Natural Resources Board

M I N U T E S

The regular meeting of the Natural Resources Board was held Wednesday, December 5, 2001 in Room 027 of the State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 8:30 a.m. All December Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair
James E. Tiefenthaler, Jr., Vice-Chair
Gerald W. O'Brien, Secretary
Herbert F. Behnke
Howard D. Poulson
Catherine L. Stepp
Stephen D. Willett

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ORDER OF BUSINESS

1. Minutes to be approved.
1.A. Full Board Minutes of October 24, 2001.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson, approval of the minutes of the Full Board of October 24, 2001, as presented. The motion was carried unanimously by those members present.

Committee of the Whole Minutes of October 24, 2001.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, approval of the minutes of the Committee of the Whole of October 24, 2001, as presented. The motion was carried unanimously by those members present.

Teleconference Minutes of November 16, 2001.

Mr. Behnke MOVED, seconded by Mr. Willett, approval of the minutes of the Teleconference of November 26, 2001, as presented. The motion was carried unanimously by those members present.

1.B. Agenda for December 5, 2001.

Deputy Secretary Fennessy asked that the following changes be made: Addition of Item 3.C.3, Retirement Resolution for John Konrad. Item 6.B.3. Adoption of Order FH-35-01(E) is an emergency order - revision of s. NR 20.10 and s. NR 20.33, Wis. Adm. Code, pertaining to registration deadline for the sturgeon spearing season. Addition of Item 6.B.13. Adoption of Order FH-30-01-revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing for whitefish with trap nets in Lake Michigan. Addition of Item 6.B.14. Authorization for hearing on revision of ss. NR 47.008(1) and NR 47.903(3) and (6) and creation of s. NR 47.75, Wis. Adm. Code, pertaining to forest fire protection grants and sustainable forestry grants for county forests. Deferral of Item 6.B.5. Authorization for hearing on revision of Chapters NR 299 and NR 300, Wis. Adm. Code, pertaining to permit time limits and creation of Chapters NR 351 and NR 352, Wis. Adm. Code, pertaining to exemptions for nonfederal wetlands and the identification and delineation of nonfederal wetlands.

With these changes, Mr. Poulson MOVED, seconded by Mr. O'Brien, approval of the agenda for December 5, 2001. The motion was carried unanimously by those members present.

2. Ratification of acts of the Department Secretary.
2.A. Real estate transactions.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler, approval of the real estate transactions, as printed. The motion was carried unanimously by those members present.

3. Committee of the Whole.
3.A. Citizen Participation.

3.A.1. Peter LeClair, Two Rivers, representing Central Lake Michigan Commercial Fishing, Incorporation, was scheduled but did not appear before the Board.

3.A.2. Sarah Jerome, Wales, representing Kettle Moraine School District, spoke in opposition to hunting on the Lipha Tech land in Waukesha County. Ms. Jerome presented the Board Members with a copy of her presentation. She stated that she was representing 4,400 students, approximately 8,000 parents that live in her district, and many who have chosen their district because of the high quality of the schools. She urged the Board not to approve the plan for acquisition of the Lipha Tech property for the following reasons: 1) Lipha Tech property is approximately 200 acres-surrounded by residences and school property. Statute 29.301(1)(b) states that no hunting shall take place within 1,700 feet of school grounds (a map was provided to show location). She stated that she was advised by expert hunters that there would be so little land left to hunt after the implementation of 1,700 feet border, that the property would be of no use to the Department of Natural Resources as a public hunting preserve. 2) If the Department of Natural Resources moves forward with this plan, contrary to the legislature's

intent, it will be bad public policy to knowingly put a public hunting preserve next to schools and children's playgrounds. Ms. Jerome pointed out an article from the Milwaukee Journal-Sentinel, dated November 25, 2001, regarding hunting fatalities clearly states that hunters, even well intended ones, do cause unintended fatalities. 3) The school district is willing to work as a partner with the Department to create an environmental park similar to the Lapham Peak State Park, but smaller. The district is willing to work as a partner to create a lab and habitat setting, but with no hunting. She also presented the Board with a letter dated November 29, 2001 from James E. Doyle, Attorney General, and Elizabeth Burmaster, State Superintendent of Public Instruction, that stated "The safety of our children while in school continues to be of paramount concern to all of us. . . school safety has assumed a prominence never seen before". Ms. Jerome urged the Board Members to consider the most precious natural resource the state has, its children.

Discussion and questions pursued regarding building of future schools, safety issues, and athletic fields.

Chairman Solberg called on Representative Albers

Representative Sheryl Albers - stated that she had two issues to cover. The first regarding Nancy Kuczynski, wishing to put a pond on her property. She stated that this process has now taken eight months and Ms. Kuczynski doesn't have a permit yet. Representative Albers went on to explain the process that Nancy Kuczynski had gone through and questioned why this permit process could not be made easier to understand. She stated that the company of Vierbicher Associates, Incorporated has been working with Ms. Kuczynski and spoke of the amount of money Ms. Kuczynski had already spent. She further stated that the second item she wished to bring up was the stewardship proposals that come before the Joint Finance Committee. She stated that she wanted to see assessed versus appraised values because she wanted us, as the State of Wisconsin, to stretch those stewardship dollars to the maximum possible and get good value for our money. Representative Albers asked the Board and the Department that they take a close look at the price and that when the Board and the Department send information to Finance, that they send the information necessary to make a decision because she would like to see it. Representative Albers left the Board Members with a letter to Mrs. Nancy Lange Kuczynski from Vierbicher Associates, Incorporated, along with pond plans. Representative Albers thanked the Board member for allowing her to speak.

Discussion and questions pursued regarding assessed and appraised values.

Deputy Secretary Fennessy - in fairness to the Department, I am not familiar with this case and I don't know of anyone that is with the exception of Representative Albers, I would like the opportunity to work within the office to get to the bottom of this and to get a full report out to the Board as to what has actually transpired and what our plan of action is going to be.

3.A.3. Michael Wagner, Dousman, as President of the Kettle Moraine School Board representing Kettle Moraine School District, spoke in opposition to hunting on the Lipha Tech land in Waukesha County. Mr. Wagner stated the children of the district are the potential future voters, taxpayers, and citizens of the state. Mr. Wagner urged the Board to purchase the Lipha Tech property in keeping with the true purpose of government, then work jointly with the School District of Kettle Moraine and the Town of Delafield to develop it and manage it as a truly safe haven.

Discussion and questions pursued regarding the donation of Lipha Tech land, Ducks Unlimited, stewardship grant funds, the 1700 foot hunting distance, and hunting amendments. Mr. Tiefenthaler showed a video to the Board Members of the Lipha Tech property that he visited.

3.A.4. Steve Vaughn, Wales, representing himself and the general public, spoke in opposition to public hunting on the Lipha Tech land acquisition in Waukesha County. Mr. Vaughn presented the Board Members with a petition, signed by over 200 citizens, that states, " If you agree with the following statement, we ask for your signature to show your public support. Recognizing that the Kettle Moraine School District owns land in the Town of Delafield commonly known as the 'Tessman Farm property' and that the school district has purchased this land for the purpose of erecting school buildings, such as elementary or middle schools, we the undersigned wish to register our opposition to any plan that would permit public hunting on the adjacent property, commonly known as the 'Lipha Tech property'". Mr. Vaughn stated the concerns of the residents were the safety of the school children to concerns about disruptions to the children's education that would occur with public hunting next to the schools. He further stated that if the Department goes forward with the land transaction as presently planned, the Kettle Moraine School District would be faced with the possibility of abandoning plans for their adjacent property. He further stated that the district would have to begin the task of finding more land for expansion. and this process took four years the last time. Mr. Vaughn appealed to the Board Members to keep public hunting off the Lipha Tech property and to work with the Kettle Moraine School District and the citizens of the area to create a nature preserve, park, or other complimentary use of this property.

Discussion and questions pursued regarding public hunting, location of hunting on Lipha Tech land, managing game, and studies completed by school districts adjacent to natural areas used for hunting.

3.A.5. Kathy Johnson, Town of Genesse, representing herself, spoke in opposition to hunting on the Lipha Tech land acquisition in Waukesha County. Ms. Johnson explained that the area is active, growing, and determined to protect their children. She stated that successful activity programs run Monday through Saturday, 14 hours a day at the school (parent meetings, scout meetings, sports activities). She further stated that allowing public hunting adjacent to the school property was unacceptable and that safety for the children is the most important issue. Ms. Johnson stated that the only opposition to the situation is public hunting adjacent to the school property. She stated that concerns include hunters going onto school property without knowing, that children would go onto the hunting property and scare the hunters without knowing, the sounds of hunting will disrupt the class room, children can be injured, injured animals can come onto school property, and she stated she is afraid that the children will be afraid to go to school, afraid to go to recess, and sporting activities. Ms. Johnson urged the Board Members to partner with the Kettle Moraine School District to work out a solution. She read from the DNR Mission Statement, " . . . to ensure the rights of all people, to work with people, to understand each others views, and to carry out the public will". Ms. Johnson urged the Board to ensure the rights of these people, work with them to understand the views, and carry out public will.

3.A.6. Dick Koerner, Neenah, representing himself, spoke in support of sturgeon fishing. Mr. Koerner stated that he serves on a sturgeon advisory board and represents the Twin City Rod and Gun Club to this advisory board. He stated that the proposal regarding sturgeon fishing deadline should be extended to register legally speared sturgeon. Mr. Koerner read wording added to the regulations for 2001 which stated, ". . . On any day during the open spearing season, persons may spear beginning at midnight. Any sturgeon speared must be registered the same day it was speared by 6:00 p.m." He stated that a spearer must quit spearing in time to travel with his/her fish to a registration station prior to 6:00 p.m. and that spearing is not allowed between 6:00 p.m. and midnight. Mr. Koerner stated that you can't have an ending time for spearing the same time as a registration deadline and so a half-hour is needed for potential problems. He stated that he would like to see the hours changed to 6:30 a.m. to 12:30 p.m. with a deadline to register being 1:00 p.m. He stated that gives a fisherman one-half hour to get off the lake and to the place of registration.

