

**NATURAL RESOURCES BOARD**

MINUTES

A special meeting of the Natural Resources Board was held on Tuesday, February 24, 2009 in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 1:00 p.m. for action on item 1. The meeting adjourned at 4:20 p.m.

**ORDER OF BUSINESS**

1. Organizational Matters

1.A. Calling the roll

David Clausen – present	Preston Cole – absent
Jonathan Ela – present	Gary Rohde – present
John Welter – present	Christine Thomas – present
Jane Wiley – present	

1.B. Approval of agenda for February 24 - 25, 2009

**Mr. Welter MOVED, seconded by Mr. Ela approval of the agenda for February 24 - 25, 2009. The motion carried unanimously.**

2. Informational Seminar on Wisconsin Indian Law Issues

**Mike Lutz**, Acting Chief Counsel for Legal Services and the Department's Treaty Rights Counsel since 1980 gave an overview on Federal Indian Law and how those laws impact Department relationships with the eleven Wisconsin Indian Tribes. His presentation included a discussion of concepts such as tribal membership, Trust Lands, Indian Country, reservation status, and Tribal sovereignty. Also covered was the history of the Chippewa treaty rights litigation, Lake Superior fishing rights, the Governor's consultation policy, the Board's tribal cooperation policy and the Department's ongoing efforts to work with the tribes. **(PowerPoint, 3 Handouts, and Video)**

Discussion followed on the state's regulatory authority in Indian Country and Trust Lands, tribal impacts on local, state, and federal governments, non-Indian ownership of fee lands on Indian reservations, tribal courts, past resource ownership disputes, tribal conservation wardens, and the regulation of treatment plant outflows off reservation.

A video from 25 years ago was shown with footage from spearfishing conflicts at Vilas County boat landings.

**Jim Zorn**, Great Lakes Indian Fish & Wildlife Commission (GLIFWC) Executive Administrator, **Mick Isham**, Lac Courte Oreilles, Voigt Task Force Chair, and **Randy Stark**, DNR Law Enforcement Chief Warden joined in the discussion.

Discussion continued on the Allotment Act, relationship between GLIFWC and DNR wardens, tribal fish harvest and bag limits, the July 2009 treaty symposium, and GLIFWC's upcoming 25 year anniversary **(Handout from Jim Zorn)**

Discussion continued on the Tribal Leaders/Board dinner and furthering interaction with the tribes.

**Mr. Ela** and **Mr. Welter** suggested the Board meet with the tribes on an annual basis on policy issues.

Discussion followed on formalizing a relationship with Tribal Leaders.

**Matt Frank**, DNR Secretary thanked Mr. Zorn and Mr. Isham for participating in the seminar. He stated the Department has mechanisms set up to recognize sovereignty. If Board members are interested, there are public meetings and other opportunities coming up this year that they could be invited to.

**Dr. Thomas** thanked Mike Lutz for his presentation on Indian Law.

**INFORMATION ITEM – NO ACTION WAS TAKEN**

**Dr. Thomas** recessed the meeting until 8:30 a.m. on February 25, 2009.

**NATURAL RESOURCES BOARD**

**DRAFT MINUTES**

The regular meeting of the Natural Resources Board was held on Wednesday, February 25, 2009 in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 2:00 p.m.

**ORDER OF BUSINESS**

1. Organizational Matters

1.A. Calling the roll

David Clausen – present

Jonathan Ela – present

John Welter – present

Jane Wiley – present

Preston Cole – present

Gary Rohde – present

Christine Thomas – present

1.B. Approval of minutes from January 28, 2009

**Mr. Welter MOVED, seconded by Mr. Ela approval of the minutes as presented.**

**Dr. Thomas** asked for approval to have her request corrected on page 3 at agenda item 3.C.1 to state “list of names of contributors” instead of list of names of staff.

