

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, April 25, 2007 at the Best Western Campus Motor Lodge, Beaver Dam, Madison, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 4:15 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

David Clausen – present	Dan Poulson – present
Jonathan Ela – present	Gerald O’Brien – present
John Welter – present	Christine Thomas – present
Jane Wiley – present	

1.B. Approval of minutes from February 28, 2007

Mr. Welter MOVED, seconded by Mr. Ela approval of the minutes as presented. The motion carried unanimously

1.D. Approval of agenda for April 25, 2007

Mr. Poulson MOVED, seconded by Dr. Clausen approval of the agenda as presented. The motion carried unanimously.

Dr. Thomas, on behalf of the Board, thanked regional staff for the extra work involved in coordinating the Tuesday afternoon tours of the Glacial Habitat Recreation Area and Horicon Marsh. They were able to see all the meaningful and good things that the Department is working on.

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

Mr. Ela stated that there are a couple of places the Department is actually selling or transferring out property and inquired as to the circumstances for each item.

Mr. Steffes, Real Estate Director, stated that on the bottom of page 1 there is a conveyance to the Town of Presque Isle in Vilas County for \$1 for 79 acres. This is a former rearing pond that fisheries people managed for many decades and is no longer being used by fisheries. They are discontinuing that operation. The initial conveyance back in the 1960’s came from the Town of Presque Isle and has a deed reverter on it. Language is stated very specifically on the deed that if this property is no longer needed for fishery purposes and is discontinued as a rearing pond, it reverts. The Department is going to convey this property back in the form of a quit-claim deed. The Department has done a dam inspection. If the inspection comes out okay, the paperwork for the transfer back for \$1 will take place. We basically have no choice.

Mr. Ela stated that on page 3 there was another property in Douglas County.

Mr. Steffes, stated this is the conveyance to the Department of Transportation (DOT) for highway 27 improvements. Our Department’s environmental staff worked diligently to minimize the impact of that highway relocation but it does take some state forest land. The proceeds will be used on other purchases for the state forest.

Mr. Ela MOVED, seconded by Mr. Welter approval of the real estate transactions. The motion carried unanimously.

3. Action Items

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

3.A.1 Adoption of Board Order AM-17-05, sections NR 428.20 to 428.27 concerning NO_x RACT rules and associated reference incorporations into NR 484.04.

Larry Bruss, Section Chief, Regional Pollutants and Mobile Source Section Air Management Bureau stated The Clean Air Act requires the implementation of reasonably available control technology (RACT) on major sources of NO_x emissions in the moderate non-attainment counties by 2009. To develop the proposed rules, the Department used the flexibility that EPA allows in creating RACT rules. However, these proposed rules do not exceed federal Clean Air Act requirements.

The proposed RACT rules require emission limits for emission units at facilities with the potential to emit of 100 tons of NO_x per year in the counties of Kenosha, Racine, Milwaukee, Waukesha, Washington, Ozaukee, and Sheboygan. The source categories include electric utility boilers, industrial sized boilers, combustion turbines, glass and steel furnaces, reciprocating engines, and other miscellaneous large combustion processes. The Department estimates that 49 emission units in these counties may need to install control equipment to meet the emission limits in the proposed rule. The potentially affected sources emit approximately 29,000 tons per year of NO_x (2005 emission levels). The RACT emission limits will reduce emissions by approximately 15,000 tons of NO_x per year by May 1, 2013. The maximum control cost (from uncontrolled levels) for all affected sources will be approximately \$2,500 per ton of NO_x removed.

The Board authorized a public hearing on the proposed rule at its January, 2007 meeting. A public hearing was held in Milwaukee on March 15th, 2007 and public comments were accepted through March 19, 2007. Substantial revisions to the rule are proposed as a result of public comments. These changes are summarized in Attachment C to the background memo.

Mr. Ela stated this issue is intertwined with the June 15 deadline for requesting redesignation as an attainment area from the EPA. What would be the consequences if we do not meet the June 15 redesignation deadline?

Mr. Bruss stated that it is not a hard deadline. June 15 is the date the Department is supposed to submit an attainment demonstration to the United States Environmental Protection Agency (US EPA) for our nonattainment areas. If the Department does not meet the date, one could argue that the attainment demonstration becomes a past-due requirement. In order to get redesignated the Department would have to submit a full attainment demonstration rather than just submitting a redesignation request which has a maintenance plan and some continuance measures.

Mr. O'Brien inquired that early in Mr. Bruss' presentation he mentioned that the Department was reducing NO_x by so many pounds but that would be offset by an increase in power plants.

Mr. Bruss stated there is at least one very large power plant that is being built as we speak which is the Allen Road facility. Power generation there and just extra power generation by the source will increase emissions. The Department is setting a limit in terms of the amount of NO_x per fuel they are going to burn. They are going to burn more fuel on some of the existing stations plus the addition of the Allen Road facility that will significantly increase power generation in the area.

Mr. O'Brien asked if the Department will still have a net reduction.

Mr. Bruss stated yes there is still a net reduction but not as much as a person would believe by the 15,000 ton reduction that the Department would get from this rule.

Mr. Poulson inquired regarding the internal combustion engine, do the new diesel regulations help the Department going down the road.

Mr. Bruss stated that any of the new engines now should automatically meet Department emission limits established in the rule.

Mr. Poulson asked if they continue to work with those regulations, which are quite stringent, can we look for a reduction coming in that whole tonnage issue.

Mr. Bruss stated certainly.

Dr. Clausen asked whether under this proposed rule it is possible that what a utility is doing for CAIR will also meet the standards not mandated.

Mr. Bruss stated yes, that is correct. They are installing some major piece of control equipment for NO_x, SER, or SNCR type of selective catalytic control equipment would certainly help them meet emission limits. The Department has an averaging program so for instance WE Energies

with their multiple facilities could take advantage of what they are doing for CAIR at the Pleasant Prairie Power Plant in order to meet the overall emission limit that they need for the rule.

Mr. Ela stated that the flip side of that is if they choose to satisfy CAIR by trading then they would not meet the RACT requirement.

Mr. Bruss stated yes, that is correct.

Public Appearances

1. **Bruce Nilles**, Madison, Director, Midwest Clean Energy Campaign, Sierra Club asked the Board to not approve rule because it fails to achieve the timely clean up of two of the four power plants that emit 90 percent of the region's stationary source NOx emissions. He requested the Department find answers to the following: 1. Because of the rule's pollution trading provision can Valley and/or Edgewater continue to emit massive amounts of NOx emissions into Southeastern Wisconsin without ever installing modern pollution controls? 2. If so, does the DNR have any other plan to clean up these two power plants? 3. Do Valley's uncontrolled NOx emissions have a disproportionate effect on the low-income and minority populations who live in the shadow of the Valley? 4. If Illinois can require each of the five coal plants in the Greater Chicago region to install modern pollutions or shutdown by a date certain, why not Wisconsin?

2. **Kathy Lipp**, Madison, Chief Environment Officer, Alliant Energy & Wisconsin Power & Light stated they have participated fully in all prior public forums and filed formal comments for the record: the rule the Department has is not a rule they can meet. They recommended that the Board accept the CAIR rule as an EPA approvable approach for meeting utility NOx RACT obligations. The Department has not accepted this approach. The emission requirements in this rule are developed based on assumptions that specific control technologies can be installed, producing a level of NOx emission improvements for each of the generating units in non-attainment areas. For the generating units in Sheboygan County, it is not physically possible to install the equipment assumed in the rule for Edgewater Unit 3.

Should the Board adopt this rule, we will continue to work cooperatively with Department staff and prepare our specific requests for alternative emission limits, including the necessary time frames for compliance. We are committed to energy reliability, cost-effectiveness and environmental responsibility and we will deliver to those commitments by continuing to improve the emissions profile of our generating plants.

3. **Scott Manley**, Madison, Environmental Policy Director, Wisconsin Manufacturer's & Commerce (WMC) stated that they appreciate the effort by Department staff to craft a rule that is consistent with EPA policies. The Department acknowledges the purpose of the rule is to implement federal Clean Air Act requirements for RACT, and notes, in turn, that EPA's RACT guidance is controlling as to these requirements. However, in many instances, the Department's draft rule deviates from established EPA policies and takes a path that leads to higher compliance costs for Wisconsin utilities and manufacturers than required under the Clean Air Act. WMC's objections to the draft rule stem from those deviations that impose regulatory burdens on Wisconsin businesses for no justifiable reason.

He concluded by thanking the Department for the opportunity to provide their comments and for all of the work put into this rule thus far. While they believe significant and fundamental changes are needed, we appreciate that the Department appears willing to follow EPA Clean Air Act requirements with respect to RACT, and WMC stands ready to help the draft rule get there. WMC looks forward to continuing to work with the Department in a constructive and respectful fashion to address their concerns surrounding conformity with EPA RACT policy, the cost effectiveness of controls, and the overall regulatory approach in general.