3.A.7. Maurice Sullivan, Town of Summit, representing himself, spoke in opposition to the Department of Natural Resources purchasing the Lipha Tech land in Waukesha County. Mr. Sullivan commended the Department of Resources for its continual effort to secure public hunting land. He stated that he is a beneficiary of the Department's successful policy and efforts. He further stated that allowing public hunting in a rapidly developing suburban area, that is designated for residential homes and a site for two schools, is misplaced and has prompted an unnecessary dispute. He stated that purchasing a 200-acre site, which has its best hunting grounds right adjacent to the school grounds and will encourage hunters to hunt in that location will pose an unnecessary safety issue to school children and parents using the grounds. He stated that within eight miles, at three sites (Vernon Marsh, Scuppernong, and Kettle Moraine Forest) lies 15,000 acres for public hunting. Mr. Sullivan urged the Board to not purchase this site for hunting purposes. He stated the school district engaged in a five-year effort to purchase land for the building of future schools. They made numerous offers on other sites and were unsuccessful. This school site, cost of approximately $500,000, came as the end result of a substantial search and a search that was completed before this issue came up.

Discussion and questions pursued regarding State of Wisconsin and development of the Lipha Tech land, private hunting, location of hunting, Ducks Unlimited, stewardship funding, other options, and safety issues.

3.B. INFORMATIONAL ITEM - Results of the 2001 gun deer season.

Bill Mytton, Deer and Bear Ecologist, showed a PowerPoint presentation summarizing the 2001 gun deer season. Mr. Mytton noted that it was a snowless deer harvest season. He stated there have only been three brown deer harvesting seasons in the last 40 years, 1960, 1990, and 2001. He further stated that the total deer harvests for 2001 were: archery season 69,478; October zone T season 44,516; nine-day gun season 291,563. This year more buck were shot than doe. He stated this could be for a few reasons, one being that freezers were still full from last year or that there are no deer out there. The aging results indicate there are deer out there but hunters harvested something different this year. Mr. Mytton reviewed the issues surrounding the Zone T season. He stated that he wanted to make the Board aware of concerns regarding free tags. The Department tried to issue everyone in the state with a free tag automatically. This was to actually save money to the Department, about $80,000. The legislature decided to levy a 50-cent fee on every free tag that was issued. So, to try and save $80,000 they were penalized $460,000. This is an issue that will need to be addressed in the future as they try and make things easier for the sportsmen sometimes there is a cost that comes with that and then they get criticized for changing things every year. He further stated that one of the tasks they set out for all of the managers was to document snowmobile trail signs, whether they were ready to go for the snowmobile season. From over 30 e-mails that Mr. Mytton received from biologists across the state, all of the trails had already been heavily marked if not completely marked for the snowmobile season prior to the nine-day gun season. He stated that he received one e-mail stating they had noted vandalism on those trails. Mr. Mytton demonstrated two graphs regarding the nine-day regular firearm deer season harvest from 1977 to 2001. He further demonstrated a graph illustrating the state regions and the nine-day gun season totals. He also demonstrated the regions totaling buck fawn, doe fawn, and adult doe totals. Mr. Mytton stated that the Deer Donation Program was again very popular this year. The decrease in donation was merely the decrease in the harvest. He stated that health samples were taken across the state, as usual, with over 500 deer sampled to date. This sampling will be continued every year to make sure that the deer herds stay in a healthy status. (A copy of Mr. Mytton's complete report is incorporated in the official Board minutes).

Chariman Solberg - I received a call in the last few days from Senator Decker regarding the fawn situation. If you could talk to him about this, I would appreciate it. I know the deer coalition is talking about this. I think that we need to let folks know that we have these statistics, they are the right statistics, and we know what the buck fawn take is. I agree, I don't think that we need to put this on the deer registration.

Discussion and questions pursued regarding the October hunt, regular hunt in November, processing fees, free tags, and deer registration.

Tom Harelson, Director, Bureau of Law Enforcement, showed a PowerPoint presentation summarizing the 2001 law enforcement season report. Mr. Harelson reflected on hunter attitudes. He stated that the weather impacted the number of folks hunting. He presented ways in which hunters preserved their deer before processing. Warm and rainy weather over loaded deer processing businesses with long lines at the processing centers and hunters were turned away. Mr. Harelson stated this was the fifth safest deer season on record with 12 non-fatal accidents and seven fatal accidents (includes one probable homicide). The average age of the shooter was 33.9 years old. Juvenile shooters were four or 23.5 percent, rifles were eight or 44 percent, shotguns were nine or 50 percent, and handguns one or five percent. Of the hunting accidents 63 percent or two involved members of the same hunting party; someone they knew and were hunting with caused these to happen. 42 percent or eight, occurred during the common hunting practice of deer drives, in these cases hunters are shooting at running deer. 31 percent or six were self-inflicted injuries, people shooting themselves. And, 26 percent or five occurred during the practice of group hunting. He presented a graph showing the number of fatal and non-fatal accidents from 1984 to 2001, demonstrating the numbers were down except for 1987. Mr. Harelson reflected on a fatal accident in Eau Claire County and a non-fatal accident in Dodge County. He stated the arrests were 1340 during the deer gun season, a slight 13 percent decrease from 2000, when 1533 arrests were made. This was the lowest since 1976. There were 38 juvenile arrests, an increase up from 30 last year but the trend continues to go down. (A copy of Mr. Harelson's complete report is incorporated in the official Board minutes).

Discussion and questions pursued regarding evaluation of the 2001 deer season hunting accidents.

Mr. Harelson continued stating, there were budget problems this year and a lot of the wardens ended up taking days off and they were very limited in mileage. He stated that the ten most common citations given out were: uncased firearm in or on a motor vehicle, loaded firearm in or on a motor vehicle, hunt over illegal bait, hunt within 50 feet of a road, shoot within 50 feet of a road, fail to attach or validate tag, operate ATV on the roadway, hunt before or after hours, group deer hunting, and hunt without blaze orange. Mr. Harelson stated there was a great increase use of ATV's in the hunt, some good, some bad. ATVs are an outstanding tool, the ability to get deer in and out of the woods is incredible. The negative is that it is common for wardens, in their reports, to indicate there are individuals hunting that disturb other hunters. He stated that the Alis System is simply outstanding, being an outstanding tool for wardens to be able to resolve problems for hunters and also to be able to complete investigations out in the field. Mr. Harelson stated they need to find a way to simplifying the tagging and changing it every year. Most warden reports were of people in confusion shooting deer in Zone T units not knowing what the tags were on their license. Mr. Harelson offered to the licensing, wildlife, and the secretary's office that law enforcement would like to take the lead and try to work on simplifying the system so that people can get back to enjoying hunting rather than worrying about the game warden showing up. He further stated that warden observations for 2001 deer gun season included: the changing landscape and hunting culture is making a difference, this has been happening for a number of years; huntable acres are dwindling; landowners and hunter conflicts have grown; privately owned hunting lands sneak in to the hunt, meaning they only hunt the edges of their private lands because they don't want to chase the deer off their property; and deer drives have all but disappeared because of the land issues.

Discussion and questions pursued regarding ATV trails.

Mr. Harelson stated there were no hunting accidents related to hours this year. He stated that wardens were concerned with the danger of checking hunters in the dark; a number of wardens felt they should revisit this issue but if continued should mount a media campaign for 2002. He further stated that disposal of deer parts and spoiled carcasses were offensive to non-hunters and it is something they will be trying to deal with in the media. He stated there were two albino buck in Buffalo County, one was shot and one died of natural causes and there was a red deer shot in Rock County in which the hunter mistook it for a white tail deer. He stated this was the fifth lowest year on record for accidents, 700,000 hunters harvesting nearly 300,000 deer. This was the lowest year every for arrests. He stated there were over 4,000 hunter education instructors and shows the impact they have on people with following the law. He stated they had outstanding cooperation from Sheriff's Departments. The Department actually spent over 18,000 hours during the nine-day deer season and no wardens were hurt. If Board Members wish to have copies of warden stories, they are available.

Chairman Solberg asked Mr. Harelson to coordinate with Mr. Mytton a meeting with Senator Decker. He stated, I am requesting that you also go with him. He had some of the same concerns that we are talking about, before they get out of line, as far as a tag is concerned. If both of you could review this issue with Senator Decker, I would appreciate it.

Discussion and questions pursued regarding trespassing, the trespass law, and shooting across private property lines.

Marilyn Davis, Director, Customer Service and Licensing, showed a PowerPoint presentation of the 2001 gun deer season sales activity report. She stated this was the fourth largest year for record sales, with the highest year in 1990, being down 6,172 from last year. She further stated that the Automated License Issuance System (ALIS) processed 76,217 transactions on November 16, 2001. This was over $6.2 million in sales during the last week or 31 percent sold during the last week of the gun season. The license sales reopened on December 3 for the late Zone T season so the final numbers for the year will get adjusted. Ms. Davis stated they automatically issued one Zone T tag with each deer hunting privilege. She stated they downsized the tag to save money. The material that licenses are printed on is fairly costly because of its durability. She further stated they did see some problems arise as the result of downsizing the tag and some hunters not looking first and using the entire tag. The bonus permit sales were 202,477 issued statewide with 40,852 for the Zone T units. Ms. Davis presented the top sales locations in the state.

Ms. Davis touched on who deer hunts in Wisconsin - 11 percent under the age of 18; seven percent were 65 years and older; 9,395 were 12 year olds; 108 turned 12 during the season; 6.7 percent were female; and 6 percent were non-resident. Ms. Davis presented a map of the United States indicating the number of hunters coming to Wisconsin for the 2001 gun deer season. She stated that every state in the nation was represented along with 10 foreign countries. The online license sales opened October 30, 2001. They found it to be quick and had a positive response. More than 1,400 purchases were made online to date. In addition to online license purchases, a website has been developed that allows our customers to input their special permit application data on line regardless of where they pay their $3.00 fee. If the customer also wishes to pay their $3.00 fee on line that option is available to them. Today, their numbers showed they had 889 turkey applicants come through this site and 171 bear hunters. This site is going to offer the person who might have realized they made a mistake in submitting information they can correct it, and the Payment is by credit card for the $3.00 fee paid on line.

Discussion and questions pursued regarding data, less complaints, confusion of deer tags, and Zone T tags.

3.C. Retirement Resolutions.
3.C.1. Mary Halvorson.
3.C.2. Harry Libby.
3.C.3. John Konrad.

Deputy Secretary Fennessy reviewed the careers of each retiree and commended them for their excellent years of service to the Department and the State of Wisconsin.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, approval of the retirement resolutions, as presented. The motion was carried unanimously by those members present.

4. Board Members' Matters.

4.1. Herb Behnke - I have a Resolution that I would like to present the Board which has to do with a resolution on legislative review of Deer 2000 Rule Order WM-40-00, Clearinghouse Rule 00-154.