**Mr. Rohde MOVED, seconded by Mr. Ela approval of the correction. The correction carried unanimously.**

**The original motion as corrected carried unanimously.**

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

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

3. Action Items

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

3.A.1 Presentation of the Shikar Safari Club International Wildlife Officer of the Year Award

**Randy Stark**, Chief Warden and **John Pearson**, Shikar Safari Club jointly presented the Award to Bill Schwengel, Warden Supervisor in Eau Claire. Bill has demonstrated and sustained a commitment to public service, has a selfless work-ethic. His dedication to the conservation of our natural resources during his career has earned him this award. His warden career has spanned nearly 31 years and has earned the respect of Department staff, external agencies, and citizens over the years. Bill's wife Peg and daughter Laura were in attendance.

**Bill Schwengel** thanked Mr. Stark and Mr. Pearson/Shikar Safari for this award. He stated this award is not just for the warden recipient but is also given in recognition of the profession. There are many equally deserving wardens out there. He took advantage of the great opportunities presented to him as a supervisor. He receives a lot of support from his family, advice from co-workers and law enforcement officers, encouragement and leadership from warden supervisors that pushes him to do the best job he can, and from the public.

**Mr. Welter** stated that he has enjoyed working with Warden Schwengel over the years. He is an exemplar of a thoughtful and progressive work ethic. Warden Schwengel is a very constructive force and face for the Department.

3.A.2 Request Hearing Authorization for Board Order AM-05-09, proposed rules affecting chs. NR 406, 407, 419, 439 and 484 pertaining to permit language relating to federal Generally Available Control Technology (GACT) rule for hazardous air pollutants, and rule consistency and other changes of a non-substantive nature

**Andrew Stewart**, Permits & Stationary Source Modeling Section Chief stated that the proposed rule would amend portions of Department rules to incorporate federal rule changes. This rule pertains to emissions of hazardous air pollutants regulated under Generally Available Control Technology (GACT) Rules. Statutory changes allow operation permit renewal applications to be submitted at least 6 months prior to the expiration of their current operation permit. Current rule language requires the submittal to be 12 to 18 months prior to the expiration of the current operation permit. Biodiesel fuel would be added as an alternative clean fuel, thereby not requiring a permit modification to burn it as a fuel. Additionally, changes are being made for rule consistency, updating of outdated rule language, and providing clarification where needed. He requested the Board approve the hearing authorization request for Board Order AM-05-09.

Discussion followed on how GACT compliance is monitored, what some of the other clean fuels are, and why Ethanol is not on the list.

**Mr. Ela MOVED, seconded by Mr. Welter approval of the Request for Hearing Authorization for Board Order AM-05-09, proposed rules affecting chs. NR 406, 407, 419, 439 and 484 pertaining to permit language relating to federal Generally Available Control Technology (GACT) rule for hazardous air pollutants, and rule consistency and other changes of a non-substantive nature. The motion carried unanimously.**

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

3.B.1 Request Authorization for Public Hearings on Board Order WM-03-09, modifications to chs. NR 10 and 19, the 2009 Wildlife Management housekeeping rules package

**Scott Loomans**, Wildlife Regulation Policy Specialist stated that this proposed rule package includes technical rule changes that are minor and non-controversial in nature which can most effectively be handled through wildlife management's annual housekeeping rule package. The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations and update administrative code language and references. The proposed changes relate to hunting, trapping, and wildlife rehabilitation. The policy issues affected by this rule are ones which have already been addressed by previous rulemaking. He requested the Board approve the hearing authorization request for Board Order WM-03-09.

Discussion followed on monolithic ammunition, use of non-expanding v.s. expanding bullets, lead fragmentation, and if there are any strategies to move hunters away from lead bullets.

**Secretary Frank** stated the Department is putting together an outreach plan to persuade hunters to move away from lead.

Discussion continued on the logistics of the public hearing.

**Dr. Clausen MOVED, seconded by Mr. Rohde approval of the Request for Authorization for Public Hearings on Board Order WM-03-09, modifications to chs. NR 10 and 19, the 2009 Wildlife Management housekeeping rules package. The motion carried unanimously.**

3.B.2 ~~Request Authorization for Public Hearing for Board Order FR 07-09, pertaining to the Grants for Public Access Program~~ **DELETED FROM AGENDA**

3.B.3 Land Acquisition - Bibon Swamp Natural Area, Statewide Natural Areas & Northern Highland /American Legion State Forest - Bayfield & Oneida Counties

Discussion followed on Code 45 enforcement as related to ATV's and property ownership and if Board of Commissioners of Public Lands (BCPL) would donate this land to the Department.

