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NATURAL RESOURCES BOARD

BRIEF OF ACTION

The regular meeting of the Natural Resources Board was held on Wednesday, February 26, 2014 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 1-3 and 6-7. The meeting adjourned at 12:40 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

William Bruins – present Gary Zimmer – present
Christine Thomas – present Jane Wiley – present
Terry Hilgenberg – present Preston Cole – present
Greg Kazmierski – present

1.B. Approval of agenda for February 26, 2014

Dr. Thomas MOVED approval of the February 26, 2014 agenda, seconded by Mr. Zimmer. The motion carried unanimously.

1.C. Approval of Brief of Action from January 22, 2014

Ms. Wiley MOVED approval of the January 22, 2014 Brief of Action, seconded by Mr. Zimmer. The motion carried unanimously.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Bruins MOVED approval, seconded by Mr. Kazmierski of the Real Estate Transactions. The motion carried unanimously.

3. Action Items

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

3.A.1. Presentation of the “Registered Laboratory of the Year Award

Mr. Hilgenberg MOVED approval, seconded by Ms. Wiley to recognize the Wolf Treatment Plant in Shawano, WI as the 2014 Registered Laboratory of the Year. The motion carried unanimously.

- 3.A.2. Request approval of department recommendations for the FY 2015 Laboratory Certification and Registration Program Fee **PowerPoint**

Dr. Thomas MOVED approval, seconded by Mr. Kazmierski of the department's recommendations. The motion carried unanimously.

- 3.A.3. Request adoption of Board Order DG-02-13, proposed rules for heat exchange drilling, to create a drilling license with requirements for heat exchange authorization and construction standards for heat exchange drilling. The proposed action implements 2011 Wisconsin Act 150 modifying Chapter 280, Wisconsin Statutes **PowerPoint**

Public Appearances:

1. **Jeffrey Beiriger**, Menasha, representing Wisconsin Water Well Association and the Wisconsin Geothermal Association. He spoke in support of the department's recommendation. (**Handout**)
2. **Terry Marshall**, Wisconsin Dells, representing Marshall Well Drilling. He spoke in support of the department's recommendation.

Mr. Zimmer MOVED approval, seconded by Mr. Hilgenberg of the department's recommendations. The motion carried unanimously.

- 3.A.4. Request adoption of Board Order DG-03-13, proposed rules for inspections of water systems at time of property transfer, licensing of filling and sealing contractors, well inspectors and water well drilling rig operators, and citations for violations related to drilling and pump installing to protect public health and groundwater **PowerPoint**

Public Appearances:

1. **Terry Marshall**, Wisconsin Dells, representing Wisconsin Water Well Association as President. He spoke in support of the department's recommendation. He commended Steve Ales and Dorie Turpin for their work.
2. **Dennis Crow**, Lodi, representing self. He spoke in support of the department's recommendation. He thanked Steve Ales, Marty Nessman, Dorie Turpin, and staff from prior years for their work and moving this forward.

Discussion followed on what changed on the inspection form, whether these changes will increase costs, whether basement and pit wells pose a risk to ground water, whether the Department monitors the filling and sealing process, and whether there have been problems with sealed wells.

Ms. Wiley MOVED approval, seconded by Dr. Thomas of the department's recommendations.

Mr. Hilgenberg MOVED, seconded by Mr. Kazmierski to amend the first sentence of NR 812.44(3) Forms and Instructions on page 88 of 91 by adding at the end "with the form to be approved by the Board of the department's recommendations".

Discussion followed on whether there is a timeframe that the form needs to be revised, whether form revisions are the purview of the Secretary and not the Board, legal counsel advice to not add this motion into the rule language, and whether an eight page form would negatively impact the mortgage process.

Secretary Stepp offered to have staff work with Mr. Hilgenberg to streamline and simplify the proposed eight page inspection form.

Mr. Hilgenberg agreed to work with the Department on revising the eight page form and withdrew his amendment. [He has the option to put this back on the agenda if the revision process does not go well.]

Mr. Hilgenberg MOVED, seconded by Mr. Kazmierski to amend NR 812.44(5), (b) at the top of page 89 of 91 as follows:

(b) The following features of all wells and pressure systems on the property shall be ~~evaluated~~ considered during a property transfer well inspection and shall include any corrective measures necessary ~~any action needed, noncompliance and information shall be noted on the inspection form as follows:~~

Chair Cole requested public speakers Terry Marshall and Dennis Crow to return to the podium to answer Board questions to get their response on the proposed amendment.