STATE OF WISCONSIN NATURAL RESOURCE BOARD

RESOLUTION ON LEGISLATIVE REVIEW OF DEER 2000 RULE ORDER,

WM-40-00, CLEARINGHOUSE RULE 00-154

Whereas, the Deer 2000 process involved over 4 years of public involvement, with all user groups invited to participate, and had over 16,000 people participate with hundreds of the most active donating over 20,000 hours of their time.

Whereas, the Deer 2000 process resulted in a number of significant recommendations, statutory proposals, and rule proposals pertaining to deer management that have been stalled in the State Legislature for almost a year.

Whereas, the State of Wisconsin Natural Resources Board has approved administrative rule proposals pertaining to deer hunting that were recommended by the Deer 2000 process at their meeting in January 2001, and approved modifications to the rule as a result of Legislative recommendations at their meetings in May of 2001 and October of 2001.

Whereas, the Assembly Natural Resources Committee objected to four components of the Deer 2000 rule proposal at their meeting in November 2001, including the 3 year experimental December hunt and 4 days in November of additional bow hunting in zone T units only.

Whereas, the Joint Committee for Review of Administrative rules is currently reviewing the objections of the Assembly Natural Resource Committee on the Deer 2000 rule order.

Therefore, be it resolved that the State of Wisconsin Natural Resources Board hereby requests that the Joint Committee for Review of Administrative Rules take action on the objections to the Deer 2000 rule in December, 2001, rather than delaying action which could result in the suspension of these significant components of the rule for several years through the next State Legislative session.

Dated at Madison, Wisconsin, December 5, 2001

STATE OF WISCONSIN
NATURAL RESOURCES BOARD

By:_____
Trygve Solberg, Chair

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler approval of the Resolution on Legislative Review of Deer 2000 Rule Order, WM-40-00, Clearinghouse Rule 00-154, as amended to add 2001 in paragraph six to the word December and correct the date of December 5, 2001 as date signed. The motion was carried unanimously by those members present.

4.2. Catherine Stepp - the mute swan management plan has come up again. The Department has issued a press release of three meetings, I believe, statewide with one being in the southeast area of the state, in Sturtevant on December 11. My concern is the press release went out from the Department that is really just restating all of the things that were said at our town hall style meeting that we had a year ago in Waterford where a lot of the public turned out in tremendous opposition to our mute swan management plan. At that time we had discussed that we would come back, do more fact finding, re-educate the public, since that had not gone on for nearly ten years, and be able to better explain the position and the thought process behind what we are doing. The press release that came out said there would not be any presentation made, that it is merely going to be a restatement of all of the things that were said at the meeting a year ago. Mostly having to do with the non-native species argument which fell flat on its face at the town hall meeting a year ago. I am concerned that if we are trying to make a case that this is a nuisance bird that can quickly get out of hand and that we need to do something now before it is a problem, we need to show the public that this is the case. I am meeting with Department staff today and we are going to be discussing this further on how to make a presentation, at least in the southeast area where this meeting is going to be, so that we can better educate the public, have a better understanding of what the problem is. I was disappointed at what the press release said that was merely a restatement of all things the Department said a year ago. I also

brought a copy of our local paper, it is on the front page of the community section. I think we need to look at this as a way and an opportunity to educate the public.

4.3. Gerald O'Brien - I believe the notice said that if we are going to put anything on for spring hearings we need to put it on today.

Chairman Solberg - you need to put that on in January.

Mr. O'Brien - I just wanted to make sure that we put on the question of the 16-day deer season.

4.4. Stephen Willett - I have nothing.

4.5. Howard Poulson - I will pass.

4.6. James Tiefenthaler - We all received a letter from Mr. Jeff Nania. He is asking that we provide guidance with staff, as part of the implementation of NR 353. I would like to, on behalf of this letter and Mr. Nania, do that. To provide flood plain analysis and issue guidance to the counties. I want to make sure that is incorporated before it comes to us, which I think is missing.

4.7. Chairman Solberg - I have a statement from Mr. Dick Koerner, Conservation Congress, stating "The DNR is the manager of our lands and water. The riparian owners own the lake bed. The State of Wisconsin has to be held liable for any claims related to navigation. The liability burden should not be placed on the local municipality". Chairman Solberg presented Mr. Koerner's letter to Deputy Secretary Fennessy.

Chairman Solberg - I have been appointed Chairman of the Year of the Trails Commission. Mr. Dan Poulson is also on the Commission, and our first meeting will be next week. We have two new state parks, I hope that we can certainly give the trails system a boost and get something done for all kinds of trails. Chairman Solberg handed out the Year of the Trails Commission pins to all Board Members.

Discussion and questions pursued regarding year of the trails, camping report, and master plan for camp sites and parks.

5. Special Committees' Reports.

There were no Special Committee's Reports this month.

6. Operating Committees.

6.A. Air, Waste and Water/Enforcement Committee.

6.A.1. Minutes of October 24, 2001.

Mr. Poulson MOVED, seconded by Ms. Stepp approval of the minutes of October 24, 2001, as presented. The motion was carried unanimously by those members present.

6.A.2. Adoption of Order FH-31-01 - creation of NR 328, Subchapter II, Wis. Adm. Code, pertaining to shore erosion control for inland lakes and flowages.

Mary Ellen Vollbrecht, Rivers and Habitat Section Chief, stated the adoption of shore erosion control for inland lakes and flowages would legalize the authorization of off shore breakwaters for protecting shorelines and shallow water habitat. She stated this rule also sets standards for the Department's decision on approval of these installations and advances their goal of consistency while facilitating an additional shoreline shallow water habitat protection option. Ms. Vollbrecht stated that Winnebago County has a cost sharing program ready to go for structures like this elsewhere in the system. Ms. Vollbrecht then briefed the Board Members on the hearing comments.

Discussion and questions pursued regarding permit application and fiscal estimates.

Mr. O'Brien MOVED, seconded by Mr. Behnke the motion of the adoption of Order FH-31-01 - creation of NR 328, Subchapter II, Wis. Adm. Code, pertaining to shore erosion control for inland lakes and flowages, as presented. The motion was carried unanimously by those members present.

6.A.3. Authorization for hearing on revision of Chapters NR 102, NR 104, and NR 106, Wis. Adm. Code, pertaining to stream classifications.

Robert Masnado, Water Quality Standards Section Chief, presented the Board with an addendum to the green sheet packet reflecting a summary of proposed use designation changes in NR 104. Mr. Masnado stated this addendum, in addition to the green sheet packet provides a comprehensive update for stream classifications in Wisconsin. He also attached a PowerPoint handout that was presented previously, which explained water quality standards in the most basic form. Their initial effort stretched from the 1970s until now. He further stated they only listed the streams that were included in their original effort as a Department. They were out in the field in mass in the 1970s evaluating streams, characterizing those streams especially those streams and lakes where there were waste water treatment plants, both municipal and industrial. He stated the rules were updated to reflect that. Mr. Masnado stated that in all reality the rules have not been updated comprehensively since that time, although they continue to add information in the database. He further stated that one of the purposes of the rule is to take approximately 30 binders in the Department office that have all the classification reports, the photographs, the field assessments, etc., and make sure the rule reflects them as accurately as possible. He further stated they will need to update some of their policies and procedures over the

course of the next few years where they have an impact to the discharge community. He stated they are calling this effort faze one because they have identified those charters that are already aware of the classification of the waters to which they discharge and already have waste water treatment plants constructed and designed to meet the standards of limits associated with those waters. Over the course of the next few years, they will be active on phase two. They have an external advisory committee in place now and are addressing the issues. They hoped to come before the Board again within the next year to present their ideas in consensus with the external advisory committee on how they can take another step forward. Mr. Masnado stated that if they go forward and obtain public hearings and they obtain the comments and make any necessary revisions, they are proposing to restructure the way they have the rule so that it is a much more logical format. NR 102 has a purpose and they will include the actual appropriate titles for the listings and what standards, what water criteria are associated with those designations in NR 102. NR 104 will now become the place where the stream classifications are listed. It will include those stream classifications that are not default classifications.

Discussion and questions pursued regarding permittee holders, standards, visits to streams, phase two addressing water quality standards, and a grandfather clause.

Mr. Willett MOVED, seconded by Mr. O'Brien that the Board authorize public hearing. The motion was carried unanimously by those members present.

6.B. Land, Management Recreation and Fisheries/Wildlife Committee.

6.B.1. Minutes of October 24, 2001.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien approval of the minutes of October 24, 2001, as presented. The motion was carried unanimously by those members present.

6.B.2. Approval of the Management Plan and Environmental Assessment for the Introduction of a Black River Elk Herd.

Bill Mytton, Deer and Bear Ecologist, spoke regarding the to approval of the management plan and environmental assessment for the introduction of a Black River elk herd. Mr. Mytton showed a PowerPoint presentation to the Board. He stated that one of the things that is interesting about this project it is not a Department project but a project of private citizens that followed Natural Resources Board Members protocol for implementing new introduction of animals into the state. It is also about citizens that have come to the Department seeking guidance in relationship to having a new reintroduction to an animal that was historic to this state. It is really about the people of this state working on a project for close to three years and this is the culmination of that particular project. He stated, there has been a huge amount of local support for this particular project. This support is not just about sports people or hunters. It is about business owners from a variety of different backgrounds supporting it. It is about politicians sending letters to members of the Board supporting it. It is about a general public supporting a particular project. Mr. Mytton stated, these people are asking to reintroduce an animal that defines to many people who have hunted this animal in the west or just have seen it in parks or other places. It defines clean air and water. It defines good habitat and wild places it once again may roam in Wisconsin, maybe not as wild as some of the other parts of the country. He further stated, Wisconsin is indeed the historic range of this particular animal. He reflected on the background of elk, historically ranged from one end of North America to the other whether it was North to South or East to West. Mr. Mytton presented maps illustrating this. Elk is a true native of Wisconsin. He stated they did a habitat and a conflict analysis in relationship to the amount of agricultural, road densities and other issues surrounding parts of the state. He pointed out that the central forest was found to be adaptable and that is why we should look into central forest for housing elk. He pointed out that they have an increasing wolf population, black bear population, and an increasing deer population in the central forest. This is actually better habitat in many aspects than Northern Wisconsin in many aspects in regards to species like this. Mr. Mytton stated that one of the issues included putting too many animals into the central forest initially. They are recommending lowering the population goals. They are also in the process and are drafting legislation that addresses elk as a huntable species in the state and elk being included into the Wildlife Damage Program. They are also addressing staffing of the program. The population goal would be 390. They are asking for statutory language for elk as a huntable species, basically this language was in the budget bill already. They are now having it drafted for a mini budget and they have a sponsor both on the Senate and Assembly side. Hunting is to be noted as a primary method to maintaining population goals leaving it at 390 and keeping elk in management zones. Mr. Mytton discussed Michigan elk herds and hunting. He stated they would recommend hunting with seasons similar to what Michigan has. They are seeking statutory authority for the inclusion of elk in the Wildlife Damage and Abatement Program so they would be the same status as bear, deer, and geese. Mr. Mytton spoke in regard to issues and the cranberry bogs. He stated that from the meetings they had throughout the state the number one issue that arose was cranberries, from the agricultural scene they heard from some dairy farmers. They had informal and formal meetings regarding these issues. Mr. Dan Poulson, Board Member, facilitated a meeting between the cranberry growers in the proposed project area and the cranberry association personnel also attended that particular meeting. Mr. Mytton spoke of the agricultural meeting started in August 1999. Mr. Mytton stated, another issue brought up by Board Members was Department of Natural Resources staff and whether they would have full time FTEs on the ground at the beginning of the project. At this particular point they do not have a full time person, however, they will ask for a full time person should this project get approved. In the Claim Lake project, funding was never an issue as far as getting the work done. He stated they had outside funding, primarily private, to do this. They not only have source funds from the budget they also have funding from the Rock Mountain Elk Foundation, University of Wisconsin Stevens Point, and conservation organizations. Mr. Mytton stated the need to develop an elk agricultural damage protocol. Basically the farmer calls the local biologist, the wildlife services is called to assess the damages, an analysis is done to determine what created the actual damage, and determine how much is too much. Each case will be handled on an individual basis, each case will be dependent on landowner's tolerance, and if damage is caused by elk, as a first step, Wildlife Services will be able to provide the landowner with scare devices. Wildlife Services provides landowner with noise cannons and pyrotechnics. If step one doesn't work, the Department of Resources staff will haze elk with the use of rubber bullets and concussion shells. DNR could have live capture with clover traps with hazing from helicopters. Immobilization of problem elk can also be used. Until there is an established elk hunting season, DNR will

