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NATURAL RESOURCES BOARD

BRIEF OF ACTION

The regular meeting of the Natural Resources Board was held on Wednesday, October 28, 2015 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 1:06 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

William Bruins – present Dr. Frederick Prehn – present
Julie Anderson – present Preston Cole – absent/excused
Greg Kazmierski – present Terry Hilgenberg – present
Gary Zimmer – present

1.B. Approval of agenda for October 28, 2015

Ms. Anderson MOVED, seconded by Mr. Bruins, approval of the October 28, 2015 agenda. The motion carried on a vote of 6-0. Mr. Cole was absent.

1.C. Approval of Brief of Action from September 23, 2015

Mr. Bruins MOVED, seconded by Mr. Zimmer, approval of the September 23, 2015 Brief of Action. The motion carried unanimously.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Zimmer MOVED, seconded by Mr. Kazmierski, approval of the Real Estate Transactions.

Discussion followed on pulling out the two larger land items and discussing separately.

Tim Andryk, Chief Legal Counsel, stated that the Board can split out the larger items.

Discussion followed on the historical process.

Doug Haag, Facilities and Lands Deputy Bureau Director, clarified that Board action is ratification of the Secretary's delegated approval authority, and clarification of what the Board is voting on.

Dr. Prehn MOVED, seconded by Mr. Bruins, to separate out the larger parcel land items, discuss, and vote separately.

Discussion followed on whether Dr. Prehn's motion would impact the agenda (It does not affect the agenda as the two large items will be voted on later in today's agenda.

The motion to amend passed on a voice vote of 5-1.

The original motion as amended carried on a voice vote of 5-1.

Co-Chair Hilgenberg Introduced and welcomed the Board's new team member: Ed Eberle, Assistant Deputy Secretary. He stated the Board is happy to have him with us.

3. Action Items

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

3.A.1. Request authorization for public hearings for Board Order WA-40-10, proposed rules affecting chapters NR 660 through NR 679 related to the Hazardous Waste, Universal Waste and Used Oil rules

Discussion followed on the timing and why it took nine (9) years for this to come before the Board, whether the department has an idea of what this proposed rule may cost customers, whether there are other states not in compliance, what would happen if a states does not run this program (EPA could come in and do inspections, etc.), whether these rules will make a difference to the environment, and whether the environment has been hurt due to the delayed rulemaking action (The department has been administering these rules but the books are not yet up-to-date.)

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

3.A.2. Request authorization for public hearings for Board Order WT-31-10, proposed rules affecting chapter NR 106 related to policies and procedures related to the calculation of water quality based effluent limitations for the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program regulating wastewater discharges **(PowerPoint)**

Discussion followed on whether these proposed rules (similar to agenda item 3.A.1) are currently implemented regardless of what it says on the books, and why this rule was delayed.

Cathy Stepp, Department Secretary, thanked the Environmental Protection Agency (EPA) for the work they did to review the operation of this program prior to her arrival in 2011 which saved the department a lot of work. There were lots of vacancies at that time. She then discussed the department's process on filling vacancies and resolving many of the 75 issues to date. She stated that the speed the EPA sends out new rules is dizzying. It is a challenge for staff to keep up with their work and then work on rule changes. She is very proud of the men and women working on this and extended her thanks to Adrian Stocks, Permits Section Chief. The department will continue to move Wisconsin forward with cleaner water and air.

Discussion followed on how these rules trickle down to the county and local governments.

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

Discussion followed on whether the department is currently enforcing the EPA rules which are more stringent on water regulations regardless of current administrative rules, defining what the meaning is of minimal financial impact, and whether this could drive up the cost to municipalities [Unlikely.].

The motion carried unanimously.

- 3.A.3. Request authorization for public hearings for Board Order WT-11-12, proposed rules affecting chapters NR 106, 205, and 212 relating to the administration of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program regulating wastewater discharges (PowerPoint)

Discussion followed on examples of affected food processors, the permitting process, and wet testing.

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

- 3.B. Land Management, Recreation, Fisheries, and Wildlife
3.B.1. Request authorization for a public hearing for Board Order WM-04-13, proposed rules affecting Chapters NR 10, 11, and 16, related to the Wildlife Management housekeeping rules package

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

- 3.B.2. Request approval of a Wisconsin Beaver Management Plan for 2015 – 2025 (PowerPoint)

Discussion followed regarding the number of trappings in 2001 compared to 2013, the importance of beaver to many systems, the need for a base line number, alternative survey methods and concern for long-term monitoring, what the cost to the state is for Wildlife Service's 4% take, how this plan affects trout streams, whether the concerns of trout fishers are being addressed, and whether the harvest of beaver is market driven.