Mr. Marshall stated the eight page form gives inspections some teeth, it is consistent, and the goal is to protect ground water.

Mr. Crow stated the introductory page could be simplified. Page 2 is the inspection, page 3 is the field evaluation, and the remaining pages are explanations. This form would educate the homeowner and give them information on their system.

Discussion followed on whether this would add to the cost of real estate transactions, that this form contains mostly definitions and adds consistency to the inspection process, whether the form could be simplified for the lending process, what would happen in a real estate transfer should the inspection identify a noncompliant well, concern a revised form would dumb down initial

inspections, that the intent of the revisions would be to standardize the information and would not have anything to do with the inspection process, whether the amendment would change the Department's role in this, that the amendment would give the Department more flexibility to develop the form and not change the Department's role, and that the Board was dragged into this after the fact (cart before the horse) since the Board did not act on policy before staff generated the form.

The motion to amend carried unanimously.

The original motion as amended carried unanimously.

Mr. Hilgenberg thanked Ken Johnson, Water Division Administrator, for his cooperative attitude.

- 3.A.5. Request authorization for public hearings for Board Order WT-13-12, proposed rules affecting chapters NR 200, 201, 203, and 205 relating to the administration of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program regulating wastewater discharges **PowerPoint**

Discussion followed on what the new procedures are for substantial changes to the nutrient management plans for permitted CAFOs.

Mr. Hilgenberg MOVED approval, seconded by Mr. Zimmer of the department's recommendations.

Discussion followed on whether sand or road salt is easier to remove from lake water.

The motion carried unanimously.

- 3.B. Land Management, Recreation, Fisheries, and Wildlife
3.B.1. Request adoption of Board Order FH-26-12, proposed rules affecting chapter NR 25 related to lake trout harvest limits on Lake Superior **PowerPoint and written comment**

Mr. Kazmierski MOVED approval, seconded by Ms. Wiley of the department's recommendations. The motion carried unanimously.

- 3.B.2. Request adoption of Board Order WM-21-13, proposed rules that prohibit firearm discharge across trails and require dog-proof traps on State Park properties, eliminate unique state park turkey hunting units because they are no longer needed, and clean up chs. NR 10 and 45 to reflect previous Board determinations (December 2012) under Wis. Act 168 **Written comments**

Mr. Bruins MOVED approval, seconded by Mr. Hilgenberg of the department's recommendations.

Discussion followed on whether there were any significant issues involving hunting in state parks [staff will give a full report to Board on June 25], that citizens have recognized that the Board had to work under law on this rule, and not everyone wants hunting in state parks.

Public Appearances:

1. **George Meyer**, Madison, representing Wisconsin Wildlife Federation as Executive Director. He was not in attendance.

The motion carried unanimously.

- 3.B.3. Request authorization for public hearings for Board Order FR-07-12, proposed rules affecting chapter NR 47.65 related to a county forest time standards grant, which would allow county forests additional flexibility in selecting the optimal combination of resources provided by the department

Mr. Hilgenberg MOVED approval, seconded by Mr. Kazmierski of the department's recommendations. The motion carried unanimously.

- 3.B.4. Request approval of department recommendation to issue a Stewardship grant that will prohibit at least one nature-based outdoor activity (NBOA) on non-department land: City of Madison, Dane County **Written comments**

Public Appearances:

1. **Kay Rutledge**, Madison, representing city of Madison Parks Division as Parks Planning and Development Manager. She spoke in support of the department's recommendation. **(Handout)**

Mr. Bruins MOVED approval, seconded by Mr. Hilgenberg of the department's recommendations. The motion carried unanimously.

- 3.B.5. Request approval of department recommendation to issue a Stewardship grant that will prohibit at least one nature-based outdoor activity (NBOA) on non-department land: City of Eau Claire, Eau Claire County

Public Appearances:

1. **Phillip Fieber**, City of Eau Claire, representing City of Eau Claire. He spoke in support of the department's recommendation.

Mr. Hilgenberg MOVED approval, seconded by Mr. Zimmer of the department's recommendations. The motion carried unanimously.