euthanize problem elk if none of the other ways work. When elk become huntable, shooting permits may be issued. Mr. Mytton described the Wildlife Damage and Abatement Program. He stated that as a huntable species elk become eligible for cost share funds under the Wildlife Damage Program. The goal for elk and agriculture is to coexist. He further addressed car elk accidents. He referred to the Michigan statistics and showed maps regarding where the elk live and the location of main highways and the Michigan hunts. It was found that the elk impact of a proposed reintroduction on rare insects, through the U. S. Fish and Wildlife Service and their finding of not likely to cause jeopardy on rare and endangered insects and plants. He stated that if this project would go forward there would be a five-year review period and a variety of monitoring would be done. Monitoring would include winter browse studies on what elk are eating versus deer. There would be work done on rare herbaceous plant herbivory and rare insects. Other issues that have come are deer versus elk, will there be an impact on each other. Mr. Mytton stated they found at Claim Lake that they don't appear to have a negative impact. Other issues were what is the hunter density in the central forest compared to Michigan and Pennsylvania. The central forest has about 30 hunters per square mile during the nine-day gun season, the first weekend only, and Michigan has about 24 to 28 hunters per square mile, Pennsylvania didn't have any data. They assumed it was about 25 to 30 hunters per square mile. There would be no policy to reduce bear or wolf populations. it would be bear management as usual and wolf management to where ever it goes. With Claim Lake, they have one of the strictest protocols and they would use the same one with regard to disease prevention with the Black River elk herd and follow DATCP recommendation. Mr. Mytton stated they have done an extensive search of course elk herd, including Canada and the United States. He recommended that they go to a place such as Elk Island because it has been under a quarantine situation since 1907. It is a fenced property. The National Park Service did a 184 page disease risk analysis for the Great Smoky National Park in North Carolina and in Virginia. Their determination was that Elk Island was the safest place to get source animals in North America. Mr. Mytton stated that in speaking to the Rocky Mountain Elk Foundation the protocol used at this facility to test and ship has gone through numerous scrutinizes from not only United States veterinarians but also Canadian veterinarians. He stated that if this project were to be approved they would need to send a letter to that providence and to Ottawa requesting whatever number of animals and the government to government relationship would work to go ahead and ship the animals to the United States in a two year process. He further stated this particular project is not about the DNR, it is about local entities doing something for wildlife in their backyard. The Jackson County Wildlife Fund had initiated this when they saw how successful Claim Lake was and when they saw what happened to the community of Claim Lake and it was all positive. Others endorsing this project are the City of Black River Falls, the Ho-Chunk Nation, Jackson County Forests and Parks, Elk Foundation, the Major of Black River Falls, several private businesses, and the Department of Defense. He further stated the Rocky Mountain Elk Foundation First Chapter has net almost $1,000,000 in 2001 for the Claim Lake project. He stated they actually had to send money back to Rock Mountain Elk Foundation last year, they couldn't spend all the money they offered because they couldn't spend it on the projects last year. Mr. Mytton stated the Department was asking the Board to approve the management plan and environmental assessment for the introduction of Elk into the Black River Forest.

Chairman Solberg - requested a motion to go into Executive Session during lunch break.

Mr. O'Brien MOVED to go into Executive Session, a roll call vote was taken. The motion was carried unanimously by those members present.

Returning back to Full Board Chairman Solberg announced there was no action taken during the Executive Session.

Citizen Participation

Allen Jacobson, Hixton, representing Jackson County Wildlife Fund, spoke in support of the introduction of a Black River elk herd. Mr. Jacobson passed out a letter to all Board Members from State Representative Terry Musser requesting they support the Jackson County Elk Project. He stated that he is a lifelong member of Jackson County and lives on a farm that was in his family for three generations. Mr. Jacobson stated they believe the final draft of the management plan represents accurate science, thought, and an excellent guide for the future elk herd in Black River Falls. He stated that earlier he had sent all Board Members information on Oregon cranberries and elk herds. He further stated that he is Chairman of the Jackson County Elk Foundation's project which spearheaded a grass roots effort to return elk to the central forest of Jackson County. He stated that initially they wondered about local support but they were soon to know that once the information was out there the public support could not be contained. Mr. Jacobson stated that for decades and generations eastern Jackson County was looked at as a wasteland consisting of scrub oak, jack pine, and swamp with no tax base. Today, however, it is viewed as one of the crown jewels of the State of Wisconsin. Thanks to the Department of Natural Resources, piece by piece the jewels that comprise the crown have slowly been put back in place. He stated those jewels were white tail deer, timber wolves, black bear, wild turkeys, fishers, and both the sandhill and whooping cranes. Mr. Jacobson stated that the center stone of that crown is still missing and that center jewel is the elk. He stated they are not trying to repopulate an entire historical range of an animal but they believe when the opportunity exists to restore an animal to part of its former range it is their obligation to do so. If by some unimaginable change of events the elk prove to be unmanageable, their option of removing them is very viable. He stated they have already done that twice in the past. Mr. Jacobson stated that the Wildlife Abatement Program has worked for turkey, bear, deer, dairy farmers, Christmas tree growers, and it will also work for elk and cranberry growers if it is needed. He stated they are aware of the workload concerns of the present DNR staff and have repeatedly supported the hiring of an additional full time employee at Black River. Mr. Jacobson pointed out their organization is made up of hundreds of individuals volunteering to participate in any way their help can be utilized. He stated they can provide, at the states disposal, a volunteer labor force such as is beneficial to the wolf work. He further stated their organization has and will continue to financially support this project as necessary and however possible. Mr. Jacobson stated they have gone on record supporting the listing of elk to the Wildlife Damage Abatement and Claims Program even before they were a hunted species. He stated that not always has the actions of the Department or the Board been popular with the citizens of Wisconsin. He further stated that here in front of them is a chance to do something that is popular and the right thing, having the chance to recover from the ignorance of our forefathers by returning this magnificent animal to the heart of its original habitat. To a land that has proven it can support them and to a community that desperately wants to take care of them.

Discussion and questions pursued regarding damages in cranberry marshes and the State of Oregon elk population and damage.

Joel Harkner, Black River Falls, representing Harkner and Sons, Incorporated, spoke in support of the introduction of a Black River elk herd. Mr. Harkner stated that he is a cranberry grower and his family has owned the marsh since 1936, have been there since then and hoped to stay there. He stated the he supports the introduction of elk in eastern Jackson County. He stated he read the management plan and believes the detailed damage protocol is excellent, allowing each landowner to set their own individual tolerance level and no elk will be released until they are added to the Damage and Claim Program.

Discussion and questions pursued regarding problems with elk, cranberries, Oregon damage, and the Damage and Claim Program..

Gary Olson, Jackson County, representing Jackson County Board, spoke in support of the introduction of a Black River elk herd. Mr. Olson stated that he is Vice Chair of the Jackson County Board. He presented the Board Members with a Resolution (number 24-4-99) from the Jackson County Forestry Committee. He stated this resolution passed unanimously by the five voters. It then went to the County Board and there were 18 yes votes and one no vote. He further stated there were issues the Board talked about, mostly, the agriculture issues. There are five farmers or retired farmers on the Board and they were interested in the crop damage aspect. He stated he felt the management plan is good and if the management plan is followed there shouldn't be a problem. He further stated the other issue was forestry. They have an extensive forestry program in Jackson County. Some of the County Board Members thought the elk would take a lot of management, Mr. Olson stated he didn't believe they would. Lastly, Mr. Olson stated the other issue with the County Board were ATV trails. He stated they were concerned they would interrupt and move the elk but according to the management plan and what he heard, he felt it wouldn't be a factor in moving elk. Mr. Olson stated the County Board was satisfied with the management plan and voted 18 to one in favor to support the introduction of the Black River elk herd.

Discussion and questions pursued regarding potential disease, elk herds, problems with damage to crops, and reaction of the County Board regarding partnerships financially.

Richie Brown, Black River Falls, as the Department of Natural Resources Manager of Ho-Chunk representing Ho-Chunk Nation, spoke in support of the introduction of a Black River elk herd. Mr. Brown presented the Board Members with a Resolution from the Ho-Chunk Nation Legislature supporting the Black River elk herd. Mr. Brown read from the Resolution, "Whereas, many interest groups will be in attendance at the Natural Resource Board meeting to speak in support of the proposed re-introduction; and Whereas, the Nation wishes to enter into a partnership with the Wisconsin Department of Natural Resources and various other interest groups to support the re-introduction of Eastern Elk to a portion of their former range in Jackson County. Now therefore be it resolved that the Ho-Chunk Nation Legislature hereby draft a letter of support for the proposed re-introduction to be forwarded to the Department of Natural Resources and designate a member of the Ho-Chunk Nation to attend the Natural Resource Board meeting in Madison, Wisconsin to speak in support of the project". Dated December 4, 2001 and signed by Marlene Gamroth, Legislative Secretary.

