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NATURAL RESOURCES BOARD

MINUTES

A special meeting of the Natural Resources Board was held on Tuesday, June 22, 2010 in the Ballroom South conference room at The Quality Inn & Suites, 2969 Cahill Main, Madison. The meeting was called to order at 10:00 a.m. for a seminar on climate change. No action was taken. The seminar ended at noon.

Al Shea, Air & Waste Division Administrator gave an overview of the agenda which is focused on science and adaptation. He stated that at a later date, staff will brief the Board on the mitigation side of Climate Change. He then introduced the three speakers. (Handout)

Jack Sullivan, Science Services Bureau Director updated the Board on the Wisconsin Initiative on Climate Change Impacts (WICCI). He then focused on climate science, building environmental resiliency, and adaptation strategies. Additional information can be found on-line at www.wicci.wisc.edu. (PowerPoint)

Discussion followed on land purchases related to building environmental resiliency.

Dr. Thomas thanked Mr. Sullivan for an excellent presentation. He hit them between the eyes with reality but didn't leave them in despair.

Tracey Holloway, UW Professor, Director of Center for Sustainability and the Global Environment (SAGE) briefed the Board on the expected impacts of climate change on human populations, which included heat impacts, vector-borne diseases, water-borne diseases, water resources and food supply, and air pollution and allergens. She recognized Professor Jonathan Patz and Professor Chris Kucharik for their contributions to her presentation. (PowerPoint)

Discussion followed on cap and trade legislation.

Mr. Ela thanked Professor Holloway for a very insightful presentation.

Laurie Osterndorf, Lands Administrator briefed the Board on the Department's plan to turn adaptation science into policy and action on the ground through State Adaptation Planning. The Plan is intended to fulfill the requirements of future federal climate legislation, and is scheduled to be completed in May 2012 or sooner if required by legislation. She then reviewed current federal legislation, likely state requirements, and some of the agency's current efforts to move the state's adaptive science to a regional level. The WICCI First Adaptive Assessment Report will be the scientific "backbone" for the Department's *Adaptation Plan*. (PowerPoint and Handout)

Mr. Ela thanked Laurie Osterndorf for her presentation and Al Shea and staff for a very well done seminar.

JUNE 22-23, 2010

The regular meeting of the Natural Resources Board was held on Wednesday, June 23, 2010 in the Ballroom South conference room at The Quality Inn & Suites, 2969 Cahill Main, Madison. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 2:55 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 agenda for June 22, 2010

Dr. Clausen MOVED approval, seconded by Mr. Rohde. The motion carried unanimously.

1.C. Approval of minutes from April 27-28, 2010

Mr. Welter MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.

1.D. Approval of minutes from May 25-26, 2010

Ms. Wiley MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.

Mr. Ela presented a plaque from the Board to Christine Thomas in grateful appreciation for her three years as Board Chair from January 2007 – January 2010.

Dr. Thomas thanked the Board and Department for the plaque and kind words.

Mr. Ela thanked South Central Region staff for the very informative tours on Tuesday and for their hospitality.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Welter MOVED approval, seconded by Dr. Clausen. 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 for Wisconsin

Randy Stark, Chief Warden, and **John Pearson**, Shikar-Safari Club International, presented the Wildlife Officer of the Year Award to Carl Mesman, Northeast Region Warden Supervisor.

Mr. Stark recognized John Pearson who has acknowledged the Warden Service for 24 years. He then stated that Warden Mesman leads by example and is always available and willing to assist. He is committed to continuous improvement and is involved in the community.

Warden Mesman thanked the Board and Shikar-Safari Club for this award. He is always amazed at the warden force since there are so many great supervisors. He thanked his team for organizing the award.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

- 3.A.2 ~~Request adoption of Board order AM 06-09, proposed rules affecting ch. NR 433 pertaining to the implementation of Best Available Retrofit Technology (BART) requirements~~ - DELETED AND MOVED TO AUGUST AGENDA

Matt Frank, DNR Secretary stated that the following two rule packages represent important improvements to Wisconsin's water quality. There has been a gap in our water quality protection dealing with phosphorus, other nutrients, and sedimentation that degrade water quality. These rules include point and non-point sources. He thanked Department staff and the many organizations that worked on this rule.

Bruce Baker, Acting Water Administrator stated these rules have taken a team effort from the Secretary's office to staff to get here today. This package fits Wisconsin and provides unprecedented flexibility for implementation. These rules do not just set water quality standards, they also include implementation.