- 3.B.6. Request approval of department recommendation to issue a Stewardship grant that will prohibit at least one nature-based outdoor activity (NBOA) on non-department land: City of Racine, Racine County (moved from January 22, 2014 agenda) **Written comments**

Discussion followed on clarification as to whether there is a trapping restriction [no].

Public Appearances:

1. **Matt Sadowski**, Racine, representing self. He spoke in support of the department's recommendation. **(Handouts)**
2. **Jeff Maloney**, Racine, representing Vandewalle & Associates as Principal Designer. He was not in attendance.
3. **Cory Mason**, Racine, State Representative, 66th Assembly District. He was not in attendance.
4. **John Dickert**, Racine, representing City of Racine as Mayor. He spoke in support of the department's recommendation. He thanked Lavane Hessler, Stewardship Grant Manager, and Department staff for their work.
5. **Gordy Kacala**, Racine, representing Racine County Economic Development Corp. as Executive Director. He spoke in support of the department's recommendation.
6. **Matt Wagner**, Racine, representing Manager Community Affairs, SC Johnson. He spoke in support of the department's recommendation.

Mr. Hilgenberg MOVED approval, seconded by Mr. Kazmierski of the department's recommendations.

Discussion followed on the partnering in this transaction and that this is a great use of Stewardship dollars.

The motion carried unanimously.

- 3.B.7. Land Donation – Lower Chippewa River State Natural Area – Dunn County

Dr. Thomas MOVED approval, seconded by Ms. Wiley of the department's recommendations and to acknowledge the donation. The motion carried unanimously.

3.C. Scope Statements

- 3.C.1. Request approval of the Statement of Scope for Board Order AM-18-13 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chapters NR 422, 423, 439, and 484 related to volatile organic compound control regulations for lithographic printing

Mr. Hilgenberg MOVED approval, seconded by Mr. Zimmer of the department's recommendations. The motion carried unanimously.

- 3.C.2. Request approval of the Statement of Scope for Board Order AM-32-13 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules potentially affecting chapters NR 400 to 439, 445, and 484 to 499 related to reporting, monitoring, and recordkeeping requirements for stationary source owner or operators, and additional changes of a clarifying or clean-up nature

Mr. Hilgenberg MOVED approval, seconded by Mr. Kazmierski of the department's recommendations. The motion carried unanimously.

- 3.C.3. Request approval of the Statement of Scope for Board Order WY-23-13 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chapter NR 102 related to processes for waterbody assessments and impaired waters listing, biological criteria for water quality standards, and biological confirmation of phosphorus impairments **PowerPoint**

Mr. Hilgenberg MOVED approval, seconded by Mr. Zimmer of the department's recommendations. The motion carried unanimously.

- 3.C.4. Request approval of the Statement of Scope for Board Order WY-25-13 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chapters NR 102, 104, and 105 related to surface water designated uses, associated water quality criteria, variance waters and qualifying factors for variances based on economic impacts **PowerPoint**

Discussion followed whether the department will make the determination as to how a particular water body is classified [yes], the process to classify a water body, how climate change can alter a water body, and what could happen when giving a water body a variance.

Dr. Thomas requested a briefing/additional education before the final rule is before the Board.

Whether this rule could affect fishing regulations [no], that the people can relate to this for buy-in, and whether there are any negatives.

Mr. Zimmer MOVED approval, seconded by Mr. Hilgenberg of the department's recommendations. The motion carried unanimously.

4. Citizen Participation

Public Appearances:

1. **Judy Carlson**, Town of Millville (Prairie du Chien), representing self and Town Board (**Handouts**)

Topic: Payment in lieu of taxes for Millville Township. She asked for fair compensation for their township.

Discussion followed on whether the Board should submit a resolution to the legislature on this issue, similar problems and concerns in other townships were noted, and timber harvest.

Dr. Thomas requested an education session to get up to speed on this issue to understand total ramifications.

Chair Cole stated that Ms. Carlson is another voice in this issue. The information item request is in hopes to creating a resolution and joint approach to legislature around this particular issue.

Mr. Hilgenberg requested the information item include the politic part of it, to include the resolution and associated ramifications.

Chair Cole added that the outcome might be formal or a possible Secretary and Board Chair visit with legislators.

Chair Cole MOVED the meeting to agenda item 6 – Secretary's Matters.

