

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, June 27, 2007 at the Olympia Resort, Oconomowoc, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 3:22 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

David Clausen – present	Dan Poulson – present
Jonathan Ela – present	Gerald O’Brien – present
John Welter – present	Christine Thomas – present
Jane Wiley - present	

1.B. Approval of minutes from April 24-25, 2007

Mr. Welter MOVED, seconded by Ms. Wiley approval of the minutes as presented. The motion carried unanimously.

1.C. Approval of agenda for June 27, 2007

Dr. Thomas requested the agenda be amended as follows: Item 3.B.8, 3.B.9, 3.B.10, 3.B.11, 3.B.12, 3.B.13, and 3.B.15 be presented first.

Mr. O’Brien MOVED, seconded by Mr. Poulson approval of the agenda as amended for June 27, 2007. The motion carried unanimously.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Welter MOVED, seconded by Mr. Ela approval of the real estate transactions. The motion carried unanimously.

3. Action Items

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

3.B.8 Land Acquisition & Project Boundary Modification – Brule River State Forest – Douglas County

Mr. Ela MOVED, seconded by Ms. Wiley approval of Land Acquisition & Project Boundary Modification – Brule River State Forest – Douglas County.

Mr. O’Brien stated that the plat map does not show state ownership on any of the adjacent land. Why is this?

Mr. Steffes stated there are two plat book maps. This ownership is in four parcels: a 40 acre parcel, a 240 acre parcel, a 1,400 acre parcel, and then a 4,300 acre parcel which totals about 6,000 acres. What you are looking at is land way off to the west. That does not show on the plat. The next plat book map that precedes that one in the green sheet betters shows the state ownership up and down the Brule River. There is really four discontinuous parcels that lay in and amongst the state ownership.

Mr. O’Brien asked what the advantage is of buying a parcel on the far west if it is not contingent to any part of the rest of it.

Mr. Steffes stated the Department asked the owners to include that. There is a road through there that gets the Department better access to Lake Superior frontage to the northeast. That parcel was added basically to get the department better access to the northeast on the state owned frontage. It

is out of the boundary and the Department did tell the owner to keep some parcels out that are not in this area. That was one the Department said to add in case frontage to the north could be added and also because there is a private road in this parcel.

The motion carried unanimously.

3.B.9 Land Acquisition - Lower Wolf River Bottomlands Natural Resource Area - Outagamie County

Mr. O'Brien asked if this was the parcel the Board visited that included a lodge.

Mr. Steffes stated the parcel that has the lodge is Main Creek Farms in Section 31. This parcel is to the northeast. If you walked across the road from the northern part of the lodge property you would be on this property.

Ms. Wiley asked what the \$125,000 worth of improvements is on this parcel.

Mr. Steffes stated there is a caretakers house, a shed, and such. This is going to be funded by Natural Resource Damage Assessment Funds so this is not Stewardship. This is paper mill money.

Mr. Ela asked for the status of the Natural Resource Damage Assessment Fund.

Mr. Steffes stated a couple years ago Georgia Pacific gave the Department approximately \$6 million (\$5 million installment and \$1 million later). The Department used those funds basically on this project and then on the west shores of the waters of Green Bay. The Department used those funds for land acquisition to make up for the land that was damaged by the paper companies.

Mr. Ela asked if this Fund is within the Board's discretion.

Mr. Steffes stated the funds are approved by Fund Trustees. This has been looked over and he believed the Trustees have approved it. What happens then is a kind of a hiatus on that funding for a while. After that \$6 million that the state had for its acquisition, no funds were available until this one. He believed there were some discussions between the main four paper companies. He thought the paper mills looked at this one and saw the opportunity for 1,000 acres at one time which is pretty rare. This is a good opportunity.

Mr. Welter asked what will happen to the improvements. Will the improvements be removed?

Mr. Steffes stated he believed the house would be removed. The Department would like to spend some time seeing how the management should go on this and let the caretaker stay for a bit. Over time, that improvement would be removed and then managed like the surrounding wildlife area and be open to the public.

Ms. Wiley clarified that there is a caretaker on it right now.

Mr. Steffes stated yes there is.

Mr. Poulson asked if the caretaker becomes an employee of state.

Mr. Steffes stated the caretaker is an employee of the current owner. He did not believe the caretaker would become an employee of the Department.

Ms. Wiley asked if there would be a liability issue for a non-state person living on state property.

Mr. Steffes stated the Department would enter into a lease with that individual. That individual would be responsible for renters insurance. The state has a system of self-insurance in terms of the actual building for fire, etc. There are probably 40 employee residential units around the state, mostly at state parks and a few hatcheries. There may be about 20 – 25 of these holdover-type tenancies. There is long time experience doing this. The Department does not like to have a lot of these but sometimes they come with the property.

Ms. Wiley asked if the Department has experience with non-DNR employees living on DNR property.

Mr. Steffes stated yes. The tenant would have a yard and his area and that area is closed off to the public. It may be ¼ or ½ acre. That would be his private residence under a lease. The public has access to the rest of the 1,000 acres but not to that home site.

Mr. Ela stated this is something the Department would negotiate with the caretaker.

Mr. Steffes stated yes. It is business as usual. There is one property later on down the list today

that has a life tenancy for an individual on two acres. The Department puts up signs posting that piece of land as private. The tenant has his/her two acres until he/she does not want to live there anymore.

Ms. Wiley stated that is different than a tenant that is paying rent.

Mr. Steffes stated yes, it is. With a lease, the tenant will have his personal enjoyment of that home and the yard.

Mr. Welter asked for a clarification as to timing. If the board approves this transaction, it would then go to the Governor's office and then the transaction will process through. Does the Department anticipate it to be completed by the beginning of the duck season?

Mr. Steffes stated yes, it should be open for duck season. From the time it is signed this is a 60 day closing.

Dr. Clausen MOVED, seconded by Mr. Ela approval of Land Acquisition - Lower Wolf River Bottomlands Natural Resource Area - Outagamie County. The motion carried unanimously.

3.B.10 Land Acquisition – Mead Wildlife Area – Portage & Marathon Counties

Mr. O'Brien MOVED, seconded by Mr. Welter approval of Land Acquisition – Mead Wildlife Area – Portage & Marathon Counties.

Mr. Poulson asked what the Department's obligation becomes once this is purchased.

Mr. Steffes said the company that is the licensee, a subsidiary of Stora Enso, approached the Federal Energy Regulatory Commission (FERC) and asked if FERC would approve of a sale to the state of Wisconsin. FERC did approve it. The licensee, even after state purchase of the land, has the obligation to meet whatever FERC requirements are there. The Department will give them access to do that. For example, if there is an archeologically significant site on a beach and there is shore erosion and there is concern that would be damaged by high water, our State Historical Society and the U.S. Fish & Wildlife Service, would stipulate that if there needs to be shore rip rap and there needs to be an extensive shore stabilization, the licensee has to do that. The Department would give them permission as owner to do this. The Department has to agree to give them those access rights. The Department will manage this property as a Wildlife area but any FERC responsibilities are on the company.

Mr. Wiley observed that Consolidated Papers is not located in Wausau as the green sheet package states but is located in Wisconsin Rapids.

Mr. Steffes stated the address should be listed as Wisconsin Rapids.

Mr. Ela asked if there are any recreational facilities that the company is obliged to maintain under their FERC license.

Mr. Steffes stated he did not think there is much on this property. He thought there was a boat landing that they would need to maintain but there is no extensive development, just a boat landing.

The motion carried unanimously.

Dr. Thomas stated the Board met last year at Mead. The Friends of Mead Wildlife Area subsequently came to the Board requesting fringe benefits for an environmental educator if they could come up with \$1,050,000 endowment for the position and \$50,000 to fund the position for the first year before there was any interest on the endowment. The Friends are within \$50,000 of raising the \$1,050,000 that is necessary for the creation of an endowed naturalist position. We approved funding for the fringe benefits for that position contingent on the friends group raising the full endowment. It appears that success is at hand.

3.B.11 Land Acquisition – C. D. Besadny Fish and Wildlife Area – Kewaunee County.

Mr. Welter MOVED, seconded by Dr. Clausen approval of Land Acquisition – C. D. Besadny Fish and Wildlife Area – Kewaunee County. The motion carried unanimously.

3.B.12 Land Acquisition and Donation – Big Muskego Lake Wildlife Area – Waukesha County.

Dr. Clausen MOVED, seconded by Mr. Ela approval of Land Acquisition and Donation – Big Muskego Lake Wildlife Area – Waukesha County.

Mr. Welter referred back to the plat map on page 11 of the green sheet package. He stated there is a dotted line around the lake and there is very little notation of property ownership in that area. Does that have anything to do with property that the Department owns around that lake?

Mr. Steffes stated that the plat book is old and the John Lang property in Section 28 and the Richard Schaumberg property in Section 21 on the west side of the lake are both state owned now. The Hendrickson property in Section 24 just above Boxhorn Drive and south of the subject is also state owned. He believed the dotted line is the tax lister's attempt to set the ordinary high water mark. This lake, being a shallow lake, has a big cattail fringe. Actually, in the Leonard area, it is open water up to higher ground. It is pretty scenic. If you get over on the Lang property on the west side, it is 1,000 feet of cattails before you get to the water. You have a big shallow pond here. It gets to be real questionable whether you should be, as a tax assessor, assessing someone the land below the ordinary high. They made an attempt to scribe out where they should start taxing people and where they should not. Technically, if you want to take a walk in that wetland, you could walk around this lake if you could manage it. State law allows you to have those access rights. Abutting land the Leonard's have of course give them some riparian advantages over other owners. The proposed purchase has a mix of upland and lowland. The Department did its best to appraise it.

Mr. Ela inquired if a portion of what the Department is buying is actually below the ordinary high water mark.

Mr. Steffes stated he would not depict it that way. He said that the Department's value was put on the land above the ordinary high water mark. The Department picks up whatever riparian rights the land owner has by buying his upland.

Mr. Welter said a generous gift from the City of Muskego would help the Department to accomplish the purchase. Would the Department then be the land manager for that property?

Mr. Steffes stated yes. It is a cash gift from the city that would reduce the amount of the Stewardship cost. Instead of the state having to pay \$445,000, Stewardship will pay only \$333,000 of that and the rest will be the City of Muskego's money. It is a nice gift in that the city is not asking for any land rights. This came with no strings attached.

The motion carried unanimously.

3.B.13 Land Acquisition – Ice Age Trail – Marathon County.

Mr. Ela asked for clarification of this transaction.

Mr. Steffes stated that the Conservation Fund is a non-profit that is not a membership organization. They are not like the Nature Conservancy where they have some of their operating costs coming from membership donations or subscriptions and so on. The Conservation Fund needs to have a fee if they are going to assist in a land acquisition. This was all done transparently and not together with company officials. The Department said the appraisal is \$409,000. The Conservation Fund then asked the company if they would take less than that so that when the state buys it back, their fee would be covered out of the difference between the purchase price and the sale to the Department. The purchase price of the Conservation Fund is \$388,500. The difference between that and \$409,000 is basically a fee to the Conservation fund. The Department is paying its appraised value and the Conservation Fund basically got a partial donation from the company. They bought it a little less expensively than what the Department would have paid. That was all disclosed to the company officials and they agreed to it.

Mr. Ela asked why the Department did not buy it directly from the company.

Mr. Steffes stated the Department really could have here. The Conservation Fund is working on this other parcel that is just a stone throw north of this of 600 acres that the Department is not involved with. By buying that bigger parcel, the Conservation Fund got a little

bit of leverage on the smaller one and was able to make up some of their fee on the Department one.

Mr. Ela stated this has no relation to the Brule property even though the players are the same.

Mr. Steffes stated that is correct. It is a different project and different county. It just happens to be the same set of officials for the company. As you probably have heard, that company is divesting at least 40,000 acres in the state.

Mr. Poulson asked if it is the Conservation Fund's plan in turn then to own that 600 acres they are working on or is there a plan to sell it to the Department.

Mr. Steffes stated it would not be sold back to the Department. He understood that what the Conservation Fund intends to do there is to buy that property. They are hoping to get 50% Federal Land and Water Conservation (LAWCON) money. He also believed that the Department has 50% LAWCON on this one as well. They are going to approach the Department for a Stewardship Grant for other half of that cost. That 600 acres, he assumed it would be \$2,200 per acre, 50% would be Federal LAWCON and 50% would be Stewardship Grant. Of course, it would not close if they cannot get these funds. In the future, that land would be given to the Department or possibly resold to Marathon County for county forest purposes. He did not think the Conservation Fund intends to own it long term. It will not be purchased again by the Department.

Mr. Poulson asked if that is also Ice Age Trail.

Mr. Steffes stated yes.

Ms. Wiley MOVED, seconded by Mr. Ela approval of Land Acquisition – Ice Age Trail – Marathon County. The motion carried unanimously.

3.B.15 Land Acquisition and Project Boundary Modification – Peshtigo River State Forest – Marinette County

Mr. Ela MOVED, seconded by Ms. Wiley approval of Land Acquisition and Project Boundary Modification – Peshtigo River State Forest – Marinette County.

Mr. Welter asked if the tenant pays property taxes on that property during the term of the life tenancy.

Mr. Steffes stated he does if they are assessed. What happens because of the state purchase, if this goes into the payment in lieu of tax system, occasionally an assessor will recognize a life tenancy as a taxable entity. Sometimes they do and sometimes they do not. It is up to the local assessor. If there is a local assessment on the value of the residence and the two acres, he would get the bill and not the Department.

The motion carried unanimously.

Mr. O'Brien noticed that these parcels belong with a lot of other parcels purchased in the past and they are good parcels. Many of them are in the remote north. On most of them, maybe one half dozen people will walk on them in one year's time. The statutes require Stewardship Funds to primarily give emphasis on the area of where people live. He knows these are good purchases but on the other hand, is there anything in the pipeline where we are going to try to improve the facilities available down in the southern half of the state where we have approximately 90% of the people living?

Mr. Steffes stated the Department is going to continue their efforts. He would not name the county, but just east of Madison, 1,000 acres was offered recently in a project boundary. That is being appraised right now in a wildlife area. He does not know if the Department will get it. The Department has an option on a 500+ acre parcel in southeast Wisconsin that the Board could see in August. There are offers pending in southwest Wisconsin. What the Department is finding along the lower Wisconsin and some of our other projects in that area is if it is swamp hardwoods along the Wisconsin River, the Departments' success ratio is fairly high. If it is wooded bluff lands and that type of property, people are listening but not accepting the Department's offer. Hopefully the real estate market is tightening up and we will have a better success. The

Department is trying. It is not as easy in the south. The parcels are smaller and typically more expensive.

Mr. O'Brien stated it is more expensive but more people can utilize them. The Department spends a half million dollars in a rural parcel that a few people use. The populated part of the state can use more property.

Mr. Steffes stated this fiscal year Ms. Osterndorf and her management team have been discussing this and are earmarking a little more funding to the south. If you have the funding to the south, then it encourages the managers to work with the land owners and it gives people a little more confidence. The Department is trying to turn that a little more to the south in the upcoming year.

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

3.A.1 Request authorization for public hearing for Board Order AM-24-07, proposed rules affecting chs. NR 406, 407, and 445 pertaining to the timeline for implementation of air permit and hazardous air pollutant requirements for emissions associated with agricultural waste. In addition, proposed "clean up" amendments to ch. NR 445 will address minor non-controversial technical corrections.