Mr. Ela suggested for items 3.A.3 and 3.A.4 that the following process be followed: 1) staff presentations be given on each rule, 2) Board discussion, 3) public testimony on each rule, 4) further Board discussion and voting.

- 3.A.3 Request adoption of 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

Gordon Stevenson, Runoff Management Section Chief, and **Russell Rasmussen**, Watershed Management Bureau Director gave a joint presentation addressing nonpoint sources (NPS). They summarized the revisions as follows:

NR 151, Runoff Management: Proposed revisions create new statewide performance standards (P Index, tillage setback, process wastewater control), require reduction in pollutant discharges to meet the nonpoint source component of an approved total maximum daily load (TMDL) and targeted performance standards promulgated for the TMDL area, modify existing agricultural and non-agricultural performance standards, and make minor changes to the implementation and enforcement provisions of the rule.

NR 153, Targeted Runoff Management (TRM) and Notice of Discharge Grants: Proposed revisions for TRM create four competitive project categories, strengthen links between grant requirements and local implementation performance standards and prohibitions, modify application requirements, and establish limits on the total amount of grant funding that a grantee can receive in a grant year.

NR 155, Urban NPS Pollution Abatement and Storm Water Management Grants: Proposed revisions increase the Department's oversight of subcontracts, increase grantee accountability for final products, provide more flexibility over how grants are used, and limit grantee awards in a given grant period. They requested the Board adopt Board Order WT-14-08. **(PowerPoint and Handout)**

Discussion followed on the full time employee (FTE) estimates to administer the rule changes.

- 3.A.4 Request adoption of Board Order WT-25-08, revisions to NR 102 and NR 217 related to phosphorus water quality standards criteria and WPDES permit provisions for phosphorus
Russell Rasmussen, Watershed Management Bureau Director stated this rule package proposes to implement numeric phosphorus water quality standards criteria for lakes and streams, as required by EPA. If the Department does not adopt phosphorus criteria, EPA has the authority to do so for Wisconsin. This rule package also includes procedures for using the phosphorus criteria to develop water quality based effluent limitations for publicly and privately owned wastewater treatment facilities, and implementing those limitations through Wisconsin Pollutant Elimination System (WPDES) permits. Various options included in these permit procedures are limitations derived from total maximum daily load (TMDL) plans, compliance schedules, interim limitations and variance. He requested the Board adopt Board Order WT-25-08. **(PowerPoint and Handout)**

Public Appearances for Item 3.A.3 – polluted runoff:

1. **Paul Zimmerman**, Prairie du Sac, representing WI Farm Bureau stated this rule is workable for farmers across state. He expressed their support.
2. **Jordan Lamb**, Madison, representing the Wisconsin State Cranberry Growers Association, the Wisconsin Pork Association, the Wisconsin Potato & Vegetable Growers Association, and the Wisconsin Cattlemen's Association spoke in support of the proposed rule. The Department has made several critical changes that have made this rule much more workable for agriculture. The most important change is the change in the TMDL section that maintains a fair process if and when a lower standard is needed to meet water quality standards.
3. **Lori Grant**, Madison, representing River Alliance of Wisconsin spoke in general support of the proposed rule but recommended that Board adoption include two revisions: 1) Require that construction sites use best management practices to reduce the sediment load carried in runoff by 80% with a maximum allowed discharge of 5 tons per acre per year, and 2) Restore the tillage setback to 20 feet. **(Handout)**
4. **Tom Sigmund**, Green Bay, representing the Green Bay Metropolitan Sewerage District spoke in general support of the proposed rule but requested the Board direct the Department to 1) Secure EPA and Wisconsin legislative committee approvals for NR 102, NR 217, and NR 151, 2) Develop a framework for water quality trading among point and nonpoint sources in conjunction with stakeholder groups by July 2011, and 3) Implement a comprehensive monitoring program to test effectiveness of phosphorus control measures. **(Handout)**
5. **Amber Meyer Smith**, Madison, representing Clean Wisconsin stated their support for this rule as a positive step forward. As with all compromises, there are things that could make the package stronger. For a rule that is subject to cost-share and therefore will be implemented sparingly and only in high-priority areas, a PI of 6 is something that could really be improved on, especially in a TMDL where other stakeholders are taking on much more significant obligations to ratchet down discharge. She also noted that a five foot tillage setback is not protective enough of water quality. **(Handout)**
6. **Lisa Conley**, Village of Lac La Belle, representing Rock River Coalition and Town and Country Resources, Conservation and Development stated their support for the proposed rule but are concerned that the 20 foot tillage setback has been reduced to 5 feet. They would like to see the 20 foot setback restored as a minimum requirement. Their other concern is that the NR 151.005 requirement for rule writing in a TMDL area where stricter standards are needed will lead to long delays of water quality improvements. **(Handouts including Tom Koren letter)**
7. **George Meyer**, Madison, representing the Wisconsin Wildlife Federation (WWF) stated their support for the proposed rule but have the following concerns: 1) The provisions of NR 151.005 which requires that if a more stringent performance standard is necessary for crop producers or livestock producers to meet a load allocation for a TMDL, the enhanced standard must go through a rule-making process will make it virtually impossible to effectively adopt an enhanced performance standard for the TMDL. The Board should remove this unnecessary rule-making requirement. 2) There is a statutory requirement that a producer does not have to implement these practices unless there is seventy percent cost sharing provided. In order for crop and livestock producers to implement these requirements, there needs to be a substantial increase in funding for cost-sharing. **(Handout)**

