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## WISCONSIN NATURAL RESOURCES BOARD

### BRIEF OF ACTION

The regular meeting of the Wisconsin Natural Resources Board was held on Wednesday, June 22, 2016 at Ramada Inn, 1450 Veterans Drive, Richland Center, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-2 and 5-6. The meeting adjourned at 1:18 p.m.

**Chair Hilgenberg** gave a special thank you to the Board's communication team/meeting support for the great job they do. He then thanked their very capable assistant Laurie Ross for the great support she gives to the Board.

### ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

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

1.B. Approval of agenda for June 21-22, 2016

**Chair Hilgenberg** noted that Secretary Stepp will need to leave the meeting before the agenda is completed.

**Mr. Zimmer MOVED, seconded by Dr. Prehn, approval of the June 21-22, 2016 agenda. The motion carried unanimously.**

1.C. Approval of Brief of Action from May 25, 2016

**Dr. Prehn MOVED, seconded by Mr. Kazmierski, approval of the May 25, 2016 Brief of Action. The motion carried unanimously.**

**Chair Hilgenberg** stated that the Board had a fantastic opportunity yesterday to receive presentations related to forestry in the Richland Center area. He thanked the hosts and department staff for their presentations, time, and effort. In addition, he thanked Acting South Central Secretary's Director John Budzinski and his assistant Bill Zwolanek for their service.

**Chair Hilgenberg** then stated that Administrative Code Chapter NR 1.41 gives the Secretary the authority to approve all real estate transactions that are not specifically mentioned in NR1.41(1). In addition, this rule directs the department to provide a monthly summary of all options and pending land acquisitions showing the date of each option. The reporting of Department real estate activities and a summary of secretary's actions have historically been presented to the Board under item 2A of the agenda. Item 2A has typically been ratified by the Board however

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there is no administrative requirement for such action. For that reason I directed the Department to change the order of the monthly agenda and move the reporting on Department real estate activities to agenda item 5 - Secretary's Matters. [The agenda was renumbered to account for this change.]

2. Action Items

2.A. Air, Waste, Water, and Enforcement  
None

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

2.B.1. Request approval of the Sugar River Planning Group (SRPG) Draft Master Plan  
**PowerPoint**

Discussion followed on whether the process of approving this plan does not mean the Board is approving the sale of the parcels noted on page 93 of plan [Correct, moves them into the land sale program and eventual Board approval.], the process in which decisions were made regarding property boundaries.

**Public Appearances:**

1. Brian Buenzow, Janesville, representing Rock River Valley Chapter of Pheasants Forever

Discussion followed on whether the Rock River Valley Chapter will continue to manage parcel [They intend to do so as long as the Chapter is together.].

2. Doug Fendry, McFarland, representing Pheasants Forever as Regional Representative

Discussion followed on wild pheasant population regeneration and what it would take to make it work in other areas of the state [Habitat, private and public partnerships, and funding.].

**Ms. Anderson MOVED, seconded by Dr. Prehn, approval of the department's recommendations.**

Discussion followed on whether a zero acquisition policy in the master plan includes donations (DNR does not differentiate between fee title and donations.), and recognition that a lot of the work in the pipeline is done by groups such as Pheasants Forever.

**Mr. Kazmierski MOVED to amend the SRPG Draft Master Plan to include the following language: Within the Footville Wildlife Area project boundary established under this master plan, the department and the board look forward to continued collaboration on land protection for providing pheasant habitat and hunting opportunities.**

**Ms. Anderson and Dr. Prehn accepted as a friendly amendment.**

Discussion followed on accepting donations.

**Chair Hilgenberg** questioned the Board's attorney Quinn Williams whether the appropriate ending to Mr. Kazmierski's sentence should include "accepting donations as appropriate."

**Attorney Williams** stated yes, that is fine.

**Ms. Anderson and Dr. Prehn accepted as a friendly amendment.**

Discussion followed on collaborating with agriculture and accepting donations of easements [Department can accept up to 3,000 acres in easements.].

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

2.B.2. Land Acquisition – Quincy Bluff and Wetlands Natural Area – Adams County

**Public Appearances:**

1. **Larry Bonde**, Kiel, representing Wisconsin Conservation Congress as Chair. He spoke in support of all June real estate items during his testimony at 2.B.2.

