. Hennessy stated it was a question generated by our local fisheries biologist and he thought at this point the idea is to see how it works in St. Croix county.

Mr. Welter asked if Mr. Hennessy had the capability of amending a word or two.

Mr. Hennessy stated yes.

Mr. Welter stated you may want to leave out the word unanimously supported or the vote of 51-8.

Mr. Hennessy thanked Mr. Welter.

Public Appearance

1. **Ed Harvey**, Waldo, Conservation Congress Chairman stated they had the opportunity to review the fisheries questions and they support the entire package.

Mr. Welter asked about Congress procedures. Does the Executive Council collect the questions from the study committees, review them, and add its own questions, and then come up with this list?

Mr. Harvey stated all those things are true. Generally, all questions are referred to a study committee other than the Executive Council. In some cases, if timeliness is an issue, they go directly to the Executive Council.

Mr. Welter asked if you still have the latitude, for instance of #13 on the Turkey, to rewrite that because it appears to be based on a factual misunderstanding.

Mr. Harvey stated yes.

Mr. Welter stated that may be a way to approach from the perspective of "do you support a legislative change to allow this rather than ending the DNR's ban by rule" would be a more accurate statement.

Mr. Harvey thanked Mr. Welter for pointing that out and stated they could take care of the rewording.

Mr. Willett MOVED, seconded by Mr. Clausen approval of request authorization for public hearings on Fisheries Management rule proposals at the 2007 Spring Fish and Wildlife Rules hearings. The motion carried unanimously by all members present. Mr. Poulson was absent.

Mr. Harvey stated that he had a couple of actions that the Council took some of them which were significant and are also in your package. They talked about The Mississippi River comprehensive conservation plan. Another one they talked about is the baiting and feeding ban. The big game committee voted unanimously to recommend a statewide ban on feeding and bating with an exception of cases where it might be needed as a management tool by the department. The Executive Council voted 19-4 to pursue that. Depending on what happens now as far as other organizations that may want to weigh in on this, we are hoping that it will fire up a legislative change. They are hoping it may be introduced this fall and passed this year. They hope the NRB would weigh in on that and support it.

Mr. Harvey stated there have been roadblocks put up to the Federal gray wolf delisting. They are hoping the NRB would demand publication of the rule as it is currently presented. That will take us back where we were a couple years ago. They would like to see this go ahead now. He was under the impression it would be delisted yet this month. It appears that will not happen.

Secretary Hassett stated he called the head of the Fish & Wildlife Service last week to urge them to get on with this because we thought it was imminent and then we heard it would be three more weeks. He wanted to emphasize how important it was and left a personal message to try to get a decision on this.

Dr. Thomas asked if the Governor sent a letter on this.

Ms. Osterndorf stated they have assurances from them that it is imminent.

Dr. Thomas asked if it doesn't turn out to be imminent if the NRB should send a letter going along with what the Congress has asked for . If something doesn't happen within the next couple weeks, Mr. Hassett or Ms. Osterndorf needs to contact NRB to move forward with a letter. She asked the NRB members if they agree with this.

NRB members agreed.

Mr. O'Brien asked if the department should soon be coming up with a plan.

Ms. Osterndorf stated they have had meetings with wildlife management, endangered resources, and enforcement to work on the transition so we are working ahead on that.

Mr. O'Brien asked what would be a timetable for that assuming they did get delisted in the next month.

Ms. Osterndorf stated they were mainly speaking of implementation. How they would implement our Wolf Management Plan which was adopted previously, consistent with that plan. They weren't planning on coming back to the NRB and were planning on implementing what the NRB approved.

Mr. Harvey stated his support of a letter from the NRB on the wolf issue if publication doesn't become imminent.

Mr. Harvey stated his last item was the Stewardship reauthorization. The NRB should all have the letter they sent to the Governor's office. It appears as though there is a group of legislators who would like to give Wisconsin residents the great gift of early reauthorization of Stewardship. It also appears those people are a group that are able to do that and we certainly hope the NRB will support them in having reauthorization included in this years budget.

Mr. O'Brien stated Stewardship is an item for information on today's agenda.