Discussion followed on cost-sharing.

8. **Patrick Stevens**, Madison, representing the Wisconsin Builders Association stated that this rule started out mainly as an agriculture rule and since then, this rule has blossomed into something that impacts the non-agriculture part of the performance standards. This rule is

quite significant and impacts housing. In addition to the stormwater side of the equation, the rule also creates a new standard for construction erosion control. They are not supportive of making this standard either the 80% reduction or the 5 tons per year per acre, whichever is more stringent. He then stated that this rule applies to on-going projects. A project based on the current protective areas for wetlands in some instances have been increased from 50 feet to 75 feet. He was concerned as to how this would impact on-going developments and asked that existing projects be grandfathered in.

Discussion followed on clarification to Mr. Stevens' interpretation of the 80% reduction/5 ton change.

Mr. Stevens stated they are not in support of, in essence, creating a cap as was proposed. They prefer to keep one standard rather than having whichever one you hit first is the one you comply with.

9. Scott Thompson, Madison, representing Wisconsin Environment support and applaud the Department's efforts in protecting Wisconsin's waterways. Last month they have been knocking on thousands of doors across the state of Wisconsin and have been met with overwhelming support. He distributed a citizen petition. **(Handout)**
10. David Jelinski, Madison, representing Dairy Business Association was not in attendance
11. Shahla Werner, Madison, representing the Sierra Club spoke in support of the proposed rules but voiced the following concerns: decreasing the tillage setback to only 5', that a PI of 6 leads to a high excessive potential for runoff and should be lowered, and the onerous process of passing administrative rules in order to establish a TMDL with a PI below 6. They would like to see this measure as a positive step to reduce runoff pollution while reducing impacts on farmers and others and their ability to make ends meet in the midst of a tough economic climate. **(Handout)**

Public Appearances for Item 3.A.4 – phosphorus:

1. Scott Manley, Verona, representing WI Manufacturers & Commerce (WMC) stated their opposition to the proposed rule in its current form and requested the Board to direct the Department to make the revisions to the rule referenced in his handout prior to adoption. **(Handout)**
2. Chuck Ledin, Madison, representing self stated he is a DNR water division retiree and spoke in support of the rule. He has seen tremendous improvements in water quality, except for plant growth stimulated by phosphorus in waterways such as Tainter Lake and Lake Menomin. The long term management goal should really be the elimination of all phosphorus from discharges into our waters. **(Handout)**
3. Paul Kent, Madison, representing Municipal Environmental Group (MEG) – Wastewater Division stated they have been active participants in this rule making process and do not oppose the rule. If adopted, it is important that there be the requisite follow through by the Department to ensure that: 1) the Department work to secure EPA approval of this rule, 2) NR 151 be adopted and that DNR continue to work to address nonpoint sources, 3) the Department commit to developing a trading protocol by July 2011, and 4) the Department integrate the NR 217 implementation process into the pending phosphorus TMDLs in the Fox and Rock River basins. **(Handout)**
4. Tom Sigmund, Green Bay, representing the Green Bay Metropolitan Sewerage District stated that in addition to his testimony under 3A3, complying with the rule revisions will be challenging for municipal wastewater treatment plants but they believe they are appropriate to achieve Wisconsin's water quality objectives. Working together, we will get maximum

benefit for the environment using innovative and cost-effective approaches. They support the adoption of this rule as proposed. **(Handout)**