Discussion and questions pursued regarding financial partnership with the Tribe, support within the tribe, and elk interest of the tribe.

Emil Giese, Alma Center, representing himself, spoke in support of a Black River elk herd. Mr. Giese stated that he lives on a farm in Jackson County. He stated that he is in favor of the introduction of Black River elk in Jackson County. He further stated that most of his neighbors are second and third generation farmers and some of them can recall when there were no deer, turkey, cranes, bear, or wolves in their part of the county. Economic times has been hard on a lot of farm families and they were all exposed to wildlife damage to some degree. Mr. Giese stated that he and his neighbors don't recall if they were asked if they wanted these animals nor have any of them asked for special consideration in any wildlife laws. He stated he has not yet to find a person to be opposed to elk in Jackson County. He further stated that most people are enthusiastic and look forward to viewing them. There have been questions that have been quickly satisfied when details of the management plan were given to them. Mr. Giese stated that he believes the only resistance to elk in Jackson County comes from cranberry growers and they in fact do not agree that there will be a problem. He stated that he farms 800 acres in Jackson County and he encouraged wildlife habitat and feels good about doing it. He further stated that he can understand the concern of the cranberry growers, but believes that the management plan showed them more consideration and protection from damage that any other farmer has seen up to now. Mr. Giese stated these elk would add another exciting value to their community and he was willing to trust the experts advice concerning the elk movement in Jackson County and believed the risk was minimal. He asked the Board Members to vote yes to approve this management plan.

Discussion and questions pursued regarding potential disease, testing for disease, and the detailed management plan.

Ron Kuehn, Madison, representing the Cranberry Growers Association, spoke in opposition to a Black River elk herd. Mr. Kuehn referred to page 24 and 25 of the Green Sheet Packet he read, "Claims reimbursement for crops damaged by elk are also available to farmers enrolled in the WDACP (Crop Damage Program) claim amounts are determined by crop appraisals conducted by WDACP field technicians, and are based on tested appraisal methods documented in the WDACP Technical Manual. Farmers are eligible for 100 percent of the losses up to $5000, and 80 percent of losses up to a maximum of $15,000, with a $250 deductible. Appraisal methods in the WDACP Technical Manual will be updated, where needed, to reflect damage specific to elk which may be of multi-year nature (e.g. severe elk damage to cranberry beds necessitating replanting)". Mr. Kuehn then referred the Board Members to page 43 and read, "Crop damage program would differ among the four alternatives. Alternative three would require a minimal crop damage program. Elk would be restricted to the core range at low levels. The chances of crop damage problems developing would be slight. If they did develop, aggressive lethal management techniques would be implemented. Alternatives one, two, and four would involve the more expensive and complicated programs described above including hazing, relocation, damage permit allocation, and crop damage payments". He stated that the green sheet properly acknowledges that crop damage is an issue. He further stated that what they are concerned about is the damage issue. Mr. Kuehn stated that, unlike turkey or deer, an elk is an extremely large animal, about 500 to 800 pounds and they can do enormous damage that potentially far exceeds the $15,000 limit. Mr. Kuehn stated he had a list of the growers that exist in the buffer zone and the core zone, which total 18. He also presented a list of 14 who are immediately adjacent to this proposed zone. Half of the cranberries grown are in this state, 20 percent of the nation's crop. He asked why we

don't design something that addresses a catastrophic event. If the chances of this happening are minimal let us address it and the crop damage issue.

Discussion pursued regarding digging and delving of elk, cost estimates, dikes, crop damages of farmers and cranberry growers.

Chris Thomas, Stevens Point, representing UW Stevens Point Research interests, herself, and Rocky Mountain Foundation, spoke in support of a Black River elk herd. As Associate Dean of the College of Natural Resources at UW Stevens Point, she expressed that the college is supportive of this project provided that reasonable accommodation can be made to the agricultural issues and provided that sufficient steps are taken to insure that diseases are not introduced along with the new herd. Dr. Thomas stated the College of Natural Resources played a role in the Clam Lake elk reintroduction and proud of the positive partnerships that are continuing to develop in wildlife research in that area. She stated they would like to work on the Jackson County project in the same way, in partnership with the others that are involved, as this project moves forward. As the Board of Directors of the Rocky Elk Foundation, Dr. Thomas stated they have been long term partners in the Claim Lake project, were supportive of the Jackson County project as long as the scientific community and the local community believe this to be a positive project. As a citizen and a hunter, Dr. Thomas stated she hunted in an area where the elk were reintroduced for many years before the elk got there. She stated that she was here to tell the Board that elk have been a very positive thing in her hunting life. She thanked the Board and Department for all the hard work in trying to balance the emotional, social, and economical issues they deal with all the time. She also thanked her students who were working on this project.

Tom Lochner, Wisconsin Rapids, representing Wisconsin Cranberry Growers Association, spoke in opposition of a Black River elk herd. Mr. Lochner passed out an informational packet to the Board Members. He stated there has been elk damage to cranberries and he provided the Board with pictures of damages. These pictures were from a grower in Oregon that sent them to Mr. Lochner. Mr. Lochner described the pictures of an elk digging into a dike, causing substantial confirmed damage to this cranberry operation. He stated that he attended a meeting this past weekend with growers from across the country. He further stated that he spoke with two growers, from Washington State and Oregon. He stated that he will be receiving an e-mailing list of growers that had damage and that are willing to speak to anyone that regarding problems with elk. One of the growers actually had the state agency on his property and they removed four bulls and in one night shot them after a herd mowed down his fence. Yes, growers out west have problems with elk damage. He stated they are not opposed to elk, they are concerned. Concerned that society wants the animals placed here in the state, then society should assume those costs associated with this, and all of the costs. That is what they are asking the Department to do and that has been their bottom line position all along. Mr. Lochner stated they know this puts them at risk and have asked the growers if this provides an acceptable level of risk? He stated that the first answers from the growers is no it does not provide an acceptable level of risk, their concern is the initial release is going to be very minimal risk and as they grow the risk gets greater, or the elk getting use to eating cranberries and being on the property. They are concerned about that. The response has been to mitigate that risk as well, we will let you get into the Wildlife Damage and Abatement Program early so if you want to get involved with abatement costs you pay 25 percent of those costs. Northland Cranberries ran an analysis on their property that is in this area. It costs them $82,000 for their cost share to put up a fence to protect their property. He stated they thought the Department could do better and suggested that this not advance until the state does better in the management plan. Mr. Lochner asked that the Board recognize they are not opposed to elk. He stated their growers were excited about having a wider diversity of habitat on their marshes, another animal in the area is exciting to them as well. He stated that elk are also an important part of that area in terms of economic activity. He suggested that the Board table this proposal, have the Department staff sit down with the proponents and the agriculture community and work out an acceptable damage program - we can take a look at bonding if that works for catastrophic events. We can take a look at whether the Department can designate these areas around this release as a special zone within the Wildlife Damage and Abatement Program, and to take a look at an overall program so when the Department has proposals to introduce species like this, they don't go into the hunter's pocket and take their money. They don't go into the farmer's pocket and ask them to cover the costs, they go to other sources and come up with a protocol to handle this so if society wants these animals out here they have a vehicle to pay for all of those costs.

Discussion and questions pursued regarding soil, cranberry grower's views, cost sharing, fencing, damage cost estimates, bonds, and catastrophic loss.

Jon Schweitzer, Black River Falls, representing Jackson County Forestry and Parks Department, spoke in support of a Black River elk herd. Mr. Schweitzer stated that he is the Assistant Administrator for the Jackson County Forestry and Parks Department for the past nine years and has seen many different proposals come before their committee as well as dealing with the forest. He stated they would, under the direction of the County Board of Supervisors, extend their support for the reintroduction of elk into eastern Jackson County. He further stated they supported the reintroduction because their agency has had a long standing history working closely with the Department of Natural Resources in the management of county forest lands in eastern Jackson County. Together they manage over 180,000 acres or 280 square miles of land in eastern Jackson County. He stated they feel very strongly that the introduction of elk would be a direct benefit to the county forest both from an ecological standpoint and an economic standpoint. He stated he felt the Department of Natural Resources has done an excellent job keeping his agency informed of the proposed project, hearing their concerns and developing what he thinks and what his committee would feel is a strong working document for the management of the proposed elk herd. Due to the fact that their county forest lands are enrolled into various state programs they are eligible to receive over $15,000 annually for habitat improvement projects that benefit a wide variety of species including elk, if the Board chooses to allow them to return. They installed over 50 steal gates to prevent or restrict vehicular access into potentially sensitive areas of the county forest. They used some of the money available to block off these sensitive areas from overuse by off road vehicles. They also have been involved in controlled burning of over 1000 acres of grasslands to promote a habitat type that is dwindling in their region. They also have been involved in a cooperative partnership with the Fish and Wildlife Service and the Wisconsin Department of Natural Resources to restore over 300 acres of oak and pine barrens in eastern Jackson County. The main goal was to improve habitat for endangered and threatened species but one can only agree that much of the work they are doing there would also benefit elk. They have also been working on seeding and gating logging trails upon completion of their sales contracts to provide permanent wildlife cover once sales are

complete. He stated that any of these projects have been completed with other partners such as the Jackson County Wildlife Fund and also the Local Chapter of the Wild Turkey Federation. They have also been undertaking a very aggressive harvesting program to target over mature aspens and oak to ensure that they get adequate regeneration of this species and make sure they will be a viable cover type in the county forest. They have also worked with the Department of Natural Resources in providing habitat maps by using their GIS System which has given the DNR a baseline of information to work from. This system has been used in partnership with the Department of Natural Resources to disseminate information about the timber wolf in Jackson County informing hunters and other people using the forest they are out there and to be aware while they are hunting. He stated they felt they could use that same system, if in fact elk were returned to Jackson County. They have also adopted a very strict ordinance prohibiting want and destruction of use of large off road vehicles in the county forest. This ordinance coupled with their gating projects has significantly reduced and minimized damage. He stated that as land managers they are often faced with the challenge of providing recreational opportunities while protecting the integrity of the resource. He informed the Board that today they would be making a decision that would make a positive impact on their local economy and yet would have little or no impact, as they could see it, on a local public resource. He encouraged the Board to vote yes to bring back elk to Jackson County.