Mr. Willett stated he would like to take this opportunity right now to resign from the Board effective immediately. He has a gift to the Board members. He requested the Department to prepare a map which basically reflects the purchases of the Department and their acquisitions in his 16 years on the Board. He stated he would hope you would receive this with the understanding that he is not taking any credit for it but is very proud of it. The Department has given him an opportunity to make a significant contribution to the state of Wisconsin and is sharing that with you.

Secondly, Governor Doyle has promised that he will return the appointment of the Secretary to the Board and he assumes the Board will support him on that. Finally, when you work with Stewardship, he is very proud of what the Board has done. Management is always an issue and he was very pleased to hear that there are some alternatives or new thoughts on how that is done. One of the things in the north that is a concern is these properties aren't being managed once they are acquired. He hopes that when property is acquired it includes a management concept that we can afford.

Mr. O'Brien stated on behalf of the Board and the Department, Mr. Willett has been a tremendous resource and a tremendous asset to this Board, the Department, and the state of Wisconsin in your 16 years. You asked the tough questions. You were effective and we hope you are able to continue performing services for the public as you have in the past and we will represent the plaque that was given to you last night. To Steve Willett, Natural Resources Board, May 19, 1991 – January 24, 2007. Good luck to you.

Mr. O'Brien invited Jane Wiley to join the Natural Resources Board immediately after lunch as our new Board member. We look forward to having Mrs. Wiley on the Board.

Mr. O'Brien adjourned for lunch and stated the Board will return at 1:00.

3.B.7 Approval of the invasive species legislative proposals.

Paul DeLong, Administrator, Forestry Division stated that under section 23.22, Stats., the Department is required to establish a statewide management program to control invasive species. In consultation with Wisconsin's Council on Invasive Species, Department staff and a representative from DATCP are drafting administrative rules to prevent the introduction and spread of invasive species in the state.

During the rule drafting, the Department's current invasive species legal authority was reviewed and invasive species laws in other states such as Minnesota and Michigan were also examined. Possible deficiencies or gaps in our laws were identified. To address these potential problems and enhance the Department's ability to comprehensively control and manage harmful invasive species, remedial legislation is recommended.

Mr. Ela asked what distinguishes a noxious weed from other unpleasant vegetative invasives.

Mr. DeLong stated, and Ms. Osterndorf will refer to this later, that some of the work being done by the Invasive Species Council is to designate invasives by different categories in terms of their impact.

Mr. Ela asked what the current definition of a noxious weed is.

Mr. DeLong stated he thought they took three weeds that were particularly harmful from an agricultural

standpoint and those were just designated. To his understanding, these three items were very harmful for agricultural producers and those were designated. He wasn't familiar with other criteria than that.

Ms. Osterndorf stated in order to encourage composting and avoid using landfill space, current law prohibits the use of yard waste from being sent to solid waste disposal facilities. Unfortunately, the spread of invasives is through seed and is encouraged through the use of composting. This piece would allow clearly marked invasive plants to be disposed in a landfill.

Mr. Ela asked if Ms. Osterndorf had talked with Air and Waste about this because the current waste policy is to keep all organic material out of landfills.

Ms. Osterndorf stated yes.

Kelly Kearns, Plant Conservation Program Manager, Endangered Resources Bureau stated they currently have accepted having a temporary allowable exemption and have told landfills and haulers that they can accept these temporarily until the laws change. They would be clearly marked.

Todd Ambs, Administrator, Division of Water stated that Wisconsin has a number of waterbodies in the state that have significant aquatic invasive species in them and we have grants that are available to work on those activities. They are trying to expand the eligibility for those grants. Under their proposal, it would increase the state cost share from 50 to 75% and would expand the eligibility to non-profit conservation organizations and lake associations. The changes overall would make the program consistent with lake planning grants and river planning grants as well. There is some concern about the language in the eligibility in the term "qualified lake association." From the Department standpoint, we are very comfortable with that definition. It is a definition we use for other lake planning grants. To be a qualified lake association, you have to allow any individual to be a member who for at least one month each year resides on or within one mile of an inland lake for which the association was incorporated or allowed to be a member any individual who owns real estate on or within one mile of the inland lake for which the association was incorporated. The thought process behind this is if you are going to allow public funds to go to non-governmental organizations for activities in public waters, the least we can do is require that those associations be open to the public to be able to join.