Public Appearances:

1. **Rob Bohmann**, Racine, representing Wisconsin Conservation Congress as Chair (**Handout**)
2. **Scott Zimmermann**, Oregon, representing Wisconsin Trappers Association as President (**Handout**)
3. **George Meyer**, Madison, representing Wisconsin Wildlife Federation as Executive Director (**Handout**)
4. **Jane Severt**, Merrill, representing Wisconsin County Forests Association as Executive Director

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

Secretary Stepp requested that John Olson, Furbearer Ecologist, return to the podium. She stated that John Olson is a legend and that she very much appreciates his service to the state of over 40 years. He recently was recognized nationally by the Midwest Association of Fish and Wildlife Agencies (MAFWA) as the 2015 Biologist of the Year. http://www.mafwa.org/?page_id=94 John plans to retire in March of 2016 and we will miss him. Secretary Stepp presented John with the plaque from MAFWA. [John received the plaque to a standing ovation.]

Mr. Olson thanked Secretary Stepp. He then offered a quote from his mentor, Dave Hamilton, "People don't really care about what you know, they want to know that you care." That is one thing we try to bring through on our trapper education. We do care about the resources and we care about people. This has bridged a lot of gaps.

Co-Chair Hilgenberg thanked Mr. Olson for his many years of service and putting this plan together. He charged staff and the Board with being conscious of this "not being able to just sit on the shelf for 25 years".

- 3.B.3. Request approval of Woodboro Lakes Wildlife Area Master Plan
(**PowerPoint**)

Mr. Zimmer thanked Diane Brusoe, Property Planning Section Chief, and her team for completing this master plan in one year.

Discussion followed on whether there is a legal alternate route for ATV's instead of Oscar Jenny Road that people are currently using [yes, on the County Road.], the maintenance budget and costs of development and maintenance, use of cooperative agreements, whether this would be the first ATV trail on a statewide wildlife area [Yes.], disabled use of ATV's during hunting and trapping, administrative code concerns, providing access and opportunities for multi-users, whether ATV use is currently allowed on Oscar Jenny Road [No.], concern about setting precedent for ATV use, and that an aging population needs improved access.

Dr. Prehn MOVED, seconded by Ms. Anderson, approval of the department's recommendations. The motion carried on a voice vote of 5-1.

Doug Haag, Facilities and Lands Deputy Bureau Director, requested permission to combine his presentations for 3.B.4. and 3.B.5.

Co-Chair Hilgenberg approved.

- 3.B.4. Easement Acquisition and Donation, Hovel – Forest Legacy Program, Vilas County and
- 3.B.5. Easement Acquisition and Donation, Goska – Forest Legacy Program, Vilas County (**PowerPoint**)

Discussion followed on whether the disabled will be able to use the logging roads on these properties, whether all easement lands in the ceded territory are subject to tribal night hunting, and whether signage will be in place.

Dr. Prehn stated for the sake of agreement, we need to make it clear what is and is not allowed. The ceded territory item needs to be addressed. We need clear rules or we will have conflict. This is an easement and not ownership.

Discussion followed on significant management issues and the size of the properties.

Public Appearances:

1. **Joe Hovel**, Conover, representing himself and as agent of Goska's

Mr. Hovel responded to questions from the Board regarding Ceded Territory and the tribal night hunting questions, disabled access, and his concerns with unregulated ATV use and the spread of invasive species.

2. **Jane Severt**, Merrill, representing Wisconsin County Forests Association as Executive Director

Dr. Prehn MOVED, seconded by Mr. Zimmer, approval of the department's recommendations for agenda item 3.B.4. Easement Acquisition and Donation, Hovel – Forest Legacy Program, Vilas Count and 3.B.5. Easement Acquisition and Donation, Goska – Forest Legacy Program, Vilas County. The motion carried unanimously.

Secretary Stepp thanked the Hovel's and Goska's and then presented Mr. Hovel with plaques to acknowledge their donations.

3.C. Scope Statements

- 3.C.1. Request approval of the Statement of Scope for Board Order WA-11-15 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 538 related to the beneficial use of industrial byproducts

Discussion followed on the use of byproducts for construction and other users.