Dr. Thomas asked Mr. Bruss to respond to questions from Bruce Nilles. 1. Whether or not Valley and Edgewater would ever have to do any clean-up and under what circumstances. Is there some alternative plan if they do not have to clean up under this rule? 2. Cost in Illinois versus WI? 3. Does this rule go beyond RACT?

Mr. Bruss stated that the Illinois EPA negotiated multi-pollutant control agreements with the three major power producers in the state that covers 90% of the power produced in the state. They used mercury control as leverage to get additional emission reductions for sulfur dioxide and NOx compounds in particular. The power companies entered into this on a voluntary basis. Wisconsin is clearly not in that situation where our power companies are volunteering to meet NOx RACT requirements or meet stringent SO2 or NOx emission reduction requirements. Illinois did not pass a law or rule that said you have to do this. They negotiated voluntary agreements.

Mr. Ela asked if Mr. Bruss had any observations or speculations as to why this approach was successful in Illinois.

Mr. Bruss stated he could not answer that.

The question about environmental justice pertains to the Valley plant in the Milwaukee area. In the RACT rule the Department is dealing with regional pollutants and not only are we dealing with ozone but a reduction of NOx compound will help reduce fine particulate matter. However, these pollutants are reactive in the atmosphere. Concentrations resulting from emissions in these plants occur far down wind from where the sources. The people that live very near the plants are not affected because of the reaction times involved in creating these pollutants.

This rule addresses the regional component of ozone and NOx pollution. Along with that, one of the issues was emissions averaging in multiple facilities. For instance, Valley would not have to do much more. If you use the multi-facility averaging, you have to get an additional 10% reduction.

From a regional pollutant perspective, this has superior public health benefit to just complying on source specific cases. We are getting more emission reductions if they do this. The Department thinks this is not only providing flexibility to the power companies that have to comply but this also provides an extra public health benefit. Really, that is what we are trying to do here.

Mr. O'Brien asked for clarification on the comment that was made that the EPA only required a basis of \$1,300 per ton and Wisconsin is using the \$2,500 per ton.

Mr. Bruss stated that EPA did two rule makings to address interstate transport. One was done in the late 1990's and one was done more recently in the Clean Air Interstate Rule that you recently addressed. In both circumstances, they identified \$2,000 per ton of NOx control at power plants as being highly cost effective. If \$2,000 is highly cost effective, we seem to be okay at \$2,500 being reasonable. A reasonable control would be more stringent than something that is highly cost effective. We think we landed in about the right spot.

Mr. Ela inquired in pursuing this, how would you address the assertion that the Department under Wisconsin statute is bound by the \$1,300 limit.

Mr. Bruss stated there is no \$1,300 limit that is in law or identified in the Clean Air Act or EPA rule. They provide guidance to different air pollution control agencies in what to do and how you might set stuff. That \$1,300 per ton guidance came out of a document that was done in 1992. Things changed substantially since 1992, especially in NOx control. Furthermore, that \$1,300 per ton was based on studies that were done in the late 1980's. It has been almost 20 years of additional control, inflation, and other things one would consider in setting an emission limit.

Mr. Ela inquired as to the relationship between the assertion that RACT is already met by NR428.

Mr. Bruss stated that the existing NR428 was created to address the reasonable progress requirement of the Clean Air Act for moderate and worse ozone nonattainment areas. It was never intended to meet a RACT level of control.

Mr. Manley, made a statement that said the DNR's attainment demonstration for the 1-hour ozone standard indicates there were no additional cost effective control programs that could be implemented in the state. That statement was taken out of context from a portion of the attainment demonstration that addresses another Clean Air Act requirement referred to as Reasonably Available Control Measures (RACM). For RACM, we must demonstrate that we could not feasibly attain the ozone standard by an earlier date. Since a large part of the ozone problem is due to transport from other states that we cannot control, one would have to get a

tremendous amount of emission reductions from instate sources to accelerate attainment. Therefore, there was no cost effective way to accelerate attainment of the ozone standard in Wisconsin.

Mr. Ela inquired if that comment was made in the context of accelerating attainment by one year not meeting the RACT rule.

Mr. Bruss stated correct.

Mr. Welter inquired to the Valley, Pleasant Prairie, and Oak Creek situation. If the Board passes these rules, what will Valley plant be required to do to reduce its emissions.

Mr. Bruss stated it is not clear because the Department would expect WE Energies to take advantage of the trading program. They have a lot of different options and they have not told us exactly what they would do. They have inter-facility averaging that they can take advantage of. He would expect them to do the multi-facility averaging. Probably make minor emission reductions at Valley but make more emission reductions than necessary at Pleasant Prairie or Oak Creek unit 7 and 8 in order to comply with the rule.

Dr. Thomas stated her impression is that we need regional compliance in order to satisfy EPA. They are looking at our air emissions on an attainment or non-attainment area basis. What we are really trying to do with the rule is overall get into compliance. One plant or another is not the issue. You are dealing with company by company, and in general, over the area.

Mr. Bruss stated we are establishing RACT emission limits not on a facility by facility basis but on a source type, source size, and on a fuel basis. We established that and we recognize that we can perhaps provide the companies more flexibility by offering averaging. If we offer the averaging programs, we can get more emission reductions out of the atmosphere and that is a good thing. We are establishing RACT. We are not trying to get the area into compliance with the Ozone standard. RACT was simply a hardwired requirement in the Clean Air Act. The Clean Air Act says though shalt do RACT. That is the purpose of the rule.

If we went further to do attainment demonstration, not only would we have to do RACT, we would have to do more in order to demonstrate that we have taken enough out of the atmosphere. RACT is not the end all. In fact, Sheboygan area remains non-attainment. We would have to develop a plan and look at potentially additional control programs that in a year or so with rules that would identify additional emission reductions necessary to claim Sheboygan in attainment.

Mr. Ela stated that there is a bottom line here economically and that is the COBRA study that in fact the economic benefit for public health is two to five times more than the cost of the investment

Mr. Bruss stated that is right.

Mr. Ela asked where Milwaukee and Waukesha County are likely to fall out with new high particulate standards.

Mr. Bruss stated both Milwaukee and Waukesha are currently violating the new particulate matter standard that EPA promulgated in fall or late summer of 2006. They signed the new rule in September. The new 24 hour standard is set at 35. Milwaukee and Waukesha are both over that. In fact, as of 2006, their values are going up a little bit rather than going down. RACT would be required for pm 2.5 non-attainment area and RACT for sulfur dioxide and NOx compounds as well.

Mr. O'Brien MOVED, seconded by Mr. Poulson, approval of Adoption of Board Order AM-17-05, sections NR 428.20 to 428.27 concerning NOx RACT rules and associated reference incorporations into NR 484.04.

Mr. Welter MOVED to amend original motion to leave 428.25(1) (c) multi-facility averaging provision and to renumber sub (b).

Mr. Ela seconded for the purpose of allowing discussion.

Dr. Thomas stated this was sent out for public hearing four months ago and this to her is a very complicated issue that the Board should get in on the front side of rather than the back side if we

are going to begin tweaking. Do we fully understand all of the ramifications of tweaking at this point.

Mr. Welter stated he understands we are under time pressures and that we would, in an ideal world, like to get part of this earlier on. His stated this is a matter that is worthy of concern. We can not site glance at one place or another. We do not have much to say about that because another agency deals with those things. We have clean air concerns and it is a legitimate concern for instance the Valley facility. This is a regional nonattainment problem that needs to be addressed. It is important for us to consider that if Pleasant Prairie and Oak Creek might be a locally problematic source that we should consider whether or not we are enabling that to continue by passing the rules as they are.

Mr. Ela stated we have a factual dilemma here as to whether in fact the emissions from Valley affect the neighborhood or do not affect the neighborhood.

Ms. Wiley stated no one has said that we are not facing some genuine time constraints. No one has said, yes, we can let this go and we can do this and that. Frankly, the staff has responded to the questions that the Board has asked and by three speakers very well. We have incredibly disparate views from our three speakers, and understandably so. Given the time constraints and responses of the staff, we should go ahead and pass this, period.

Mr. O'Brien stated this is an integral part of what this over-all rule that has been out to public hearing by stakeholders, and I think the Department is satisfied with it. He heard the utilities say they are anxious to get the rule passed even though they disagree with it just so they can get on with the rule because there is so much time involved. He would certainly support this.

Dr. Clausen asked if Mr. Bruss would be coming back before the Board in one or two years to deal with nonattainment in Sheboygan County.

Mr. Bruss stated they would have to develop an attainment demonstration for Sheboygan County. It is unclear at this time whether we would have rules but it is certainly very likely that we would have additional control programs for the southeastern part of the state in order to achieve attainment in Sheboygan County. As Mr. Ela mentioned, we also have the fine particulate nonattainment areas that we need to deal with.