Discussion and questions pursued regarding ATV trails and the management plan for elk,

Bernie Lemon, New Berlin, representing himself, spoke in support of a Black River elk herd. Mr. Lemon stated that he is a volunteer for the Rocky Mountain Elk Foundation and has been since 1987, presently being the State Chair. The State Chair represents those 6600 members who, over the past years, through volunteers have surfaced the elk. Mr. Lemon stated they do commit professional council and they offer miles and miles of great professional advice and experience. Mr. Lemon guaranteed their continued financial support. Since the elk study inception they, Elk Foundation volunteers, have been involved with and committing with the funding and fund raising for elk in Wisconsin opportunity. He stated their efforts and results represent the more than 6000 willing donors who have stepped forward and supported their good ideas and their efforts to generate money to support the elk reintroduction activity. Their actual reintroduction ideas began in September of 1994 when they knew the elk possibility was on the horizon. Since that date, Wisconsin money only, they have generated a little $660,000. That money is all Wisconsin money for Wisconsin elk. He further stated that in addition to that effort the 22 plus banquets held last year in Wisconsin raised more than $750,000 for national elk projects. Since the first Chapter event held in Wisconsin August 3, 1988, the volunteers, have committed more than $3,500,000 to national projects. On behalf of the somewhere near 6600 Wisconsin members who have supported some of his good ideas, Mr. Lemon thanked them. Mr. Lemon stated, may god bless the great elk of the State of Wisconsin.

Bill Hunyadi, Hayward, representing Rocky Mountain Foundation, spoke in support of a Black River elk herd. Mr. Hunyadi stated that he is the Rocky Mountain Foundation Regional Director for northern Wisconsin and the UP of Michigan. He stated that the Elk Foundation has never had the intent to conduct or promote or lead any elk reintroduction effort, they never say lets put elk here. But, when someone thinks it is a good idea, they would come along and fund feasibility studies. He stated that Claim Lake was a good idea, their foundation, their members contributed a sum of $500,000 for the first five years of the elk reintroduction study, the research phase. He further stated that when the Board brought an end to the research phase and made it ongoing, on the ground forever elk reintroduction effort, he thanked the Board for the decision. Since that time the Foundation added more than $160,000 into the program. He stated they have been pleased to have been a part of that program. He further stated that the Claim Lake area has benefited biologically and socially, it has been an economic factor, a good economic factor for the area and that community. Mr. Hunyadi stated their help didn't end with the money and it wouldn't end with the money in the future. He stated that any way the Foundation can help and support this project, they will. This help could be with transportation, identification of source herd, advice handling, public relations, anything they could do. Mr. Hunyadi stated that with the issue of the reintroduction to elk in Jackson County, they are ready to go, and he felt that the Department of Natural Resources has done its homework and has done a great job with this issue. He felt the plan makes good sense biologically, the social issues there have been largely resolved through agreement with most of the citizens in the area. Mr. Hunyadi wished to go on record stating that the Elk Foundation is here to be a partner, they are anxious to be a partner, they are anxious to help financially, they are anxious to help in any way they can. He stated that he is pleased with what the Foundation has been able to do in the past in Wisconsin.

Discussion and questions pursued regarding: Minnesota depredation, money, and investigation of claims; Minnesota state law, disease, staff support from the region for elk, management of elk and deer, taking necessary precautions, where the elk would be purchased from and why, steps to be taken for the purchase of elk, legislation, Wildlife Services, purchasing and cost of the elk, disease and farmers feelings on the introduction of elk, state budget, harvest permits, support of the regional staff and the agency's position.

Deputy Secretary Fennessy - the Secretary and the Secretary's Office, dictate the staffing and where the budget is going to go. The Secretary has made a commitment to support this. We have already addressed the short term issues of the Rocky Mountain Elk Foundation and the base budget. We will find the necessary resource by going to the legislature and reallocating it to make it happen.

Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler approval of the Management Plan and Environmental Assessment for the Introduction of a Black River Elk Herd. The motion was carried by a vote of four to three by those members present.

Yes	**Opposed**
Mr. O'Brien	**Mr. Behnke**
Chairman Solberg	**Mr. Poulson**
Ms. Stepp	**Mr. Willett**
Mr. Tiefenthaler	

6.B.3. Adoption of Order FH-35-01(E) - revision of s. NR 20.10(10), and s. NR 20.33, Wis. Adm. Code, pertaining to registration deadline for the sturgeon spearing season.

Steve Hewitt, Chief of Fisheries Policy and Operations Section, presented adoption of emergency order FH-35-01(E) regarding registration deadline for the sturgeon spearing season. He stated they have had an over harvest for the past couple of years on sturgeon so they are working with the Sturgeon Advisory Committee, who has suggested that perhaps one way, given the shortness of season, was to shorten the day and end the day at 1:00 p.m. to get closer to their target without running over. He further stated that based on discussions with members of the Sturgeon Advisory Committee and law enforcement, he presented an amendment to this rule which reads as follows:

Proposed Amendment to FH-35-01(E):

SECTION 2. NR 20.10 (10m) is created to read:

NR 20.10(10m) Fish for sturgeon by the method of spearing or possess or control a spear or similar device within a fishing shelter on Lake Winnebago system waters from 12:30 p.m. until 6:30 a.m. of the following day.

SECTION 3. NR 20.33(5)(c) is amended to read:

NR 20.33(5)(c) Effective date of season closure. The season closure shall take effect at 12:30 p.m. on the day following issuance of the department press release announcing the season closure in par. (b).

Mr. Hewitt stated the proposed amendment would change the closure of the spearing itself to 12:30 p.m. and still have the registration deadline at 1:00 p.m. He stated this is being done as an emergency order and they were also putting this on the spring hearing, so by the time the sturgeon spearing is over they would have some sense as to how this went before the spring hearings so they would have time to make modifications and suggestions at that time.

Ron Bruch, Sturgeon Biologist of Winnebago, showed a PowerPoint presentation giving the Board the sense as to where this emergency rule fits into the big picture of where they are going with sturgeon spearing and sturgeon management on the Winnebago System. He stated there have been numerous changes in the last 10 years and those changes have been effective. They have been able to reduce the over harvest of the adult female sturgeon in the spearing harvest in the Lake Winnebago System and they have done this in a way to try and maximize opportunities for people but at the same time protect the resources. He further stated this emergency rule is designed to buy them some time so they can work with the Sturgeon Advisory Committee to bring this back under control again. It was under control up until last year, what they have seen is the effort has increased faster than anyone anticipated. He stated that last year they issued 36,000 spearing tags, six years ago they issued 12,000. He further stated with the numbers of tags issued went up much faster than what they thought, as a result it caused problems resulted in a 50 percent over harvest of the adult female. Prior to that they had been staying close to the five percent target level. They are looking at the reduction of the spearing day, which would cut off about 50,000 hours a day, and he stated that he agreed with the 12:30 p.m. closure so people have time to get off the ice to the 1:00, very reasonable. Long term, he stated, they are working with the Sturgeon Advisory Committee, they met last spring and identified the key issues they have to deal with right now, the Winnebago situation that came up in the 2001season with the over harvest. What they proposed is to try and discourage spearers, the ones that aren't real serious about it. They are working with the State Senate with legislation to increase the spearing license fees from $10.00 to $40.00 for residents, from $10.00 to $200.00 for non-residences, using the bear kill permit as a precedent, that is the same as the bear kill permit. To remove the spearing tag from the conservation patron tag, they propose to do that in this legislation. One of the problems they have is there are so many tags out there they have a lot of group bagging taking place as a result of the conservation patron tags. There are 30,000 patron tags issued and only 6,000 regular licenses, yet the regular licenses are the bulk of the serious spearers.

Discussion and questions pursued regarding spearing, registration numbers, the regular and patron licenses, the Sturgeon Advisory Committee, and timelines for registering sturgeon.

Mr. Tiefenthaler proposed an amendment of registration deadline for 1:30 p.m.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien the motion of the adoption of Order FH-35-01(E) - revision of s. NR 20.10(10), and s. NR 20.33, Wis. Adm. Code, pertaining to registration deadline for the sturgeon spearing season, as amended to read with 1:30 p.m. deadline for registration. The motion was carried unanimously by those members present.

6.B.4. Authorization for hearing on creation of Chapters NR 150.03(8)(a) 22 and 23, and NR 353, Wis. Adm. Code, pertaining to wetland conservation activities.

Scott Hausmann, Wetland Team Leader, presented the authorization for hearing of wetland conservation activities to the Board. Mr. Hausmann stated that NR 353 is wetland conservation activities, it creates a general permit procedure for certain activities for certain wetland conservation activities, it creates a process for approving maintenance activities in pre-existing marshes and they are using 1991 as the pre-existing date, and it also sets up an individual permit process for non-eligible activities or activities that wetland conservation activities but they don't fall within the rule. He stated they are proposing this rule to address the problem of using the current permitting programs for wetland conservation activities for projects which have a good conservation purpose. He further stated their permit programs were designed to deal with development projects such as building structures or items like that in wetlands. Mr. Hausmann stated that people will be eligible for a permit under NR 353 would only be for those whose projects purpose is to wetland conservation, basically restoration or enhancement of wetlands or the management of wetlands. He stated that it is also only for the most common activities that are done for wetland conservation and those would be tile breaks, ditch plugs and fills, dike embankments, low brumes, excavation such as scrapes or very shallow ponds, water

level manipulation that can be turning up pumps, taking out dikes, vegetation control, and also wetland monitoring. He further stated that one of their concerns was time limits, how fast they can get these permits done, with the work group suggesting 30 calendar days to get a complete application and then 30 days to make a decision after a completed application is received. He stated they were proposing to handle in another administrative code which is NR 300, which will be brought before the Board next month. Mr. Hausmann stated the other major concern they need to continue to work on with regional planning commissions and local governments is the need for flood plain analysis, when these projects take place within flood plains. He reminded the Board this was an additional item for them to work on with the work group. Outside of the rule, Mr. Hausmann stated the work group will need to work on and continue to work on when this rule is passed, the need for training and guidance for staff, the consultant staff, and also to allow them to work with people that own private wetlands and help them manage their wetlands. With 75 percent of all wetland resources in the State of Wisconsin are privately owned, he stated they need to encourage the private owners to be doing wetland restoration and to be fully involved in the management of the wetlands into the future. Mr. Hausmann stated that his current plan was to have at least three hearings in the state.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson that the Board authorize public hearing. The motion was carried unanimously by those members present.

6.B.5. Authorization for hearing on revision of Chapter NR 299 and NR 300, Wis. Adm. Code, pertaining to permit time limits and creation of Chapter NR 351 and NR 352, Wis. Adm. Code, pertaining to exemptions for nonfederal wetlands and delineation of nonfederal wetlands.