5. **Kevin Shafer**, Fox Point, representing the Milwaukee Metropolitan Sewerage District (MMSD) stated they are dedicated to improving their region's waterways and have the foundation in place to take the next step toward this goal. These rule revisions support their regional efforts. MMSD supports these rules but requests that: 1) NR 151 revisions move forward cohesively with NR 102 and NR 217, 2) the implementation of the rule revision be performed in a watershed-based, cost effective manner, 3) existing and future TMDL implementation strategies and phosphorus strategies be linked, and 4) the Department develop a statewide framework for water quality trading within one year. **(Handout)**
6. **David Taylor**, Verona, representing the Madison Metropolitan Sewerage District stated they support clean water and recognize nutrients such as phosphorus impact the quality of Wisconsin's lakes and streams. They support adoption of the proposed rules relating to NR 102, NR 151, and NR 217. He stated the Department's work is not yet done. The Department needs to 1) work diligently to secure EPA approval for NR 102 and NR 217, 2) develop and implement a comprehensive water quality monitoring to evaluate the effectiveness of phosphorus control strategies, and 3) place a high priority on developing a protocol/ infrastructure that guides water quality trading in Wisconsin. **(Handout)**
7. **Amber Meyer Smith**, Madison, representing Clean Wisconsin stated their support for this rule, which goes hand in hand with 3A3. These changes will represent a positive step forward in addressing phosphorus. They have concerns with the rule as follows 1) for discharges to the Great Lakes, the language is potentially inadequate. The language relies on regulations based on modeling that has not been done yet and waiting until modeling is done could delay this provision. It should require interim effluent limits based either on a more stringent limit if necessary to protect designated uses in the near shore, and 2) The effluent flows under NR 217.13(2)(c) should have shorter averaging times. One year averaging is double what the stakeholder committee had discussed and allows high phosphorus discharges in waterways during the most vulnerable times of the year and denies citizens access to monitoring reports in a reasonable amount of time. **(Handout)**

Discussion followed on the Great Lakes concern.

8. **Lisa Conley**, Village of Lac La Belle, representing Rock River Coalition and Town and Country Resources, Conservation, and Development. On behalf of their water issues team, she expressed their strong support for the proposed rule. It is truly historic that these come together with the nonpoint provisions they talked about earlier. This has been a long time in coming. Good farming practices, clean lakes, and good urban practices should support each other and provide a life-sustaining resource base for generations to come. **(Handout – see 3A3-6)**
9. **Denny Caneff**, Madison, representing the River Alliance of Wisconsin stated their support for these rules. They were active in developing both rule packages (3A3 and 3A4) going back several years when the advisory committees were put together by the Department. He feels the adaptive management language is the bridge between these two rule packages. Inside adaptive management is the possibility and great promise of where this issue of nonpoint and point sources can be worked out.
10. **George Meyer**, Madison, representing the Wisconsin Wildlife Federation (WWF) stated their strong support for the proposed rule. WWF fully endorses the proposed changes to the rule from upcoming speakers representing Midwest Environmental Advocates and Environmental Law and Policy Center. **(Handout)**

11. **Don Hammes**, Middleton, representing self spoke in support of these rules. He belongs to the Yahara Fishing Club. While fishing throughout the state, their members have seen the substantial impact that excessive nutrients such as phosphorus can have on Wisconsin's waterways, including the deadly blue-green algae. Phosphorus discharges via stormwater runoff and other sources adversely affect water quality in our lakes and streams which adversely affects fishing.
12. **Mike Arrowood**, Oakfield, representing self was not in attendance.
13. **Betsy Lawton**, Madison, representing Midwest Environmental Advocates stated that clean water is not free, but it is essential. There are significant costs of doing nothing. Algae growth fueled by phosphorus keeps many Wisconsin citizens from enjoying Wisconsin's most public resources for recreation, fishing, and boating. Clean water is associated with reduced health costs and increased property values. While the proposed regulations are a vast improvement, they have a few concerns related to the year-long averages proposed for the lower water quality based effluent limits. Problems associated with year-long averaging would be related to the ability to ensure compliance the other concern relates to discharges to the Great Lakes.

Discussion followed on the 8 year averages versus seasonal differences on a one-year averaging basis and the Great Lakes issue.