Dr. Thomas stated the Board has a motion and a second on the table to amend the recommendation of the Department.

Motion to amend failed 1 – 6.

The original motion carried unanimously by all members present.

3.A.2 ~~**Request authorization for public hearing for Board Order LE-07-07, revisions to NR 8, related to wildlife violators compact.**~~ **DELETED FROM AGENDA PREVIOUS TO POSTING**

3.A.3 **Request authorization for public hearing for Board Order AM-08-07, Incorporation of the national emission standards for hazardous air pollutants (NESHAP) for the surface coating paper and other web into ch. NR 466.**

William Baumann, Section Chief, Compliance and Enforcement, Air Management Bureau stated that the US EPA promulgated the NESHAP for the surface coating of paper and other web on December 4, 2002 (67 FR 72330). This rule proposal incorporates that NESHAP, into the Wisconsin Administrative Code by creating ch. NR 466 subchapter III and Appendix JJJJ in ch. NR 460. Section 285.27(2)(a), Stats., requires the Department to promulgate NESHAP into the administrative code. The Natural Resources Board has not acted on the paper and other web NESHAP before.

Since the proposed rule is already in effect at the national level, there is little discretion for the Department and there are no policy issues to be resolved. The existing federal NESHAP and the proposed state rule for the surface coating of paper and other web affects 17 facilities in Wisconsin and could potentially affect an additional 41 facilities within the state.

Dr. Thomas asked since we do not take public comment on authorization for public hearing and since we were just subjected to a scenario where we authorized a public hearing and then we decided everyone in the middle was unhappy, who is going to be unhappy about this and about what?

Mr. Baumann stated there really should not be anyone. You can never be completely sure with anything. The rule is already in effect at the federal level. The sources that are affected by this rule had to comply with the federal rule. This is not changing or adding any requirements.

Mr. O'Brien MOVED, seconded by Mr. Ela, approval of request authorization for public hearing for Board Order AM-08-07, Incorporation of the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of paper and other web into ch. NR 466.

Ms. Wiley asked where these hearings would be held.

Mr. Baumann stated they are planning one hearing in Madison. The specific date and location has not been set.

Mr. Ela asked how this would change the existing HAP rule.

Mr. Baumann stated it does not really change anything or affect NR445 requirements, the state toxics rule, to the extent that there may be Maximum Achievable Control Technology (MACT) requirements in this rule and NR445 requirements. State statutes specify that the MACT rule would supersede. It should not be adding any additional requirements to anyone. The provision indicates that one rule is more stringent than the other which supersedes.

The motion carried unanimously.

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

3.B.1 **Request adoption of proposed changes to rules regulating commercial harvest of shovelnose sturgeon in Wisconsin-Iowa boundary waters.**

Ron Benjamin, Regional Fisheries Team Leader West Central Region stated that Commercial fishing for shovelnose sturgeon has increased in popularity throughout the Mississippi River basin in response to a burgeoning market for sturgeon roe. In response to increased harvest pressure, the Iowa and Illinois Departments of Natural Resources began reviewing commercial fishing regulations in their shared portion of the Mississippi River. The Wisconsin Department of Natural Resources was subsequently invited to review commercial fishing regulations for Wisconsin-Iowa boundary waters. Population modeling suggests that more stringent regulations are necessary to preserve the long-term viability of shovelnose sturgeon stocks in the Mississippi River and to continue to provide commercial fishing opportunities.

There are currently fewer than five commercial fishermen licensed in Wisconsin who primarily target shovelnose sturgeon. The proposed rule would increase the minimum allowable size at harvest from 25 inches total length to 27 inches fork length and impose a 34 inch maximum fork length limit, creating a 27-34 inch (fork length) harvest slot for commercially caught shovelnose (hackleback) sturgeon in Wisconsin-Iowa boundary waters. Fork length is defined as that distance as measured from the tip of the snout of a fish to the posterior tips of the median caudal fin rays, as opposed to total length, which is that distance between the tip of the snout of a fish to the outermost end of the caudal fin, fully extended.

The rule also proposes to prohibit the removal of roe from commercial fish while on the water, bank or shore and prohibits cleaning or processing of fish until the fish reach the final processing facility or place of business of the commercial fisher.

Mr. Welter asked in the pool of approximately 300 shovelnose sturgeon harvested commercially, how many commercial fisherman does this represent.

Mr. Benjamin stated in that pool there is only one.

Mr. Welter asked if there is a non-commercial harvest of Shovelnose.

Mr. Benjamin stated yes.

Mr. Welter asked how that compares to the commercial harvest. Is there any way of estimating?

Mr. Benjamin guessed it is a fraction of what is being targeted commercially. It is not being targeted in the spawning run.

Mr. Welter asked if people are going to be taking males and eating them.

Mr. Benjamin said yes.

Mr. Welter inquired that then there is no reason for the commercial angler to be taking males.

Mr. Benjamin stated what happens is there is not a very large flesh market. We have been beating on these guys not to throw the fish away. What they do is when they take one out of their nets if it is a mature female, they will kill that one for the eggs and sell the flesh. If it is a male, they will let that one go. The flesh market is not as big as the number you get for roe. When you get to the southern part of the river where there is not much of a flesh market, they are landfilling the carcasses.

Mr. Welter asked with this proposal to raise the minimum and do a harvest slide, effectively you are going to be doing is cutting out anything under 27" which is about 35% - 40% of what is harvested in that pool.

Mr. Benjamin stated correct.

Mr. Ela asked if Minnesota had a commercial fishery in the Mississippi.

Mr. Benjamin stated that first of all Shovelnose Sturgeon tend to be more of a southern species so as you go south you get more. Right now the harvest in the Minnesota-Wisconsin boundary waters is totally incidental. We are talking about an average harvest in the Wisconsin - Minnesota boundary waters from both sides is less than 1,000 pounds of fish.

Mr. Clausen asked how long is it going to take before you know whether this is successful and what are your benchmarks going forward.

Mr. Benjamin said they are funded through the next biennium to continue the Shovelnose work. We look at things from a funding point. We have to see how that goes which means we will try to mark at least 2,000 Shovelnose. Once the fisherman start we call them to contact the Department. The Department also randomly rides with the commercial fisherman. Their goal is two years guaranteed. These fisherman have to report to the Department monthly on the harvest. The Department keeps track of that. He is expecting that the Department will begin to see a change three years from now. To have that fishery fully recovered on a system like this might take 10 - 15 years. They grow slowly.

Mr. Welter MOVED, seconded by Mr. Ela approval of request adoption of proposed changes to rules regulating commercial harvest of shovelnose sturgeon in Wisconsin-Iowa boundary waters. The motion carried unanimously.

3.B.2 **Request authorization to consult with the public in developing the next phase of CWD management.**

Alan Crossley, Wildlife Biologist, South Central Region stated The department is recommending an extensive public involvement effort during 2007 that will collaboratively engage the public in establishing the next steps in managing Chronic Wasting Disease. By involving the public in management decisions it is hoped that there will be greater support and cooperation. To achieve an effective and comprehensive dialogue the department will use an integrated approach to public involvement. Priority activities include:

- 1) Establishing clear goals and expectations for a public dialogue initiative.
- 2) Identifying stakeholders and interests related to a CWD dialogue.
- 3) Implementing an awareness and education program to provide information for stakeholder participation.
- 4) Activating an internal DNR communication plan.
- 5) Initiating a legislative awareness plan.
- 6) Implementing a targeted, interactive stakeholder participation plan.
- 7) Report of findings.
- 8) Adoption and introduction of the next phase of CWD management recommendations.

Dr. Thomas asked Mr. Crossley to stay in communication with Mr. Welter and the Resource Management Committee.

Mr. Crossley stated he would.

Mr. Ela MOVED, seconded by Dr. Clausen approval of request authorization to consult with the public in developing the next phase of CWD management.

Mr. O'Brien asked if this is a budget item.

Mr. Crossley stated the Department has money in terms of being able to redirect efforts that we are doing now. He has no estimates on what this is going to cost to do this until the public participation person is involved. They are criticized routinely about the amount of money they are spending on the disease and you have heard me say many times to defend why it is important that we spend the \$5 million each year on protecting the \$5 billion industry. The money that would be used to try to conduct a public participation process would be a good investment in terms of how it shapes and formulates how we move forward. Yes, there is money in the budget.

The motion carried unanimously.