**Mr. Zimmer** requested that if the Congress has issues on any items in the future to bring them to the Board as soon as possible.

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

2.B.3. Land Acquisition – Upper Wolf River Fishery Area – Langlade County

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

2.B.4. Land Acquisition – Lower Wisconsin State Riverway – Sauk County

Discussion followed regarding appraisals.

**Dr. Prehn MOVED, seconded by Ms. Anderson, approval of the department's recommendations. The motion carried unanimously.**

2.B.5. Land Acquisition and Acreage Goal Increase – Mecan River Fishery Area – Marquette County

Discussion followed on whether \$3,500 per acre is average or competitive [Yes, it is a good price as compared to recent market sales.] and whether the acreage goal increase should be considered at a later date.

**Mr. Bruins MOVED, seconded by Dr. Prehn, approval to purchase Chizuco Coleman's 60 acres of land at the price of \$210,000 [to include the waiver of limitations] and to defer the acreage goal increase to the future master planning process.**

**Chair Hilgenberg** questioned Attorney Williams whether the motion needs to include a waiver of rule limitations since this purchase is over the acreage goal.

**Attorney Williams** agreed that the motion should include a waiver of the rule.

**Mr. Bruins and Dr. Prehn accepted as a friendly amendment to include the waiver of limitations rule in their motion.**

Discussion followed on where this master plan is in the que [Not on the short list, however, adjustments can be made.].

**The motion as amended carried unanimously.**

2.B.6. Easement Acquisition – North Branch Milwaukee River Wildlife and Farm Heritage Area – Sheboygan County

Discussion followed on whether a landowner can change their use (e.g. clear cut) or are they restricted to what they can do with their land, whether there is a residence on the property (Yes.), local zoning, and the win-win aspect of easement acquisitions.

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

2.C. Scope Statements

2.C.1. Request approval of the Statement of Scope for Board Order FH-11-16 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 21 and 22 related to commercial fishing in Wisconsin-Minnesota and Wisconsin-Iowa boundary waters

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

Discussion followed on the process in the emergency closing of net fishing [Language in code is in place to close certain areas as need be.].

**The motion carried unanimously.**

2.C.2. Request approval of the Statement of Scope for Board Order WM-09-16 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 10 related to beaver and otter trapping seasons

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

- 2.C.3. Request approval of the Statement of Scope for Emergency Board Order FH-12-16(E) and Board Order FH-13-16 and conditionally approve the public hearing notice for Board Order FH-13-16 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chapters NR 20 and 25 related to cisco (lake herring) harvest in Lake Superior

Discussion followed on how this affects recreational fishermen and whether that can be modified [Included only in scope statement in case the department wanted to make changes in the permanent rule. No plans to change recreational fishing at this time.].

**Dr. Prehn MOVED, seconded by Ms. Anderson, approval of the department's recommendations.**

Discussion continued on the importance of islands and the bay for production source to the whole lake, whether quotas will be enforceable [Yes.], whether this scope statement includes language to allow flexibility so it will not be a rule process each time to change quota.

**The motion carried unanimously.**

- 2.D. Department Wide  
None

**Chair Hilgenberg** moved the meeting to Information Item 4.A.2. He noted to attendees that after this item, the Board will go into break and will then take up 3.A. – Citizen Appearances.

4. Information Items  
4.A. Air, Waste, Water, and Enforcement  
4.A.2. Legislative Audit Bureau's audit of Wastewater Permitting and Enforcement **PowerPoint**

**Mr. Cole** requested the timeline when the department was first given notice that this program was going to be audited.

Discussion followed on backlog concerns and what the department plans to do to right this situation, whether the department tracks eligible retirees so retirements can be anticipated and replacements hired, whether the alignment implemented approximately 18 months ago provided any hiring relief, how sabbaticals figure into filling positions, and acquiring sustainable funding sources in the future to ensure funding for staffing.

**Secretary Cathy Stepp** stated that the department is going through a Core Work Analysis and will brief the Board on this. For an impacting message and credibility, the department needs to make a business case to the Governor and legislature with recommendations. This legislature expects agencies document and proof that we have shaken every tree and that we have made these analyses. A business case also must be built for a fee increase.