The next area is on the transport of boats, trailers, and boating equipment. There is no secret that we have a lot of aquatic invasive species in this state and that we have significant problems in hundreds of water bodies. We still have the overwhelming majority of our rivers and lakes that do not have a lot of these aquatic invasives. Keeping them from spreading is one of the most important things we can do when dealing with aquatic invasives. We asked in the proposal to make it illegal to transport and for additional capabilities to do inspections, and to keep that transport from one water body to another from happening. The proposal would also expand coverage to include all aquatic invasive species, not just plants. This extends to aquatic invasive animals but also specifically, due to a drafting error, we actually have laws on the books that only ban the launching of a boat trailer or equipment with attached Zebra Mussels in the St. Croix River. He then spoke more on increased penalties and of the ballast water vector. A preferred approach on the ballast water issue is either a regional or a federal solution. Several bills were introduced in the last legislative session and we expect there will be more. We will be actively involved.

Congressman Oberstar, senior Democrat on the Transportation and Infrastructure Committee, announced last week that he is going to have a hearing on how we move forward National Ballast water legislation.

Mr. Clausen asked if it would be worthwhile to have the Board or the Department send a letter to Congressman Oberstar urging him to take action on this.

Mr. Ambs stated it would not hurt at all if you want to reinforce this. There is no question the Department will be involved in that hearing. Reinforcement from the Board on this important issue would be great.

Mr. O'Brien stated Mr. Ambs could contact the next chair and assist in writing the letter.

Mr. Welter asked about the rule making procedures. This appears to say that instead of having emergency rules that automatically expires after a certain time period that the relationship of the invasive species affecting emergency rules would stay in effect until modified or repealed by the Board.

Ms. Osterndorf stated yes. That is in recognition of the amount of time it takes to get a permanent rule in place.

Mr. Welter asked that we say that this proposal would create non-statutory language and allow us to do that.

Tim Andryk, DNR Attorney stated that it becomes part of the bill that is passed and there is a section of the bill that is considered non-statutory language. It doesn't go into the bound copies of the statute. It is attached to the Bill, signed by the Governor as part of the whole Bill, and it gives us authority to do some things we do not have. It expires when we have a permanent rule that replaces the emergency.

Mr. Ela asked where the process stands with your discussions with the legislature.

Mr. Ambs stated that the ballast water piece will move forward separately.

Dr. Thomas stated she thought the fines were too low for the invasive species transport penalty. If you

shoot a deer out of season it is an approximate \$2,000 fine and in this scenario it is \$200 fine for doing something that will change forever a lake ecosystem and devalue the property of all the people that live around it.

Public Appearances

Mr. O'Brien stated each presentations is limited to 3 minutes this afternoon due to the quantity.

1. **Peter Murray**, Madison, Executive Director of the Wisconsin Association of Lakes (WAL) stated WAL recommends to the Department to pursue this legislative package to eliminate the deficiencies and gaps in the existing law that impedes the Department's ability to combat invasive species. They specifically endorsed items 2, 3, 9, and 10.
2. **George Meyer**, Madison, Wisconsin Wildlife Federation (WWF) stated the fishing community will support very strongly the requirement to drain all water from livewells, etc. WWF supports invasive species legislation and stated support on the ballast water provision.
3. **Charles Dykman**, Monona, representing self asked to expand the eligibility for invasive aquatic help to include non-qualified lake associations, specifically the Yahara Lakes Association, to have the opportunity to obtain a grant to attack Eurasian Water Milfoil.
4. **Joe Tisserand**, Board Member of the Yahara Lakes Association (YAL) stated they request reasonable consideration to at least be eligible for the grants despite the fact they are not a qualified association.

Mr. Ela MOVED, seconded by Mr. Clausen approval of the invasive species legislative proposals. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.8 Approval of continuation of Department's Mute Swan Control Policy

Ms. Osterndorf, Administrator, Division of Land stated the Department's recommendation is to continue the current policy and asked to give a brief follow-up after the presentation.

The Board Agreed.