3.B.3 ~~Request authorization to hold public hearings on Board Order FH 07-07, revisions to NR 25, related to commercial fishing in outlying waters—Yellow Perch.~~ **DELETED FROM AGENDA PREVIOUS TO POSTING**

3.B.3 Revision of emergency rules to control the spread of Viral Hemorrhagic Septicemia virus in the waters of Wisconsin. **ADDED TO AGENDA**
Michael Staggs, Director, Fisheries and Habitat Bureau stated that viral hemorrhagic septicemia (VHS) virus is present in the Great Lakes, but not yet in inland waters of Wisconsin. This rule clarifies and expands earlier emergency rules put into effect April 8, 2007 by Order FH-22-07(E) to control and prevent the spread of VHS virus. Order FH-25-07(E) does the following:
1) Clarifies definitions of "live fish" and "live fish eggs" for purposes of the previously adopted emergency rules.
2) Clarifies the prohibition of the transport of live fish away from waters of the Great Lakes and Mississippi River drainages by stating that the prohibition also includes any fish possessed on those waters or the banks or shores of those waters.
3) Clarifies and expands what equipment must be drained of water after removal from waters within the Great Lakes and Mississippi River drainages.
4) Expands the emergency measures to ban the use of potentially infected fish, fish by-products, and fish meal as bait in crayfish traps.
5) Clarifies limitations on use of imported live bait by permitting the use of imported live bait from Minnesota or Iowa on the Mississippi and allowing minnows that die during a fishing trip to be considered live bait for purposes of these rules.

Mr. Welter asked in regards to the dead bait issue, when the commercial outfit that is using fish eggs and preserving them in jars, does that method of preserving them kill the virus and makes them okay.

Mr. Staggs stated yes. The rule allows for preservation methods other than freezing. Borax and salting are the two that he has heard the Department's fish health people say disable the virus.

Public Appearances

1. **Mike Arrowood**, Oakfield, representing Walleyes for Tomorrow asked the Board to use the full power of its statutory authority to immediately seek the following actions to protect the Lake Winnebago System fishery: a) Take whatever actions are necessary to have the Rapide Croche Lock filled with earth; b) Take whatever actions are necessary to have the Kaukauna Lock #5 filled with earth as a redundant barrier; c) Place a permanent prohibition on the construction of any boat lift on the Lower Fox River built for the purpose of allowing boats from the waters of the Great Lakes access to Lake Winnebago; and d) Order an environmental impact study be completed calculating the effect the opening of the Fox Locks will have on the ecology of the Lake Winnebago System based on the current ecology of the Great Lakes.

Mr. Welter stated he is not familiar with the Fox system. Why the selection of Kaukauna Lock 5 of the Kaukauna Lock and the Rapide Kroche Lock as places to where you would like to see this barrier?

Mr. Arrowood stated the Rapide Kroche Lock right now is already closed. The Fox Lock Authority is in the process of trying to refurbish some of the other Locks. He can not say the reason the Rapide Kroche Lock was closed. The reason we are asking for the Kaukauna Lock 5 is because it the the next lock up stream. That would create a pool of water if we have enclosed

impoundments that would essentially, in their hopes, be a dead spot. If there is a bird or duck in the water below Rapide Kroche Lock that gets the VHS virus on its feet and flies above the Rapide Kroche Lock, that is 100 feet. It could move that virus by virtue of flying from here to there. If the next Lock up is closed, which is the Kaukauna Lock 5, it would create a pool and that water could be sampled periodically to ensure that whatever organisms have not been established in that pool.

Mr. Ela stated his interest in the report handed out by Mr. Arrowood. There is no attribution. What is the source of this?

Mr. Arrowood stated this report was done in 2002. Mr. Limburger, a professor at the UW-Oshkosh, was the editor and is listed on Page 3. He took it upon himself to investigate this. Mr. Limburger contacted Mr. Arrowood to see if they were interested in this report that he and his students at UW-Oshkosh compiled.

Mr. O'Brien asked if there is a movement to open the Locks.

Mr. Arrowood stated yes. This goes back to 1988. He attended a hearing in 1988 that was the start of the Fox Locks Authority. It was a Sea Lamprey work group. The Fox Locks Authority has been working since then to have the Fox Locks entire system open and rejuvenated. On May 19, 2007 they are having a grand opening of the Appleton 1 and 2 Locks from 1:00 p.m. – 4:00 p.m. Various dignitaries are invited to come so they can make the ceremonial movement through the now refurbished Appleton 1 and 2 Locks.

Ms. Wiley asked what is the authority of the Fox Locks Authority.

Mr. Arrowood stated the Fox Locks Authority was created in 1986 or 1987 by Wisconsin statute. They have a governing board. The Department of Natural Resources has one member on this board who regularly attends the meetings. It is supported primarily by tax money

Ms. Wiley asked if they have appointees.

Ms. Arrowood, stated yes.

Dr. Thomas requested that Administrator Ambs of the Water Division on this issue and possible Board action.

Mr. O'Brien MOVED, seconded by Mr. Welter approval of revision of emergency rules to control the spread of Viral Hemorrhagic Septicemia virus in the waters of Wisconsin. The motion carried unanimously.

Mr. Ela stated that when this was discussed at a meeting earlier in April, the Board asked staff to come back with a resolution to our congressional delegation on Ballast water which does not change policy. The staff did make a draft, which was distributed earlier.

Mr. Ela MOVED, seconded by Mr. Poulson, approval of the Exotic Species Prevention Resolution.

Exotic Species Prevention Resolution

Whereas Wisconsin has 15,000 inland lakes, 96,000 miles of streams and 1,000 miles of Great Lakes shoreline, and

Where as these abundant sources of water support our cities, our recreation, our commerce and our native aquatic ecosystems, and

Whereas, these aquatic systems provide excellent fishing opportunities for state residents and tourists, and

Whereas fishing and related tourism generate millions of dollars annually for Wisconsin business and

Whereas invasions of exotic species like zebra and quagga mussels or viral hemoragic septicemia have threatened the health, welfare and stability of the ecological systems that are present in Wisconsin waters, and

Whereas exotic species in our waters cause added societal costs for Wisconsin residents for activities like sea lamprey control or removal of zebra mussels from water intakes and

Whereas national estimates for added societal costs of exotic species introductions are approximately nine billion dollars annually and

Whereas continued introductions threaten our future ecological and economic health and possibly our public health through impacts to water supplies and

Whereas ballast water discharges into the Great Lakes waters is a continuing source for transmitting organisms from other parts of the world and

Where as Congress has failed to enact comprehensive legislation to establish a national response to this crisis, and

Whereas, the global economy expands the exposure of our waters and our ecosystems to new exotic species and diseases

Be it therefore resolved, the Natural Resources Board requests the Wisconsin Congressional delegation to fully support comprehensive legislation to prevent, control and where possible eliminate exotic aquatic species and

Be it further resolved that such federal legislation must also include ballast water discharge restrictions which protect the welfare of the citizens of the State of Wisconsin by preventing any new introductions of exotic species. ~~and~~

~~Be it further resolved that should Congress fail to act, the Wisconsin legislature should enact legislation to prevent any new introductions of exotic species into state waters through ballast water discharges from international shipping.~~

Dr. Thomas stated this was in line with letter that she and Todd Ambs, Division of Water Administrator worked on to go to the U.S. Congress. In the last “Be it further resolved” at the end of the page, she thought it would be more appropriate to state it be “should Congress fail to act, that the Department be directed to add this issue to its Legislative agenda.” In other words, we do not have the authority to direct to the state legislature to act.

Mr. Welter asked if that last paragraph would be modified or eliminated.

Dr. Thomas stated her support of either method.

Mr. Ela stated that was a very good point to amend to “should congress fail to act, the Board instructs the Department to work with the Wisconsin Legislature...”

Dr. Thomas stated staff can come up with specific language and we are just adding this to our agenda.

Mr. Ela stated he thought this has already been done with the legislative program that we approved in January.

Dr. Thomas stated then we should take out the last paragraph since we are already working on it.

**The motion to amend the resolution by striking the last paragraph carried unanimously.
The original motion carried unanimously.**

3.B.4 Approval of naming the Zeloski Marsh Unit and management units within the Lake Mills Wildlife Area.

Tom Hauge, Director, Wildlife Management Bureau stated that the Madison Audubon Society gave 1,461 acres to the Department in 2006. The property has been referred to as the Zeloski Marsh Unit of the Lake Mills Wildlife Area. The majority of the wetland and prairie restoration was completed in September 2006.

The Department, working with Madison Audubon Society, proposes to name the Zeloski Marsh Unit after Felix and Dennis Zeloski families and to name 15 management units to recognize individuals with "Wisconsin Roots" who have made outstanding contributions to natural resources management. The focus is on those individuals with a connection to south central Wisconsin. Dennis and Betty Zeloski sold a 2,700 acre farm to Pheasants Forever that is now the Jefferson Marsh Wildlife Area and a 1,500 acre farm west of Lake Mills to Madison Audubon Society. Conservations to be recognized are John and Connie Gates, Jim and Pat Hale, Art and Betty Hawkins, Joe Hickey, Ruth Hine, Dick and Janice Hunt, Larry and Helen Jahn, Robert and Marie McCabe, Max and Betty Partch, Clay Schoenfeld, Arlie William and Margaret Schorger, Walter and Trudi Scott, John Roberts and Beatrice Smith, Les Woerpel, and Jim and Elizabeth Zimmerman.