5. Information Items

5.A. Air, Waste, Water, and Enforcement - None

5.B. Land Management, Recreation, Fisheries, and Wildlife - None

6. Department Secretary's Matters

6.A. Retirement Resolutions

6.A.1. James Buchholz

6.A.2. Debra Burgau

6.A.3. Terry Fluger

6.A.4. William Gantz

6.A.5. Fredrick Hagstrom

6.A.6. Dr. William Horns

6.A.7. Kevin Huggins

6.A.8. Mary Singsime

6.A.9. Fred Strand

Mr. Zimmer MOVED approval, seconded by Mr. Hilgenberg of the retirement resolutions. The motion carried unanimously.

6.B. Donations

6.B.1 The Green Bay Packers with support from sponsors SCA and Green Bay Packaging will donate \$32,000 to be used to support the “First Downs for Trees” Program

Secretary Stepp presented Ave Bie, Green Bay Packer Board Member and Mike Kaplako, SCA Customer Brand & Sustainability Manager, with the Board’s acknowledgment of donation certificates.

Ms. Bie stated that the partnership continues to grow and the program has flourished. Thousands of trees have been planted in the greater Green Bay and watershed area. Go Pack!

6.B.2. The Paul E. Stry Foundation, Inc. will donate \$20,000 to be used to support the management of State Natural Areas

6.B.3. The Natural Resources Foundation will donate \$17,000 to be used to support the 2014 Citizen Science in the Classroom Workshop

Mr. Hilgenberg MOVED approval of the department’s recommendations and to acknowledge the donations, seconded by Mr. Zimmer for agenda item 6.B.1. - The Green Bay Packers with support from sponsors SCA and Green Bay Packaging will donate \$32,000 to be used to support the “First Downs for Trees” program, 6.B.2. - The Paul E. Stry Foundation, Inc. will donate \$20,000 to be used to support the management of State Natural Areas, and 6.B.3. - The Natural Resources Foundation will donate \$17,000 to be used to support the 2014 Citizen Science in the Classroom Workshop. The motion carried unanimously.

Secretary Stepp reviewed department highlights from 2013: connecting with customers, working with Wisconsin organizations for a better environment, leaders in response, managing resources with you, and improving how we do business. **PowerPoint**

She stated that she appreciates Board participation in statewide events and meetings. Board Members are unsung heroes of the work the department does. The Board’s willingness to set the course straight when corrections are needed also is appreciated. She then highlighted the recent supervisor training sessions at the request of the Board Chair.

Chair Cole continued the meeting with agenda item 7 – Board Members’ Matters.

7. **Board Members’ Matters**

Mr. Kazmierski thanked Secretary Stepp and administration for meeting with all the stakeholders that they do. Word is starting to filter back to him that this is very much appreciated.

He then stated there is a lot of concern about winter kill. He asked that landowners and hunters have the ability to report winter deer kill to the department that would create a data base for staff to make decisions from, possibly using an application with GPS. This will let the public know we care about what is going on out there.

Mr. Hilgenberg stated the department needs to continue to emphasize public education on the process. He also is getting letters and calls from the public regarding feeding deer this winter. He asked the department to continue to do public relations work with the media on a regular basis with talk shows and letters to the editor. Keep sending the message out because it will get worse before it gets better.

Mr. Bruins stated that he and Terry Hilgenberg will attend a department meeting this afternoon on habitat management. This is one success story moving forward.

Chair Cole stated there is something good going on in the department; in part because of Secretary Stepp and the leadership team. They include staff in the process which compels them to bring out the kinds of things that help the residents of the great state of Wisconsin. They have one singular focus – service excellence.

Chair Cole requested a motion to go into Executive Session under the authority of s.19.85(1)(g) Wisconsin Statutes for purposes of discussing litigation matters.

Mr. Hilgenberg MOVED, seconded by Mr. Zimmer. The motion carried on a roll call vote of 7 – 0.

William Bruins – yes	Gary Zimmer – yes
Christine Thomas – yes	Jane Wiley – yes
Terry Hilgenberg – yes	Preston Cole – yes
Greg Kazmierski – yes	

Chair Cole reconvened the meeting. He reported that during the Executive Session, no action was taken.

Mr. Kazmierski MOVED, seconded by Dr. Thomas to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 12:40 p.m.

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