This item was deferred to January 2002.

6.B.6. Authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing for Chubs in Lake Michigan.

Steve Hewitt, Chief of Fisheries Policy and Operations Section, presented the authorization for hearing pertaining to commercial fishing for chubs in Lake Michigan. The present proposal was developed in order to address the concerns of commercial fishers while also not increasing the incidental catch of lake trout. It reflects a compromise by reducing the minimum depth in both chub fishing zones during the winter period, while establishing a minimum depth in both zones for an eight week spring period (March 1 through April 25). He stated they predicted they would be saving up to 4,000 lake trout. Mr. Hewitt referred to a chart reflecting this. The proposed rule would change the minimum depth of commercial fishing for chubs in Lake Michigan. In the northern chub fishing zone it reduces the minimum depth from 55 fathoms to 45 fathoms during January 16 through the end of February and establishes a minimum depth of 45 fathoms during March 1 through April 25. In the southern chub fishing zone, it reduces the minimum depth from 60 fathoms to 45 fathoms during January 16 through the end of February and establishes a minimum depth of 45 fathoms during March 1 through April 25 in that part of the zone that is open for chub fishing at that time.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler that the Board authorize public hearing. The motion was carried unanimously by those members present.

Dick Steffes, Natural Resources Real Estate Director, presented the following land donations and land acquisitions.

6.B.7. TABLED ITEM - Statewide Natural Area land acquisition - Green County.

Mr. Behnke MOVED, seconded by Mr. O'Brien to untable the Statewide Natural Area land acquisition - Green County. The motion was carried unanimously by those members present.

Mr. Willett MOVED, seconded by Mr. O'Brien, that the Board approve of the purchase of 80 acres from Claude and Lynda Weber for $180,000 for Statewide Natural Area in Green County, as presented. The order was carried unanimously by those members present.

6.B.8. White River Marsh Wildlife Area land donation - Green Lake County.

Mr. Behnke MOVED, seconded by Mr. O'Brien, acceptance of the donation of 1 acre of land from Douglas Malnory for the White River Marsh Wildlife Area in Green Lake County, as presented, and that a certificate of appreciate be sent to the donor and that an expression of appreciation be made part of the official records of the Natural Resources Board. The motion was carried unanimously by those members present.

6.B.9. New Glarus Woods State Park land donation - Green County.

Mr. O'Brien MOVED, seconded by Mr. Behnke, acceptance of the donation of 10.84 acres of land from Green-Rock Audubon Society for the New Glarus Woods State Park in Green County, as presented, and that a certificate of appreciation be sent to the donors, and that an expression of appreciation be made part of the official records of the Natural Resources Board. The motion was carried unanimously by those members present.

6.B.10. Statewide Non-Point Program Easement land acquisition and donation - St. Croix County.

Ms. Stepp MOVED, seconded by Mr. O'Brien, that the Board approve the purchase of 40.5 acres for $150,000 and the acceptance of the donation of $81,600 from Harold and Janice Gelderloos for the Statewide Non-Point Easement Program in St. Croix County, as presented, and that a certificate of appreciation be sent to the donors, and that an expression of appreciation be made part of the official records of the Natural Resources Board. The motion was carried unanimously by those members present.

6.B.11. Statewide Public Access Area land donation - Washington County.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler, acceptance of the donation of 0.5 acres of land from Brian and Janeen Zimmerman for the Statewide Public Access Area in Washington County, as presented, and that a certificate of appreciation be sent to the donors, and that an expression of appreciation be made part of the official records of the Natural Resources Board. The motion was carried unanimously by those members present.

Chairman Solberg - requested Mr. Steffes to have a conversation with Representative Albers regarding her presentation and her concerns of this morning, assessed value and appraised value. Mr. Steffes responded, I thought the discussion was good this morning. It is a very complicated issue and I think this Board raised it at the September meeting, if I remember correctly. One thing that I would mention is that if these properties are under managed forest law or use value and those assessments are lower for those reasons there are some school aids that come to the local units of government and if it goes back into DNR ownership or some other higher tax assessment for other reasons, then those school aids drop off locally again. This is not an easy formula. Chairman Solberg responded, when they look at that, when that committee is looking at these larger purchases are you or someone else going to finance to discuss these matters? Mr. Steffes answered, we are available, Secretary Bazzell, or Deputy Secretary Fennessy or I.

Deputy Secretary Fennessy - we have had this discussion before. There was an audit of the stewardship grant program that went to the same issues if a local government buys a piece of property with an appraised value that is much higher in some cases which was referred to as ten times the assessed value which a local government has gotten. They come to the DNR and apply for a matching grant from us for the appraised value. That is what they are suppose to do, that is how we do it. We have had this discussion, we pay based on fair market value as determined by appraisals.

6.B.12. Rib Mountain State Park land acquisition, Project Boundary, and Goal Modification - Marathon County.

Citizen Participation

John Prange, Wausau, as President representing Marathon County Civic Corporation, spoke in support of the Rib Mountain State Park land acquisition. He stated that the Marathon County Civic Corporation has been in existence since 1937. They raise money for the construction of a ski chalet at the base of the Rib Mountain State Park Ski Area. He further stated that the Marathon County Civic Corporation strongly supports this acquisition of land to expand Rib Mountain State Park.

Bev Kordus, Wausau, representing SOME (Save Our Mountain Environment), spoke in support of the Rib Mountain State Park land acquisition. Ms. Kordus stated that SOME is in favor of this land purchase if the intent of the purchase is to add to and preserve the existing park land. She stated that SOME is very concerned about the possibility of existing park land being sold or swapped to a private developer. Ms. Kordus asked if this additional purchased land would be leased to Granite Peak or any other private entity. Mr. Kordus stated their greatest fear is an increasing loss of trees, wildlife habitat, loss of natural beauty, and simple pleasure to the eye. She further asked if any additional land will be in jeopardy several years down the road, if Granite Peak does not meet its envisioned profit margins due to dependence on weather or any other circumstances. She asked if any of this proposed park land be used for any other additional recreational activities to increase profits for the developer. Ms. Kordus stated that SOME's hope in this decision is that the Board will make the commitment to preserve the integrity of the mountain as much as possible. She urged the Board to consider this investment as proper stewardship, as park land for future generations. She stated that the Board's guidance would set an example for future Board Members, DNR employees, and anyone charged with the preservation of our natural resources.

Bill Paul, Wausau, representing SOME (Save Our Mountain Environment), spoke in support of the Rib Mountain State Park land acquisition. Mr. Paul stated that SOME is a group of individuals that have one thing in common, is they have a great interest in one of the state and county landmarks and that is Rib Mountain State Park. He stated they have been and continue to be on a mission to protect its integrity. Mr. Paul referred to a letter that he sent to all Board Members with his comments. Mr. Paul stated that recently he read somewhere that to protect our environment should be a part of our national defense plan. He stated that the Board Members and personnel of the Department of Natural Resources are the soldiers who have the responsibility for that protection. He further stated they have a tremendous responsibility in finding a balance between what is good for development and economy and what is good for the future of our country that goes well beyond the time that we are all here on earth. Mr. Paul applauded the purchase of the 3-M property. He stated that he hoped the Board would approve the purchase of this property and also require restrictions for the remainder of the park on how it can be developed. Mr. Paul stated that it is sad to see what has been done to the north slope of that mountain all for the sake of a recreational sport, it is gone and changed completely. He stated that SOME doesn't want the rest of the park destroyed as the first part has been done. Mr. Paul asked the Board to protect a piece of Rib Mountain State Parks integrity.

Gayle Wald, Wausau, representing herself, spoke in support of the Rib Mountain State Park land acquisition. Ms. Wald stated that one concern that she had about the purchase of the land is that it would be purchased by the state and used for the continued expansion of Granite Peak Ski Area. She stated that many people in the Wausau area enjoy the natural beauty of Rib Mountain and do not want to see continued development on this mountain. They fear that if development starts there would be no end. She further stated that Granite Peak Ski Area is unique in the respect that it is so close to the residential areas in Rib Mountain. This in itself presents many problems and challenges that other ski areas do not face, such as the run off and potential damage that could be caused to the surrounding residential areas. Ms. Wald stated this is one of the reasons she felt that continued development in this area needs to be limited and watched over very closely. Ms. Wald urged the Board to preserve this land in its natural state, undeveloped with the trees, wildlife, peace, solitude, and the beautiful fall colors for all to enjoy. She stated that Rib Mountain is a place that Wausau can really be proud of and a place they can say they did what was right for future generations.

Mr. O'Brien MOVED, seconded by Mr. Poulson, that the Board approve the purchase of 257 acres for $775,000 from Minnesota Mining and Manufacturing Company, Incorporated for the Rib Mountain State Park in Marathon County, modification of the project boundary to include the parcel and increasing the acreage goal of 1,224.7 to 1,461.7 acres for Rib Mountain State Park. The motion was carried unanimously by those members present.

6.B.13. Adoption of NRB Order FH-30-01 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing for whitefish with trap nets in Lake Michigan.

Steve Hewitt, Chief of Fisheries Policy and Operations Section, presented the adoption of NRB Order FH-30-01 pertaining to commercial fishing for whitefish with trap nets in Lake Michigan. He stated the substantial rule would increase the opportunity for whitefish netting and encourage use of trap nets in the commercial fishery. There are six items in this order. On items one, two, three, and five are those that are housekeeping. The first item addresses that there is a difference in the northern chub fishing and the southern chub fishing zone. Section two repeals a section that use to be relevant, since we have quotas in that fishery now, that section is irrelevant. Section three is a housekeeping provision that restores language inadvertently repealed in 1997 through the adoption of FM-51-96. Section five deals with a change of a word from or to and.