Informational signage may be developed to recognize the people. A dedication of the property is planned for June 14, 2007.

Public Appearance

1. **Peter Cannon**, Madison Audubon Society stated the Society is very proud of its rule with NRCS and the Department in the purchase and restoration of Zeloski Marsh. It is a marvelous project. The list of people who were decided on for naming had a tie to that region. A lot of the people started working out with Aldo Leopold in the Faville Grove area which is just north of Zeloski. He thought everyone on the list has some connection to this part of the south central part of the state. Five of the fifteen people chosen are members of the Conservation Hall of Fame. The Society supports the names that are chosen and we would like to second the invitation to come to the dedication on May 14, 2007.

Mr. O'Brien MOVED, seconded by Mr. Welter approval of naming the Zeloski Marsh Unit and management units within the Lake Mills Wildlife Area. The motion carried unanimously.

- 3.B.5 Land Acquisition and Project Boundary Modification – Lower Wisconsin State Riverway – Grant County.

Mr. Ela MOVED, seconded by Mr. Poulson approval of Land Acquisition and Project Boundary Modification – Lower Wisconsin State Riverway – Grant County. The motion carried unanimously.

- 3.B.6 Land Acquisition – Fish Lake Wildlife Area – Burnett County.

Dr. Clausen MOVED, seconded by Mr. O'Brien approval of Land Acquisition – Fish Lake Wildlife Area – Burnett County. The motion carried unanimously.

- 3.B.7 Land Acquisition – Glacial Habitat Restoration Area – Winnebago County.

Mr. Welter MOVED, seconded by Mr. O'Brien approval of Land Acquisition – Glacial Habitat Restoration Area – Winnebago County.

Mr. Poulson stated he was pleased yesterday to hear the response to the fact that it is nice to keep some of this property in agricultural use as long as we can. He subscribes to that in a strong manner.

Farmland is precious and he urges the Board to continue to consider whether those properties can be left in agriculture as long as possible. It does serve a purpose.

Mr. Steffes stated that abutting this property on its west side is a large dairy operation of approximately 2,000 head. There is a major farm operation right next to this. It certainly would not be hard to find someone to rent some of the cropland periodically.

The motion carried unanimously.

April 25, 2007

3.B.8 Land Acquisition and Acceptance of Donation – Upper Wolf River Fishery Area – Langlade County.

Ms. Wiley MOVED, seconded by Mr. Poulson approval of Land Acquisition and Acceptance of Donation – Upper Wolf River Fishery Area – Langlade County. The motion carried unanimously.

3.B.9 Land Donation - Lower Wolf River Bottomlands Natural Resources Area - Outagamie County.

Mr. Welter MOVED, seconded by Dr. Clausen approval of Land Donation - Lower Wolf River Bottomlands Natural Resources Area - Outagamie County. The motion carried unanimously.

Dr. Thomas adjourned for lunch at 11:55 a.m. and reconvened the meeting at 1:00 p.m.

4. Citizen Participation – 1:00 p.m.

4.A. Citizen Participation

Dr. Thomas stated that each speaker is limited to five minutes.

Public Appearances

1. **Mike Arrowood**, Oakfield, representing Walleyes for Tomorrow and the Winnebago Land Conservation Alliance stated his concerns on censorship within the Department. He stated that Department staff are not and have not been allowed to express their opinion on the environmental consequences of opening the Fox Locks from the Lower Fox River. He asked the Board to look into the limiting of free speech for Department employees.
2. **Bob Haase**, Eldorado, representing Muskie Club Alliance of Wisconsin and Central WI Association of Trout Unlimited stated his concerns regarding the Lower Fox Locks. Viral Hemorrhagic Septicemia (VHS) virus would decimate streams if it gets through the locks, especially the integrity of the Rapid Croche Locks. There was an intent to fill in that Locks and it is still open. If water was to seep and VHS was able to get through there, where do you stop it? At that point, you can not. He asked the Board to immediately look at this and try to do whatever you can to facilitate so water can not seep through the lock system and get into the Winnebago pool. This would stop the spread of invasives and VHS throughout the pool. A redundant barrier is also needed as a control to see if invasives made it through which would give them another chance to stop invasives. He asked what the position of the Board and the Department is on opening up the Lower Fox Locks, what is at risk, and asked the Board to look at conservation issues like this.

Dr Thomas stated the Board has asked for the Department to come back next month to bring the Board up to speed on this issue.

Secretary Hassett stated that when ownership was transferred from the federal government just a few years ago this was the Department's biggest concern. Staff does not want to see boats traveling from Green Bay up to Lake Winnebago directly because of the invasives issue. The Department has publicly stated this many times. Technology is not there yet to deal with neutralizing this. The Department has been very open when asked. This has not been an issue out there recently. This is a good opportunity for the Department to bring the Board up-to-date on what is going on here. He appreciates and understands Mr. Haase's concerns and those of the fisherman and taxpayers. The Department has too much invested in Lake Winnebago to threaten it in any way.

Ryan Cook, Pardeeville, representing himself, regarding land management and John Healy. He stated his concern regarding a Department land purchase adjacent to the Healy Farm for the Peter Helland Wildlife Area located in Columbia County. They were under the assumption that they could continue to farm the agriculture land in its entirety only to find out the Department was going to put limitations on the land. He asked to be able to continue

to farm the 40 acres in question without limitations and that he and John Healy would like to purchase these 40 acres of farmland if at all available, with deed restrictions if need be.

Mr. Welter inquired as to which 40 acres Mr. Cook was referring to.

Mr. Cook stated the parcel is north of the boundary line, within the 60 acres.

Mr. O'Brien asked if they leased the property.

Mr. Cook stated yes. They leased and farmed the property prior to the sale.

Mr. O'Brien inquired if the Department would not allow them to farm it now.

Mr. Cook stated they currently farmed this up until last year. The contract has been sent to John Healy. He is holding off until Mr. Cook could talk to the Board. They have farmed this for many years. It is good farmland and they have an excellent hay crop. Most of it was seeded last year with alfalfa. Obviously with the cost of alfalfa seed alone we do not want to lose this.

Mr. O'Brien stated you leased it from the Department.

Mr. Cook stated they have the option to lease it going forward. It was just approved at the beginning of this year. For restrictions, they are allowing only 15 acres that they can plant in alfalfa and harvest after a certain date.

Mr. O'Brien asked if the Department is taking some of the land out of farming then.

Mr. Cook stated yes. The Department wants them to seed it into their grass mixes.

Mr. O'Brien asked if the Department can talk about this at the next meeting

Secretary Hassett stated you can but to save time, he will look into this and write to the Board on this piece of property as to what the Department is doing on the management side.

Mr. O'Brien concurred.

5. Board Members' Matters

Dr. Clausen stated his matter deals with the adoption of the non-toxic shot. This will be forthcoming as part of the Migratory Bird regulations in May as one of the dozen tasks that would probably be incorporated into these regulations. He would like to see that this is formulated into the rules but comes effective in 2008 rather than fall 2007 so we have time to let people know that that change is going to be made. Staff should come forward with this in May.

Mr. Ela stated he had a couple matters. Firstly, there are a couple of trails that are controversial and are in litigation so this is something we would want to be briefed on in an Executive Session: the problematic Amery-Dresser Trail which has reached a new plateau and a trail that Wisconsin is not involved in litigation but involves Bayfield County and some private litigants, which he understands is a recent US District Court opinion, that could place in jeopardy the whole reversion system of a certain class of trails. He thought this was settled by another Bayfield County case which actually went to the Supreme Court a few years ago and this seems to place this question. He would like to see a briefing on this and whether state participation might or not be appropriate.

Dr. Thomas asked Rick Prosize if this is an Executive Session issue.

Richard Prosize Director, Legal Services stated they would need to examine that to see if it comes under closed session 19.85. There is a provision under 19.85 for discussion of litigation matters. They just need to look at the subject matters to see if they fit in.

Dr. Thomas stated if we are not involved and only a decision by a court it would not be a closed session.

Mr. Prosize stated that is why we would need to look into it because the phrase is "in which the Department may become involved" which is part of the closed session.

Dr. Thomas inquired then what Mr. Ela asked for is a briefing and we will let legal staff take a look at whether it is an open or closed briefing depending on what our status is in the situation.

Mr. Ela stated that in another issue that also might have to be done in closed session because it is a land transaction that comes under the grants program of Stewardship. He was contacted by one of our major land trust partners who is frustrated because there is a very valuable piece of property and one of our most esteemed properties that they have been negotiating for an easement with the land owner.