Ricky Lien, Wildlife Biologist, Wildlife Management Bureau stated the NRB had asked for a review of the Department's mute swan control policy and to report on the effects of the policy, which was initially implemented in 1997 and revised in 2002. Department staff assessed the results of mute swan control efforts and found that from 1997 through 2006 (excepting 2004), Department personnel added (largely by injection of corn oil-based solution, shaking) 556 eggs, and shot and disposed in landfills 553 adults and 47 young statewide.

Overall, the Department's control policy has been very effective in checking the population growth of breeding mute swans. In 1996, one year before control began, there were 340 adult/subadult mute swans in the state. By spring/summer 2006, there were 141 that Department staff had counted statewide, with about 88% of these in southeastern Wisconsin (Waukesha, Walworth, Racine, Kenosha counties).

The Department recommends that the Natural Resources Board continue the current policy because the present course is effective in reducing the spread of this exotic species in the state. This is especially true at a time when the Department is apparently dealing with a manageable number of probably fewer than 150 breeding birds. Accordingly, the Department recommends that the NRB policy toward mute swans be unchanged from that in 2002: to remove all free-flying mute swans from Wisconsin, except for the two-township (Waterford and Rochester) area of northwestern Racine County. The Department requests that it report back in 3 years to provide a program review and update.

Some citizens from southeastern Wisconsin continue to voice disapproval of the Department's mute swan control policy because they see no reason that mute swans should be removed from the wild.

Mr. O'Brien asked in the areas where the swans were removed, can you demonstrate that the other wildlife have improved and that the vegetation has improved. Do you see some positive things from that?

Mr. Lien stated they had not looked at this quantitatively but one of the key considerations in establishing the policy concerns about Mute Swan versus Trumpeter Swan interaction.

Ms. Osterndorf stated this is their biological perspective of the effectiveness of the Mute Swan Policy. They also understand this as a sociological impact as well. The Department offered to speak after the Public Appearances to answer additional questions.

Public Appearances

1. **Senator Mary Lazich**, 28th Senate District, New Berlin, she joined the excepted townships, Waterford and Rochester, in requesting the NRB to continue the exception, as recommended in the Department's

- December 26, 2006 memorandum. She asked that Phantom Lake be added to the exception, and stated that the NRB should look into Canada Goose control rather than Mute Swans.
2. **Representative Robin Vos**, 63rd Assembly District, Racine stated he represents the town of Norway and the village and town of Rochester. He asked for the NRB 1)to consider exempting the areas of Waterford and Rochester and adding in some of the other areas to consider and 2) look at a population growth control policy rather than an elimination policy.
 3. **Joe Johnson**, Michigan, Chairman of the Mississippi Flyway Swan Committee and the Michigan Trumpeter Swan Restoration coordinator distributed handout and described the health and public safety concerns of Michigan citizens where they were overtly attacked. He then commented on Michigan's successful program.
Mr. Welter asked for the impact on the plant community in the lakes in the handouts.
Dr. Thomas asked if there are actually peer-reviewed published studies that document damage.
Mr. Johnson stated he was sure they are on Chesapeake Bay, perhaps some on the Lake Erie marshes on Long Point.
Mr. Welter asked what you have observed as to those impacts on the aquatic plant community.
Mr. Johnson has only done food preference studies on the Mute Swans and Trumpeter Swans. You have a good program, stay the course.
 4. **Jim Farnum**, Waterford, representing himself stated he wants the Department to desist in their program.
 5. **Patricia Kujawa**, Town of Mukwonago, representing herself stated she is requesting the exemption to be extended to Phantom Lake. She displayed photos of Mute Swans and Trumpeter Swans together.
Mr. Welter asked for clarification on if she would have the NRB suspend the Mute Swan control policy that has been adopted by this Board.
Ms. Kujawa stated her position is yes, she would endorse that and requested that Mute Swans not be eradicated.
Mrs. Wiley asked if they are tame, if they count the Mute Swans as family pets, and if they feed them.
Ms. Kujawa stated yes they are tame and do not count them as family pets, just lovers of nature. They do feed them.
 6. **Dick Koerner**, Neenah, Chairman of the Migratory Waterfowl Committee of the Conservation Congress stated the Mute Swan is a non-native, aggressive, and invasive exotic species. He stated the Mute Swans are preventing the Trumpeter Swan population from growing. He asked the Board to support the Department policy on the control of Mute Swans and the federal court's affirmation that non-native species may be killed.
 7. **Bill Mueller**, Milwaukee, Conservation Chair of the Wisconsin Society for Ornithology stated policy should be based on science and the effort to control exotic species in general. It is their position that continuing to base management decisions on sound scientific research is in the best interest of Wisconsin's wildlife resources and citizens. Wisconsin should act now to prevent a further expansion of the population of Mute Swans.
 8. **Maureen Gross**, Town of Mukwonago, representing self stated there is a lack of consistency. Why does the DNR want to kill off one non-native species and actively reintroduces another species? She distributed maps on Mute Swan concentrations.
Mrs. Wiley stated there is overlap in some areas on the map. If you had to chose between a Trumpeter and a Mute, what is your choice as a professional.
Ms. Gross stated that from what she has seen they get along peacefully. Somewhere along the line, Trumpeter Swan Cygnets disappear, possibly by snapping turtles. The adult Mute Swans carry the cygnets on their backs.
 9. **Jean Jacobson**, Wind Lake, representing herself, distributed handouts and stated the Mute Swans help control the Canada Goose population. She does not support the destruction of the Mute Swans. She asked the Department to work with concerned municipalities to a better resolution. There are only two birds on their lake.
 10. **Sandy Ruffalo**, Mukwonago, representing herself (gave up time for #8)
 11. **Grace Graham**, Mukwonago, representing herself stated the ethnic cleansing of an entire species in order to promote the introduction of a Trumpeter is morally wrong. Save the Mute Swans from ethnic cleansing.
 12. **Ramza Pogachar**, Camp Lake, representing herself stated she can see a control issue but not zero eradication.
 13. **Sue Farra**, Camp Lake, representing herself distributed handouts and said that to eliminate Mute Swans in hopes that another kind of swan might enter the region makes no sense. She asked that the program to eliminate Mute Swans be discontinued.
 14. **Fred Malesvich**, Mukwonago, representing himself (gave up time for #8)