Eileen F. Pierce, Regional Air and Waste Leader, Division of Air and Waste stated that hazardous air pollutant (HAP) emissions associated with agricultural waste are regulated under ch. NR 445. Provisions of ch. NR 445 that became effective in July 2004 provide a compliance deadline of June 30, 2008, for sources of HAP emissions associated with agricultural waste constructed before July 1, 2007. Sources constructed after July 1, 2007 are required to comply upon startup. Use of best management practices as approved by the Department is one of the compliance options available under the current rule. Current air permit requirements in chs. NR 406 and 407, provide a parallel timeframe for permitting sources of HAP emissions associated with agricultural waste. The timeframes for compliance and permitting were established to coincide with the anticipated completion of studies at the state and federal level which would provide air emission data to support rule applicability determinations and information about the efficacy of best management practices to support development of criteria for the evaluation of best management practice proposals.

While the state and federal studies are ongoing, results are not yet available. Lacking these study results, the Department currently does not have as much information as it intended to form a sound basis for decisions on rule applicability and criteria for evaluation of best management practice proposals. In light of this, the Department is proposing to extend the compliance and permitting deadlines to July 31, 2011. The Department believes these changes are necessary to ensure appropriate implementation of air permit requirements and hazardous air pollutant emission requirements for new and existing sources of emissions of hazardous air contaminants associated with agricultural waste.

Mr. O'Brien MOVED, seconded by Mr. Ela approval of request for authorization for public hearing for Board Order AM-24-07, proposed rules affecting chs. NR 406, 407, and 445 pertaining to the timeline for implementation of air permit and hazardous air pollutant requirements for emissions associated with agricultural waste. In addition, proposed "clean up" amendments to ch. NR 445 will address minor non-controversial technical corrections.

Dr. Clausen stated that these studies have not been completed. Have they been started?

Ms. Pierce stated yes. Two studies in particular are of interest. One is being done at the federal level. You may have seen a press release earlier this month. EPA in partnership with various agriculture producers are conducting a national study as part of a consent agreement. 14,000 farms have signed on to this agreement and they will be doing monitoring at about 24 sites in nine different states, including a site in Wisconsin. The goal of that study is to establish emission estimation methodologies for farms so they are doing air monitoring. The monitoring actually began on the farms this spring. Here in Wisconsin, the Department is working with the Department of Agriculture, Trade and Consumer Protection (DATCP), Natural Resources Conservation Service (NRCS) and various industry groups as well as the University of Wisconsin to conduct a study on Wisconsin farms. We have six dairy farms as part of the study. We are doing air monitoring. Sampling started last fall. The Department has been out in the field again this spring, all summer, through the winter, and through next summer and fall. That will

wrap up in time as will the federal study to support implementation of this rule based on solid scientific data.

Ms. Wiley stated that in Ms. Pierce's explanation, the state study should be available by the middle of 2008. When is the hearing going to be?

Ms. Pierce stated the meeting would have to have a 30 day notice so the soonest this could happen is August or perhaps September.

Ms. Wiley inquired if there is going to be a large amount of time between when the state study is done and the federal study is done if somewhere in between the Board will receive an update on the state study rather than let it sit until the federal study is done.

Dr. Thomas asked if we are ready to go in 2008 with our hearings, why do we have to have until 2011 for the implementation.

Ms. Pierce stated that at the national level, that study will not be done until mid-2010 with compliance deadlines for those 14,000 farms kicking in the fall of 2010 and spring of 2011. In a nutshell, these are really meaningful requirements. They may require significant investment on farms. It would be unfortunate to drive in that investment prematurely and have to go back to the drawing board to readjust to meet federal requirements. In order to harmonize those deadlines and the requirements and to make sure this makes sense on the farm, we are asking today for your authorization to go to public hearing on the extension of that deadline.

Mr. Ela asked if Ms. Pierce could further explain the Best Management Practice (BMP) option and what the implications of this would be as opposed to what are the assurances of the BMP.

Ms. Pierce stated the two pollutants of greatest concern are ammonia and hydrogen sulfide. The requirements in NR 445 can be met for those pollutants by demonstrating that the property line boundaries do not exceed the ambient concentration limits in the rule. That can be done by various different methods, depending on what your industry or your farm is like. BMP's are an alternative compliance method adopted in 2004 by this Board that allows a farm to propose to the Department a management practice. The Department would review that against criteria based on these studies and approve it. The farm would then implement it. What those BMP's would look like today she did not know.

Mr. Ela stated beyond the sphere of the rule, most air standards are results oriented. "You will not exceed such and such." Is BMP divorced from that, say we would not come up with a number? Will we just do the best we can?

Ms. Pierce stated they are looking to the study conducted on these Wisconsin farms to help inform our decisions on BMP proposals for the future. The Department will have study results on Wisconsin farms that will give a numerical sense of the ambient concentrations of these pollutants when you do apply one of the BMP's. This monitoring study is conducted year round because with farms, the air emissions will vary depending on the time of year, the time of day, and the weather conditions. The Department hopes that we would be in a position to evaluate BMP proposals based on that sort of study result that would give us more than just a "toss it up in the air and see where it lands" sort of sense but rather use the data from that study to help inform and ensure that the BMP's that the Department would approve would meet the intent of the rule.

Mr. Poulson stated that part of this has to do with the technology changes we are at and how to study the whole process and institute the newer technologies. We look at how to handle animal waste and how we have handled animal waste over the last 100 years versus the last five years. The BMP has come out of that advanced technology. Universities around the country are busy doing that. As we look at the Discovery Farm issues we continue to improve the BMP's. I am not a technologist, but remember that in Wisconsin we do a lot on NOx and federally we do some things differently as we measure NOx. There is a whole variety of issues that come to play relative to state vs. federal and how we are going to handle animal waste. He feels the process is good. Where will the hearings be held and how many will be held?

Ms. Pierce stated the Department has proposed one hearing in Madison.

Mr. Poulson stated there is a need for more hearings. This will affect agriculture in the whole state from the standpoint of how we apply this whole emissions issue.

Mr. Ela stated the only issue before us is extending the deadline rather than any subsequent requirement.

Mr. Poulson stated he was getting ahead of the horse.

Dr. Thomas inquired if he was asking for the request for public hearing on this issue right now?

Mr. Poulson stated yes and accepted Mr. Ela's input.

Ms. Pierce stated she can assure the Board that the Department has been working with the affected agriculture industry folks, our partners there, as well as our stakeholders in the environmental advocacy realm. She has provided briefings for Clean Wisconsin and Midwest Environmental Advocates and of course representatives from the agriculture industry are here today.

Mr. Ela said when this was talked about earlier, he had the impression that part of what generated the EPA's agreement came out of litigation. Any litigants will have their chance to comment on this at a hearing, but is there a problem that what we are doing runs against consent decrees or agreements in litigation either in Wisconsin or nationally?

Ms. Pierce stated to Mr. Ela that when after he asked that question, she called Midwest Environmental Advocates to inquire. They assured her they would be looking into it and would certainly raise that concern if there is one during the comment period. She appreciates that question and she has consulted with others. At this point, she thought what the Department is proposing brings us into greater harmony with the consent agreement at the federal level and did not believe that there are any consent agreements within the state that would be disrupted by this proposed change in the deadline. That is a serious question and she will make sure they have an answer before the Department is done.

Dr. Thomas stated she has a side issue. Her husband's family has farmed in Michigan for 150 years and still does. She is not talking about people who are coming to the nuisance. The nuisance came to them one mile away upwind from them. One of these units went in and you can hardly stand to sit out on their deck anymore. How will regulating, and this will be the question of neighbors all over Wisconsin, these hazardous materials affect how it smells while you are sitting outside by your grill. If you were one of these people you would be hoping something happened regarding that sooner than four years from now. Is there a connection between the hazardous emissions and the odor at the neighbors?

Ms. Pierce stated there are times when you can measure the concentrations of these hazardous air pollutants and yet not smell anything. There are also times when you can smell a strong odor near a farm and not see extreme levels of these particular regulated hazardous air pollutants. There is not a direct relationship between the odor and the concentration of the pollutants. However, the BMP's that the Department would put into place to reduce odor would also reduce hazardous air pollutant emissions. What the Department is hoping to do is based on the study results and also on our strong partnership with DATCP who also has a role in regulating new and expanding livestock operations through their siting standards in ATCP 51, and also with the Departments partners within DNR in the water division, is to make sure that as they proceed with implementation of this rule. For the connection with odor, she is optimistic that what they would see with the implementation of these rules would help us to deal with those extreme odor situations.

The motion carried unanimously.

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

3.B.1 Revision to NR20 – Emergency regulation change regarding hook and line Lake Sturgeon fishing.

Steve Hewitt, Section chief, Fisheries Policy and Operations, Fisheries Management and Habitat Protection Bureau spoke on behalf of Mike Staggs. He stated that an increase in angling pressure directed at lake sturgeon, particularly from nonresident anglers, has led to a steady increase in the number of lake sturgeon harvested annually during the hook and line season. Exploitation in some lake sturgeon fisheries has been recently estimated to be between 20-30%. An annual exploitation rate of 5% has been a long standing management goal for lake sturgeon in Wisconsin. The over exploitation of a long-lived, slow growing species can have a severe impact on the sustainability of the population.

The proposed rule change would increase the minimum length limit of lake sturgeon from its current 50" limit to a 60" limit and reduce the season length from six weeks to four weeks on all inland waters where lake sturgeon are now harvested. The regulation change would significantly reduce the number of lake sturgeon harvested each year (up to 80%). The rule change would

likely affect sturgeon anglers' (both resident and nonresident) opportunities to harvest a fish, but will ultimately provide protection to Wisconsin's sturgeon populations.

Mr. O'Brien asked if the Department is doing the alternate year every other year for the 70" minimum length limit.

Mr. Hewitt stated for some specific waters including the Menominee and the lower Wisconsin and Lake Wisconsin the Department was alternating. Others were maintaining the 50". Those waters the Department had the biggest concern on we began alternating every other year having a 70" size limit which essentially was a catch and release only. Despite that, we still had the average catch going up on those waters with increased angler interest. If you take the average of the 70" year and the 50" year, the Department is still having harvest increase. Despite the fact that we were cutting off harvest every other year, in those 50" years a lot more attention was paid to those waters. More anglers went there and the harvest rates were going up.

Mr. Welter stated the Department has had three and one-half cycles of 50" and 70" minimums. What is the rationale that describes this as an emergency that warrants an emergency order now when this is the year that we would have the 50" minimum if the Board did not act?

Mr. Hewitt stated yes this is the year of the 50" minimum so the exploitation rates would be high.

Mr. Welter stated we have had three other high exploitation years.

Mr. Hewitt stated that is part of the issue. This has been a contentious issue within the Sturgeon team between those that say they feel things are all right and those that feel their populations are in trouble. We have been having our biologists gather more recent data over the last couple years. He thought they were paying less attention to Sturgeon than they should have in past years. Some of the more recent information was just within the last couple cycles.

One of the options is to not do an emergency rule and let the regular season occur this year and see how high the exploitation rate is and have the committee continue to work on what might be the best overall rule. It has taken until this year for that group to get consensus that we think the 60" minimum length limit would be appropriate. Part of the other concerns is that last year we moved forward with a rule change on the Menominee River. The concern for this current year is that rule change we just put through for raising the size limit to 60" on the Menominee in conjunction with Michigan and given the number of out-of-staters that go to that water on those 50" years is that those anglers are going to be redistributed to the other waters.

In addition to having the regular high effort we may see in the Lower Wisconsin and the Chippewa is that we will have an influx of other anglers from out-of-state that would have gone to the Menominee River. A lot of things are up in the air. To counter balance that, this would be the first 50" year where we have had the license requirements in where there is a \$20 fee for in-state Sturgeon license and \$50 fee for out-of-state Sturgeon license. That might help. We do not know what the effect of that will be. The committee proposed that we should move forward with the 60" size limit for this coming year. When they proposed that to the Fisheries Board it was already too late to try to get in to the regular cycle. There was no way to do a regular rule order to have it effective for September so we decided to wait until a date closer to September when we could put in an emergency rule and have them be effective for that time period.

Mr. Ela asked if this is to get us through a 50" year that arguably could be a tipping point year in terms of long-term Sturgeon populations.

Mr. Hewitt stated yes for these waters. This could be a high exploitation rate again and we are not sure how many of these high exploitation rate years some of these populations can stand.

Mr. Welter stated what you are proposing is not only a change in regulations but also a change in the permit license fee.

Mr. Hewitt stated the permit cost went through a couple years ago. Last year was the first year that the permit costs were in effect. Last year if you wanted to go Sturgeon fishing, you had to have a license. We are not proposing any change there. The two things we are proposing now are the 60" size limit and going from six weeks to four weeks.

Mr. Welter stated on the one hand you could take a look at what the impact on the number of anglers is of the higher fee and on the other hand you could institute a change in the season structure and a change in the minimum size that may make it difficult to separate what the impact of the different number of anglers is compared to the change in the regulations.

Mr. Hewitt stated that is the dilemma we have been in all year. That is the critical question. Do we go ahead and risk high exploitation rates to see what the impact is of the higher fees that are occurring on a 50" year or do we go ahead and implement a 60" size limit that we know will protect those populations for this coming year and protect them across the state? The concern the other biologists had was what we have seen in the past where we have changed regulations on one water or a couple waters, which we did for the 50" and 70" alternate then you redirect the anglers that are coming to other waters that have been less exploited raising the risk on those waters.

Part of the problem we have is not only focusing on the individual waters but looking at it from a state wide perspective because the rules we put into effect for one body of water changes where anglers go and put other waters at different levels of risk. That was the key point in this. The arguments we have had within our team last year is that whatever we do, we have to be consistent across all waters. We have tried regulating waters independently and that does not work.

Mr. O'Brien stated in hearing your explanation, and he does not want to see depletion, it seems to be poor management to come in asking for an emergency rule when you have had all of this data all of this time.

Mr. Hewitt stated the Department has not had all of this data.

Mr. O'Brien stated you have had data. You have seen how the fish have gone from 50" to 70". It seems to be poor management to come in and ask for an emergency rule at the last minute. That is not really what an emergency rule is for. It seems to me that this should have come up six months ago. You certainly had that information then.

Mr. Hewitt stated they did know six months ago or earlier that their managers wanted to put this in place. There was not sufficient time, however, to go through a regular rule making process. Had the Department done an emergency rule at that time it would have expired. Since we only have September and the first two weeks of October as a season, we did not have time for the permanent rule at that time. We would have had to wait until closer to the date which is this Board meeting in order to have it in effect. You are right; this has been a contentious issue with the Department biologists. The biologists were trying to work out all the details to decide what the best mechanism is so it took them too long to come up with their recommendation.

Dr. Clausen stated we have an exploitation rate at 20% – 30% right now and we do not want to have over a 5% so we are looking at actually reducing that bag limit.

Mr. Hewitt stated the bag limit is one. We are looking at increasing the size limit.

Dr. Clausen asked by increasing the size limit with the effect of decreasing the harvest by 75% if a 60" limit would do that.

Mr. Hewitt stated yes.

Mr. O'Brien asked how long it takes a Sturgeon to get to 50"-60".

Mr. Hewitt stated it could be 40 years or more. Some of these are pretty old fish.

Dr. Thomas asked if people are harvesting them to eat.