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

Discussion continued on hearing locations and timing.

The motion carried unanimously.

- 3.C.2. Request approval of the Statement of Scope for Board Order WM-12-15 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the legislative Council Rules Clearinghouse for proposed rules modifying Chapters NR 10, 12, 15, 19, and 40 related to minor revisions of rules for hunting, trapping, refuges and closed areas, and invasive species

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

- 3.C.3. Request approval of the Statement of Scope for Board Order WM-13-15 and Emergency Board Order WM-14-15(E) and conditionally approve the public hearing notice and notice of submittal of proposed rules to the legislative Council Rules Clearinghouse for proposed rules modifying Chapter NR 16 related to captive deer farm fence regulations

Discussion followed on the responsibilities of the Department of Agriculture, Trade, and Consumer Protection's (DATCP/captive deer herd.) and the Department of Natural Resources (DNR/fencing.), whether the department has been in consultation with DATCP on this proposal [Yes.], whether DATCP can require fencing, double fencing requirement, and herd testing.

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

- 3.C.4. Request approval of the Statement of Scope for Emergency Board Order FH-15-15(E) and Board Order FH-16-15 and conditionally approve the public hearing notice for FH-16-15 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting chapters NR 20 and 25 related to lake trout harvest limits in Lake Superior

Discussion followed on whether neighboring states have similar regulations, location of the fishery, drop in population numbers, whether the department has an agreement with Michigan, the large interest in this fishery by tribal, sport, commercial, and charter boat industries, the need to keep existing staff and fill vacancies, what it means to "modify" harvest limits, rule timing [Back before Board at the December 9, 2015 meeting.], and whether tribal and commercial fishers will need to curtail their harvest.

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

- 3.D. Department Wide
None

4. Citizen Participation

4.A. Citizen Appearances

- 4.A.1. Lynn Utesch, Kewaunee, representing self
Topic: water issues

Mr. Utesch requested the department supply a free source of clean drinking water for those residents with undrinkable water. DNR and legislative action is needed. **(Handout)**

- 4.A.2. Paul Strong, Rhinelander, representing Chequamegon-Nicolet National Forest as Forest Supervisor

Topic: Chequamegon-Nicolet National Forest Update

5. Information Items

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

5.B. Land Management, Recreation, Fisheries, and Wildlife

- 5.B.1. New partnership between the WI DNR and Chequamegon-Nicolet National Forest (CNNF) – Good Neighbor Authority (GNA) (PowerPoint)

Paul Strong, Chequamegon-Nicolet National Forest Supervisor, awarded Rebecca Diebel, DNR Forestry Division Policy Advisor, and Joe Schwantes,

DNR County Forest Specialist, each a plaque in recognition of their services and assistance in co-authoring the first Good Neighbor Authority in the United States.

Mr. Schwantes thanked Mr. Strong and stated it has been a pleasure working with CNNF.

Discussion followed on where the increased revenue from the increased timber sales will go, how this agreement affects the Wisconsin County Forests Association, whether this will open up the lumber industry in northern Wisconsin [Yes.], and income generation from this program.

Mr. Zimmer credited the department's administration for fronting the funding so this work could be done.

Discussion continued on handling lawsuits, and whether Forest Services partners in Northern Ottawa, Canada, are looking into the GNA program.

Co-Chair Hilgenberg thanked Paul Strong, Joe Schwantes, Paul DeLong, Forestry Division Administrator, and Rebecca Diebel, Forestry Division Policy Advisor, for their efforts. He then congratulated Secretary Stepp for her leadership on this issue.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

6. Department Secretary's Matters
- 6.A. Retirement Resolutions
- 6.A.1. Jane Barnowsky
- 6.A.2. Peter Biermeier
- 6.A.3. David Hausman
- 6.A.4. Paul Sandgren
- 6.A.5. Russell Shepherd

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

- 6.B. Donations
- 6.B.1. The Natural Resources Foundation of Wisconsin will donate \$35,676.18 from the Lower Wisconsin State Riverway Fund to be used to support wildlife habitat restoration and management activities along the Lower Wisconsin Riverway

Public Appearances:

1. **Caitlin Williamson**, Madison, representing Natural Resources Foundation of Wisconsin.

Secretary Stepp thanked The Natural Resources Foundation of Wisconsin and presented a plaque to Ms. Williamson that acknowledged the donation.