14. **Bill Davis**, Madison, representing Environmental Law & Policy Center stated their support for 3.A.3 and 3.A.4. He stated it is important to control phosphorus. The adaptive management section should serve as a model for many other states. He reiterated the connection between NR 217 and NR 151. They will go hand in hand and are the most economic and effective way to control phosphorus in Wisconsin. They would like to see the following changes: 1) on the language regarding direct discharges to the Great Lakes, the Department has to have the ability to ensure that water quality criteria are met and his understanding of the language in the errata sheet, they are not convinced the Department will retain that authority. Setting an interim limit is fine but language should be added that would allow the Department to set more stringent limits should they be required. 2) Another section is on new discharges to impaired waters. He encourages the Board to look at this language and work with EPA to fix that language. 3) They also agree with comments from Ms. Lawton in terms of the annual limits vs. monthly limits. They understand flexibility but are concerned that having a 3x limit in permits could potentially lead to algae blooms in certain water bodies. **(Handout)**
15. **David Jelinski**, Madison, representing Dairy Business Association was not in attendance
16. **Shahla Werner**, Madison, representing the Sierra Club stated that addressing both point and nonpoint run-off will make Wisconsin a nation-wide leader in addressing nutrient pollution. Adopting stronger nutrient standards is long overdue. They concur with the other concerns raised by Environmental Law & Policy Center and the Midwest Environmental Associates about the need for monthly over annual averaging and the need to comply with precedents set under the Pinto Creek vs. EPA decision on prohibiting new discharges in an impaired waterbody in the absence of a larger plan to bring that into compliance. However, once those concerns are addressed and the EPA accepts those, the Sierra Club strongly favors the adoption of NR 217 and NR 102. **(Handout)**

Mr. Ela thanked the public for their cooperation and thoughtful comments. He continued the meeting with discussion and voting on the nonpoint source rule (3.A.3).

Mr. Rasmussen distributed and discussed the errata sheets for both rules.

Discussion followed on hydrologic unit codes (HUC's), the 5' tillage setback, buffer zone, further clarification to the 80% reduction/5 tons rule change, implications for cost-sharing, nutrient trading, and the implementation schedule for this rule.

Dr. Clausen MOVED approval, including the errata, seconded by Dr. Thomas of 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.

Errata:

1. At page 20 of the Order, revise NR 151.04 (2) (b) as follows:

(b) Except as provided under sub. (3), for purposes of compliance with this section the phosphorus index shall be calculated using the version of SNAP-Plus software the Wisconsin Phosphorus Index available as of ~~insert effective date of this section~~ the effective date of this rule . . . [legislative reference bureau inserts effective date].

Note: ~~SNAP-Plus software~~ The Wisconsin Phosphorus Index is maintained by the University of Wisconsin department of soil science and can be found at <http://wpindex.soils.wisc.edu>. ~~Copies are on file with the department, the secretary of state and the revisor of statutes.~~

Note: Soil test phosphorus concentration may be used to help identify fields that are high priority for evaluation with ~~SNAP-Plus~~ the Wisconsin Phosphorus Index. For example, croplands with soil test phosphorus concentrations of 35 parts per million or greater should be given a higher priority for evaluation.

Note: Best management practices developed by the department of agriculture, trade and consumer protection may be used alone or in combination to meet the requirements of this section.

2. At page 45 of the Order, revise NR 151.13 (2) (b) 3. b. as follows:

b. Any agreements with an adjacent municipality, or with municipalities within a ~~12~~ 10 digit hydrologic unit code level, to implement the 40 percent total suspended solids reduction on a regional basis per s. NR 216.07 (6).

Discussion followed on tillage setbacks and buffer zones.

Mr. Welter MOVED, seconded by Mr. Cole to amend NR 151.03 (2) to change the no tillage requirement from 5' to 20' as follows: "No tillage operations may be conducted within ~~5~~ 20 feet of the top of the channel of surface waters. ~~Tillage setbacks greater than 5 feet but no more than 20 feet may be required to meet this standard.~~

Mr. Rohde suggested an amendment to the amendment to provide for a contraction of the tillage setback to 5 feet where it is deemed appropriate. Mr. Welter and Mr. Cole accepted Mr. Rohde's provision as a friendly amendment. The amendment to NR 151.03 (2) read: "No tillage operations may be conducted with 20 feet of the top of the channel of surface waters unless it is deemed that a lesser distance, to a minimum of 5 feet, is appropriate."

The motion to amend failed on a roll call vote of 2-5.

David Clausen – no

Preston Cole – yes

Jonathan Ela – no

Gary Rohde – no

John Welter – yes

Christine Thomas – no

Jane Wiley – no

The original motion with errata carried unanimously.

Mr. Ela continued the meeting with discussion and voting on the phosphorus rule (3.A.4).

Discussion followed on the errata and whether they were discussed with stakeholders, whether EPA is on-board with these changes, and the process of setting an interim model.