Mr. Hewitt stated yes. A lot of people smoke them.

Dr. Thomas asked if the Department has information on toxins, etcetera in these fish and are there fish advisories on them.

Mr. Hewitt stated yes we do have some information on them. They are pretty contaminated in some places. He did not have that data with him. They feed pretty low on the food chain versus some of the top predators that are eating other fish that concentrate. It really varies a lot around the state.

Mr. Welter stated you made an estimate that a 60" minimum length limit would reduce the harvest by 80%. That is compared to a 50" minimum length limit, correct?

Mr. Hewitt stated correct.

Mr. Welter asked if that is based on the size of the Sturgeon that are registered on the past three – 50" limit years.

Mr. Hewitt stated yes. It is based on the current data for our surveys.

Mr. Welter stated that only 20% of the fish that are harvested in the last 3 – 50" minimum years had been over 60".

Mr. Hewitt stated yes.

Mr. Welter stated the females are bigger. Are they a target or do we not limit the number of females that are being harvested in the Wolf system. Is that a primary indicator of how you are going to sustain your population?

Mr. Hewitt asked Joe Hennessy to step in while he took a break.

Mr. Welter asked that if the Board is going to adopt this order for the 2007 season - change the minimum from 50" to 60" - are we going to end up changing the sex structure of the fish that are harvested in any significant way and do you see that, for one season, would have any significant ability to maintain a sustainable population.

Joe Hennessy, Natural Resources Staff Specialist, Fisheries Management and Habitat Protection Bureau stated he did not think so. At this point, no fish that is larger than 60" that is caught is being released. It is true that the majority of the fish larger than 60" that would be harvested under this scenario would likely be female fish. They are not being released right now anyway. Impact to the regulation is to protect those fish between 50"-60" which include both males and females. Percentage wise, the sex structure of the harvest would change but there would be such a dramatic reduction in numbers of fish harvested that it ultimately serves to protect the population long-term.

Mr. Welter asked about the process in getting an emergency rule into place based on the late September early October season 2007. If we were to propose to go through a regular rule making process to take it through the spring hearings in 2008 and address it during the spring/summer of 2008, would that allow us to get it into place if we thought it was appropriate for the 2008 September - October season?

Mr. Hennessy stated it would be close but probably not. We would have a 70" minimum during 2008 anyway so harvest would virtually be zero during 2008 so that would not be an issue even if it was not in place for the 2008 season.

Public Appearances:

1- **Ed Harvey**, Waldo, Wisconsin Conservation Congress (WCC) stated the WCC supports this emergency rule and that it needs to be put in place right now. The reason for that is primarily because of the need to maintain the 5% harvest rate. WCC also believes that it needs to be looked at and put in place for a period of longer than one year. The 60" limit also targets specifically adult spawning females. It takes 25 years for a female Sturgeon to be ready to spawn. We have gone the other way on Lake Winnebago and part of that is because of spear fishing.

The other issue also is that some people may be satisfied to catch a smaller fish that is likely to be a male and removing that fish from the system will have no effect on the resource. By taking the limit up to 60", some people would just fish more until they get that 60" fish. Some systems are fairly major systems that probably have pretty healthy Sturgeon populations. Others are smaller populations and basically caught between two dams. WCC appreciates the insight and purpose of the regulation and think it should be enacted. Reducing the season from six to four weeks will also help but some anglers may just choose to fish more often and concentrate the pressure. This is unknown. There has been an issue with patron's license tags. There has also been talk of a lottery system which we finally got on Winnebago and that may be an issue and one thing we might need to look at there too. We think basically that in the near future we need to be looking at things more on a water by water basis in order to get a better handle on what fisheries are available there, whether the 60" limit is going to completely exploit the available spawning female population from certain fisheries or what really makes sense on a body of water by body of water basis. It may make sense to reduce the size instead of increasing it because of the fact you would be giving people an opportunity to harvest more male fish.

Mr. Welter stated that if you look at the 50" year and 70" year results on a paired basis, we are averaging only a slight increase for a pair of years as opposed to where we were before we instituted that 50" and 70" increase. We are at something like 625 fish for a two year period as opposed to 300+ fish for a season before that. What we are talking about doing is instituting this rule for 2007 that would drop that higher year from something in the neighborhood of 450 fish or so and reduce it by 80% to 90 or 100 fish in one year. Those paired years have been fairly similar on average as we go along. What are you seeing that is new that warrants the Board to do this emergency rule right now that says we should do the 60" minimum and reduce the season by one-third?

Mr. Harvey stated the discussion among WCC was along the lines that the 60" limit might not be necessary in all the waters that are being cited as hook and line fish now. There is enough concern

about some of the other waters that they felt it was necessary for the Department to go ahead with it.

Mr. Ela stated the real crux of the problem is unequal geographical distribution and not knowing what waters are going to be over exploited and what waters are not going to be overexploited and this mechanism is a way of just saying we cannot deal with that on the short-term because we do not know enough so we have to go statewide.

Mr. Harvey stated yes. The Department is collecting information now so there is going to be more information in the near future on which to base some better long-term decisions.

Mr. Ela stated if you look at the 70" seasons, those may be bodies of water that are being excessively fished because people are not going to the bodies of water that have the 70" requirement.

Dr. Thomas stated they all have 70" limits.

Mr. Ela thought that was just for selected bodies of water.

Dr. Clausen stated he realized that this is only one year and it is not good to base things on one year. Do you have a sense, given what you have told us, that there is increasing angler effort to harvest these fish and if we had a significant drop off in the number of 70" fish harvested? Any sense of whether that is an indication of a decline in that fishery or that we are starting to bump up against something significant?

Mr. Hewitt stated we see relatively few fish over 70". In those waters with the 70" size limit there has been almost no harvest. Not all the waters have the 70" size limit. There may be some redirected effort for those. There are still fish over 60" that will be harvested. There are a lot of fish between that 50" – 60" size. The bulk of the fish that are out there that make up the harvest at the current time are between 50" – 60". We have some of those proportions available in the information. To clarify one point, we have been seeing these harvest trends in the numbers. The key point of the information that we have not had until recent years is actually being able to estimate what the exploitation rate is. Our more recent studies have been to get what exploitation rate is out there and we measure it as higher.

Mr. Welter stated as an observation, if that is the crux of the basis for this emergency rule, it would have been helpful to have that information provided to the Board because we are sitting here and we are hearing you say there may be waters where this is crucial. There may be waters where this is not important. Except that we are saying we will give you the general statement but those things we believe are factors but we do not have any information.

Mr. Hewitt stated the background memo has the exploitation reasoning.

Mr. Ela MOVED, seconded by Dr. Clausen approval of Revision to NR20 – Emergency regulation change regarding hook and line Lake Sturgeon fishing.

Mr. Welter stated in terms of discussion, this, it seems, is something that he again questions whether we need to have an emergency order to do this for this season. He understands that there are issues that are going to be controversial at times among the fisheries management team and it takes a while for them to get to a position. He would like in future cases to see a better case made for an emergency rule. What they are talking about is a rule for this one year, 2007, because if we did not change a rule, there would be a 70" minimum in 2008 anyway. That is going to have some dramatic impact on the harvest anyway. The other thing is we have population information but we have not had an assessment of the impact of higher tag fees on the number of people that are going to be pursuing Sturgeon and whether or not that is going to have an impact. Now you are going to change the harvest and change the season length. It is going to be hard to say, based on your fish registrations what the impact of any one of those was. You are kind of confounding things. All that being said, he would vote grudgingly yes on this thing, but it leaves a sour taste in his mouth.

Mr. O'Brien stated he agreed with Mr. Welter.

The motion carried unanimously.

- 3.B.2 Adoption of Board Order FR-02-07 – contracting for timber sale establishment services on state land.

Paul Pingrey, Staff Specialist, Forest Management Bureau, stated Section 28.025, Wisconsin 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 identifies timber sale related tasks that can 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), Wisconsin Stats.

This is a follow up to emergency order FR-01-07E adopted in January 2007.

Dr. Clausen stated he was glad to see they went to a per hour thing because it is easier on a bid situation to compare oaks to oaks rather than oaks to pine trees that you may get on a percentage type thing. He asked if the Department is obligated to accept the low bid and what kind of provisions do you have in there as far as quality control in the quality of the work being done?

Mr. Pingrey stated as part of the rule, the Department would evaluate the Request for Proposal as to experience working in those timber types and if the timber markers have appropriate training. If it were on price alone, we might see a situation where some firm, such as from Missouri, bid on marking timber sales. If they do not have any experience with our systems here, things could go wrong. He would anticipate in the Request for Proposals that we would have some sort of experience requirement. This particular approach is very common on U.S. Forest Service land. They have been contracting timber sales set up for some time and they have a fairly elaborate set of handbook instructions about assuring performance of these timber markers. As this evolves, if necessary, the Department could adopt some of those in our Manual Code.

Dr. Clausen inquired that if you have problems with a particular consulting forester and their quality of work is not good but they keep on bidding on the low end, he wants to be sure that there is a way to deal with that.

Mr. Pingrey stated they have not developed those Manual Codes yet and so the system we are proposing is flexible enough to build in those quality assurance provisions and the rule itself requires the Department to monitor the performance of these contractors. In considering the level of dedication of our state forest staff, there is a strong assurance that they will want quality work from any contractors who work on state property.

Dr. Clausen requested he would like an update on this in one year to eighteen months to see how it is going.

Mr. Pingrey stated the Board can certainly get an update. The Legislature itself is watching closely. It requires a biennial report about our progress related to setting up these harvests that are established through the master plans and through the allowable cut that we determine is necessary. They are going to be very interested in whether this contracting approach works as well. He does not know if there is a mechanism in place for us to bring that report to the Board first.

Ms. Schlaefter stated the Department would be happy to give the Board an update and schedule that for a future meeting.

Mr. Welter MOVED, seconded by Ms. Wiley approval of adoption of Board Order FR-02-07 – contracting for timber sale establishment services on state land. The motion carried unanimously.

3.B.3 Adoption of Board Order FR-03-07 relating to the referral of private timber sale requests to cooperating foresters.

Paul Pingrey, Staff Specialist, Forest Management Bureau, stated that the Department would like to revise 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’s lands and address the allowable cut as provided for in the 2005-6 Act 166.

Dr. Thomas stated you just mentioned that you were going to encourage “loggers to get this training.” On our state lands, you are requiring people to obtain Society of American Foresters standards and certification. In other words, education equal to having graduated from an SAF accredited program. But you are not going to require that kind of level of expertise for people on private lands?

Mr. Pingrey stated part of the issue is workload and balancing the resources the agency has with the demand for services. For most landowners with ten or more acres including those that are in the managed forest program, yes, we are trying to get those private landowners to work with trained professional resource managers such as foresters. For some smaller properties though, we are trying to find alternatives simply because the Department does not have all the resources available to help everyone out there who might request a service. We have found through practical experience that for some timber types, timber producers are in fact quite capable of providing reasonable assistance to private landowners. For example, even age harvest in Aspen, Jack Pine, and those types of timber types. We found that different levels of assistance can be appropriate for different sizes of parcels or different timber types. The Department is trying to be flexible in creating a mix of tools that we could use to address that demand.

Dr. Clausen stated we had this referral process and it goes out to a consulting forester. Why do we not have qualifications on that consultant to meet the same requirements that we require of a consulting forester to have on state lands if we are interested in good timber management?

Dr. Thomas said the citizens are supporting the management of that private land by reduction in the taxes those people pay on it.

Mr. Pingrey stated the idea of forester licensing certainly is a valid one. It would be separate from this administrative rule. It is something that other states have done to try to assure that all forestry assistance meets a certain standard but here in Wisconsin the Legislature really has been resistant.

Dr. Thomas stated that is not the Board’s point.

Dr. Clausen stated they are not talking about licensing. We are talking about that this list of consulting foresters that each county forester has, that those people meet the same qualifications that we would require – and not licensing. In order to get on this list, you would need to have the equivalent of a forestry degree.

Mr. Pingrey stated in fact that is part of the rule already. To be listed as a cooperator, the foresters must have a degree from a SAF accredited school or equivalent degree. That has been in place since 1989 when the cooperating forester program was established.

Dr. Thomas stated we must have misunderstood you. She thought you just told us you were going to encourage loggers to take some silviculture courses so they could do this.

Mr. Pingrey stated for those landowners that do not take the time to contact a professional resource manager that is one of the alternatives that we are looking at. We would rather the landowner talk to a professional resource manager. If they do not, there is nothing in the state as far as a mandatory forest practice law that says a landowner must work with a professional forester. If they do not and go to a logger, the Department’s best fallback is to help assure that it is a professional logger who really is conscientious about the work they are doing.

Dr. Thomas stated they have discovered the cause of their confusion. They are talking about managed forest law. Mr. Pingrey is talking about just people in general. Is she clear then that in order to participate in managed forest law that you need to deal with someone who has been approved by the local forester as a cooperating forester?

Mr. Pingrey stated yes. There is a certified plan writer process that private consulting foresters have to go through in order to write plans for the managed forest law.

Dr. Clausen MOVED, seconded by Mr. Poulson approval of Adoption of Board Order FR-03-07 relating to the referral of private timber sale requests to cooperating foresters. The motion carried unanimously.

- 3.B.4 Adoption of Board Order FR-13-07, revision to NR46, related to stumpage rates and MFL petitions.

Carol Nielsen, Tax Law Manager, Forest Management Bureau stated that the Department requests adoption of the proposed changes to NR46 Wis. Admin. Code, including:

1) Annual Stumpage Rate Adjustments. Section 77.06 (2) and 77.91 (1), Stats., require that the department establish stumpage rates (values) used in calculating severance and yield taxes on timber harvested from land enrolled in the Forest Crop Law (FCL) and Managed Forest Law (MFL). This rule would repeal and recreate NR 46.30 (2) (a) to (d) to revise the stumpage values to be used in calculating severance taxes and yield taxes for timber harvested during the period of November 1, 2007 and October 31, 2008. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average change for saw timber is a 5% decrease over current rates. The pulpwood prices, on average, would decrease 10%. Stumpage values are collected from private, state and county timber sales to be used in calculating the proposed stumpage rates.

2) Catastrophic loss (30% reduction in stumpage value) is granted when timber harvested meets requirements set in NR 46.30 (1). The proposal is to reduce the acreage requirement from 10 to 5 contiguous acres and to increase the reduction in stumpage value from 30% to 70% for catastrophic loss granted as a result of fire.

3) Application fee revision resulting from 2005 Act 299. Previously petitions and orders of designation covered all land under the same ownership in the same municipality. Act 299 removed the municipality requirement. All land under the same ownership will be included on one petition. If there is more than one county the order of designation must be recorded in each county. The change proposed would require an application fee of \$20/county on the petition to cover the recording costs in each county.

Dr. Clausen thanked Ms. Nielsen for the changes made. The changes are closer to what people are getting for their land. This goes beyond what you are doing here, but he does have concern with smaller landowners and even personally when he is looking at harvesting a small amount of land and doing a timber stand type of thing, it is now with the young man that does most of his logging. He probably has close to \$1 million invested into his equipment and time is money for him. If he had the logger look at something, he would say it is going to cost \$900 to move my equipment in there because of down time off of something else. Consequently on those small sales the landowner might not net out the same kind of money that they would get on a larger parcel. That is something you always need to keep looking at. That will probably get worse as far as we see more concentration of the logging industry.