Discussion followed on the unfair fee alignment and the need to increase fees, the departments philosophy on user fees, the lag time on the Civil Service process, the lengthy and unacceptable backlog of permits, whether the department can pull staff from other programs to assist with the backlog and surveillance, and whether the scope statements for August 2016 Board action will add to an already burdened workload.

**Mr. Kazmierski** requested that the Board receive the annual report provided to the legislature on the status of permits.

Discussion followed on whether the department has the capacity to outsource any of these jobs, whether the department should segregate municipalities and industrial into different categories, whether annual inspections would be reasonable under the circumstances and from concerns from the public, giving credit to staff for their achievements with a 30% vacancy rate, the Lean Six Sigma process, retiring employees and the workload for remaining staff within those programs, the importance to recognize that the department has made quantum leaps to make things better, and the Step Enforcement Policy.

**Dr. Prehn** stated that the stepped-up approach is fair and reasonable and requested that the department document better to show this is not a deficiency of the department not enforcing regulations on the books.

Discussion followed on why the department lacks citation ability, differing regional approaches to violations, status of Department of Justice (DOJ) referrals, and whether CAFO's could submit reports electronically.

**Mr. Hilgenberg** stated that the Board supports the requirement that CAFO's submit reports electronically

Discussion followed on whether the department could legally beef up inspections in environmentally sensitive areas, and the WPDES permit process.

**Mr. Bruins** questioned why large facilities can be built costing millions of dollars before the WPDES permit process and suggested the department consider changing this so the permit process comes before construction.

Discussion followed on the 19 permittees there were not determined to be in substantial compliance prior to permit reissuance due to lack of appropriate documentation and the importance of agriculture in Wisconsin.

**Mr. Bruins** applauded the department for trying to find the balance between business needs and environmental concerns. He reminded everyone of the importance of agriculture – specifically dairy – on the landscape. He requested that the department approach this report with urgency. The longer we have these deficiencies, the worse it will be for the image of what is a really neat industry in Wisconsin.

Discussion followed on the ground water contamination in Kewaunee County (Formal introduction of findings will take place on June 23, 2016.)

**Deputy Secretary Thiede** sat in for Secretary Stepp for the remainder of the meeting.

**Mr. Cole** requested the Board receive logistics of the joint meeting to formally introduce the findings and recommendations with representatives from DNR, EPA, Kewaunee County, and industry tomorrow night on June 23, 2016.

**Mr. Bruins** stated he will attend this meeting and encouraged all Board Members to attend as well.

**Mr. Cole** stated his concerns for staffing and the need to reallocate staff to the hot spots or contract out as it relates to possible solutions during your time of low staffing (auxiliary resources). He asked the department to look into alternative options; be creative.

**Mr. Cole** requested the Board receive a briefing on the core work analysis and realignment recommendations.

**Deputy Secretary Thiede** thanked the Board for their interest in this issue and water issues in general and for continuing to challenge the department with good questions. He extended his thanks to Dr. Prehn for taking on the lead as the Board's Water Point Person. The department takes these issues seriously and will work very hard to address the audit findings and go beyond that as well.

**Chair Hilgenberg** thanked the Board for their interest in this very timely topic and the concerns that have been expressed. He thanked the Department Secretary, Deputy Secretary, leadership, and all the employees for all the work they did just to get the information to the Board. Obviously, based on the reports, the department has been working on this diligently for some time. They have been doing a good job trying to keep up to speed with all the problems and constraints. From a Board perspective, this has given them a great opportunity to improve our communications. We are all on the same team and that is to protect the natural resources of the State of Wisconsin and to make sure we are ahead of curve on issues coming before us.

#### **INFORMATIONAL ITEM – NO ACTION WAS TAKEN**

**Chair Hilgenberg** moved the meeting to agenda item 3. He stated that the closed session noticed on the agenda will be taken up as the last item of the day.