Mr. Zimmer stated that he had worked with Paul Brandt. Paul would be proud to see all this good work done with the funds he created.

Mr. Zimmer MOVED, seconded by Mr. Bruins, approval of the department's recommendation and to acknowledge the donation. The motion carried unanimously.

- 6.B.2. The Friends of High Cliff State Park will donate a turf mower valued at \$23,900 to be used to maintain the grounds at High Cliff State Park

Ms. Anderson MOVED, seconded by Mr. Zimmer, approval of the department's recommendation and to acknowledge the donation. The motion carried unanimously.

- 6.C. Department Secretary's Matters

Secretary Stepp updated the Board on the department's strategic analysis and core work analysis.

7. Board Members' Matters

Mr. Bruins shared that in the fall of 2014, his son was bowhunting and shot a buck. He tried to find it that evening but was not able to. It snowed overnight and he lost the blood trail. On Christmas morning he found the partially decomposed buck and wanted to harvest the antlers. He contacted a game warden and was told he had to bring the carcass in to register. He requested that the department fix this situation.

Mr. Kazmierski stated that he had requested at the August 2015 meeting for specifications on fish passages (fish ladders are different). He was told by department staff at a briefing yesterday that they want to do a strategic analysis on how to go forward on this type of arrangement. This is a move in the right direction and concurred.

He then shared his concern on the confusion surrounding hunting hours and shooting hours. He has heard from several groups and is in discussions with them. He requested a rule change to define hunting hours as shooting hours.

Mr. Zimmer stated he is noticing when he is out in the field and at hearings, etc. that low staffing levels are concerning. He requested an update of current department staffing levels (where are our staff shortages?) and strategies for addressing low staffing levels. Where we are now and where we are going. We might need to reprioritize.

Secretary Stepp stated that the department's work analysis is key to prioritizing the workload. She assured the Board that in critical fill situations, they are not stalling but are filling these vacancies.

Dr. Prehn requested that the department reorganize the 2A report and separate out past transactions, current Board transactions, and items delegated for approval by the Secretary so that each of those items is represented separately.

He requested the department provide a short summary of each of the actions delegated to the Secretary. This can be a minimal amount of information but something that helps Board Members understand the nature of the transaction.

He then requested a review of the department's green sheet rule process to see if there is a better way to report out to the Board on the regulatory process.

As a follow-up to his request for a briefing and tour of the Buena Vista Wildlife Area, Dr. Prehn would like the department to accelerate the timeline for developing a prairie chicken management plan. Status quo is not an option. We need to think creatively, cooperatively, and take some calculated risks to move that population in an upward direction. He feels grazing and agriculture are keys to a solution. He would like to see this return to the Board within one year but will leave the timing up to the department.

Lastly, he requested a briefing on the department's relationship with Michigan, Minnesota, and Iowa on boundary waters. He wants to know how it all works. It could be the same body of water but different regulations from different states.

Mr. Bruins requested that his name be added to Dr. Prehn's list of those who agree with him on the prairie chicken project. He toured the location a few years ago. This is a great opportunity for the department to think outside the box and to find ways of partnering with different interests we have not taken full advantage of in the past (e.g. agriculture). We do not have the money or manpower to manage to its intended purpose. Our farmer friends hold a major key to our success going forward with this.

Co-Chair Hilgenberg requested a report on the department's land sales of 10,000 acres at the December 9 meeting so we can see where we are at with our plan.

Co-Chair Hilgenberg requested a motion to go into closed session under the authority of s.19.85(1)(e) Wisconsin Statutes, for the purposes of discussing anticipated litigation matters.

Dr. Prehn MOVED, seconded by Mr. Zimmer that the Board convene into closed session under the authority of s.19.85(1)(g) Wisconsin Statutes for purposes of discussing anticipated litigation matters. The motion was carried by a roll call vote.

William Bruins – yes

Dr. Frederick Prehn – yes

Julie Anderson – yes

Preston Cole – absent/excused

OCTOBER 28, 2015

Greg Kazmierski – yes Terry Hilgenberg – yes
Gary Zimmer – yes

Co-Chair Hilgenberg reconvened the meeting at 1:05 p.m. Co-Chair Hilgenberg reported that during the closed session no action was taken.

Mr. Bruins MOVED, seconded by Mr. Zimmer, to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 1:06 p.m.

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