Ms. Nielsen stated that is true. There are some other things that are going on. There was a cross boundary study that was just completed, trying to look at ways the landowners can work together, group together, or a consultant would work with a group of landowners in the area to take care of those small timber sales that are hard to sell on their own but as a group can be done jointly. The lower Wisconsin Riverway groups together a lot of landowners in the Pine area and had one joint timber sale.

Mr. Poulson MOVED, seconded by Dr. Clausen approval of adoption of Board Order FR-13-07, revision to NR46, related to stumpage rates and MFL petitions. The motion carried unanimously.

3.B.5 Request approval of the Fish, Wildlife and Habitat Management Plan.

Laurie Osterndorf, Administrator, Division of Land and **Todd Ambs**, Administrator, Division of Water jointly gave this presentation to request for the Board to approve the Fish, Wildlife and Habitat Management Plan - which has been revised as required to receive federal Sport Fish and Wildlife Restoration funding. The Department provided an update on actions taken to finalize revisions to the plan since the informational briefing in February - including a summary of the comments received from the Fish and Wildlife Service, an overview of the public opinion survey, and our response to key comments.

The Fish, Wildlife and Habitat plan is required to receive funds under the federal Sport Fish & Wildlife Restoration Acts. The scope of the plan is on projects and activities eligible for funding under these acts - priorities related to sport fish, wild mammal and wild bird conservation and management, and on boating and hunter education activities - along with state matching funds

(mainly from fishing and hunting license fees.) These funds are generated from an excise tax on fishing and hunting equipment and from a portion of the federal gasoline tax attributed to motorboats. Funds are apportioned to the states based on the number of people purchasing a hunting or fishing license and based on the size of the state, and Wisconsin receives approximately \$18 million annually. Given the source of the funds, the primary affected parties include anglers, hunters, recreational boaters, and hunter education students, although conservation organizations and members of the public with interest in fish and wildlife conservation in general, have interest as well. This plan is one of a portfolio of plans that establish overall priorities and direction for fish and wildlife conservation.

Mr. Ela asked Mr. Ambs how the potential respondents were selected.

Mr. Ambs stated there were a variety of mechanisms that the Department used. There were a number of meetings held all over the state. We held those meetings in a variety of ways either by piggy backing already on to existing meetings that conservation groups, angling groups were doing or by doing meetings of our own just on the Department set-up, just on this subject. We also had web based surveys that people could fill out and submit and certainly through spring hearings as well. Comments were taken there too. There was a wide variety of ways that we went about seeking input.

Mr. Ela stated there is a bias here, but there is a tilting toward people who hunt, people who fish, people who you have identified who use the outdoors in one way or another.

Mr. Ambs stated yes in the sense that certainly a lot of the meetings we attempted to piggy-back on to, if you will, were traditional conservation groups. The web-based survey was a survey anyone could get access to. An area where we did not have as much success as we might have liked, is we did try to do some meetings, particularly up in the Northeast Region, that we organized just on this plan. Quite frankly we did not get the turn-out, which is understandable. Again, there is nothing dramatic that was proposed in this plan. We did try a couple of ways to get at the non-traditional publics. Having 20% of the folks indicating they had not purchased a hunting or fishing license was at least a subset of that 2,600 sampled that was not our traditional constituency.

Mr. Welter asked for clarification from Mr. Ambs regarding the statement as to replacing fish hatcheries if the Department is renovating or retiring fish hatcheries.

Mr. Ambs stated it was more renovation in referring to Wild Rose and those sorts of needs.

Dr. Thomas asked Mr. Ambs how many miles of Trout streams is the Department restoring each year.

Mr. Ambs stated 25 miles. The Department has been at that for quite some time and frankly the Trout Stamp money is critical to the Department being able to do that and obviously in leveraging partners as well.

Public Appearances:

1- **Ed Harvey**, Waldo, Wisconsin Conservation Congress (WCC), stated the WCC Executive Committee recently reviewed and discussed the six year plan. In addition, the entire WCC delegation was fortunate that it had DNR staff Tom Hauge, Mike Staggs, and Randy Stark make presentations at the convention. The WCC was not able to take any action at that point in time because the outreach survey was still out. The Executive Committee did look at it once it was available and met again on it just recently. A couple of items seemed out of place for instance the section on Captive Wildlife on page 44 identifies the need to develop tighter restrictions on species used for dog training. Last summer the WCC spent a lot of time working on dog training and while it is fairly brief, it does suggest that we are going to do something more with that and WCC is concerned about it. It became apparent to WCC that this is something that we really needed more time to do justice to and to send not just to the Executive Committee but to some of the Committee Chairs.

We understand that the report is required to assure that the state is able to continue to successfully compete for grant dollars and WCC is not necessarily objecting to the report. We

are just saying we are not in a position that we can endorse it. WCC would like more time to review the plan before we can endorse the final document. We realize time is of the essence and we do endorse the general concept but would request that the Department engage the user groups once again as they did when seeking input from WCC and discuss the specifics of the plan in more detail and be more flexible in the exact provisions contained in the document. A lot of this will be wordsmithing. There were questions also on why the outreach survey on the Internet was different from the hard copy survey that was handed out and we are just not comfortable that at this time we can endorse the plan.

Mr. Poulson stated he is pro on long range plans and he appreciates the efforts and thinks we always need to update. We wring our hands a lot about who are the future hunters and anglers. There are about 160,000 people participating in 4-H clubs across the state which are manned by moms and dads. A county agent does not do all the work, it is the parents. Those kids are not sedentary during the summer. They are doing things. We have the scouting programs and combined efforts of boys and girls clubs and YMCA's. Have we ever mapped that out and thought how do we really throw ourselves into this mix and help get our kids from those programs that are already there? There is a lady that is in Farm Bureau and 4-H as well and she on her own has probably over 150 kids in hunter safety programs. A lot of this is going on. How do we partner?

Ms. Osterndorf stated Mr. Poulson's point is well taken. What the Department needs to do is find what our niche is. As far as interacting with them, she could not say there is not one person who does complete interaction but is sure that the folks who do hunter's safety do look to see who their partners can be. Specifically in outdoor skills where we have Wildlife Management and their educators, we have Mary Kay Salwey in the northwest who does Archery in the schools, clearly an overlap with the school system. We also have state park interpretive programs that bring in clubs and groups. This is a point well taken and where they can, the Department does overlap.

Mr. Poulson stated his point was that there are a lot of things going on and we just need to find a way to partner with other people and bring them into the fold.

Mr. Ambs stated in the last couple of years we have really stepped up matching our free fishing weekends to having open hatchery days and they are extremely popular. At least on the fisheries side in the last couple of years, we have focused a little bit more on how we do the outreach ourselves with some events of our own that we are organizing. It is a good point. There is always more potential for partnering and outreach to other groups.

Dr. Thomas stated one of the things she would like to see specifically mentioned in the plan as it goes forward somewhere is some emphasis on recruiting, retaining, and educating women and diverse audiences to hunting, angling, wildlife viewing and other outdoor recreation. Her reason for that is not that she started the Outdoors Woman Program, but that she has learned a lot as a result of doing it. Almost every word in the plan related to those kinds of activities is specifically focused on use. We do need to do that at the absolute maximum level that we possibly can. Getting every piece of outdoor recreation research that has ever been done shows that people are socialized into these activities. The points of entry are use and then for women also as a young adult when they establish a relationship with a man who does these things generally. That has been the historic model. You can trot out all the kids with Snoopy rods that you want, day after day, and if adults in their life do not do these things, they had a nice day and might have developed an appreciation but they are not going to become anglers.

All of the research that the Department presented the Board in December showed that the numbers of women hunting are going up in this state as opposed to numbers of men who are hunting, which are going down. Our efforts are actually creating immediate license sales and appreciators of the resource and instant gratification. The other thing they do is they facilitate kids and grandkids to get involved so she would really like, if it is going to take a motion, to see a line in the plan that addresses adult recruitment retention and focus on getting women and diverse audiences involved. This is not a criticism.

Ms. Osterndorf stated she realized this was not criticism and it is very important to the

Department. The Department Leadership Team has recently chosen some areas to emphasize. There are areas that the Department would want to focus attention on in the next few years. One is: Nature is our Business. Dr. Thomas had mentioned license sales so the connection between business and nature is very clear. Our economy goes up with wildlife watching, tourism, and hunting sales. The Department looks at how we can improve that and move that forward. There would be a whole line of existing users and what do we do with them. What the Department is looking at are potential users and people who are not out there. One of our objectives is women, minorities and urban populations. Not in the context of this plan, but it is a very important task we have set out for ourselves within the Department.

Dr. Thomas stated she knew that but would like to see this in this plan. The Fish and Wildlife Service would be happy to see it added to this plan also. This is a major talking point in many of the national committees that Dr. Thomas is involved with.

Mr. O'Brien stated this is an excellent plan. Assuming that this gets approved today, do you have an action plan to see who is responsible for carrying all these things out? He realizes DNR personnel are spread all over in the regions, and they are busy and have day to day duties. This plan is calling for extraordinary duties. Is staff going to be assigned to follow through on this and report back and be responsible for doing some of these things or will it sit on the shelf?

Mr. Ambs stated that across the Department, we have the Department Strategic Plan and this all fits under that umbrella of the Department Strategic Plan. We then have in individual Division specific objectives. The Water Division has four key objectives. The one that is most pertinent to this plan is to protect and restore outstanding fisheries. We have a whole body of work that we are doing in the Water Division, specifically in the Fisheries Bureau that is all tied back to this plan. We then drill down even further to have specific performance measures that are tied directly to work planning for each individual staff person.

It is actually an extremely detailed effort to try to make sure that we first connect all of these plans together back to the strategic plan as a Department but then as we are looking at how we deploy our resources at the Division and Bureau level to even go down a step further. We spend a great deal of time on that and in fact if anything, he thought a lot of what we are focused on now he is happy to report we are having much more of a discussion about do we have the right goals, are we measuring it right, and how do we adjust, rather than talking about how do we get goals, how do we develop performance measures. We have really come several steps along the way to make sure that all of these plans actually have specific tasks assigned out to staff and can report on the progress.

Mr. O'Brien stated he is not suggesting this as a requirement, but at some point it would be interesting to look back in another year or two to see how you are doing on the implementation.

Mr. Ambs stated that is in fact specifically what we do. Everyone does it differently. The Land Division has extensive work in this area as well. The Water Division does it on a biennial basis. We track our goals point by point on a biennial basis and then we review those, adjust for the next biennium, and we are actually about to roll out the Water Division goals to the staff within the next week because the next biennium is right around the corner.

Ms. Osterndorf stated this leverages \$18 million in federal funding grants so the federal government is very interested in what Mr. O'Brien just said. The Department does have an obligation to report back to them on our performance too.

Mr. Poulson stated he had a question and a concern. Recognizing that aquaculture and deer farm and private hunting preserves do not necessarily come under one – it is another domain. How do we partner in some of that because we look at the fish virus and look at some of those things which are very concerning to us. We look at Chronic Wasting Disease (CWD). Somehow we need to be sure that within the Fish and Wildlife Plan we partner with the other government agencies.

Mr. Ambs stated that on the aquaculture side and Viral Hemorrhagic Septicemia (VHS) certainly, we are partnering with the Department of Agriculture, Trade and Consumer Protection (DATCP) probably more joined at the hip, as we are trying to move forward on that effort and actually have a series of informal and more formal protocols with DATCP on how we proceed forward on those issues.

Dr. Thomas inquired since this is not an inquisition and you do not have to defend, does it mention in the wildlife health part of this plan whether partnering is mentioned.

Mr. Ambs stated yes. It is referenced that partnering is essential. Certainly as we talk about both terrestrial and aquatic invasives in particular.

Dr. Thomas addressed Mr. Harvey's concern. We already talked about this. Staff and Ms. Osterndorf have already offered to modify C2E on page 45 to say something more like implement recently adopted regulations designed to insure better control over health, humane care, and disease risks of species used for dog training. Is that acceptable?

Dr. Clausen MOVED, seconded by Mr. Poulson adoption of request approval of the Fish, Wildlife, and Habitat Management Plan and to amend C.2.e to "Implement recent rule change to ensure better control over health, humane care and disease risks of the species used for dog training" and to include "females and minorities" in the language related to wildlife education and aquatic education. The motion carried unanimously.

3.B.6 Request authorization to hold public hearings on rules to control the spread of Viral Hemorrhagic Septicemia virus in Wisconsin.

Steve Hewitt, Section chief, Fisheries Policy and Operations, Fisheries Management and Habitat Protection Bureau spoke on behalf of Mike Staggs. He stated that the Order makes permanent and clarifies recent emergency measures for the control and prevention of Viral Hemorrhagic Septicemia (VHS) in fish in waters of the state.

The Order limits the transport of live fish away from specified waters, and requires the immediate drainage of water from boats, boating equipment, fishing equipment and other containers upon removal from those specified waters. Waters specified in the Order include Lake Michigan, Lake Superior, Mississippi River, Lake Winnebago and the Fox River downstream to Green Bay, and all connecting waters upstream to the first barrier impassable to fish. If VHS is found outside of the waters specified in the Order, then all waters of the state would be included in the Order.

The Order also requires that bait dealers apply for and possess a department permit to harvest wild bait from any water and keep daily harvest and disposition records.

The Order bans the use or possession of imported live bait (minnows, crayfish and frogs), with exceptions. It also prohibits any person from using dead fish, fish eggs, crayfish, frogs, or any parts thereof as bait, with exceptions, and it limits the use of fish and fish parts as bait in crayfish traps and turtle traps, with exceptions.

Finally, the Order adds a new criterion for the issuance of permits for licensed bait dealers to use non-standard minnow gear, allowing the permits to be denied if use of the gear could spread invasive species or diseases.

Mr. Ela stated he understands the designation of high risk waters, and does not understand why the Department has not started testing there when they have been testing at lower risk areas.

Mr. Hewitt stated the reason they have not started some of those is because they were concentrating initially on waters where there were fish kills reported from the spring when the temperatures were appropriate and the headwaters from some of the hatcheries because we wanted to make sure we had a clean hatchery product. We needed to be able to test those before we could move any fish off our hatcheries. The tests that we had done so far have been primarily on some selected waters for making sure that we are doing what we can to keep our hatcheries safe and then the fish kills specifically.

Mr. Welter asked that within the diagnostic codes, does this include fish that are found dead someplace and turned in or is that something different.

Mr. Hewitt stated they did not have time to simplify this. The difference between diagnostic and fish kill is if there is a fish kill report they go out and look at it. A diagnostic is where someone turns in a fish as suspicious that they caught that was not dead. Some of the fish tested have not been from fish kills but also fish people reported as looking like it had symptoms of VHS.

Dr. Thomas asked Mr. Hewitt to finish the presentation with a note that the Board has seen the background three times.

Mr. Hewitt stated the purpose of the permanent rule is the same. The emergency rules they have will be effective through January. They are working with DATCP and other organizations. The Department has been going through on what permanent rules they may provide as well.

Ms. Wiley asked Mr. Hewitt if he would let the Board know where and when the public hearings are.

Mr. Hewitt stated yes.

Ms. Wiley asked if the Public Service Announcements (PSAs) also list where the hearings are.

Mr. Hewitt stated right now the PSAs are mostly being produced with Carlson and other outdoor writers talking about the things to do at a landing in terms of draining a livewell and examples of that. We also have some radio spots as well.