Dr. Thomas MOVED approval, including the errata, seconded by Dr. Clausen of Board Order WT-25-08, revisions to NR 102 and NR 217 related to phosphorus water quality standards criteria and WPDES permit provisions for phosphorus.

Errata:

1. At page 22 of the Order, revise NR 217.13 (4) as follows:

(4) DISCHARGES DIRECTLY TO GREAT LAKES. For discharges directly to the Great Lakes, the department shall set effluent limits consistent with nearshore or whole lake model results approved by the department. The department may set an interim effluent limit based on the best readily available phosphorus removal technology commonly used in Wisconsin ~~if nearshore or whole lake model results are not available at the time a permit is reissued.~~

2. At page 34 of the Order, revise NR 217.18 (3) (e) 1. as follows:

(e) Numerical effluent limitations as follows:

1. All permits issued under the adaptive management option in this section shall include water quality based effluent limitations calculated consistent with ~~clean water act requirements~~ the federal water pollution control act, s. 33 USC 1251 to 1387, that are established according to s. NR 217.13 or a US EPA approved TMDL. These limitations shall take effect in accordance with the timeframe established in this paragraph, or pursuant to par. (g) if the adaptive management option is terminated.

Discussion followed on the compliance schedule.

Mr. Rohde MOVED to amend, seconded by Mr. Welter to strike 217.17 (1) (c) 3 on page 30 of the Order:

~~3. The likelihood that a TMDL will be developed and approved within the permit term and whether the wasteload allocation for the facility will likely be less stringent than a water quality based effluent limit calculated under s. NR 217.13.~~

Discussion followed on clarification of the monthly limits.

The motion to amend carried unanimously.

The original motion with errata as amended carried unanimously.

Mr. Cole MOVED, seconded by Ms. Wiley, to direct the Department to develop guidance in consultation with stakeholders regarding TMDL implementation so that such implementation is consistent with NR 217. The motion carried unanimously.

Mr. Cole MOVED, seconded by Mr. Welter, to direct the Department to immediately assemble a stakeholder group of those interested parties in watershed based trading issues to develop a trading framework including any recommended rules or guidance to facilitate watershed based trading, and report back to the Board no later than July 1, 2011. The motion carried unanimously.

3.A.5 Request adoption of Board Order WA-30-09, revisions to NR 660, hazardous waste management rules

Ann Coakley, Waste and Materials Management Bureau Director stated that the proposed changes create definitions for large quantity generators (LQGs) of hazardous waste and small quantity generators (SQGs) of hazardous waste. The 2009 Wisconsin Act 28 (2009-11 Budget) created new statutory fees for the two types of generators, and required that the Department define these generators in administrative rules. She requested the Board adopt Board Order WA-30-09.

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

- 3.A.6 ~~Request authorization for public hearing for Board Order AM 34-05, proposed rules affecting NR 411 pertaining to the indirect source air permit program (MOVED TO SEPTEMBER AGENDA)~~

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

- 3.B.1 Request adoption of Board Order FR-04-10, forestry housekeeping rules package for Chapter 46, Wis. Admin. Code

Ken Symes, Forest Tax Enforcement and Operations Specialist stated that the proposed rule package would include the following changes to clarify and streamline the MFL program:

- 1) Create a process to allow landowners who purchase expiring forest crop law lands within 18 months prior to the end of the forest crop law expiration the opportunity to apply for the July 1 petition deadline or later for good cause to be considered for designation effective the following January 1.
- 2) Clarify the requirements for additions to existing managed forest law lands.
- 3) Amend the certified plan writer reporting requirements for plan preparation costs and requirements for making an offer to landowners for management plan writing services.
- 4) Amend the department billing requirements when invoicing landowners for plan preparation fees.
- 5) Amend the minimum medium density stocking requirements for management of plantations from 600 seedlings per acre to 400 seedlings per acre.

He requested the Board adopt Board Order FR-04-10.

Discussion followed on the decrease in the minimum medium density stocking requirement from 600 seedlings to 400 seedlings per acre.

Mr. Welter MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.

- 3.B.2 Request adoption of Board Order WM-15-10 and Emergency Board Order WM-30-10(E) related to the use of archery deer hunting carcass tags

Jason Fleener, Acting Deer Specialist stated that this proposal would limit the areas where the antlerless carcass tag is valid to only management units for which an antlerless deer harvest quota has been established and CWD units. Under current rules, firearm season hunters are not allowed to harvest antlerless deer in zero quota units but archery hunters may. Eliminating archery hunter's ability to harvest antlerless deer in units for which no antlerless quota has been established will make regulations more consistent between the firearm and archery seasons. In deer management units that are below their overwinter population goals, reduced antlerless harvest will help to achieve overwinter goals by allowing additional population growth.