15. **Danielle Nelson**, Mukwonago, representing herself (gave up time for #5)
16. **John Holmes**, Portage, Wisconsin Waterfowl Association (WAA) distributed handouts. He stated on January 3, 2007 the WWA reaffirmed their position in supporting the Department's Mute Swan Policy. They recommend that the Department do away with the township exclusion.
17. **Becky Abel**, Madison, representing herself distributed handouts. She stated her support for the Department's Mute Swan control policy and suggested that it be expanded to include the current exclusion zones in Racine County and to not make an exclusion zone out of Phantom Lake which has been the highest concentration of Mute Swans in the state and a source of a lot of the problems. **Mr. O'Brien** asked if Mute Swans do not migrate, what do they do in the winter. **Ms. Abel** stated they hang around in any open water they find. They are not a migratory species. **Mr. O'Brien** asked if Trumpeter Swans are really native to Canada and they will never establish themselves here. **Ms. Abel** stated that is not correct. They left because they were hunted out for their feathers. They are extremely low flyers. Market hunting was the main cause of their loss.
18. **Fran Grego**, Trevor, representing herself asked when it happened that they are not able to govern their own lakes and that includes the species that are on it.
19. **Richard Corduan**, Trevor, representing himself stated that he is in favor of the Mute Swan. He stated the close proximity to Illinois. Illinois doesn't have this policy.
20. **Peter Murray**, Madison, Wisconsin Council on Invasive Species. His handouts were distributed (gave up time for #17)
21. **Jack Fiene**, Mukwonago, representing himself distributed handouts stated that he was here to strictly protect the animals and plants in the state of Wisconsin. He spoke in support of the Mute Swans.
22. **George Meyer**, Executive Director of The Wisconsin Wildlife Federation (WWF) stated WWF strongly supports efforts to restore endangered native species into the state of Wisconsin. The Federation is a strong supporter and has been of the Trumpeter Swan Reintroduction Program. In February, 2002 the WWF fully endorsed the current Mute Swan Control Policy. Their green sheet recommendation is that the Department report back in three years to provide a review of the program, to include the impact of the population of Mute Swans in the exempted townships and see what their relationship is toward meeting the goals in the Mute Swan Control Program and the goals of reintroduction of the Trumpeter Swans. It is their recommendation to stay the course and review in three years.
23. **Jim Ruwaldt**, U.S. Fish & Wildlife Service distributed handouts. He stated they presented a statement in 2002 to the Natural Resources Board in support of the Mute Swan Control Policy in Wisconsin. At the national level, changes have been made by Congress to amend the Migratory Bird Treaty Act. Mute Swans as a non-native species are no longer provided protection by the Act. The U.S. Fish & Wildlife service supports the continuation of the current Mute Swan Control Policy. Furthermore, we recommend the policy be changed to apply statewide to ensure the most effective control of Mute Swans in Wisconsin.
24. **Ron Babros**, Fox Lake, State Chairman, Ducks Unlimited (DU) stated they have taken a national position on the Mute Swan issue. They should be controlled.
25. **Leah Gilbertsen**, Camp Lake, representing self stated that it greatly saddens her that the only swans they have are being killed.
26. **Dennis Faber**, Town of Salem Supervisor, Camp Center Lake Rehabilitation stated the town voted unanimously for the town to go on record to not support the harvest and eradication of the Swan population in Camp and Center Lake and in the entire Town of Salem. They are on the Illinois border and Illinois has not adopted a control plan. This is a problem that has to be addressed. He asked they be considered to be added to the Rochester and Waterford zone until this is resolved. **Mr. Ela** asked that when the swans are removed from your lake are they replaced immediately by other swans? **Mr. Faber** stated correct, other swans fly in.
27. **Karen McNelly**, Town of Mukwonago distributed a handout and stated her support of the current Mute Swan Control Policy and that the Department should not encourage any more Mute Swans in the state of Wisconsin. She stated they were attacked by Mute Swans and that they had the swans removed by a wildlife rehabilitator.
28. **Kristen Keshena**, Phantom Lake, representing self stated she does not support eradication. She supports a control policy and asked for an exemption for Phantom Lake.
29. **Karen Etter Hale**, WI Audubon Council & Madison Audubon handed out maps and stated they support the Department's control policy as they did in 1995 and again in 2002. Their preference would be to include the entire state in the plan.