Dr. Thomas complimented the Department's action on VHS. It was timely and very well done.

Mr. Welter MOVED, seconded by Mr. O'Brien approval of request authorization to hold public hearings on rules to control the spread of Viral Hemorrhagic Septicemia virus in Wisconsin. The motion carried unanimously.

3.B.7 Request authorization to hold public hearings on Board Order FH-07-07, revisions to NR 25, related to commercial fishing in outlying waters – Yellow Perch.

Bill Horns, Great Lakes Fisheries Coordinator, Fisheries Management and Habitat Protection Bureau spoke on behalf of Michael Staggs. He stated that the Natural Resources Board Order FH-07-07 would increase the total allowable commercial harvest of yellow perch from Green Bay from 60,000 pounds to 100,000 pounds.

Mr. O'Brien asked if the figures are the result of the DNR surveys.

Mr. Horns stated yes. Our quota recommendations are based on our surveys, Part of our data is an annual trawl survey at 78 stations in Green Bay, but we use other data as well, including commercial catch reports and creel survey results.

Mr. O'Brien asked if these numbers can be wrong.

Mr. Horns stated they do measure with error. Other data we collect, such as catch rates of older fish, later match up very well with this. The bump in the 1998 year class was dominated by the sport and commercial harvest for a number of years. After that we aged fish. Clearly that was a pretty good year class. It does not show as a large bump but a significant year class. He is quite confident these are good indicators of relative abundance of young of year. One thing that does happen is that survival of those little fish is highly dependent on how many there are. In a year like 2003 when there were so many little fish, growth rates were slow, survival was probably poorer than in other years. The number of those that show up later is not going to exactly parallel these trends. The number of these that are out there as five year olds is not going to follow exactly that same trend but it will show the same peaks and valleys.

Mr. O'Brien asked if the limits for harvest are the same all through those years.

Mr. Horns stated no, it varied a great deal. That does not explain the big trends. Probably that decline in the early 1990's was accelerated by the Department's inability or failure to cut back the commercial limits rapidly enough. That does not mean the commercial harvest was causing the decline but it means that these are very short lived fish. When they are in decline and the harvest is a little excessive, the rate of decline is going to be faster than we might like.

Mr. Ela asked if this was a concern.

Mr. Horns stated he thought it is reasonable. This is an approach that does not take into account expected recruitment from a given stock size. It is not a stocking recruitment based approach. It just maximizes the take from what is out there. Because perch are so resourceful they are capable of following up good reproduction with low levels and because that is so unpredictable. It is reasonable to use this approach that there will be enough perch out there to sustain the population. We would expect over the years erratic reproduction as we have always seen - good years and bad years. He believes this is a safe and conventional approach to take.

Mr. Ela asked if the sport catch has gone up simply because there are more fish out there.

Mr. Horns stated yes. There is a very good correlation between sport harvest and how many fish are there. When there are fewer fish, fewer fishermen go out. They do not fish as long and they do not catch as many so their harvest drops.

Mr. Poulson MOVED, seconded by Ms. Wiley approval of request authorization to hold public hearings on Board Order FH-07-07, revisions to NR 25, related to commercial fishing in outlying waters – Yellow Perch.

Mr. Welter stated last year we had in effect a 60,000 pound number for the commercial fishermen but the fishing season spanned two quota years so they were able to take 20,000 or 30,000 pounds before July 1 and another 60,000 after July 1 so it is really a 90,000 pound harvest as far as 2006.

Mr. Horns stated correct, for calendar year.

Mr. Welter asked when this rule would be effective. Would it be effective for this season?

Mr. Horns stated it would be similar. We would be looking at hearings probably in August and be back for approval of a permanent rule in October or November. There is then a little hang up with Legislative review but certainly the rule would be in effect before the spring 2008 season opens so that this quota would apply for the tail end of this fishing year. The fishing year corresponds to the state fiscal year which goes July 1 - June 30. This quota would benefit the fisherman this fiscal year next spring.

Mr. Welter stated they have the tail end of the 2007 season to fill out the 100,000 pounds and then in the 2008 fishing season they would have a 100,000 pound quota so they could theoretically take 140,000 pounds or something like that.

Mr. Horns stated yes. That would be their business decision about whether they want to fish it that summer or save some for the spring. It is possible for them to do that.

Mr. Welter stated they have a 7 1/2" minimum on the commercial fish. How long does it take in Green Bay for a fish to get to that size?

Mr. Horns stated he thought a 7 1/2" fish is approximately two or three years old.

Mr. Welter asked if the Department is comfortable based on your reading of the population trends that the three and four year old fish that they are going to be taking in early 2008 and through that season and that population can sustain a harvest that may be 300,000 pounds.

Mr. Horns stated he thought so. The population is growing. The Department may be underestimating a little bit because of the way the model picks up data and incorporates it into its estimate. Certainly, fishing reports say there are a lot of fish out there. Perch have the ability to bring out strong year classes. He thought this is a reasonable number.

Mr. Welter asked when the Department gets the young of year surveys done.

Mr. Horns stated in August.

The motion carried unanimously.

Dr. Thomas returned the meeting to agenda item 3.B.14.

3.B.14 Land Acquisition and Project Boundary Modification – Statewide Natural Area Program – Green County.

Public Appearances:

1-**Paul Zedler**, Madison, representing the UW Arboretum and UW-Madison stated this site has been heavily used by classes at the UW for many years and is an iconic piece of Wisconsin that many of their graduates remember fondly from field trips that they had taken there. It has historic value. The reason this parcel is of such high quality is it was saved as a sugar bush and for many years was operated as a maple sugar production site. The shack that was used in that production still stands and is intended to be retained. He underlined the conservation importance of this acquisition and said it was critical to the long-term survival of this important site. Part of this site is agricultural land. He sees this as a tremendous opportunity for restoration of prairie. He commended staff for making arrangements for this transaction and looks forward to working with the Department.

Mr. Ela MOVED, seconded by Dr. Clausen approval of Land Acquisition and Project Boundary Modification – Statewide Natural Area Program – Green County.

Mr. Poulson asked if the Regents intend on keeping their land.

Mr. Zedler stated yes. It is a State Natural Area.

Mr. Steffes stated it is owned by the UW-Regents. It is not dedicated but it is designated as a natural area.

Mr. Welter stated that when you mentioned non-intensive recreational use. What does that encompass?

Mr. Steffes stated Pheasant hunting in the grass lands, squirrel hunting in the woods, hiking, and educational outreach.

Dr. Thomas stated with that in mind, the Department would be better off to buy it ourselves because the Board of Regents property is not open to hunting unless special permission from whatever Chancellor involved is obtained. From the standpoint of the good of our citizens, we are better off to buy it.

The motion carried unanimously.

Dr. Thomas adjourned the meeting for lunch. The meeting resumed at 1:00.

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation

Public Appearances

1. **Richard Lehman**, Middleton, representing Scenic Wisconsin, re: Scenic Beauty Award for Wisconsin Land Legacy Report. The Board of Directors of Citizens for a Scenic Wisconsin has chosen to give a Scenic Beauty Award to the Wisconsin Department of Natural Resources for the Wisconsin land Legacy Report. It is unusual for them to award a publication and not a place, but the importance of the Report and the potential impact it will have on the scenic beauty of the entire state made it worthy of special recognition.

Dr. Thomas accepted the Scenic Beauty Award on behalf of the Board and Department. She stated the Board really appreciates this and that the staff did a wonderful job. We are all very proud of it.

2. **Jeff Gonyo**, Slinger, representing Highway J Citizens Group re: Wetland BMP violations. He asked the Board to take prompt investigatory and prosecutory action against both the Wisconsin Department of Transportation and Hoffman Construction Company for the what he said were egregious environmental violations committed during the course of the Highway 164 four-lane expansion in the Sussex/Lisbon area of Waukesha County in 2006.

3.B.16 Request adoption of Fisheries Management Rule change Proposals received favorably at the 2007 Spring Fish and Wildlife Rules Hearings

Joseph Hennessy, Natural Resources Staff Specialist, Fisheries Management and Habitat Protection Bureau stated that the Department recommends that the rule revisions listed herein be adopted and incorporated to Wisconsin Administrative Code. These proposals were presented at the Spring Fish and Wildlife Hearings, April 16, 2007, and received favorable public response, are consistent with the management efforts of the Bureaus of Fisheries Management and Law Enforcement, and have been reviewed by Department Legal Services staff.

The Department proposes adoption of three rules of statewide interest: 1) to eliminate the restriction on maximum allowable size of landing nets; 2) to implement a 50 inch minimum size limit for muskellunge in Wisconsin waters of the St. Louis River, to match action taken by the State of Minnesota, and 3) to stipulate that spears and arrows used for fishing have barbed tips. The Department also seeks to make 31 changes of local interest, which propose to make modifications to open seasons or daily bag and size limits for specific species in specific water bodies.

The Department also presented two advisory questions at the statewide hearings. Both received resounding public support, and so the Bureau of Fisheries management will begin writing rules which would extend the open season for muskellunge in southern Wisconsin from November 30 to December 31, and which would mandate the use of "quick-strike rigs" for individuals using live fish larger than 8" as bait. These rules are expected to be presented at the 2008 Spring Fish & Wildlife Rules Hearings. Rule development will be conducted with the input of affected angling groups and the Conservation Congress.

A Natural Resources Board advisory question regarding mandatory background checks for angler education instructors also received strong public support. The Bureau of Fisheries Management intends to work with the Board and the Bureau of Legal Services to determine the most effective way to implement this requirement.

Mr. O'Brien asked why the proposals (Q21-Prairie River trout regulations and Q33-St. Croix County panfish bag limit reduction) were on there in the first place. Evidently, the Department must have been favorable to them or was this something that the Conservation Congress proposed? And secondly, in view of the controversy, why are you recommending that it go ahead?

Mr. Hennessy stated for the Prairie River Q21 proposal, at one point in 2002 there had been a special regulation placed on a five mile stretch of the Prairie River in Lincoln County. Two years later, a group of citizens introduced a resolution at the spring hearings to see that special regulation removed. At that time, that generated a lot of support. There has been some back and forth on what users of the river want to see out of that fishery. In this case, initially when the special regulation was put in place, biologists had made an agreement to have an investigatory period at which point the Department would consider either continuing or removing the special regulation. With the amount of public pressure he was getting to remove the regulation, he felt it was appropriate to move forward with this question. That is what the public in that area wanted. This is what we saw coming from hearing attendees. It was only after the hearings and after comment deadlines we started to get a lot of inquiry about this change.

For the St. Croix County panfish reduction Q33, it is the Department's position that this is a very good proposal biologically for the area. The background information provided by the biologists demonstrates a very high amount of harvest pressure by anglers on panfish populations that result in populations with undesirable size structure and that a reduction in exploitation would improve the panfishery. It will have an impact on anglers. Some do want to go out and harvest more than ten fish per day but that is one of the things that makes it an effective regulation is that it does have an impact. Because of the support that was demonstrated at hearing and because of the sound foundation for the regulation, at this point it is still appropriate to go forward with that proposal.

Mr. O'Brien inquired if the Department already had their mind made up that this is what they wanted to do. If they did that, why would they put it on as a question?

Mr. Hennessy stated that with any of the Department's rule proposals, they first have Department backing. They are proposals that we have intention to follow through on and putting then on the spring hearing questionnaire is the general public hearing public process to measure public support. Seeing favorable public support overall is why we recommend moving forward with these.

Dr. Clausen commented on the St. Croix County proposal - Q33. St. Croix County butts right up to the Twin City/Metropolitan area. They are getting a tremendous amount of fishing pressure on those lakes. There is a fair amount of subsistence fishing that is going on and there has been enough fish taken out there that it seems to be affecting the ability of those lakes to reproduce. St. Croix County does not have very many lakes and the few that are there get a lot of pressure.

Dr. Thomas stated similarly in going back to Yellowstone, it seems like we would never propose closing a season if there was not a biological reason for it or some social conflict reason. She could not imagine why people being opposed necessarily to it would cause the Department to back down. Why did we back off on Yellowstone?

Mr. Hennessy stated Yellowstone was a question initiated by law enforcement because they felt they had difficulty in enforcing the closed season. Currently there is a closed season in Yellowstone Lake above the dam. They had encountered people who were catching walleye above the dam, running down the stairs, and hanging them on a stringer in the water below the dam. Being a law enforcement question with pretty strong opposition and lack of support, we felt it was not going to improve enforceability.

Dr. Thomas restated that it was not a biological reason but a law enforcement reason.

Mr. Hennessy stated that law enforcement's recommendation was to not move forward.

Mr. Welter stated that on the Lincoln County regulations, what kind of numbers in calls and letters did you get in opposition to the change.

Mr. Hennessy stated a combination of ten calls and letters which, for any local question, is a measurable number. This was ten more than what he got for everything except for St. Croix County.

Ms. Wiley inquired in relation to the Lincoln County issue, which is also a broader issue, is that she believes we dilute the statutory authority of the Wisconsin Conservation Congress if in fact the Congress supports the rules. They are available for people to vote on and all of a sudden the Department does not follow citizen participation at the meeting with the Conservation Congress. This is a dangerous path to start going down.

Mr. Welter stated the Board has a long tradition of treating that as advisory in some cases but not directive and to weigh a lot of other things that come into those cases.

Ms. Wiley stated that she thought this was a dangerous path for the Board to go down.

Mr. Ela stated he makes the distinction in his own mind as to whether there is a biological reason for doing it or just a convenience, or whatever. This sounds like it is two different user groups that are at each others throats. In that case, you go with the Congress.

Mr. Hennessy stated that if the question had failed, he would have gotten ten calls from the other side.

Dr. Thomas reminded the Board they will hear from the Congress.

Public Appearances:

1-**Ed Harvey**, Waldo, Wisconsin Conservation Congress (WCC) stated the WCC concurs on all issues with the Department. They have votes that establishes WCC's position on the Lincoln County and St. Croix County issues. He did talk to two delegates from Lincoln County and it seems that people in Lincoln County are either strongly one way or strongly the other way on this issue. There is not a middle of the road group. Some counties never produce strong delegations and others always produce strong delegations and there is no rhyme or reason to it. Lincoln County has always had a very strong and active delegation and they favor the proposal. His impression on the situation in St. Croix County is that it has been going on for a long time and is being more of a project to establish uniform regulations across St. Croix County dealing with panfish and the fly in the ointment, the complication, was that one of those lakes crosses over into Dunn County and there has been a problem over a period of years getting a consensus. We have a consensus so the WCC is supporting that one also.

Dr. Clausen MOVED, seconded by Ms. Wiley approval of the request for adoption of Fisheries Management Rule change Proposals received favorably at the 2007 Spring Fish and Wildlife Rules Hearings. The motion carried unanimously.

3.B.17 Emergency Rule Adoption for revisions to NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, NR 345 Wisconsin Administrative Code

Mary Ellen Vollbrecht, Section Chief, Rivers and Habitat protection, Watershed Management Bureau on behalf of Russ Rasmussen, stated that considering the existing, new, and yet to be determined threats of invasive species and viruses, the Department proposes to revise chapters NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, NR 345 to create new exemption and general permit standards to ensure that these invaders are not moving from one waterbody to another through equipment used in projects that fall under waterway (Chapter 30) permits.

The proposed rule establishes exemption and general permit standards for activities that would otherwise require an individual permit condition to which the same condition would apply.