This proposed rule does not create license types or new license issuance procedures. It will require updating printed instructions on carcass tags which can be done when annual updates are made and will result in no fiscal impact. It is not anticipated that this change will have an impact on license sales because the harvest of antlered bucks is still allowed in all units statewide. The ability to harvest an antlered deer is, for most hunters, the primary feature of the archery deer hunting license. Additionally, the harvest of antlerless deer will still be allowed in most units. He requested the Board Adopt Board Order WM-15-10 and Emergency Board Order WM-30-10(E). **(Powerpoint)**

Public Appearances:

1. **George Meyer**, Madison, representing the Wisconsin Wildlife Federation stated their strong support for this proposed rule. Both archers and gun hunters alike understand the depressed number of deer in the area and are willing to accept zero antlerless deer harvest in those units in order to restore the deer population in the area. **(Handout)**

Mr. Rohde MOVED approval, seconded by Dr. Clausen. The motion carried unanimously.

- 3.B.3 Easement purchase - Forest Legacy Program - Forest County

Discussion followed on whether the state should consider a fee title purchase on this property.

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

- 3.B.4 Land Acquisition, Donation and Project Establishment - Totogatic Wild River - Washburn and Douglas Counties

Public Appearances:

1. **Denny Caneff**, Madison, representing the River Alliance of Wisconsin stated their support for the purchase of this property. Protecting the land to protect the river is essential.

Mr. Welter MOVED approval, including the donation and project establishment, seconded by Dr. Clausen. The motion carried unanimously.

- 3.B.5 Land Acquisition - Quincy Bluff and Wetlands Natural Area - Adams County

Discussion followed on whether there are any nature based activity restrictions.

Dr. Thomas MOVED approval, seconded by Mr. Welter. The motion carried 6-0. Mr. Ela abstained from the vote.

- 3.B.6 Land Acquisition - Central WI Grassland Conservation Area - Portage County

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

- 3.B.7 Land Acquisition and Project Boundary Modification - Moose Lake State Natural Area - Iron County

Ms. Wiley MOVED approval, including project boundary modification, seconded by Dr. Thomas. The motion carried unanimously.

- 3.B.8 Land Rights Acquisition - Central WI Grassland Conservation Area - Portage and Adams Counties

Dr. Clausen MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.

- 3.B.9 Land Acquisition and Project Boundary Modification - Willow Flowage Scenic Waters Area - Oneida County

Mr. Welter MOVED approval, including project boundary modification, seconded by Dr. Clausen. The motion carried unanimously.

- 3.B.10 Land Acquisition and Project Boundary Modification - Lower Wisconsin State Riverway - Richland County

Discussion followed on island ownership.

Dr. Clausen MOVED approval, including project boundary modification, seconded by Mr. Welter. The motion carried unanimously.

- 3.B.11 Land Acquisition - Kettle Moraine State Forest-Northern Unit - Sheboygan County

Mr. Rohde MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.

- 3.B.12 Land Acquisition - Scattered Forest Lands - Marathon County

Discussion followed on the Ice Age Trail and whether there may be hunting concerns from residential properties located nearby.

Mr. Welter MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.

3.B.13 Land Acquisition - Quincy Bluff and Wetlands Natural Area - Adams County

Discussion followed on the past use of this property.

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

3.B.14 Easement Acquisition and Project Boundary Modification - Kettle Moraine State Forest - Northern Unit - Washington County

Mr. Welter MOVED approval, including project boundary modification, seconded by Mr. Welter. The motion carried unanimously.

3.B.15 Land Acquisition and Project Boundary Modification - Stream Bank Protection Fee Program - Walworth County

Ms. Wiley MOVED approval, including project boundary modification, seconded by Dr. Thomas. The motion carried unanimously.

3.B.16 Land Acquisition - Rush Creek Natural Area - Crawford County

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

3.B.17 Land Acquisition and Project Boundary Modification - Stream Bank Protection Fee Program - Sheboygan County

Mr. Welter MOVED approval, including project boundary modification, seconded by Dr. Clausen. The motion carried unanimously.

3.B.18 Land Acquisition - Statewide Natural Area - Sauk County

Mr. Rohde MOVED approval, seconded by Ms. Wiley. The motion carried unanimously.

3.B.19 Land Acquisition and Project Boundary Modification - St. Louis River Stream Bank Area - Douglas County

Mr. Cole MOVED approval, including project boundary modification, seconded by Dr. Thomas. The motion carried unanimously.