Mr. Ela asked whether it was not likely that swans are spreading from Michigan to Wisconsin, given that there are many more there than here.

Ms. Etter Hale stated that is a problem too that points for a need to control here and in Michigan.

30. Rachel Bradbury, Kenosha, representing self stated she supports the control of the Mute Swans and not the eradication policy. Please change your approach to the situation with the Mute Swan and urges the Department to control but not eradicate.

Mr. Clausen asked with regard to the Swans, if they do have a permit for captive wildlife, are they not required to be caged, neutered, and pinioned?

Mr. Lien stated the current policy does allow for people to have captive birds. They either have to be enclosed in a pen or neutered and pinioned.

Kent Van Horn, Migratory Bird Staff Specialist, Wildlife Management Bureau stated that bird species that are not native and do not have an established migratory route essentially move around to find what they need at that specific time of the year. They will move around with regard to open water or available habitat.

Ms. Osterndorf stated their recommendation is they continue the policy of eliminating free flying Mute Swans in the state of Wisconsin in support of a national policy. She stated there is potential for the Department to authorize a permit for people to humanly capture those animals, bring them to a veterinarian for the animal to be neutered, banded, and obtain a permit to be returned to the wild. In this way, they would not be reproducing and not contributing to the problems of populating. The Department would continue their control policy for non-banded birds.

Mr. Ela asked about reserving the right to eliminate problem birds that are banded: either those that attack people, pets, etc. or those that are keeping the Trumpeter's from breeding.

Ms. Osterndorf stated that would be the suggestion.

Mr. Clausen stated that if people took ownership of these birds and had them neutered and collared, that they could fly around and not be at risk of being eradicated if they did happen to land on state land.

Ms. Osterndorf stated no. People could also pinion their birds that would assure them they would stay on a specific lake. If that would happen, they would have to make accommodations for that bird in the winter.

Mr. Clausen asked if this would be a program that would be a 2007 type of thing or what do you envision?

Ms. Osterndorf stated that this program of capturing, neutering, banding and releasing swan would be limited to 2007.