These new standards would ensure that waterfront property owners exercising exemptions or general permits will take the necessary precautions to prevent the spread of invasive species and viruses by de-contaminating their equipment used during construction activities in and near the water.

There are currently no requirements in the rules setting eligibility standards for waterway projects for de-contamination of equipment to remove invasive species and viruses. By promulgating new exemption and general permit standards for equipment decontamination we will be able to help ensure that the spread of invasive species and virus are controlled to the fullest

possible extent and that the resulting economic and ecological impacts of these invasive species and viruses to the resource are avoided.

Mr. Ela stated that in the general sense, it is obligatory. It is a “shall be decontaminated for invasive species...” But then when you get to the four specific requirements that is advisory, it says “should.” Is there a reason for that?

Ms. Vollbrecht stated it is not requiring them that they not use their equipment at all or move equipment. Some contractors that we deal with have only one or two pieces of equipment. So making that obligatory for them would be a severe hardship. Contractors that have extensive fleets are probably more likely to do that. That is the intent of making that a “should” that if you do not have enough gear, do not move it from one place to another.

Mr. Ela stated he can understand that for the five day regulation, but on the rest of them, surely those should be obligatory requirements: Inspection and remove aquatic plants, animals, and mud from your equipment.

Ms. Vollbrecht stated she agreed with Mr. Ela.

Mr. Ela MOVED, seconded by Mr. Poulson approval of the Emergency Rule Adoption for revisions to NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, NR 345 Wisconsin Administrative Code.

Mr. Ela offered his amendment that the rule says “shall be taken” and on point d. language that you can come up with to the extent practicable and is economically reasonable or something of that sort.

Dr. Thomas stated to Mr. Ela that he had gone back to “may” or “should.”

Mr. Ela stated that point d. should be broken out and treated somewhat differently. Point d. recurs frequently throughout the rule.

Ms. Vollbrecht stated this is all the same text added to the list of rules.

Mr. Ela stated it seems there would be an enforcement problem if someone does not take care of mud and so forth and then they would go back to the Department and say it does not say he/she has to do this. It just says it should be done.

Mr. Welter stated that if you tweak that language where it states in NR 320.06(1)(c)15, if you said “the following steps shall be taken” instead of “should be taken” in that sentence and then simply eliminate the following sentence that states “To the extent practicable, equipment and gear used on waters known to be infested with invasive...”

Ms. Schlaefer suggested as an approach that the Department will take this request back and work with legal counsel on developing language and looking at the rule in entirety to build the concept of the requirement.

Ms. Vollbrecht asked to clarify the intent of this since she would be the one doing this. The last sentence in the first paragraph where the “should” occurs; we want to separate that out? And that is the only one that will remain a “should.”

Mr. Ela stated that in the very last sentence, “to the extent practicable...” should stay the way it is because otherwise there could be an undue burden on small operators.

Ms. Vollbrecht stated the first sentence becomes a “shall” and the last one remains a “should.”

Mr. Ela stated that d. also could be an economic hardship to small operators or maybe not. Maybe that should also be included.

Ms. Vollbrecht stated that the protocol is pretty much the same for VHS (Viral Hemorrhagic Septicemia) waters and other kinds of invasives. The Department was building that separately because of the time we drafted this and thought still today they are learning more and more about VHS and the protocols might change to become more effective or relieve a burden if that is possible.

Mr. Ela MOVED, seconded by Mr. Poulson approval of Emergency Rule Adoption for revisions to NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, NR 345 Wisconsin Administrative Code as amended, to make each of the suggested practices mandatory practices instead.

Ms. Schlaefer asked to consult with Rick Prosis, legal counsel, asking him whether he thought the word “should” created problems from an enforcement perspective?

Richard Prosis, Director, Legal Services Bureau, stated “should” is not mandatory. “Shall” is mandatory. Does it create an enforcement problem? It gives direction to the Department but can the Department point to that and say you had violated this sentence – is that what you are asking?

Ms. Schlaefer stated yes, in the context of the drafting of the overall rule.

Mr. O’Brien stated it still has a condition in there “to the extent practicable.”

Mr. Ela stated that “to the extent practicable” as he reads it refers only to not moving equipment from infested to non-infested waters.

Mr. O’Brien stated it does not say that.

Mr. Welter stated he begs to differ. The sentence that says “the following steps and either should or shall be taken every time you move your equipment to avoid transporting invasive species and viruses” theoretically that should have a semi-colon after it and then would have steps a – d “that shall be taken.” The limited one is the sentence that says “To the extent practicable, equipment and gear used on waters known to be infested with invasive species and viruses should not be used on other non-infested waters.”

Dr. Thomas stated that should be moved to after a – d.

Mr. Welter agreed with Dr. Thomas. That would make it clearer.

Dr. Thomas stated she could not imagine that the Department would not want to require people to do steps a – d no matter what they are doing. You probably should not talk in the hall when you are changing classes but you are not going to get expelled for it.

Mr. Welter agreed that if we took the “To the extent practicable” sentence and moved it after the four conditions, in that way steps a – d are mandatory. Does that clarify for your enforcement purposes?

Mr. Ela accepted this as a friendly amendment to the motion to be made in all of the languages.

Mr. Ela asked Ms. Vollbrecht to briefly run through what each of the sections relate to in the rule

Ms. Vollbrecht stated NR 320 is bridges and culverts, NR 323 is miscellaneous fish and wildlife habitat structures, NR 328 is shore erosion control structures, NR 329 is miscellaneous structures to include boat ramps and a number of miscellaneous structures, NR 341 is grading, NR 343 is ponds, and NR 345 is dredging.

Dr. Thomas asked if there were any other questions.

The motion carried unanimously.

5. Board Members’ Matters

5.A. Committee Assignments

Mr. Welter stated he might have something but asked to hold it until after the Informational Items depending on what is discussed them.

Mr. Poulson asked who the head of the Bureau of Parks is.

Ms. Schlaefer stated there is a vacancy and the Department is in the process of recruiting. The interview stage has just been completed and in the interim, staff have been filling in as an acting Parks Director. No one has yet been named. Peter Biermeier is currently filling in as acting Parks Director.

6. Special Committees’ Reports

None.

7. Department Secretary’s Matters

Mary Schlaefer, Deputy Secretary, spoke on behalf of Secretary Hassett.

7.A. Retirement Resolutions

7.A.1 Jerry Rodenberg

- 7.A.2 Darlene Hausdorf
- 7.A.3 Lynn Persson
- 7.A.4 Myra A. Snippen
- 7.A.5 Diane Parrish
- 7.A.6 James R. Keir
- 7.A.7 Alexander T. J. Olson
- 7.A.8 Thomas R. Hansen
- 7.A.9 Daniel B. Maxinoski
- 7.A.10 Maribeth J. Loose
- 7.A.11 Dr. Ronald H. Laessig

Jack Sullivan, Director, Integrated Science Services Bureau, thanked Board Chair Thomas and Mary Schlaefer for the opportunity to give this special presentation. It is important to take time to celebrate our successes, recognize our peers, and pay tribute for jobs well done. Today we take time to recognize Dr. Ronald H. Laessig who retired in January 2007 after a career spanning some 40 years with the Wisconsin State Laboratory of Hygiene, serving as Director for the last 25 years. Dr. Laessig also served as a professor with University of Wisconsin – Madison, Department of Population and Health Sciences. In the early 1970's when the Department was in its infancy as an agency, we operated and staffed our own laboratory. As part of the 1976 – 1979 biennial budget, the Department's laboratory and the Laboratory of Health and Family Services were consolidated with the WI State Laboratory of Hygiene. Hindsight is a wonderful thing and history tells us today that this was the right decision for Wisconsin.

As you know, however, an organization or partnership succeeds or fails not based on the structure, but rather the people within that structure. The partnership between DNR and the state lab, which was forged some 30 years ago has succeeded and has been a shining example of the Wisconsin idea. He contributed much of that success to the great leadership of Dr. Laessig. Dr. Laessig is not a big hook and bullet guy yet was always aware of DNR fish, wildlife, and environmental challenges. Dr. Laessig clearly understood the linkages between environmental and public health. In closing, he read the Retirement Resolution.

Dr. Laessig thanked Mr. Sullivan, Chair Thomas, Deputy Secretary Schlaefer, and members of the Board. He stated he is an Emeritus Director and Emeritus Professor at the University of Wisconsin. Emeritus at the University of Wisconsin – Madison means he works for no money. The Board is not on the clock either and he really appreciates that as a Wisconsin citizen. When he was growing up in Stratford, they were forever sending things off to Madison. In the 1960s, he began work at the State Laboratory of Hygiene. In the 1960's, the state government was reorganized, and the DNR was created out of the Conservation Commission and the water people and so on. Where our statute said the State Laboratory of Hygiene is the official laboratory of the Department of Health and Social Services, they added "and Department of Natural Resources." The DNR had their laboratory on one stroke of the Governor's pen. That recognized the importance of preserving our Natural Resources which you can read as environment in the state of Wisconsin. Wisconsin is a great place live.

The state lab is a \$37 million operation per year. There are about 400 employees and half of the scientists work in the environmental and half work in the clinical area. Their job is to do analysis and tell the truth. Some individual pieces of their equipment cost \$500,000. They need partnerships to make these expensive purchases happen. It can not be done alone. It has truly been a pleasure to serve. He thanked the Board again for their service. Wisconsin works now and that is what the Natural Resources board should take great pride in. You are never going to make people love you for enforcing regulations and doing the right thing but at the end of the day, people will thank you because we have a great state.

Mr. Ela asked where the laboratory is located.

Dr. Laessig stated one is located on Henry Mall, right in the middle of the Madison campus and the newer laboratory is on Agriculture Drive on the east side of Madison.

Ms. Schlaefer thanked Dr. Laessig on behalf of Secretary Hassett and the Department for a distinguished career and service to the state. She then presented the plaque to Dr. Laessig.

Mr. Ela MOVED, seconded by Mr. Poulson approval of the retirement resolutions. The motion carried unanimously.

7.B. Donations

7.B.1 Donation from Whitetails Unlimited Inc. to Upper Chippewa Area Wildlife Management in the amount of \$10,004.00 to benefit wildlife habitat.

Mr. Welter MOVED, seconded by Dr. Clausen approval of Donation from Whitetails Unlimited Inc. to Upper Chippewa Area Wildlife Management in the amount of \$10,004.00 to benefit wildlife habitat. The motion carried unanimously.

7.B.2 Donation from the Friends of Hartman Creek State Park in the amount of \$40,000.00.

Mr. Welter MOVED, seconded by Mr. O'Brien approval of donation from the Friends of Hartman Creek State Park in the amount of \$40,000.00. The motion carried unanimously.

8. Information Items

8.A. Air, Waste, and Water/Enforcement
None

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

8.B.1 Annual Update on Wisconsin Wolf Management Plan

Adrian Wydeven, Conservation biologist, Endangered Resources Bureau stated that the Natural Resources Board approved the Wisconsin Wolf Management Plan in October 1999. The plan includes the provision to review and update it periodically. In 2006, the Department identified several areas that needed changing to better manage wolf depredations. At its June 2006 meeting, the Natural Resources Board approved the Wisconsin Wolf Management Plan Update and directed the Department to review the plan annually.

Mr. Wydeven updated the Board on the annual review of the plan including the biological status of wolves, the legal status of wolves, management plan implementation and depredation management, the review of secondary effects on livestock, and future needs for research and management plan changes.

Mr. Ela inquired if this was the first year that the dogs outweighed the livestock in depredation. **Mr. Wydeven** stated no and thought the Department has had dogs outweigh livestock in other years as well.

Mr. Welter asked if the depredation payment periods are calendar years or fiscal years.

Mr. Wydeven stated the payments he discussed were for the calendar period but the payments can be submitted from previous years. Sometimes there is an overlap between the years as to when the payments are being made. When he said \$114,000 for 2006, those were not necessarily all losses occurring in 2006. Some could have been from losses in 2005 at the end of the year.

Dr. Thomas asked if this is the subcommittee report.

Mr. Wydeven stated yes.

Dr. Thomas asked if Mr. Wydeven had looked out in the literature and if he thought if these items have been verified in the literature.

Mr. Wydeven stated this is a review of what is known about wolf depredation, about predator depredation, about stress factors affecting livestock. He could not say that there is a document saying all of these things are being caused by wolves. This is just a review of what the potential problems that could be occurring that are beyond just the regular verified depredations.

Dr. Thomas inquired if the subcommittee reported this to the overall committee and is the overall committee comfortable with the report.

Mr. Wydeven stated the whole committee has reviewed it and are interested in adding that to the website as a report that would be available to the public.

Mr. O'Brien asked why this information has not been added to the Wolf Management Plan as had been requested a number of different times.

Mr. Wydeven stated they did not think it would qualify as an appendix to the plan because the other appendices to the plan are specific data that support other parts of the plan or methodologies that are further explained in the appendices that were used in the plan. This is a very general review on losses and felt it did not refer to specific items in the plan so did not feel it needed to be part of the plan.

Mr. O'Brien stated it is still information that should be part of the plan. These are serious problems for these people. You look at it rather lightly that it is not wolves that are causing the depredation.

Mr. Wydeven stated there is also, to some degree, more speculation here because they are extrapolating from other studies in other areas and other predators so it is not the solid data included in the other appendices that have very specific data to support and provides additional background material that is in the plan. The Department did not feel this needed to be a regular part of the plan. By having it available on the website it would be located next to the plan as a document people would be readily able to access.

Mr. O'Brien asked who made the decision not to include it.

Mr. Wydeven stated there was no request to add it to the plan by any member of the committee.

Dr. Thomas asked if the members of the subcommittee requested to add this to the plan.

Mr. O'Brien stated the subcommittee requested it of the Board. The last time it was before the Board there was a request to include it.

Dr. Thomas stated that no member of the committee made that request. A citizen made the request and then a former Board member made the request. No member of the subcommittee made the request to add it to the document.

Mr. O'Brien asked if that is all it would take to have a member request it.

Mr. Wydeven asked Mr. O'Brien to clarify if he meant a member of the science committee request it.

Dr. Thomas stated your overall committee is who recommends the Management Plan to the Department, correct. The subcommittee has members on your committee and none of them asked to have this added to the Plan?

Mr. Wydeven stated yes, that is correct.

Dr. Thomas stated that was part of the issue last time.

Mr. O'Brien stated he did not see why this is such a hard thing to add to the report.

Mr. Wydeven stated it does not fit the criteria of the other appendices. There are a lot of documents that were used in support of the Plan. There is a long literature citation.

Mr. O'Brien asked who set the criteria.

Mr. Wydeven stated the Department is following what the normal criteria would be for what would be included in an appendix in a Management Plan.

Dr. Thomas asked if Mr. Wydeven could remind the Board of what the other appendices to the Wolf Management Plan include.

Mr. Wydeven stated the other appendices include an appendix on population viability analysis to determine at what levels the wolf population could be managed and what the long term viability would be; an appendix on the details of depredations that have occurred up through current times; an appendix on the wolf impact on deer populations, looking at deer management across Wisconsin and comparing those with wolves and not wolves; the specifics of the different stages of the Management Plan and how the Plan evolved through different categories; and the attitudinal survey. Those would be some of them. The attitudinal survey included specific information about the number of wolves people would be willing to accept in management practices and what they would be willing to accept in the state.

Dr. Thomas asked if in the actual plan itself in the literature review, is there a section on this with references to the literature in the bibliography of the literature review.