3.B.20 Land Transfer - Merrill Ranger Station - Lincoln County

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

3.B.21 Land Donation - Kinnickinnic River Fishery Area and Western Prairie Habitat Restoration Area - St. Croix County

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

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation

Public Appearances:

1. **James A. Olson**, Madison, representing Crab Lake Property Owners' Association
Topic: Forestry practices in Northern Highland-American Legion Forest and proposed lumbering of the Crab Lake area in Vilas County. He was joined by 62 supporters in the

audience. He requested that the state return to bargaining and that the NH-AL Master Plan be amended to protect aesthetics. **(Handout and list of supporters)**

Mr. Ela requested Issue Coordinator Duke Welter look into Mr. Olson's concern and report back to the Board.

2. Co-presenters **Dave Marshall**, Barneveld and **Timm Zumm**, Spring Green representing Friends of the Lower Wisconsin Riverway
Topic: Restoring the pre-1994 State Stewardship funding that had been allocated for sustaining the unique resources along the Lower Wisconsin State Riverway. They requested that the Department 1) support the restoration of the pre-1994 level of state Stewardship funding that will be needed to assist private landowners in their efforts to protect the scenic river bluffs and protect the ecologically vital floodplain lakes and 2) expand the Master Planning boundaries and goals that will be needed to protect the diverse floodplain habitats. **(Handout)**

Discussion followed on the Friends' groups specific points of concern for the Department.

Mr. Ela requested Land Administrator Laurie Osterndorf look into the Marshall and Zumm concern and report back to the Board.

3. **Bob Welch**, Redgranite, representing the Hunters Rights Coalition (HRC)
Topic: Process for making hunting policy decisions. He stated that the WI Conservation Congress (WCC) was created by the Legislature to advise the Natural Resources Board. WCC leadership has a dangerous arrogance and has chastised legislators demanding that no idea be introduced without going through the WCC process. At the last WCC Executive Council meeting, WCC declared HRC their enemy. He stated WCC has crossed the line which is hurting all hunters. He requested that WCC focus on what they are supposed to be doing: advising the Natural Resources Board and not the legislature.

Discussion followed on the issues related to HRC's complaint.

5. Board Members' Matters

Mr. Rohde stated the polluted runoff and phosphorus rules from this morning were handled very well by the Department staff and leadership in pulling all stakeholder groups together. These are very impressive and well done rules.

Mr. Cole requested a summary of Board Member areas of concern.

6. Special Committees' Reports

None

7. Department Secretary's Matters

Secretary Frank thanked the Board for their action this morning on items 3A3 and 3A4. He then thanked staff and the many stakeholders as well. This is very good for Wisconsin. He then noted that Governor Doyle scheduled numerous news conferences for June 24 regarding the completion of 20 successful years of the Stewardship fund and the beginning of the first fiscal year of the next 10 years. Stewardship is one of the best things the Department does to protect our natural resources and quality of life in our state.

He then mentioned the Climate Change Seminar from yesterday and that 20% of the global green house gas comes from deforestation in rainforests. He stated it is in our best interest to work with other countries such as Indonesia and Brazil in promoting sustainable forestry and agriculture. In addition, he believes Wisconsin can benefit from a cap and trade system on green house gases at a national and ultimately international level. We need to find common ground.

The Climate Change discussion is multi-faceted. He will continue to work with other states as they head into the next international forum scheduled for Mexico later this year.

Mr. Cole asked that Wisconsin's urban forests be counted in the tally.

Secretary Frank stated he would do so and that the Department will make sure Wisconsin gets full credit for carbon counting.

- 7A Retirement Resolutions
- 7A1 David R. Bouche
- 7A2 Leonard C. Polczynski
- 7A3 James I. Ross
- 7A4 Gary Kent-Bracken
- 7A5 Terryl A. Buchman
- 7A6 Ronald Grashoff
- 7A7 John S. Collison

Mr. Welter MOVED approval, seconded by Dr. Thomas. 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 Endangered Resources Review Program

Erin Crain, Endangered Resources Section Chief summarized the Endangered Resources Review Program including information on the laws and responsibilities, program goals, stakeholder input, program services, NHI (Natural Heritage Inventory) data and how it is provided to customers, endangered resources reviews, guidance, incidental take authorizations and permits, endangered and threatened species permits, training, technical support, and creation of an advisory committee. **(PowerPoint)**

Discussion followed on citizen monitoring.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

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

The meeting adjourned at 2:55 p.m.

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