Mrs. Wiley MOVED, seconded by Mr. Ela to amend the motion to remove the exemption areas from the policy and provide a mechanism for local citizens (defined as local units of government, lake associations, and private individuals) to take responsibility for specific individual mute swans on water bodies during 2007. This mechanism would allow for a one-year window, January 1, 2007 – December 31, 2007, for the following described actions to take place in relation to existing adult swans while continuing the egg addling practices statewide.

This mechanism will meet the following conditions for the three counties:

- **Allow the Department to issue permits to allow citizens to remove mute swans from the wild using humane methods.**
- **Allow the Department to issue stocking license and permit allowing citizens to release mute swans back onto the water body from which they were removed after the birds have been permanently neutered and identified in a way that the Department approves.**
- **Require that citizens provide proof that the individual bird as identified was permanently neutered.**
- **Allow the Department to issue permits to citizens who also want to pinion the birds in order to keep the same birds on the same water body**
- **Require that any pinioned birds be provided a suitable place during winter.**
- **Require that citizens notify the Department of their intent to do this before June 1, 2007.**
- **Require that the work be done in 2007. Deadline date to be December 31, 2007.**
- **Require that any marked bird or birds that become a threat to human safety be removed by the responsible party or removed by the Department.**
- **An understanding that if any marked mute swans interfere with trumpeter swan breeding, nesting, and brood-rearing activities, the Department will remove these animals.**

Mr. Ela MOVED, seconded by Mr. Clausen to amend the motion by limiting this mechanism to Waukesha, Racine, and Kenosha Counties. The amendment was accepted by the maker of the motion. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.9 Land Acquisition, Northern Highland/American Legion State Forest, Vilas County

Mr. Clausen MOVED, seconded by Mr. Ela approval of Land Acquisition, Northern Highland/American Legion State Forest, Vilas County. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.10 Land Acquisition, Kettle Moraine State Forest - Southern Unit, Waukesha County

Mr. Ela MOVED, seconded by Mr. Clausen approval of Land Acquisition, Kettle Moraine State Forest – Southern Unit, Waukesha County. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.11 Land Acquisition and Donation, Devil's Lake State Park and the Lower Wisconsin State Riverway, Sauk County

Mr. Clausen MOVED, seconded by Dr. Thomas approval of Land Acquisition and Donation, Devil's Lake State Park and the Lower Wisconsin State Riverway, Sauk County. The motion carried unanimously by all members present. Mr. Poulson was absent.

3.B.12 Land Donation, Statewide Natural Area, Door County

Mr. Ela MOVED, seconded by Mrs. Wiley approval of Land Donation, Statewide Natural Area, Door County. The motion carried unanimously by all members present. Mr. Poulson was absent.

4. Citizen Participation 1:00 p.m.
None

5. Board Members' Matters

Mr. Ela stated he would like to have information items in the near future on two matters. First, what are the practical consequences of the fact that most of southeast Wisconsin has reached air quality attainment status. Second, while we spend a lot of time working with the stewardship program as it pertains to state acquisition of properties, we should have a briefing on how the other parts of the program work, such as grants to local government and non-governmental organizations.

Mrs. Wiley stated she wanted to thank DNR staff and Board members for being so nice and kind to her during the last two and ½ years.

6. Special Committees' Reports
None.

7. Department Secretary's Matters

7.A. Retirement Resolutions

7.A.1. James M. Hughes

7.A.2. Norman Dunbar

7.A.3. Mr. Willie Anderson

7.A.4. Diane L. Brinson

7.A.5. Michael A. Harelson

Mr. Welter MOVED, seconded by Mr. Clausen approval of the retirement resolutions. The motion carried unanimously by all members present. Mr. Poulson was absent.

7.B. Donations

7.B.1. The Natural Resources Foundation is donating \$41,000 to the Bureau of Endangered Resources for various projects.

Mr. Welter MOVED, seconded by Mr. Clausen approval of The Natural Resources Foundation donation of \$41,000 to the Bureau of Endangered Resources for various projects. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 7.B.2. An anonymous citizen will donate \$20,000 to the Bureau of Science Services for whitetail deer research.