Mr. Wydeven stated it does not in the current draft because it was just completed. The next version of the Wolf Management Plan will certainly have this as a document to be cited.

Dr. Thomas asked when the next revision would occur.

Mr. Wydeven stated the normal course is that the Department would be reviewing a Plan placed on a five year basis and although the Department completed the review last year, the Plan was finalized in 1999 so theoretically in 2009 the Department should be doing another review and update of the Plan. That review would then certainly be citing this literature as well.

Dr. Thomas asked if there were any issues with the Fish and Wildlife Service (FWS) at this point in time of having the literature review amended to reflect an additional section on this one aspect.

Mr. Wydeven stated he had not heard that there would be unless drastic changes are done in how the Department is controlling the populations, how the population is managed, and population goals. He did not think some additional literature would be a concern of the FWS at this point.

Mr. Poulson stated this would be just an informational type thing for those who are reading it. Would it not?

Mr. Wydeven stated by being on the website, it is still available that way. It is available right next to the plan as an accompanying document. There are a lot of other documents on the website. All of the progress reports which are also supporting accompanying documents.

Dr. Thomas stated what she was suggesting as to opposing to making it an appendix, as long as they are posting it on the website anyway, to have a section in the literature review that captures what they have agreed are issues that need to be looked at with references to the actual work that was done in other places that documents whatever they have agreed is legitimate.

Mr. Wydeven stated some of that did go into the environmental assessment produced by U.S.D.A. Wildlife Services which is another document that is also available on-line.

Dr. Thomas stated they have been down that road and that is not what people want to see happen.

Mr. Ela stated he had read through the material but did not have a chance until late yesterday afternoon. He asked for clarification to the specific sidebars as to the proactive controls, such as where it would be likely taken, what the rationale would be, and what the pack reduction goals might involve.

Mr. Wydeven stated the Department's hope would be that the proactive controls are used in situations where there are packs that have history of depredation. On that we know year after year wolves living in certain geographical areas do cause depredation problems and that we try to reduce the abundance of wolves in those areas at other times of the year and not necessarily when they are doing the depredation such as Fornengo Farm in northwest Wisconsin. We have farms south of Superior in the South Range area where one pack has depredated on four or five farms in the last two years. Instead of waiting for that pack to come to the farm to cause a depredation, reduce that pack, trap that pack out of that area.

Mr. Ela asked whether it was known what pack it is.

Mr. Wydeven stated they know which pack it is. The Department would cover the general area over which we assume that pack would be roaming. They would try to focus in on that specific pack in the area. This would mostly be in more marginal habitat. They are not looking at the middle of the National or County Forests. They are looking at areas where you have very little public land and you have a mixture of farmland and forest land. If the wolves do not depredate on one farm they are more likely to depredate on another farm.

Mr. Ela stated it is proactive but it is in response to depredation in a certain area.

Mr. Wydeven stated yes. It is still tied to some depredation concerns and problems.

Mr. Ela stated that in terms of the landowner shooting permits there are three criteria where a landowner could get a permit. What are the limitations on how he or she uses that permit?

Mr. Wydeven stated there is additional language in our guidelines. The individual wildlife biologist in each county issues the permits. They use the Department's guidelines as general criteria to set limitations. Normally, it would be listed for the number of wolves known to live in the area, it would be listed for up to 90 days, and it would be restricted on just their property.

Mr. Ela asked whether each permit is tailored for each case.

Mr. O'Brien observed that in a previous conversation it was asked that if the wolf population reached 350, what would the Department do to keep the population at 350. Would there be an open season on wolves? The Natural Resources Board decided to wait until the population gets there and defer for now. Then it will need to be discussed as to how to keep herd at the recommended 250-350 as he recalled. As he sees the Plan now, it seems all we are currently doing to control the herd is to remove one when it is causing a problem. Over the years, the numbers continue to grow. At some point either the Board or someone will need to look at this business of reducing the population instead of just eliminating the ones that are just causing problems right now. Has there been any discussion on this?

Mr. Wydeven stated there has been a lot of discussion on this. The way the 350 goal is viewed right now is that is the goal at which they can use a full range of population control activities.

Since we have only been delisted now since March 2007, up until this year we have had no authority to try to control the population. All the Department had were limited permits to allow us to take animals at the immediate site where depredations were occurring. We are already expanding far beyond that. We are issuing permits to landowners who will be trapping these proactive control areas. The Department wants to have a few years to examine that. Our big focus initially is to reduce the depredations, to reduce the numbers on farms and the number of cattle being killed and focus on that. Managing the population goal is more of a secondary goal. Getting the depredation down to very low levels is more our primary goal. Public harvest is still something to consider in the future. He did not know if whether this should be jumped into right away.

Mr. O'Brien stated he remembered someone saying at one point that once they are delisted there are no longer payments for animals killed by wolves. Is that correct?

Mr. Wydeven stated no. The payment program is a state program. It is our own state conservation monies. It is not tied to federal listing. We are continuing to pay. The one change that could occur is if the Department considers a public harvest is that right now the payment is through the Bureau of Endangered Resources and wolf damages would continue to be paid through Endangered Resources as a nongame mammal. If they become a hunted species, then they would go into the wildlife damage payment program that currently exists for wildlife management. That language has not been written. There would be some changes that would have to be made in the whole depredation payment program if it got to a public harvest.

Mr. O'Brien asked if Mr. Wydeven was considering the possibility of maintaining or reducing the herd back to the goal level.

Mr. Wydeven stated the Department is hoping to stabilize the population.

Mr. Poulson stated we need to get to the point where we can be the managers. We have not gotten to that point yet. Looking at the law suits and things going on right now, we have not been able to move to the point where we can work our Management Plan.

Mr. Wydeven stated that is obviously a concern. The Department wants to make sure wolves are managed in a very responsible manner and make sure the focus is on dealing with the problems. Yes, the Department wants to maintain the population at certain levels but the big focus has to be to reduce the depredation problems at this point.

Mr. Ela stated that in the previous lawsuit, the objections were met by splitting the population so that cause of action went away. What is the basis for the existing lawsuit?

Mr. Wydeven stated that currently the argument by the Humane Society and others is that they feel that it is inappropriate for delisting wolves when there is disagreement over the concept of significant segments of the population. They feel that even though wolves have recovered in the Great Lakes Region, there are significant portions of the United States that once had wolves that still do not have wolves so they should not be delisted in the Great Lakes Region. There is also some question by these groups as to whether or not the appropriateness of the distinct population segment whether the Fish and Wildlife Service used that correctly. Their argument is that the distinct population segment concept was intended for listing species and not for delisting species. To use for delisting is inappropriate. They also argued that the states do not have adequate management plans and adequate resources for managing the wolf population. Those are some of their arguments that are being presented.

Mr. Ela asked if there is a distinction between what they are arguing here and what they are arguing in Idaho and Wyoming.

Mr. Wydeven stated it probably would be. He was not sure if they filed a specific lawsuit there yet. We are in a different stage of delisting compared to Idaho and Wyoming. The northern Rockies only announced the start of their delisting process so their effort would be just commenting on the proposal. There is no formal rule. Wisconsin has a formal rule that was published in February and finalized in March.

Dr. Thomas stated that when the Board had this discussion before, Dr. Clausen was opposed to having an appendix of a report that you were not sure if it was based on peer reviewed literature. If their overall committee has gone into some of these collateral damage issues and believe that there is some scientific basis for those things, would you be opposed to having that information included in the literature review as opposed to having this whole report as an appendix to the Wolf Management Plan.

Dr. Clausen stated he would be more in favor. His reservations the last time were based primarily on that there were a lot of anecdotal evidence and extrapolations from other species, and trying to tie to things that had actually been due to bear or in other areas. It was not a good scientific document. That is a dangerous place to go. If you start using anecdotal evidence and we start putting that in our documents, everyone that has a particular passion for one animal or another would weigh in and say put this in. He read this and it has been cleaned up a whole lot. He has no objection if the wolf science committee would want to look at that. There are some things, Neospora and some of these other things are possible issues and are valid things to look at. He does not have a problem if the wolf science committee agreed to add some of that to the literature.

Dr. Thomas stated Mr Wydeven was asked only to come today and make an update on what has happened in the last year in which you did a great job of, thank you. This was not noticed as an action item in any way. The Board has had some requests from the outside again to look at appending this whole report. If the Board would not be opposed, should the Board ask to have this put back on the agenda at a future time this idea of your committee coming back with an amendment to your literature review as opposed to appending a report. In the meantime, that would give staff a chance to check with the Fish and Wildlife Service to make sure that if we do that we are not starting over with the whole Wolf Management Plan in their eyes. We do not want to start losing ground and backtracking on our five year wolf delisting and monitoring period. She asked the Board for their comments on this idea.

Mr. O'Brien stated he was going to ask that this be put on the August agenda for a discussion. That would give us two months for the staff to review it and have it as an action item. He appreciates that it cannot be done today because it is informational. He would like it as an agenda item.

Mr. Welter stated he would agree.

Mr. Ela asked for clarification on the context of citing it in the literature review. Is this parallel to the other literature that is cited?

Mr. Wydeven stated yes, in the literature citation.

Dr. Thomas stated it is handled like any other information that goes into literature review as the basis for a plan that then comes out at some point in the future. The Board has a general agreement for an August agenda item. Does this seem okay?

Ms. Schlaefer, Deputy Secretary stated this was fine.

Dr. Thomas asked if there were any other questions or discussion.

Mr. Poulson stated he does not have a problem with this. This is a proper way to deal with this. He has concerns about this whole legal issue we find ourselves in relative to the lawsuits and the fact of where we sit with our Management Plan. It would be a benefit to encourage the Governor through the Attorney General's office to go ahead and fight this case with Wisconsin in a position to fight it. Why is it not possible to do this?

Dr. Thomas asked Mary Schlaefer to update the Board on the history of our attempts to become involved.

Mr. Poulson asked if he was wrong that the Governor has said that he is concerned about this issue.

Ms. Schlaefer stated certainly the Governor is concerned about wolf management in the state and the wolf issues. The Secretary as you may be aware did make a request to the Governor to intervene. Subsequent to Secretary Hassett making that request, the Attorney General issued a letter in response to the request from, she thought, the Cattlemen's Association to intervene indicating that the Attorney General would not agree to intervene on behalf of the state citing resources and indicating that the U.S. Fish and Wildlife Service and the U.S. Department of Justice in their view could adequately represent the interest of the state working closely with the state DNR.

The Department made the request to the Governor's office. The Governor receives many requests for intervention. This Governor and governors in general view intervention as a rather extraordinary thing and they weigh a number of different factors. The Department will continue to keep the Governor's office informed of the lawsuit and will alert them at any point that we think that the circumstances changed such that if an issue arises where we feel that it is specific to the state or to where we feel that things have changed in the lawsuit such that there is a more compelling need for the state to be directly engaged. We will again renew the request.

In the meantime, there are many different ways in which states and interested parties can participate in the suit and it is probably in all of the affected states' interest to be working together and to the extent possible of weighing in together as a unified front. We are discussing with the other states and know that the midwest section of the state wildlife managers are looking at the possibility of their participating as an organization which would in effect involve all of the affected states.

Mr. Poulson asked if it would be out of order for this Board to ask in a motion.

Ms. Schlaefer stated this is not cued up as an action item today.

Dr. Thomas stated she thought the Board can make a resolution to ask somebody to do something. We do that all the time. Letters to Congress for Ballast Water, etc. which was not on an agenda item.

Mr. Poulson stated it is time this Board ask the Governor to do what he can do in his power to get this to a point where we can be the managers of our program.

Dr. Thomas stated maybe we should be asking the Attorney General.

Mr. Ela asked to add this to the August agenda so there would be no ambiguity as to whether we are allowed to do it.

Dr. Clausen asked if the lawsuit that had been filed includes an injunction preventing us from carrying out our current wolf management plan. Are we forbidden from this?

Ms. Schlaefer stated that at this point the parties that brought the law suit have not sought an injunction.

Dr. Clausen stated the Department can still go ahead with the Plan presented here.

Ms. Schlaefer stated that is correct.

Mr. Ela asked whether the plaintiffs are asking for an injunction.

Mr. Prosis, Director, Legal Services Bureau, stated that there is a sentence in the complaint that does mention injunctive relief. It is there but they have not formally asked for that other than listing it in the complaint. There is no present injunction. The state is proceeding. It is out there but we do not know if that is a major part of their suit or if they just threw it in.

Mr. Welter asked if there is a risk that the parties could agree to some sort of a stay of our ability to use our Management Plan pending a decision by the court if we were not involved.

Ms. Schlaefer stated there is always a risk but we do not have any reason to believe that would happen.

Dr. Thomas asked for a couple of points of clarification. Regarding the last lawsuit, were we a party to that lawsuit? This was the lawsuit that kept us from executing our Management Plan previous to this one.

Mr. Wydeven stated that there were a series of lawsuits. In 2003 when we were downlisted, there were groups that sued the federal government and federal courts in Oregon and in federal court in Vermont which were finalized in 2005. As results of that, in 2005 we were relisted as endangered and then we applied for a special sub-permit from Fish and Wildlife Service to allow us unlimited lethal controls. We had a lawsuit filed against that permit in 2005. We went through a more extensive procedure to get a permit again in 2006. We had a lawsuit against that permit so we lost that permit. The state has not been an intervener or partner in any of them.

Mr. Poulson stated he cannot see why we want to back down. We ought to ask them to do it. They can turn us down and say no but on the other hand this Board ought to ask that the state intervene in this and see if we cannot get back to ground zero where we can do out management.

Mr. O'Brien stated that if that is a motion he would second it.

Mr. Poulson MOVED, seconded by Mr. O'Brien to send a letter to Governor Doyle and to Attorney General Van Hollen requesting the state of Wisconsin intervene on the Wolf delisting.

Mr. Ela asked if this action by the Board was kosher.

Ms. Schlaefer asked Mr. Prosis his opinion on open records.

Mr. Prosis stated the cleanest way is to have it listed as an action item on the next agenda. This is action. You can characterize it as not a final decision by the Board but it still is a final decision by the Board to encourage the Governor or the Department of Justice to pursue the lawsuit. He

would prefer that it be noticed for action at the next Board meeting. Think about it but list it as an action item and then take your action there. Dr. Thomas had mentioned that this may have been done in the past. It is not the cleanest way to do it because someone can say from the public that this was an informational item and they did not anticipate any formal action by the Board or any recommendation by the Board.

Mr. Ela stated that in the past, although the specific action has not been docketed, the subject matter to which the action is listed.

Dr. Thomas stated that the subject has been docketed.

Mr. Wydeven stated there are two limitations at the time of which we can still intervene which is possibly 60 days after the lawsuit was filed.

Ms. Schlaefer corrected Mr. Wydeven. There are two types of interventions. Intervention as of Right which is 60 days after the complaint was filed. The complaint was amended on May 4. Intervention as of Right would expire July 6. There always is Intervention by Permission and also the possibility to participate by Amicus by Permission. On those generally the court is pretty liberal in allowing up to the point that the brief of the party that you are supporting is due. The briefing has not been scheduled in this case and likely will not be scheduled for some time because they are dealing with some preliminary motions. Waiting until August would not prejudice anything in terms of that issue.

Dr. Clausen stated he thought all of the Board is in agreement that none of the members are fond of this lawsuit and wish it never happened. What super lawyer would we have? What exactly do we get out of participating?