The land trust partner has had a grant application with this Department for approximately 16 months and no action has been taken. With luck, between now and the next meeting this will get

back on track and be resolved. If it is not resolved, he would like a briefing on the issue with this. This is an extremely important property.

Dr. Thomas inquired if this is an open or session item since the Board is not involved specifically in the transaction and only in the grant process.

Mr. Prosis stated then it would not be closed. Legal staff would need to take a look at it.

Dr. Thomas stated it seems like this is a Board member referring this to staff.

Mr. Ela stated he has had correspondence by electronic mail from staff on this so they are aware of his concerns. He wants to make sure that awareness is translated into some sort of action.

Dr. Thomas stated that if this is not resolved by the next meeting, then we will probably want a briefing from staff asking why is this not resolved one way or the other.

Mr. Ela stated the only other item he has is an open ended request that the Board be informed of what Departmental actions are being taken on energy and global warming. He knows this is very complicated and open ended. Next meeting he would like some sort of briefing on what the Department is doing and how it fits in with the Governor's Blue Ribbon Task Force.

Mr. Poulson asked Mr. Ela what the timeframe was on the Mercury seminar that was discussed at the March meeting.

Mr. Ela asked Al Shea to respond.

Al Shea, Administrator, Air and Waste Division stated they are looking at one day during the week of July 16. The Department has a list of tentative speakers. The date is subject to key speakers and Board member availability. Location for this seminar is tentatively set for Stevens Point from 9 a.m. - 3 p.m.

Dr. Thomas suggested that the Board is polled to see which days work best for them.

Mr. Shea stated they thought they would start with the speakers and then match up availability with the Board.

6. Special Committees' Reports
None.

7. Department Secretary's Matters

CAIR Rule Update **ADDED TO AGENDA**

Secretary Hassett briefed the Board on an update of what has happened with the CAIR rules that the Board had passed. It was sent over to the Natural Resources Committee. They returned it to the Department for unspecified modifications. Somewhat unusual, they gave us a 48 hour deadline. The Department did nothing and the deadline lapsed one week ago Friday. What happens now procedurally is it goes to the Rules Committee. The Rules Committee has 30 days to act on this if they choose to hold a hearing in the first place. The Department does not know yet what the Committee is going to do. If they choose not to hear it, the rules will stand. If they choose to have a hearing, that is their choice. The voting partisan split is 8:8 on that committee. If you did have an 8:8 vote on partisan lines, which is one possibility, then the rule would also stand. That is where we are at on the status on that in the Legislature.

Dr. Thomas stated that for the Board members that are not up to speed on this, this came to her mid-day on that Thursday. Part of the 48 hours was already gone. She had an all day meeting on Friday. There was only four business hours to deal with this. There was no time to poll the Board to see if a meeting should be scheduled because it would have been a violation of the open meetings law so she called Mr. Ela, who is the Chair of that committee and decided there was no time to pull a meeting together in four hours. That is why no response came from here.

Mr. Ela asked if the Assembly Committee returned the boat noise rule.

Mr. Hassett asked Mr. Andryk to respond.

Tim Andryk, DNR attorney, stated that the rule is being sent back with a request for modifications.

April 25, 2007

- 7.A. Retirement Resolutions
- 7.A.1 David R. Behn
- 7.A.2 Diane Rappe
- 7.A.3 Larry Freidig
- 7.A.4 Allen F. Hillery

Mr. Welter MOVED, seconded by Mr. Ela approval of the retirement resolutions. The motion carried unanimously.

- 7.B. Donations
- 7.B.1 The Natural Resources Foundation will donate \$10,000 to the Endangered Resources Program in support of the ornate box turtle work.

Mr. Ela MOVED, seconded by Mr. Welter, approval of The Natural Resources Foundation donation of \$10,000 to the Endangered Resources Program in support of the ornate box turtle work. The motion carried unanimously.

- 7.B.2 The Friends of High Cliff State Park will donate \$23,000 to High Cliff State Park for the purpose of hiring an educator.

Mr. O'Brien inquired logistically how this would be handled because Mead was trying to hire an educator and ran into problems. They had donations to hire the educator but they ran into logistical problems with the Department of Administration and thought this was still an issue.

Secretary Hassett stated that Mead was a different situation from the procedures the Department runs into at a state park. This should not be a problem at all.

Tom Hauge, Director, Wildlife Management Bureau stated the difference might be whether or not you are hiring a permanent full time educator or a seasonal/temporary educator. Mead is still actively fundraising to hire a permanent full time educator year round.

Dr. Thomas stated it was a fringe benefits issue. What the Board acted on was to approve the Department funding the fringe benefits if Mead could raise enough money to endow the salary on a permanent basis. She thought this was resolved except they are still working on getting the money together.

Ms. Wiley inquired if this was just a limited term employment (LTE) position with no benefits. **Secretary Hassett** stated yes, seasonal or LTE.

Mr. O'Brien MOVED, seconded by Ms. Wiley approval of The Friends of High Cliff State Park donation of \$23,000 to High Cliff State Park for the purpose of hiring an educator. The motion carried unanimously.

- 7.B.3 The Platteville Development Group will donate \$8,500 for improvements to the Rountree Branch stream corridor.

Mr. Welter MOVED, seconded by Mr. Ela approval of The Platteville Development Group donation of \$8,500 for improvements to the Rountree Branch stream corridor. The motion carried unanimously.

- 8. Information Items
- 8.A. Air, Waste, and Water/Enforcement
- 8.A.1 Previously listed as 8.A.2. Waste Materials Use and Disposal Strategy. (Suzanne Bangert and Arthur Vogel, Quarles & Brady, 30 minutes)

Suzanne Bangert, Director, Waste Management Bureau stated that at their March, 2005 meeting, the Natural Resources Board directed the Department of Natural Resources to develop a Wisconsin Comprehensive Strategy on Materials Use and Disposal. The Board directed the department to report its findings and make recommendations to the Board by March, 2007. This information item defines the department's work to date, and suggests proposed action for a Board meeting in May or June.

The Department of Natural Resources, Waste & Materials Management Program has worked with and supported a Governor's Blue Ribbon Task Force on Waste Materials Recovery and Disposal (Task Force). The charge to the Task Force was to study and make recommendations regarding the management (use, reuse, recycling, disposal) of waste materials in Wisconsin to address the economic and environmental costs, as well as to maximize the productive use of waste materials and ensure toxic and non-toxic waste materials are managed in a way that minimizes environmental impacts today and into the future.

The Task Force was also charged to consider the roles of Wisconsin municipalities, businesses and residents in the use, management and disposal of waste. Stakeholders from environmental groups, industry, academia, local governments and waste industry were members of the Task Force. Department staff provided expertise and support. The Task Force reached consensus on a broad sweeping set of recommendations integrated around a vision for waste materials management in Wisconsin. The report can be found on-line at: www.wasteresources.wisconsin.gov

The recommendations were presented, and the department will discuss strategies for moving this comprehensive package forward for action at a Board meeting in May or June. **Arthur Vogel**, Quarles & Brady attorney and Chair of the Governor's Blue Ribbon Task Force. Their vision statement for the Task Force is "In a manner designed to minimize environmental, economic, and social costs to the residents of Wisconsin and beyond, the state of Wisconsin shall achieve and maintain an integrated materials management system consisting of enhanced producer responsibility for products, effective resource recycling and recovery, and responsible waste disposal, all designed to promote ecological and environmental sustainability."

He stated that their recommendations in the report relate to specific components in their vision statement. Taken as a whole, their recommendations reflect the steps necessary to have an integrated materials management system. A system where producers, consumers and waste handlers anticipate the conduct of one another and act in concert to minimize waste generation, maximize the recovery of resources, where economically viable, and dispose of the rest by means that protect human health and the environment.

The Task Force report was approved by unanimous vote. Their recommendations are:

1) Minimize Environmental, Economic and Social costs: a. Improve and expand the use of economic analysis in solid waste policy and management; b. Promote effective solid waste planning and implementation as well as regional cooperation for both; c. Preserve funds generated by the recycling fee and appropriate them to implement these recommendations and other solid waste reduction and beneficial reuse programming; and d. Modify the formula for grants from the recycling fund to meet the needs of RUs more effectively.

2) Enhance Produce Responsibility: a. Maximize the collection and reuse of discarded electronic devices; and b. Require effective product stewardship (additional producer responsibility for the fate of their products).

3) Promote Effective Resource Recycling and Recovery: a. Recover more construction and demolition debris and other sources of wood waste; b. Recover more scrap paper; c. Reduce and recover more organics; d. Recover more waste generated by commercial properties; e. Re-examine the feasibility of a beverage container deposit law; and f. Conduct statewide waste generation and disposal studies at least every five (5) years.

4) Promote Responsible Waste Disposal: a. Enhanced regulation of construction and demolition landfills; b. Assure adequate financial assurance by landfill operators; and c. Revise the waste facility siting process.