Mr. Welter MOVED, seconded by Dr. Thomas approval of the anonymous citizen donation of \$20,000 to the Bureau of Science Services for whitetail deer research. The motion carried unanimously by all members present. Mr. Poulson was absent.

- 7.B.3. The Natural Resources Foundation will donate \$18,000 to the Endangered Resources Program for prairie and savanna management on State Natural Areas in the LaCrosse area.

Mr. Clausen MOVED, seconded by Mrs. Wiley approval of the Natural Resources Foundation donation of \$18,000 to the Endangered Resources Program for prairie and savanna management on State Natural Areas in the LaCrosse area. The motion carried unanimously by all members present. Mr. Poulson was absent.

8. Information Items

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

- 8.A.1 Mercury emissions from coal-fired electric generating units (MOVED TO 3.A.5)

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

8.B.1 Knowles-Nelson Stewardship Program

Laurie Osterndorf, Administrator, Division of Land stated that currently the Stewardship Program is funded at \$60 million per year and divided into four components. The four components are: NCO Grants: Grants requiring a 50% match are issued to nonprofit conservation organizations for land acquisition and protection. The capacity of land trusts in the state has grown, in large part due to their ability to access stewardship funds. Currently there is \$8 million available annually. By law the NCO grant program is funded at least \$2 million per year, but has been allocated approximately \$8 million per year. LUG Grants: Grants requiring a 50% match are issued to local governments. Currently up to \$8 million is available annually.

DNR Property Development: Stewardship funding is used for the development of DNR properties. Stewardship development projects are funded at \$6.75 million available annually.

DNR Land Acquisition: A large portion of Stewardship is used by DNR to acquire land for conservation and public recreation. There are nearly 900 DNR properties providing a very diverse array of recreational opportunities throughout the state and meeting important conservation needs. There is currently \$37 million available annually with which DNR acquires an average of well over 30,000 acres per year. DNR has been very successful in obtaining federal funds for land acquisition using Stewardship funds as match. There are over 500,000 acres of additional land yet to be acquired within approved DNR properties. Staff will provide an update on discussions with the Stewardship Advisory Council.

Mr. O'Brien stated that in earlier years the Board used to take action in deciding how much went to local grants etc.

Vance Rayburn, Administrator, Division of Customer & Employee Services stated it is discretionary between the nonprofit slice and the DNR land acquisition slice.

Mr. Welter asked about public access on Stewardship lands.

Mr. Ela asked if there is any strategic guidance on purchases.

Board on the grant program.

Ms. Osterndorf stated that Vicki Elkin has an executive summary from the Stewardship Advisory Council that would be shared with the Board.

Dr. Thomas asked how often this Council meets.

Ms. Osterndorf stated as needed. Sometimes every other month or every six months, depending on the issues.

Dr. Thomas asked if the Board has heard from this group.

Mr. O'Brien couldn't recall.

Mr. O'Brien stated the Governor is now proposing to renew the Stewardship program. He observed that it might be appropriate for the NRB to take a position on renew issues, and suggested appointing a three person committee to study this in a little more depth, how the dollars should be broken down, what we should be recommending based upon our experience with it so far and report back to the Board so the

Board is in a position to make a good sensible, knowledgeable recommendation.

The Board agreed.

Mr. Welter will serve as Chair on the Stewardship Subcommittee with members Mr. Clausen and Mrs. Wiley. They will seek public comment by public notice, hold a Subcommittee meeting to gather information, and report back to the Board at the March 2007 meeting.

9. Election of Officers

Mr. Ela MOVED seconded by Mr. Clausen to nominate Christine Thomas be the Chair of the Natural Resources Board. The motion carried unanimously by all members present. Mr. Poulson was absent.

Mr. Welter MOVED seconded by Dr. Thomas to nominate Jonathan Ela as Vice-Chair of the Natural Resources Board. The motion carried unanimously by all members present. Mr. Poulson was absent.

Mr. Ela MOVED seconded by Mr. Clausen to nominate Mr. Welter as Secretary of the Natural Resources Board. The motion carried unanimously by all members present. Mr. Poulson was absent.

Mr. O'Brien stated his thanks to all for his term as Chairman. He had a terrific time and you and the ones preceding you have all been terrifically cooperative.

The meeting adjourned at 5:15 p.m.