**Mr. Welter** requested staff approach BCPL to see if Sugar Camp Hemlocks and Rainbow Flowage properties could be donated to the Department.

Discussion continued on the \$2 million per year set aside for BCPL properties, why there are 2 – 40 acre parcels included in the package that are not in a project boundary or management zone, the significance of purchasing Sugar Camp Hemlocks, the differing depths of the Rainbow Flowage, and concern over purchasing submerged land.

**Dr. Thomas** asked staff to check on how many Hemlock acres are under Department ownership and requested all future real estate items include plat maps.

Discussion continued on access and practical enforcement issues to the Rainbow Flowage and if the Board should vote on the full package or on each item separately.

**The Board** voted on each item separately.

**Mr. Welter MOVED, seconded by Mr. Ela approval of the Land Acquisition - Bibon Swamp Natural Area - Bayfield County. The motion carried unanimously.**

**Dr. Clausen MOVED, seconded by Ms. Wiley to defer approval of the Land Acquisition - Statewide Natural Areas [Sugar Camp Hemlocks] and Rainbow Flowage - Oneida County. The motion to defer carried on a voice vote of 6-1, Mr. Cole opposed.**

**Mr. Ela MOVED, seconded by Dr. Clausen approval of the Land Acquisition - Northern Highland/American Legion State Forest – Section 18, Town of Lake Tomahawk - Oneida County. The motion carried unanimously.**

Discussion followed on contemplated hunting at Sugar Camp.

**Secretary Frank** thanked the Board for their comments. They are very helpful.

Discussion followed on BCPL and leveraging Stewardship funds.

**Dr. Thomas** requested an information item at an upcoming meeting reporting on BCPL and how it invests dollars received from the Department.

Discussion continued on state natural area priorities.

3.B.4 Land Acquisition & Project Boundary Modification - Nicolet State Trail - Forest County

**Dr. Clausen MOVED, seconded by Mr. Rohde approval of the Land Acquisition & Project Boundary Modification - Nicolet State Trail - Forest County.**

Discussion followed on if ATV use would be allowed on this parcel, if Stewardship funds could be used to purchase this property, why the Department needs to reimburse the Department of Transportation (DOT) for their dollars spent on this section of trail and not the parcels to the north or south, reference to the National Interim Trail Use Law on the deed, and if other funding is available for this purchase.

**Dr. Thomas** requested staff talk to DOT about donating this land to the Department. She cautioned it is important to continue a good working relationship with DOT.

**Dr. Clausen and Mr. Rohde withdrew their motions.**

**Dr. Clausen MOVED, seconded by Ms. Wiley to defer approval of the Land Acquisition & Project Boundary Modification - Nicolet State Trail - Forest County. The motion to defer carried unanimously.**

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation  
None

5. Board Members' Matters

**Dr. Clausen** requested a March action item to reopen the legislative agenda to seek legislative action to ensure the deer herd is protected from CWD infected properties.

**Mr. Rohde** requested an update on the legislative package and how the customer service void will be filled when the service center staff reductions are made.

6. Special Committees' Reports  
None

7. Department Secretary's Matters

**Secretary Frank** stated that after receiving legislative feedback from Board members, the Department has improved the information flow to the Board. Paul Heinen will track legislative items and update the Board on an ongoing basis. Mr. Frank then reported on the status of current Senate and Assembly Bills as well as other items such as the global warming task force recommendations.

Discussion followed on possible legislation for a ban on the feeding and baiting of deer.

**Secretary Frank** stated there is a large support for a ban on the feeding and baiting of deer. However, these organizations and the Department have not yet found a sponsor in both houses. They will continue to work on this.

Discussion continued on the difficulty of obtaining legislative sponsors.