Ms. Schlaefer responded as to choice of lawyers, whether the Governor were to approve a request is unclear because the Attorney General has indicated that he is not going to get involved in the lawsuit. Picking up on Dr. Clausen's point, Secretary Hassett has made the request and she is not in any way speaking for the Governor on this, but emphasized that a decision not to intervene in a lawsuit is not a decision to back off.

There are many legal strategic reasons to decide not to intervene. You ask what does adding another lawyer, another party, add to the lawsuit? It is quite typical to take a "wait and see" approach if you have a party in the lawsuit already that you have a good working relationship with, it is quite typical to sit back, wait and see, and if you feel the interest is already represented and adequately represented by competent counsel, that you do not necessarily jump to intervention because there are all sorts of complications that come with intervention. It may encourage many other parties to jump in.

Mr. O'Brien stated none of that prohibits this Board from expressing its opinion. They can decide those practical things anyway they want to. That does not prevent this Board from taking a position saying that we think that we should be involved in the lawsuit.

Ms. Schlaefer stated that is right.

Mr. Poulson asked if the Board would be the Attorney's General client. Somewhere along the line, someone with substance has to ask and that is the Board.

Ms. Schlaefer stated the Governor has to make request of the Attorney General's office.

Mr. O'Brien stated the Board is making the recommendation. That is all we are doing. This is the way this Board feels. We feel we should be involved.

Dr. Thomas stated that the Cattlemen's Association asked and the Governor said no.

Mr. Welter asked if the Secretary formally requested that the Governor and the Attorney General authorize intervention in this suit.

Ms. Schlaefer stated yes.

Mr. Welter asked if the Board can receive copies of that request and can the Board receive copies of the Governor's response.

Ms. Schlaefer stated yes.

Dr. Thomas stated we have a motion and a second on the floor. Any additional discussion?

Mr. Ela requested that perhaps the maker and the seconder would agree to defer this until August.

Mr. Poulson stated, providing that Ms. Schlaefer is right on the 60 day issue, we do not want to go through the gyrations of having to re-ask to reopen. He is relying on Ms. Schlaefer's advice. Does the 60 day from there carry through or if nothing happens then 60 days is in limbo or what does it mean?

Ms. Schlaefer stated it is her understanding, based on her past practice, the intervention as a Matter of Permission for participating as an Amicus will be open beyond those 60 days. We can certainly clarify that and she would also add as support for that conclusion the point that no other state has intervened at this point. There are discussions about an Amicus by those states and the timeline that they are thinking about is filing much later past August.

Mr. O'Brien asked the Board to vote on an advisory type motion to be ratified at the August meeting just so that the Governor and Attorney General at least know how we feel and then ratify it as an action item.

Dr. Thomas stated the Board is not taking action right now. We are just taking a straw poll.

Mr. O'Brien stated that is correct.

Dr. Thomas asked for further discussion on the straw poll strategy.

Mr. Welter stated he does not have a question on the strategy but has a question on a question in the straw poll. That essentially is, does the Board support directing the Secretary to urge the Governor and the Attorney General?

Dr. Thomas stated the Secretary has already done that. This is Board action on their own.

Mr. O'Brien stated the Secretary just administers the Department.

Mr. Poulson stated the question is does the Board ask the Governor and the Attorney Governor to intervene in the case.

Dr. Thomas asked if the Board was clear on the motion.

The motion carried unanimously by all members.

Dr. Thomas thanked Mr. Wydeven for a good job.

8.B.2 Update on ATV process for Northern Highland American Legion State Forest

Dennis Leith, Program and Planning Analyst, Division of Forestry and **Tim Mulhern**, Deputy Administrator, Division of Forestry gave the presentation. The purpose of this agenda item is to; 1.) provide the Natural Resource Board with an update on the progress of the Northern Highland - American Legion State Forest (NHLSF) All Terrain Vehicle citizen Stakeholder group; and 2.) Share the Department's process once the recommendations are received from the Stakeholder group.

The NHAL ATV citizen stakeholder group was initially identified as an action item in the NHAL Master Plan approved in October of 2005. The master plan action item was included in the final plan to provide stakeholders with an open and timely process to address the most widely commented planning issue. Plan implementation charged the Department to establish and coordinate a diverse citizen stakeholder group to evaluate the appropriate use of All Terrain Vehicles on the Forest and make recommendations to designate specific trails or locations that support the use of sustainable trail riding opportunities. The team was guided by Department ATV siting criteria that considers ecological, economic and social considerations. The working group consists of 17 members. The group first met on May 10, 2006 and to date, has met 18 times over the last year and is nearing its one year sun-set date to provide a recommendation to the Department. The stakeholder group is functioning well, making significant progress and confident that they will meet the team's charge and do so in a participatory and well functioning team environment. The stakeholder group is meeting for potentially the last time on June 28, 2007 to finalize its recommendations. Information about the Stakeholder group including members, meeting meetings and draft products can be found at http://www.dnr.state.wi.us/master_planning/nhal/

The Department will share its proposed next steps, including the plan to share recommendations and alternatives with the public and seek comments, summarize and evaluate comments, provide a recommendation and complete an Environmental Impact Statement, seek additional public input and share the results with the Natural Resource Board.

Dr. Clausen asked if the stakeholder group is operating on a consensus mode, majority vote, or some other decision-making mode.

Mr. Leith stated he believed they are running under consensus mode. He said he was sure they were not going to have consensus on this group because this whole ATV issue runs the gamut of

folks that goes all the way from “I do not want ATV trails – period” all the way up to “we have been waiting for ten years and we deserve trails.” He did not think we will have consensus even on our group.

Mr. O’Brien stated to Mr. Mulhern that back to when you passed it in 2005 and adopted the plan without the ATV trails what was said was the stakeholders group will be established to provide analysis and recommendation to the Department for appropriate use and designation of an ATV trail. If no suitable areas can be found, no ATV trail would be designated. Is that still a possibility?

Mr. Mulhern stated yes. He believed that is the key question. He believed they are going to come out with recommendations but as Mr. Leith said, there will not be consensus. There is going to be pros and cons documentation that goes with it as to why certain groups feel these are good recommendations and why others may not.

Mr. O’Brien stated it says “if no suitable areas can be found, no ATV trail will be designated.” That is still an option?

Mr. Mulhern stated that is the question on the table. Is their recommendation suitable?

Ms. Wiley requested the Board be informed when the public hearings are scheduled, location, and timing.

Mr. Mulhern stated yes, they would certainly do that.

Ms. Wiley stated it is nice to have this on the website. Frankly, we need to know specifically when it is.

Mr. Welter stated that the stakeholders group is having its final meeting on June 28.

Mr. Mulhern stated their final scheduled meeting is on June 28. They are not sure what is going to happen tomorrow. The Department hopes that the products that we have asked them to produce will be done by tomorrow.

Mr. Welter asked if you are expecting an entire range of alternatives from which you hope they will select one or more to be considered further by the Department and the Board.

Mr. Mulhern stated his understanding is there are two primary alternatives they are going to be presenting. Each one of those alternatives has some variations. You could do all of it. You could do part of it. You could do none of it. That is where we will not have consensus is what part of that does the entire 18 people in this group feel is the primary alternative. We will see pros and cons from the groups about each one of those alternatives.

Mr. Ela asked if the alternatives are geographically different.

Mr. Mulhern stated correct. If you look at the website, just briefly ones in the northwest part of the forest near Iron County links the Iron County Trail System and another one runs essentially from Sayner to Lake Tomahawk.

Mr. Leith stated that the Iron County one for sure hooks up to the Iron County Trail System. That was part of our criteria, to try to come up with trails that hook-up to somewhere and not just a loop. The other one has not been developed yet. We are told it is going to happen as one that would hook-up to Oneida County Trails, go through Lake Tomahawk, up into Sayner, and the spur road goes off to Star Lake. Those are the trails that were recommended.

Mr. O’Brien asked what criteria will be used to determine what is suitable in getting back to the “if no suitable areas can be found, no ATV trail will be designated” comment.

Mr. Mulhern stated the Department is using criteria that was developed by the Department within the last two years. Criteria includes property designation/funding, potential effects on resources, safety, social considerations, economic, cooperation, and management/administration.

Mr. O’Brien asked if any of the criteria take into consideration the ecological disturbance as well as noise that they will cause in that forest.

Mr. Mulhern stated the noise issue would fall within social along with ecological and economic.

Mr. Ela stated that the timetable you outlined is not the same as the timetable in the green sheet.

Mr. Mulhern stated that is correct and apologized for that. The green sheet timetable was prior to when the Department had a chance to talk to others as to how the Department lays this out. What is more accurate is the timetable from today.

Mr. Ela inquired if the Wisconsin Environmental Policy Act (WEPA) WEPA requirements would be deferred until an implementation phase. This gets rather circular if we have already said there is going to be a project.

Mr. Mulhern stated this was the stumbling point that we had as that according to his discussions with Rick Prosis, Director, Legal Services Bureau, essentially you invoke the WEPA process after you have decided you are going to do a project. To do that ahead of time, we are actually asking you if we should we go ahead and do this or are we not sustainable here. That is what we are looking at coming in December or January.

Mr. Ela stated that makes more sense if you are not talking about a Board decision. Maybe you should revisit that. When you come to this Board I think there is an assumption that the decision this Board makes is final. In other cases where WEPA has been involved, and there have only been a couple since he has been on the Board, we have had the EIS or environmental assessment in front of us when we made that decision.

Mr. Mulhern stated we would be happy to work with the Secretary's office and the Board to work through that issue.

Mr. Welter stated that he knew the committee has been looking hard within the NH-AL for sites. Since we have to look at this from a perspective not only of the single state forest but as one of a number of state properties and precedent-setting things potentially, to what extent have you gathered information from other state forests on potential impacts to try and judge impacts in the Northern Highland.

Mr. Mulhern stated that part of the system that we need to put into place here is the monitoring system because part of this is if the trail cannot continue to be sustainable then what steps would we take to stop the trail's use. We are working through what that looks like. We have two forests right now that have ATV trails on them, the Black and the Flambeau. There is one state trail that runs through a small portion of the Brule but on the Flambeau there has been a considerable amount of work done in the last couple of years from a maintenance standpoint to try to figure out just what does sustainability look like. To this point we have not really taken a look division wide but more as the master plan opportunities arise, which the Black is going through right now, to address those questions about particular sustainability on a particular property.

Mr. Welter stated that somewhat answers his question. You have a committee in NH-AL looking at what to recommend there but his question is to what extent did that committee have information available on impacts to guide it and what to watch out for, what the short-term or long-term problems were going to be and so on.

Mr. Leith stated the Department tried to do as much of that as we could. Not only were we in contact with the people within Wisconsin on how their trails were functioning and so on but also contacted Michigan, Minnesota and so on because we realize that if a trail is approved or something, one of the critical items that we are going to have to come up with, and not part of the stakeholders group mission, would be monitoring and evaluation of that trail. Is it working? We have been really lucky on the state forests that we have. Within one hour of the forests is one of the best run ATV trails he has ever seen, and that is the Oneida County Enterprise ATV Trail. We also have access to some that are having some trouble.

Dr. Clausen stated your group will come forward with their recommendations whether or not they have found something sustainable and if they think they have something sustainable, whatever it is, is going to be their recommendation and it is going to come back to the Board. He thought before it does that staff should come out and bring us some information as far as what it is really going to cost per mile to maintain this thing. Sustainability means more than just the mechanics. It also means the money.

He would like to have a report come back as far as maintenance costs, how this is going to be funded, what has happened in our other state forests as far as environmental damage and what it costs us to mitigate that damage, if indeed that damage is mitigated. He would also like information on the displacement of current users and user conflicts about what kind of experience we have had on the other trails and that type of thing. He requested this come back before we consider this thing again.

Dr. Thomas stated she would like to add to that list where are the enforcement staff going to come from because that was an issue you spent a whole day trying to convince the Board that you did not have enough staff to enforce the trails that we already have. We want to know all the ins and outs of this and we do not want to wait until the day that we have to make the decision.

Mr. Welter stated if we are going to consider this in December or January that it would be helpful to have that information no later than the October meeting.

Dr. Thomas stated on their timeline that will not work since they will still be in the public comment period.

Mr. Welter stated it says December 2007.

Dr. Clausen stated this is the Department as a whole. The stakeholder group has met their charge or is in the process of meeting and finalizing. This would be his request to the Department.

Ms. Schlaefer stated the Department would be happy to get this information to the Board. As a cautionary note that this is a pretty comprehensive list and it would be important that we are sure that we are providing information that is sound and solid. We ask for staff to have an opportunity to work with someone on the Board, to find the scope and methodology and make a decision on timing.

Dr. Thomas stated this sounds like Mr. Welter's Land committee.

Mr. Ela stated that information should also be required for an environmental impact statement as well.

Mr. Leith stated that one of the things that the club members have said and the club members have been excellent to work with, is they have now over 70 volunteers of a program called Ride Smart. The Department is banking on them to be out there all the time and be sort of the Department's eyes and ears out there. They have committed to at least 70 volunteers that would be out there on the trail wearing vests and being well identified. That is one of the things that he knows the club members would like to do.

Mr. Ela asked if the club is doing this on other trails up north so we can see how effective this is.

Mr. Leith stated he did not believe so.

Mr. Mulhern stated he did not know what is up in Iron County.

Mr. Leith stated on some county trails they have some of these rideshares and we can check into that.

Dr. Thomas asked Mr. Welter if he wanted to revisit NRB matters.

Mr. Welter stated it has been covered.

Mr. Poulson asked what our schedule is going to be on July 18 for the Mercury seminar in Stevens Point. He noted his computer is down.

Ms. Schlaefer stated it was 9:30 a.m. – 3:00 p.m.

Dr. Thomas stated she would like to revisit our other issue here and said she knew the Department is always trying to look out for our best interest, but it seems that a policy was developed with a huge public input process regarding wolves and this Board passed that policy and that policy was approved by the Fish and Wildlife Service in an effort to turn management of our state resources back to the state. Our discussion today was not about a policy. Our discussion today was about expressing the collective opinion of the Board on whether or not someone else whose responsibility it is to decide whether or not to join a lawsuit that would help protect the state's ability to protect its own resources to make a move in that direction. Essentially what we have done now is committed ourselves to another public process about whether or not we should be able to express an opinion. The Secretary did not have to have a public hearing in order to write a letter to the Governor and the Attorney General and ask them to intervene on behalf of our ability to protect our resources. She did not personally see this as a public meeting issue. We are having our discussion in a public meeting.

Mr. Prosis, Director, Legal Services Bureau stated your points are valid. The Department will want to look into that because he could not argue with anything you have said. What you are really saying is the final decision was made earlier. It was an action item but it was publicly noticed at the time. All you are doing is taking action consistent with that previous decision making process.

Dr. Thomas stated which is all the Secretary did.

Mr. Prosis stated he would look into that and see whether or not there is a need for a further action item as such. Yes, he is trying to keep his advice conservative so that the Board does not run into issues like that so that any action whatsoever is always noticed. He cannot disagree with what you are saying now.

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Mr. Ela asked if the Department's research finds that in fact Dr. Thomas' interpretation is correct, can the Board have the letter sent and not revisit this issue in August.

Mr. Prosis stated he would think so as well. We will look into it.

Mr. Poulson MOVED, seconded by Ms. Wiley to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 3:22 p.m.