5) Promote Ecological and Environmental Sustainability: a. Expand the landfill ban to other domestic and agricultural universal wastes; b. Ban the disposal of used oil filters and oil absorbent materials; c. Develop and adopt a responsible mechanism to dispose of unused pharmaceuticals; d. Develop appropriate restrictions on open burning and on-site burying; and e. Require state purchasing practices to favor products generated from recycled materials and to promote recycling by vendors.

Ms. Bangert commended the Task Force for the consensus that they brought to this comprehensive strategy and this broad suite of recommendations and to Mr. Vogel, in particular, for chairing such a diverse group.

Mr. Poulson stated he presumed Ms. Bangert was well aware of Clean Sweep. Clean Sweep

works in the agriculture community extremely well. It is an extension wide program. Are not all counties using Clean Sweep? He can get rid of used oil and old chemicals through this program. **Ms. Bangert** stated there are a number of Clean Sweep programs that are going on around the state but the state is not covered adequately. Wisconsin has several permanent facilities such as in La Crosse County, Brown County and Dane County. Individual local governments, either the county or at the city level, do promote those and try to hold Clean Sweeps on a regular basis. It takes money and there are not sufficient funds for that to do be done statewide.

Mr. Poulson stated he does not know about the financial aspect because it is operated and the County takes care of it, apparently.

Ms. Bangert stated that is an excellent way to get at those agricultural and domestic materials because we can take them as citizens of that area to those collection facilities. She is not sure the breadth of that program is as comprehensive as the entire state.

Mr. Poulson stated Clean Sweep is larger than you give it credit for.

Mr. Welter asked Ms. Bangert if the only area that we should be working on developing rules at this time is for owner financial responsibility. Or are there other areas that you believe need to be developed in order to get to point where we are cognizant of what needs to be added to any of this new rule structure.

Ms. Bangert stated that much of the work that she is working on is either through guidance development, exemptions, for example, some are construction and demolition waste and reuse that they accomplish through exemptions and approvals that they issue. The other items will take some legislative work which then could result in rule development as well. In terms of a specific rule package, trying to be cognizant of the resources that the Department has and not taking on too much, owner financial responsibility is what we would propose.

Mr. Ela inquired as to the work implementation group, is that a stakeholders group. Is it within the Department? What is the composition of this group?

Ms. Bangert stated they have not totally defined that. They would be looking at a stakeholder group. What might make most sense would be Task Force members that had already been involved in this process and the Department supporting and asking input from that group on how they carry the implementation forward. This is not totally defined.

Mr. Ela asked what other agencies besides the Department have a stakeholders group.

Ms. Bangert stated other agencies they have partnered with on waste materials activities are the Department of Agriculture, Trade and Consumer Protection (DATCP), the Department of Commerce (DOC), and the Department of Administration (DOA).

Mr. Ela observed that the part where we have done the least traditionally, and not just in Wisconsin but nationwide and which creates the greatest challenges in the future, probably is the manufacturers responsibility part of the puzzle. He asked Ms. Bangert to be more specific as to how that is addressed.

Ms. Bangert gave an example on electronics waste reuse and recycling efforts that are ongoing has involved manufactures in terms of producer responsibility for local government or citizen responsibility. Discussions with them clearly have involved producer and manufactures responsibility. With construction and demolition waste recycling, for example, on the construction end it is not so much with the producers but with the users of the material and working through ways to recycle excess asphalt shingles or drywall in a building project. Again, working with the users who generally are the manufacture but they are the ones that end up generating the excess. A lot of those conversations have involved, in those two areas, working with the producers or significant users.

Mr. Ela stated that there are energy implications as well.

Ms. Bangert stated yes.

Mr. Ela asked where do we go from here. He requested that at some appropriate time to come back before the Board with an implementation strategy or a series of strategies that would include legislative packages plus things that are already among the Department's statutory responsibilities. There is a momentum here and it is important we not let this momentum drop. What that means for a group like us is that this has to be taken out of the academic and intangible context and put into the actionable and tangible realm.

Ms. Bangert stated that clearly this is a lot to digest in a brief presentation even if you had the

opportunity to look at the summary information in the Task Force report. They would be happy to come back and share a more specific implementation strategy. What she sensed from the Board is that what we reported in terms of both the ongoing work that we have been involved with as well as some of the items that we believe we could move forward seem to be in keeping with what you might see in terms of short term action items for them and then they can define the long term actions. Taking into consideration, the household hazardous waste and agricultural Clean Sweep issues that you would use.

Mr. Poulson asked if there is something new on the scene for a pharmaceutical clean sweep as well. The last time he received a prescription there was a stuffer in the bag that had something to do with clean sweep on pharmaceuticals.

Ms. Bangert stated they have been working diligently with law enforcement because of controlled substances as well as pharmacists, local governments and other interested parties to promote clean sweeps for prescription drugs to have them properly managed. They have recently developed outreach material on that point. They have not had that many collections around the state but are seeing more interest from the medical and hospital community as well as local governments to promote this. The difficulties are working through controlled substances issues and making sure law enforcement is involved.

Mr. Ela expressed his appreciation to Anthony Vogel, Ms. Bangert, and the Task Force for doing a fabulous job.

8.A.2 Previously listed as 8.A. 1 Landfill Owner Financial Responsibility.

Suzanne Bangert, Director, Waste Management Bureau stated that at their March 23, 2005 meeting, the Natural Resources Board directed the Department of Natural Resources to work with interested parties on additional rules regarding landfill owner financial responsibility. The department was asked to report to the Board in February, 2006. At the December, 2005 meeting, the Board adjusted the report date to March, 2007. This presentation responds to that request.

The Department of Natural Resources, Waste & Materials Management program convened a stakeholder group representing academia, environmental groups, manufacturing industry, local governments and waste management industry to develop recommendations on changes to the owner financial responsibility (OFR) for landfills for long-term care and remediation. This group began meeting in June, 2006.

The stakeholder group has developed a report identifying the background of owner financial responsibility in Wisconsin, how it is administered and the risks, issues and problems related to adjusting owner financial responsibility from its present requirements. The views regarding the risk of closed and active landfills into the future, are diverse. The stakeholder group had many differing opinions and did not reach consensus on the need for changes related to owner financial responsibility at landfills operating today.

The department presented the recommendations from the stakeholder group deliberations.

Mr. Welter asked Ms. Bangert to expand on what the long term care period for financial assurance should be and what do you see as a potential model.

Ms. Bangert stated that the In-State Technology Resource Council, which is a consortium of states, industry, and academics had developed a specific model. It came out in 2006. What they do is look at four modules. They look at leaching generation, landfill gas generation, the capping system which is integral to keeping water out of the organic waste mass, and they look at groundwater performance. They set up criteria in each of those areas and a monitoring plan. If, for example, they set the criteria that they will reduce the leaching that is being generated at the landfill is reduced by 50% because they have stabilized the organic waste, then they have satisfied that particular part of the performance based model and then move on to the next one. In other words, they have assured that they had stabilized the organic waste mass in a way that will not be generating more leaching in the future and that will not present a future environmental or human health issue.

Ms. Welter asked if the idea was that if performance is at a high or environmentally protected standard, then periodically through the 40 year period, some of that financial responsibility obligation would be eased.

Ms. Bangert stated in that model they might even suggest looking at less than a 40 year time period for financial assurance. In a manner of speaking, yes, it would be eased because they would not have to provide it for the entire 40 year period. The other thing that the performance based model does is it looks at the end use of the landfill whether it is for a conservancy or maybe energy generation.

Mr. Welter asked what the idea is behind extending owner financial responsibility requirements to the construction & demolition landfills. Do those contain a fair amount of inorganic debris.

Ms. Bangert stated not necessarily. They see things like drywall going in to the landfills and probably some other things that should necessarily not be in those landfills. Some of the monitoring we have done, and this is older data, indicates that there could be some environmental impacts from construction and demolition landfills. In fact, they did have one intermediate sized landfill that accepted construction and demolition waste in the western part of the state that actually had hydrogen sulfide generation issues as a consequence. That is not unexpected given some of the materials that go into a construction and demolition landfill.

Mr. O'Brien asked if a landfill fails, the owner has no money, and the money set aside to take care of the landfill maintenance is not sufficient, do you know from the past if the contributors to the landfill ended up cleaning up. Do you expect that will happen in the future under that scenario?

Ms. Bangert stated that the state's response and the Federal Superfund programs operate in that way. That would be the mechanism to look at in dealing with this type of situation. Of the landfill owner financial responsibility mechanisms that have been in place, out of 159 only 5 of those facilities have been called in by the Department. In other words, there are only 5 facilities that the owner did not feel they could continue operating and closing that site. The Department called in either an escrow or trust account, she was not sure. They oversaw the closure of that facility and are overseeing long term monitoring. The Department contracts that out. That is what happens when an owner cannot perform that work.