**Secretary Frank** stated the Department has overall hunter support and the support of the agriculture industry. Legislators are motivated to all reasons as to why not support this.

**Mr. Rohde** asked whether consideration had been given to splitting baiting from feeding in the legislative proposal.

**Secretary Frank** stated the Department has not approached it that way. The combined baiting and feeding ban is based on sound science.

Discussion continued on the possibility of any CWD initiatives on the table that this could be attached to as an animal health issue.

**Secretary Frank** stated the Department has not found sponsors from any background or area. They will continue working with the public and coalitions with the hope legislators will see this support and get it done.

Discussion continued on increasing support for the ban, WI Conservation Congress (WCC) history with baiting and feeding spring hearing questions, and separating baiting from feeding as a potential strategy.

**Kurt Thiede**, Wisconsin Conservation Congress Liaison, will provide the Board with an analysis from a WCC question from approximately four years ago of separating out baiting from feeding.

**Secretary Frank** then reported on budget issues and distributed two handouts. He noted these are challenging budget times with an unprecedented deficit which is the largest in state history. The proposed plan to eliminate counter service at 24 service centers by March 2010 will be the most visible and have the most impact on staff. Service Centers account for less than 2% of license sales. The call center is very successful and fields approximately 18,000 calls on average per month. It is open 7 days each week from 7 a.m. – 10 p.m. The goal is to move some counter staff to the call center and reallocate some counter staff to become liaison's to license vendors, a total of over 1,400 businesses strong. The Department's goal is to provide good customer service. He feels a special obligation to staff affected by the budget and will work to avoid layoffs. The process will take a while but he and the Department are committed to have staff land on their feet. **(Handouts – 2)**

**Ms. Wiley** requested the Board receive a list of the 24 service centers where counter service will be eliminated.

Discussion followed on the Board's concern for staff in small communities where job possibilities are small to non-existent.

**Secretary Frank** stated the Department's goal is to keep staff employed and to avoid layoffs. If need be, they would try to find affected staff work in that area. There are no guarantees. On a positive note, there are no fee increases within the budget for hunting and fishing licenses. He credited bureau and division staff that did the work on this, specifically Tom Hauge in Wildlife Management, Randy Stark in Law Enforcement, and Mike Staggs in Fisheries.

Discussion continued with capital budget items and Department projects.

**Secretary Frank** stated he will report back to the Board once final decisions are made. There will be no direct dollars coming to the Department from the federal stimulus package for building projects but this could change as details of the package are outlined. Capital projects will last a long time and will put people to work. The Department is following Congress and analyzing bills carefully. The Governor set up the Office of Recovery and Reinvestment. Its purpose is to coordinate information gathering, coordinate state agency response, and make sure as decisions

are made that the right information is available. Susan Crawford, Enforcement and Science Administrator, is the full time representative for the Department. We will have an unprecedented flow of funds coming to Wisconsin which will also create additional workload issues. We welcome it. Projects are transformational and include infrastructure, clean energy, renewable energy, and energy conservation.

Discussion followed on the possible dollar amount of Brownfields grants going to the Department as well as funds for lock and dam repair, drinking water and an office building at Rib Mountain State Park, and downtown Milwaukee.

Discussion followed on staffing indications related to the federal stimulus package.

**Secretary Frank** stated the Department will track and address this. Another impact will be on the regulatory side. There will be air emission implications, as well as issues related to land use and wetlands. These funds could have huge positive environmental impacts on the state.

**Secretary Frank** stated the Department late last week went out for comment on general permits to regulate ballast water on ocean going ships on the great lakes. The permit applies to "salties" and not "lakers". *Salties* are possible carriers of invasives. *Lakers* never leave the Great Lakes system. They may pick up one invasive from one lake and move it to another but they are not the kind of threat that salties are. This is a strong permit. They are proposing a standard that salties have to meet to get to the New York standard. It will be a five year permit and will have some requirements for lakers as well. In the end, he believes the best solution is federal action. He is encouraged to see that Lisa Jackson, the new EPA Administrator, thinks current protections are woefully inadequate.