Paul Peeters, Biologist, spoke regarding section four and section six of FM-30-01, section four dealing with trap net depth restriction and section six dealing with the Whitefish Bay proposal. With a PowerPoint presentation, Mr. Peeters presented the results of the past two and a half years of working with the commercial fishery to look at the possibility of developing deeper trout net rules. Mr. Peeters showed graphs of whitefish harvest in Wisconsin waters from 1949 to the present date. He stated they are currently at record levels, approximately two and a half million pounds. He further stated there is a concern when there is a commercial fishery that there is an incidental catch, but even though they have had this increasingly whitefish catch over the last decade they have managed to reduce the incidental catch of lake trout and salmon by over 50 percent. He stated the lake whitefish quota is not evenly distributed around the lake, about nine percent occurs in zone one, 82 percent in zone two, and nine percent in zone three. Mr. Peeters stated the fishery is heavily centered around the Door County area. According to the two and a half-year study revealed:

1) The average whitefish catch in deep nets, greater than 90 feet, was 50 percent higher than the average catch in shallow nets, less than 90 feet.
2) The mortality of sub-legal, less than 17 inches, whitefish was six times higher in deep nets, 3.5 fish per pot, than in shallow nets, 0.6 fish per pot, but low in all nets, the overall mortality of sub-legal whitefish n all nets was approximately 1.5 percent.
3) The mortality rate, dead lake trout per pot, of incidentally caught lake trout was 13 times higher in deep nets, 0.176 fish per pot, than in shallow nets, 0.014 fish per pot, but low in all nets, the overall morality of lake trout incidentally caught in all nets was approximately 1.3 percent.
4) Based on the deep trap net study, it is estimated that the harvest of 1,000,000 pounds of legal whitefish in deep nets would kill 8,064 sub-legal whitefish and 406 lake trout, while the harvest of 1,000,000 pounds of legal whitefish in shallow nets would have killed 2,113 sub-legal whitefish and 49 lake trout.
5) Although the study suggests that deeper trap nets will kill slightly more lake trout than those fished under present rules, the kill rate is still far below what occurs in large-mesh gill nets. Based on separate monitoring of commercial gill net effort, we estimate that the harvest of 1,000,000 pounds of legal whitefish by gill netting would kill 16,385.

Mr. Peeters presented graphics showing the whitefish harvest by pot depths of the 2000 and 2001 data, sub-legal whitefish catch by pot depth 2000 and 2001 data, dead sub-legal whitefish by pot depth 2000 and 2001 data, lake trout catch by pot depth 2000 and 2001 data, and lake trout kill by pot depth 2000 and 2001 data. He stated that based on two years of data demonstrated the incidental impact of catching one million pounds of whitefish in trap nets set in less than 90 foot of water compared to trap nets set in more than 90 foot of water.

He stated that impediments to the commercial industry fishing more entrapment gear and less gill net. He further stated that within the last decade, lake whitefish have changed their habits and are being caught deeper. Current trap net depth restrictions restrict nets to waters shallower than 15 fathoms (90 feet). Trap nets cannot be set on any bottom type, and current trap net effort in zone two has utilized almost all areas suitable for trap nets sets.

Mr. Peeters reviewed the Public Hearing Synopsis. He stated recommendations as: identify additional ways to encourage the commercial fishery to fish less gill net and more entrapment gear; modify current depth restrictions to permit trap nets to be fished deeper; expand areas where entrapment gear can be fished; and enact these rule change proposals and work with the commercial and sport groups to develop additional net marking requirements.

Recommendations given by Mr. Peeters to the Board were: identify additional ways to help them encourage the commercial industry to fish less gill net and more trap gear. One of those ways would be to modify the current depth restrictions and permit trap nets to 150 feet, that is what section four does. Section six would expand areas where entrapment gear could be fished, removing the seasonal restriction in the area between Cave Point and Whitefish Point. He stated that if these rules were enacted they could work with the commercial sport groups to develop additional net marketing requirements after the fact.

Citizen Participation

Charlie Henriksen, Baileys Harbor, representing Wisconsin Commercial Fisheries Association, spoke in support of the adoption of Order FH-30-01-revision of Chapter NR 25, pertaining to commercial fishing for whitefish with trap nets in Lake Michigan. Mr. Henriksen thanked the Board for encouraging the staff to work with them on putting the study together. He stated that based on the usual timetable they work on, they did this study in pretty quick time, they are here approving a rule change and the study only ended in October. He further stated that what made this possible was they provided LTE staff time for all the on board monitoring for the participants of this study. He thanked Mike Staggs, Bill Horns, Paul Peeters, staff in Sturgeon Bay, Ken Royseck, and Mike Toneys. He wanted to make the Board aware of how much they appreciated their help.

Discussion and questions pursued regarding bulk of the trap netting, uniformed net markings, and safety issues.

Mr. Behnke MOVED, seconded by Mr. O'Brien adoption of Order FH-30-01 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing for whitefish with trap nets in Lake Michigan, as presented. The motion was carried unanimously by those members present.

6.B.14. Authorization for hearing on revision of ss. NR 47.008(1) and NR 47.903(3) and (6) and creation of s. NR 47.75, Wis. Adm. Code, pertaining to forest fire protection grants and sustainable forestry grants for county forests.

Paul DeLong, Forestry Director, introduced the authorization for hearing pertaining to forest fire protection grants and sustainable forestry grants for county forests. He stated this is about a new grant program that was established in this budget trying to move it along quickly to get money allotted yet this fiscal year. He stated he appreciated that the Board could take this up on relatively short notice. He further stated that he asked Mr. Barkley to explain what the new grant programs are for the counties. He stated that Mr. Barkley is a 20 plus year veteran of the Department, spending time out in the field until this year, agreeing to join us this year as a county forester specialist and he has been an excellent addition to our program.

Jeffrey Barkley, County Forest Specialist, appeared before the Board to request hearing approval on two grant programs. The first pertains to the sustainable forestry grant for county forests. He stated they have had a partnership program with the county forest for over 70 years. Annually, they provide technical forestry assistance to the county forests by their obligations under Chapter 28 and also to benefit forestry as a whole in the State of Wisconsin. Mr. Barkley stated they keep over site of the program to make certain the county forests are managed according to the land use plans. These are their core activities, however, each year there are short term projects that are identified. These are usually identified in the annual work plans. These hours are in addition to the core hours and they provide the counties annual staffing for the core hours but they also agree that if time and money is available they will assist them in the short term projects. With staffing and budgetary issues as they are, they have not been able to assist them in that fashion and county budgets are tight as well. The Sustainable Forestry Grant was approved in the last budget for $200,000 annually to help the county forests address the short term work load issues and promote sustainable forestry. Mr. Barkley requested the Board to approve the authorization for hearing of the sustainable forestry grant for county forests.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler that the Board authorize public hearing for the sustainable forestry grant for county forests. The motion was carried unanimously by those members present.

Mr. Barkley stated there are two changes being proposed for this forest fire protection grant. This grant has been around for several years and was originally drafted to assist fire departments in municipalities and expand the use of our local fire departments and their forest fire depression efforts. The changes that are being proposed are based on the recommendations of a fire department advisory council. One such change would move the deadline for application from October 1 to July 1 to better accommodate the fiscal year that most municipalities use. Secondly, it would allow the fire departments and municipalities to initiate work once they sign the grant agreement. It would make it more consistent with some of the other grant programs they are using and it would also streamline the process making it user friendly.

Mr. Willett MOVED, seconded by Mr. O'Brien that the Board authorize public hearing for the forest fire protection grant rules for county forests. The motion was carried unanimously by those members present.

7. Department Secretary's Matters.

7.A. Request by Legislative Committee for proposed Modifications to NR 7.088, establishing criteria for determining a project of regional or statewide significance.

Larry Freidig, Recreation Specialist, stated that in December of 2000 the Board approved a number of changes to NR 7 which is the rule that governs the recreation of the boating facilities program. One of these rules, pertaining to establishing criteria for projects might be deemed as statewide or regional significance. The logical result of that is the Waterwaste Commission deemed these projects of that stature that would be eligible for an additional 30 percent cost sharing. The rules were adopted by the Board, they went to the legislative committee, and as part of the process Mr. Friedig stated that he was called to the Legislative Committee Chairman, Senator Baumgart, to discuss a variety of the rules. In this context, Mr. Friedig stated that he discussed with him the concern that the Waterwaste Commission had with this particular statutory requirement. Their major concern was the amount of money any one project would have on the rest of the program, particularly if you had a Great Lakes project. At their full committee meeting, their committee approved all of the rest of the rule changes and sent back a suggestion to the Department that they further consider some additional language to limit the amount of money that projects of this nature could garner from the fund. The Department said yes to it, they dealt with the Waterwaste Commission and the proposed rule limiting on a given project and on all projects is consistent with the suggestions of staff of the legislative committee. Mr. Friedig stated they were seeking adoption of the revised rule.

Mr. Willett MOVED, seconded by Mr. Behnke the Request by Legislative Committee for proposed Modifications of NR 7.088, establishing criteria for determining a project of regional or statewide significance, as presented. The motion was carried unanimously by those members present.

7.B. Request by Legislative Committee for proposed Modifications to NR 45.04(3)(q), prohibiting the possession or use of paint ball guns and equipment.

Robert Roden, Facilities and Lands Director, stated that the Board approved a package of rules in September 2001. He stated that the paint ball provision was one of them and they had a legislative hearing in November and the committee expressed a concern about having anything in here prohibiting possession, particularly possession not on the person of the individual doing it. Mr. Roden stated they have come back with a

revision that he felt was as good as they had in the first place and possession isn't listed in the rule. Mr. Roden asked the Board to approve the modification.

Mr. Teifenthaler MOVED, seconded by Mr. O'Brien the Request by Legislative Committee for proposed Modifications of NR 45.04(3)(q), prohibiting the possession or use of paint ball guns and equipment, as presented. The motion was carried unanimously by those members present.

Mr. Poulson - in a situation versus the Guardian Pipeline where there would be discretion used as to whether they go through a wetland or woodland, how would we make that decision? This question was asked of me and there was a concern as to why that route couldn't be changed and part of it was a discussion between wetlands and woodlands.

Deputy Secretary Fennessy - we would probably put them through a woodland before we put them through a wetland because of the requirements under NR 103. Generally, these are governed under federal energy regulatory commissions and FERC has jurisdiction over many of these interstate projects. The environmental analysis and the environmental impact statement process would require them to look at the route, determine and describe the environmental impact. Of those, there would be a discussion of the impacts of woodland versus wetland, and then as it gets into the actual permit, the regulatory thresholds and difficulties are probably greater, at least from our agency.

Mr. Poulson - Guardian Pipeline is going to come north and south out of Illinois into Wisconsin. At the point where it turns and goes east, is it then in FERC or not? I understand that we reach a point here where we are done with this line, that is going from Illinois to Wisconsin, that is interstate. Now we are going the other direction directly lateral into Milwaukee, is that lateral our jurisdiction or whose?

Deputy Secretary Fennessy - I would need to check. I knew this when there was going to be a pipeline put on the bed of Lake Michigan about two years ago but I will need to check on this now.

Mr. Poulson - I think the DNR staff are working with a young lady out of Jefferson right now, if I find out something I will let you know.

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The Board Meeting was adjourned at 4:00 p.m.