Mr. Ela asked what is next.

Ms. Bangert stated the Department is looking at moving forward with a rule package that would involve some of the activities or items outlined in recommendations for future action. For example, if the Department needs to make adjustments in what engineering structures are included in the cost calculations for financial assurance at a landfill, they would make those adjustments. For the time value of money calculations, the Department would have to make those adjustments as part of a rule package. Obviously the statutory authority that is offered the Department in the termination or extension of long term care is something that the Department needs to address.

The Department is proposing first and foremost to start that effort and work on that over the next 1 ½ years – 2 years. In terms of the information technology systems and really evaluating the performance based model, given the reductions that the Department has seen in her program over the last eight years, they will either need to get very creative on how they do that or they will need additional funding. The Department does not have the ability currently to reallocate funds within the program for example to get the information technology system off the ground.

They might be able to partner with the University of Wisconsin Engineering College on the performance based approach if they can convince some graduate students that this would make an interesting research project. It would be a partnership. There are a few of those items which in the short term would probably not be able to tackle but might have to look at future budget proposals in the next biennium or if this partnership can be developed.

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

8.B.1 Fishing Tournament Regulations.

Michael Staggs, Director, Fisheries and Habitat Bureau stated that the 2003 Wisconsin Act 249 authorized the Wisconsin Department of Natural Resources to promulgate rules to authorize and regulate fishing tournaments. The Natural Resources Board authorized public hearings on a set of proposed regulations. Act 249 also established a bass fishing tournament pilot program to evaluate the effects of bass fishing tournaments in general and the effects of culling in particular.

The act required the Department to report the results of the bass fishing tournament pilot program by December 31, 2006.

The DNR presented 1) the final report on the bass tournament pilot program, 2) summary of public input received on the proposed fishing tournament regulations (FH-22-06), and 3) a proposed timeline to complete the rulemaking process.

Ms. Wiley asked how the Department obtained angler responses for the sociological study.

Mr. Staggs stated they were randomly selected statewide from the Department's Automated License Issuance System (ALIS) database angler license purchases and the same as the boating. They had a couple thousand boating people that were taken from the boat registration list so it was intended to be a random sample.

Dr. Clausen thanked Mr. Staggs for the work he put into this.

Mr. Staggs credited Andrew Fayram, Quantitative Fisheries Policy Specialist, who was very instrumental in putting this together and is also assisting him today with the presentation.

Mr. Welter inquired related to the invasive species question. You can do a certain amount with education. You can do a certain amount with tournament organizers. What you have is an increased enforcement problem and costs associated with a lot of those boats coming into an area, especially with larger tournaments. Those boats are coming in from other waters and it seems that it is hard to get around the idea that you cannot simply say "enforce the laws that are on the books" when you are going to have increased angler population. There will be more cost for enforcement. That is something that needs to be figured out and dealt with.

There is only a certain extent to which education and public information is going to help. There is a regulation component that needs to be dealt with. It may be different for a small local Wednesday night tournament as opposed to a big weekend tournament on a large water body from a lot of people outside of the area. Addressing all of those tournaments exactly the same way does not necessarily work. That is one thing that needs to be considered.

Dr. Thomas stated it would be nice to see in your discussion this summer that they would be pushing for much tighter enforcement and regulations to deal with invasive species and even at the statewide level for everyone. If there is one good thing that comes out of Viral Hemorrhagic Septicemia (VHS) is that it will cause that realization to happen in people. We are not now talking about eutrophication of a lake or choking out by some weed species, we are talking about a total collapse of the fish populations that they are interested in. We are talking about no fish left to catch next year. It is time to get serious about invasive species and moving diseases around from one place to another. The Department can take the lead here and march us down the right trail.

Mr. Staggs stated there is some interest in that among some of the responsible tournament organizers. Again, he had not proposed to talk about this further with the advisory committee but many of those folks are represented on the committee and with further discussion that would come forward. What the board has done with respect to VHS now does set the stage for exactly what you are talking about. People start to realize that you have to take personal responsibility for this. Just like your trailer maintenance, you have to do this. It is not something you just do if you feel like it.

The rules are already affecting many of the bass tournaments on the Mississippi River as well as other anglers. We do now have another lever to work with them. He did not know if they need it but hopefully they will work with the Department. They cannot move fish away from the water. The typical thing is to set up a weigh stand over here or maybe at the Wal-Mart. What they are finding is at a lot of the tournaments, people would fish wherever and then trailer their boats with live fish to a central place. We are finding a lot of these tournaments out there so we are working with people right now to say, time out. We need to find a better way to do this. We are getting more attention.

Dr. Thomas asked what set you off partially down this path. Was it the adamant view of Board Members that certain things are going out to public hearing that would not be accepted when they came back with the final rule package? She inquired whether it would be helpful to you in going forward in your discussions in June or July 2007 to hear after reading and seeing this whether members of the Board have at all modified their views or would you rather just let it sit for now?

Mr. Staggs stated that was one of the main points of this update is to make sure staff is moving in

some coordination with the direction of the Board. He really does not want to convene that advisory group unless you feel there is a need to get some more input on those activities. Otherwise, he is afraid it would not be a very productive use of their time. They can bring this forward for further debate. He was hoping as part of this information item to get any type of feedback and sense of direction or to obtain concerns.

Mr. Welter stated you can probably summarize the Boards' concerns as having been concerned about biological impacts, program costs, and invasive species as being the primary general areas. He is still of the belief that these tournaments should pay for the cost of administering these tournaments and researching the impacts.

When you talk about 250,000 anglers in tournaments, that does not tell us whether or not there is a bunch on anglers who are in 10 tournaments or whether there are 250,000 anglers in one tournament a piece. If the suggestion is they are averaging one or two tournaments a piece and you want to put on a \$2.50 fee per tournament or something like that in order to cover the cost of the program, that might be one way to go at it or to have an annual fee that would cover your tournaments from the state's perspective. It would not need to be as high as previously thought if there are 250,000 angler tournament involvements during the course of the season. That is one thing we might want to look at. He is still convinced it is incumbent on anglers to cover the costs of administration of the tournament program. He does not see another group that should be bearing that cost.

Dr. Thomas observed that Mr. Welter had not veered from the bottom line but sees that there are many options for getting there that perhaps someone in the Fish Advisory Group might be willing to look for a compromised way of looking at it.

Mr. Welter stated there are some things you can do in terms of biological impacts that reflect the idea that some of those impacts may not be as severe as first thought or we may have some flexibility in ways to deal with them as a result of this information. He is willing to look at that.

Dr. Clausen stated we are all looking at this from different aspects. We all know a lot more than we did before. The difference in 100,000 people paying for the cost to administer this is easier to deal with than 5,000 people. The mortality from what you can look at, yes, we have some issues. He is still concerned about the invasive species but has mellowed a lot because he knows more now.

Mr. Ela chimed in along with what Mr. Welter said but stressed there is flexibility. In terms of invasive species, we certainly have no reason to be less concerned now than when we go to hearing.

Mr. Poulson stated the numbers amazed him. Does the Sunday afternoon fishery put on by the Lions Club think they are in a tournament? He does not know how those responses play in. The figure astounded him. He was thinking more in the line of segregated tournaments and the other types. On other hand, he agrees with the Board. He is pleased with what the Board heard today.

Ms. Wiley stated the issue Mr. Staggs raised about the non-profit groups versus the profit groups is an important one particularly in terms of the fee structure.

Dr. Thomas stated there are some profit groups who probably make as big or bigger contributions to habitat, education and what have you. Just because they are a profit group does not mean they do not have a philanthropic side. We want to be careful about where we draw the line. Some people could be doing good things with the profit. Honestly we have all learned a lot from this and hopefully the Fish Advisory Committee has learned a lot from this too.

Mr. Staggs stated this is what he was hoping to get and also the range of the kinds of things the Department would discuss with the Advisory Committee. He is hearing the Board is okay with the Department continuing to work with the Advisory Committee, at least on some of these issues. He will keep communications open.

Dr. Thomas asked for any other items from the Board.

Mr. Ela stated that this would be Mr. Welter's prerogative. As outgoing Secretary he has a suggestion to make that we do not try to do the minutes the next meeting because it puts everyone in a time bind. Instead, we publish on the website a Brief of Action after the meeting which summarizes actual actions taken so that if people want to know how the Board acted on a certain issue, they can find out right away. The narrative can come in two months. Does anyone have a problem with this?

April 25, 2007

Dr. Thomas asked staff if there are any kinds of legal issues associated with this.
Ms. Schlaefer, Deputy Secretary stated there are no legal issues but just a practical concern to make sure the Brief of Action is run by the Board Secretary prior to posting would be fine.

Mr. Ela MOVED, seconded by Mr. Welter to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 4:15 p.m.