Discussion continued on the timing of the general permit and research for new technology for the treatment of ballast water.

- 7.A. Retirement Resolutions
- 7.A.1 Gail Fry
- 7.A.2 Debra Martinelli
- 7.A.3 William J. Ryan
- 7.A.4 Tim R. Larson
- 7.A.5 Sarah Shapiro Hurley
- 7.A.6 Patrick McCutcheon
- 7.A.7 Tim Mulhern
- 7.A.8 Douglas A. Schultz
- 7.A.9 Judith E. Gottlieb

**Dr. Thomas** read a letter of appreciation to Tim Mulhern from the members of the Wisconsin State Assembly Committee on Forestry: Representative Gary Sherman - Chair, Representative Fred Clark - Vice-Chair, Representative Donald Friske - Ranking Member, Representative Jeff Mursau, and Representative Nick Milroy. They expressed their heartiest wishes and most sincere gratitude for his generosity and dedication to Wisconsin's forests over the tenure of his career.

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

- 7.B. Donations
- 7.B.1 The Natural Resources Foundation will donate \$13,500 to be used toward management of prairie and savannas on 15 State Natural Areas in the La Crosse Area

**Mr. Welter MOVED, seconded by Mr. Rohde approval of The Natural Resources Foundation donation of \$13,500. The motion carried unanimously.**

- 7.B.2 Commercial Recreation Specialists will donate Seven (7) Aqualand Inflatable Pools valued at \$36,599.93 to be used as part of the Department's Urban Fishing Program in Southeast Region

**Mr. Cole MOVED, seconded by Mr. Welter approval of the Commercial Recreation Specialists donation valued at \$36,599.93. 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 Report on rifle use in former shotgun only CWD areas during 2008 gun-deer seasons  
**Todd Schaller**, Recreational Safety Program Section Chief stated that during citizen participation at the January 28, 2009 Board meeting, the Board requested for staff to report back to them with an analysis of the 2009 hunting season as it relates to the use of rifles in areas that were historically shotgun only areas. He presented background information, a summary of reported shooting incidents and weapon types involved, feedback from the public, preliminary results of the survey of deer hunters in CWD management zone, the preliminary summary of deer harvest in affected CWD areas, the authority of townships to restrict firearm use at the local level and a summary of these townships, and Department response to concerns from townships and landowners about this rule change and township regulations. **(PowerPoint)**

Discussion followed on who tracks property damage, whether hunting method impacts safety, circumstances of sharp shooters in urban areas, whether there were any minimum size requirements on narrow properties for hunting with rifles and shotguns, whether the Board should manage shotgun/rifle use on a parcel to parcel basis, why this narrow parcel was purchased by the Department, and how many other townships in the area reacted to rifle use through ordinances.

**INFORMATIONAL ITEM – NO ACTION WAS TAKEN**

**Dr. Thomas** requested a motion to go into Executive Session.

**Mr. Welter MOVED, seconded by Mr. Ela that the Board convene into Executive Session under the authority of s.19.85(1)(e) Wisconsin Statutes, for the purpose of discussing potential real estate transactions and under the authority of s.19.85(1)(g) Wisconsin Statutes for the purpose of discussing litigation matters. The motion was carried by a roll call vote.**

<b>David Clausen – yes</b>	<b>Preston Cole – yes</b>
<b>Jonathan Ela – yes</b>	<b>Gary Rohde – yes</b>
<b>John Welter – yes</b>	<b>Christine Thomas – yes</b>
<b>Jane Wiley – yes</b>	

**Dr. Thomas** reconvened the meeting at 2:00 p.m. Chair Thomas reported that during the Executive Session no action was taken.

**Mr. Welter MOVED, seconded by Dr. Clausen to adjourn the meeting. The motion carried unanimously.**

\*\*\*The meeting adjourned at 2:00 p.m.\*\*\*

**NOTE: Each Natural Resources Board meeting is recorded. Tapes of each meeting are available for purchase by contacting the Natural Resources Board at 608-267-7420. The following resources are also available: Agenda Item Packets (green sheets), supporting documents, and public comment.**