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NATURAL RESOURCES BOARD

MINUTES

The special meeting of the Natural Resources Board was held via teleconference on Friday, November 13, 2009 in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 10:00 a.m. for action on items 1-2. The meeting adjourned at 10:30 a.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

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

1.B. Approval of agenda for November 13, 2009

Dr. Thomas MOVED approval, seconded by Mr. Welter. The motion carried unanimously.

2. Action Items

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

2.A.1 Updated Request for Authorization for Public Hearings on Board Order WT-14-08, revisions to NR 151, NR 153, and NR 155 pertaining to performance standards and grant programs to address polluted runoff

Russ Rasmussen, Watershed Management Bureau Director, stated that the original proposal was presented to the Natural Resources Board on October 21, 2009. The Board tabled the item pending receipt from staff of a specifically-worded revision to SECTION 13 of the Order that clarifies Department policy. The revised language beginning at page 14 of the Order disallows future storm water best management practices (BMPs) such as detention ponds that would be located in navigable waters. Such “in-line” storm water BMPs for new development are disallowed by current rules but are permissible for runoff from existing development, redevelopment and in-fill development areas, although they may be illegal under the Federal Clean Water Act. He requested the Board authorize public hearings on Board Order WT-14-08.

Mr. Ela stated the item was tabled in October 2009 and would need a motion to resume consideration.

Mr. Welter MOVED, seconded by Mr. Rohde to take from the table Board Order WT-14-08.

Mr. Welter MOVED approval of the November rule package (a revised version of WT-14-08), seconded by Mr. Rohde.

The motion carried unanimously.

2.A.2 Request Adoption of modifications to Board Order WT-28-04, revisions to NR 115, Wisconsin Shoreland Management Program

Russ Rasmussen, Watershed Management Bureau Director, stated that in June 2009, the Natural Resources Board adopted updated minimum statewide shoreland zoning standards for Wisconsin.

The Assembly Natural Resources Committee requested modifications. In response, the following revisions are proposed:

- Impervious surface standards apply within 300 feet of the ordinary high water mark (rather than 1000 feet). Impervious surface allowances are based on calculating the amount as a percentage of the lot within 300 feet of the ordinary high water mark.
- Structures legally placed between 35 – 75 feet of the ordinary high water mark prior to adoption of the original county shoreland ordinance may only be expanded vertically (rather than horizontal and vertical expansion within the shoreland setback)
- Mitigation plans must be enforceable and must be recorded in the office of the Register of Deeds (rather than no previous requirement).
- Clarification that pre-existing impervious surfaces may be maintained, replaced or relocated but relocation or replacement must meet all other ordinance provisions (e.g., for example, an existing at grade impervious patio that does not meet the shoreland setback may not be moved closer to the water or converted to a building.)
- Technical change to ensure accurate awareness and application of statutory provisions related to shoreland zoning for annexed and newly-incorporated areas.

While these modifications result in limits on impervious surfaces over a smaller proportion of lake watersheds, pre-existing structures may no longer be expanded horizontally within the shoreland setback and mechanisms to help ensure that mitigation is accomplished have been strengthened. All other provisions remain as adopted by the Natural Resources Board in June 2009. In summary, the Department has determined that there is no change to the environmental impact of the proposal. He requested the Board adopt modifications to Board Order WT-28-04.

Dr. Clausen MOVED approval, seconded by Mr. Rohde.

Mr. Ela MOVED to amend to include the following sentence to the end of NR115.01 (found in Section 2 of the rule):

“Nothing in this rule shall be construed to limit the authority of a county to enact more restrictive shoreland zoning standards under s. 59.69 Stats. or s. 59.692 Stats. to effect the purposes of s. 281.31 Stats.”

Dr. Clausen and **Mr. Rohde** accepted the amendment as a friendly motion.

Discussion followed on how the rule proposed today compares with the rule adopted in June 2009 and the timeline for the proposed rule to become law.

The motion as amended carried unanimously.

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

The meeting adjourned at 10:30 a.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.