3. **Citizen Participation**

**Public Appearances:**

1. **Larry Bonde**, Kiel, and Mike Riggie, Medford, representing Wisconsin Conservation Congress

*Topic:* Comprehensive free ranging white-tailed deer biosecurity plan

**Mr. Kazmierski** applauded Mr. Bonde, Mr. Riggle, and the Congress for looking at how we might move into the future with CWD management. He read a paragraph from a letter from then State Veterinarian Robert Ehlenfeldt from DATCP to Dr. Kroll that was part of the deer report by Dr. Kroll: “CWD has been found on eight white-tailed deer farms and one elk farm. Every infected white-tailed deer farm but one had either historically started with captured wild white-tailed deer or adopted orphaned fawns. In one case, the only infected animal was the illegally adopted wild fawn. The farm that did not adopt orphaned fawns was also a taxidermy operation located near the CWD zone. There is a plausible link that the source of infection on Wisconsin’s deer farms is the wild herd and that CWD has spread via adopted fawns. Deer less than six months of age have been confirmed as CWD positive which also means they were infected at a very young age. Adopting, moving orphaned fawns is a risk factor in spreading CWD and could provide a means on amplifying the disease.”

**Mr. Kazmierski** then noted that when the CWD Management Plan comes before the Board in December, he hopes that these issues are included in the plan.

Discussion followed on potentially revising the rule which bans baiting and feeding to include the use of spread feeders for good health practices.

2. **Charlie Luthin**, Lodi, representing Sauk Prairie Conservation Alliance (**Handouts**)  
*Topic:* Sauk Prairie Recreation Area
3. **Richard Marshall**, Richland Center, representing self. **NOTE:** Mr. Marshall needed to leave prior to this item coming before the Board and was not able to give his presentation.  
*Topic:* Trout and deer in Southwest Wisconsin

**Chair Hilgenberg** returned the meeting to item 4 – Information Items.

4. Information Items
- 4.A. Air, Waste, Water, and Enforcement
- 4.A.1. Lake Michigan shoreline erosion **PowerPoint**

Discussion followed on whether it was the homeowner’s expense to move their home.

**Ms. Anderson** thanked Mike Thompson, East Team Supervisor for the Bureau of Environmental Analysis and Sustainability, and his team for their immediate response. Secretary Stepp pulled a team together within two hours. Assistance from the department has been very much appreciated.

#### **INFORMATIONAL ITEM – NO ACTION WAS TAKEN**

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

- 5. Department Secretary's Matters
- 5.A. Retirement Resolutions
- 5.A.1. Carol M. Bentzler
- 5.A.2. Lance P. Burns
- 5.A.3. Denise Nettesheim
- 5.A.4. Jeff Schimpff

**Deputy Secretary Thiede** noted that Ms. Bentzler was one of the faces behind the millions of dollars the state receives through the Pittman-Robertson Sport Fish Restoration Fund.

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

- 5.B. Donations
- 5.B.1 The Musky Club Alliance of Wisconsin, Inc. will donate \$30,000 to be used to purchase supplemental minnow feed for musky rearing

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

- 5.C. Department Secretary's Matters

**Deputy Secretary Thiede** then publicly thanked someone near and dear to the Board's heart and to the department's heart for 15 years of service to the citizens of the State of Wisconsin. He asked for a round of applause for Board Liaison Laurie Ross and presented her with a 15 year pin and letter from Secretary Stepp.

**Deputy Secretary Thiede** continued with an update of the Waukesha Water Diversion request. He recognized the tremendous work of Eric Ebersberger and Shaili Pfeiffer. He then updated the Board on the Kewaunee County Groundwater Collaboration Workgroup report and stated that many recommendations are already either being implemented or are being planned for implementation. He noted the Department will keep the Board informed of that progress.

Discussion followed on the Groundwater Collaboration Task Force final report.

**Dr. Prehn** stated that based on the final report from the Groundwater Collaboration Task Force and concerns from the Natural Resources Board, he directed the Department to seek scope statement approval to open up ch. NR 151, which contains statewide performance standards and prohibitions for agricultural and nonagricultural facilities designed to achieve surface water quality standards and groundwater standards, and ch. NR 243 which addresses how to implement design standards and accepted management practices establishes permit requirements for CAFOs and also establishes the criteria under which the department may issue a notice of discharge or a permit to other animal feeding operations that discharge pollutants to waters of the state or fail to comply with applicable performance standards and prohibitions in ch. NR 151 in order to address

applicable issues in the Groundwater Collaboration Task Force recommendations the Department identifies and to bring back such an approved scope statement to the NRB at our August 2016 board meeting.

Discussion followed on whether the full Board could vote on an item not posted on the meeting agenda [Yes, this is a directive for the department to move forward on this and not a formal action.].

**Dr. Prehn MOVED, seconded by Mr. Bruins, approval of the directive to bring back to the Board at their August meeting scope statement approval on ch. NR 151 and ch. NR 253 to address applicable issues in the Groundwater Collaboration Task Force recommendations.**

Discussion followed on moving forward with what science has been telling us, appreciation to the community for their continued push, whether the subcommittee plans to address any of the issues around high-capacity wells [At this point, the subcommittee cannot go forward because of the Department's stand. Subcommittee members were disappointed with the Attorney General's opinion that the department does not have authority. The subcommittee does not plan to bring forward any resolutions to the Board based on the Attorney General's opinion.], whether the department has an approach to the permits currently in play awaiting determination [It is the Department's intent to follow the Attorney General's opinion and to offer previous permittees information on how to request an appeal. The department also is working on a process for the permit backlog.], and the possibility that the legislature will do due diligence on this.

**Mr. Cole** requested Senator Cowles' legislation that addressed high capacity wells that subsequently failed on the senate floor be shared with the Board.

**Mr. Prehn** noted that the Act 21 interpretation by the Attorney General has stripped the power to do any regulation in that regard. He hopes the public understands our hands are tied. It is truly in the hands of legislators to do something about it. When it comes to high capacity wells, it is now across the street at the Capitol.

**Chair Hilgenberg** stated they he received two calls from his State Senator Cowles who will be wanting input from this Board at some point in time. The legislature is back in session in January 2017.

**Mr. Kazmierski and Mr. Cole** asked that existing permit holders be provided current, modern day science on the department's website so they know the cumulative effects going forward.

**Mr. Bruins** called the question stating this discussion is not germane to the topic on the floor.

**The Board** gave their unanimous support on Dr. Prehn's directive.

**Deputy Secretary Thiede** asked that he review the Board's request with staff for a report back at the August meeting or sooner.

5.C.1. Acts of the Department Secretary – Real Estate Transactions

Discussion followed as to Board input and concerns on delegated items.

**INFORMATIONAL ITEM – NO ACTION WAS TAKEN**

6. Board Members' Matters

**Ms. Anderson** thanked Mark Aquino, Office of Business Support & External Services Administrator as team leader and for the good discussion this morning on the many items covered.

**Dr. Prehn** requested a memo on the following items: 1) an update on the status of the prairie chicken report and 2) what the department does with any ongoing activities for ruffed grouse (e.g. habitat).

**Mr. Zimmer** thanked those involved in the Powell Marsh Master Plan process. He represented the Board at their recent meeting with UW-Oshkosh and the department. This will come to the Board in the future and thanked everyone that participated.

**Chair Cole** thanked Board Members who signed up to volunteer to work at the DNR Park during the state fair. He stated there is still time to sign up.

**Chair Hilgenberg** requested a motion and second to go into Closed Session under the authority of s.19.85(1)(g) Wisconsin Statutes for the purpose of discussing litigation matters.

**Ms. Anderson MOVED, seconded by Mr. Cole that the Board convene into closed session under the authority of s.19.85(1)(g) Wisconsin Statutes for the purpose of discussing litigation matters. The motion carried on a roll call vote.**

**William Bruins – yes**

**Gary Zimmer – yes**

**Julie Anderson –yes**

**Preston Cole – yes**

**Dr. Prehn – yes**

**Terry Hilgenberg – yes**

**Greg Kazmierski – yes**

**Chair Hilgenberg** stated to those in the audience and viewing on-line that the meeting will reconvene at approximately 1:15 p.m.

**Chair Hilgenberg** reconvened the meeting at 1:25 p.m. He reported that during the Closed Session, no action was taken.

**Dr. Prehn MOVED, seconded by Ms. Anderson, to adjourn the meeting. The motion carried unanimously.**

\*\*\*The meeting adjourned at 1:26 p.m.\*\*\*

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