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BRIEF OF ACTION

The regular meeting of the Natural Resources Board was held on Wednesday, August 12, 2015 in the lower level auditorium at the Horicon Marsh Education and Visitors Center, N7725 State Road 28, Horicon, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-3 and 6-7. The meeting adjourned at 12:48 p.m.

ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

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

1.B. Approval of agenda for August 11-12, 2015

Mr. Kazmierski MOVED, seconded by Dr. Prehn, approval of the August 11-12, 2015 agenda. The motion carried unanimously.

Chair Cole thanked South Central Region staff Mark Aquino, Eric Lobner, Bill Zwolanek, and Bret Owsley for an exceptional job yesterday in highlighting partnerships that are going not only on this property (Horicon Marsh Education and Visitor Center) but also the relationships we have with the U.S. Fish & Wildlife Service and certainly the local agriculture community which we rely on wholeheartedly to help us implement a number of programs. It was an exceptional tour yesterday.

Mr. Zimmer stated one of the highlights of all the tours is both talking with partners and seeing staff that are very passionate about what they do. That was very evident at every single stop and presentation. You can see that they work very closely with folks that they work with in the field. That was very impressive.

Chair Cole expressed the Board's gratitude to staff. They are very talented individuals who represent the department very well.

1.C. Approval of Brief of Action from June 24, 2015

Mr. Zimmer MOVED, seconded by Dr. Prehn, approval of the June 24, 2015 Brief of Action. The motion carried unanimously.

2. Ratification of Acts of the Department Secretary
- 2.A. Real Estate Transactions

No items were before Board for approval. No action was taken.

3. Action Items
- 3.A. Air, Waste, Water, and Enforcement
- 3.A.1. Request adoption of Board Order OE-21-14, proposed rules affecting Ch. NR 150 related to the Department's environmental analysis and review procedures
PowerPoint

Discussion followed on the difference between equivalent vs. integrated, the process to add another item to the minor actions list, definition of minor action and how it is placed in a category, and whether the department would need to return to the Board in the future for approval to modify NR 150 [Yes.].

Public Appearances:

1. **Molly O'Grady** Columbus, representing Wisconsin Conservation Leadership Corps and Wisconsin Wildlife Federation (WWF). **(Handout)**

Discussion followed on whether Ms. O'Grady believes the proposed changes, if implemented, would lead to the degradation of the environment and why.

2. **Kimberlee Wright**, Madison, representing Midwest Environmental Advocates as Executive Director. She was not in attendance.
3. **Elizbeth Wheeler**, Madison, representing Clean Wisconsin. **(Handout)**

Discussion followed on defining "human environment", whether an EIS will be completed on Granite Peak [No.], whether the statements in the comments from the County of La Crosse Health Department are accurate [1) Proposed rule eliminates the requirement for the DNR to make WEPA determinations under many circumstances. By not issuing a WEPA determination, DNR decisions cannot be challenged in court - not correct/lengthy DNR response; 2) CAFOs would not be subject to any analysis – not correct/lengthy discussion.], and concern that the proposed rule language is adding to the confusion because it is not written clearly, how the department will clarify these changes for the public [Guidance and public outreach. The department needs to make sure actions of the agency that they are required to do WEPA compliance on are listed in the appropriate category.], whether CAFOs, defined already by 1,000 or more animals, could be added to the category [CAFO permitting is in the integrated analysis list. There are some sub-decisions that need to be made that are actions of the agency. They are not permitting decisions. Those are minor actions.], whether the working group Ms. Wheeler participated in addressed this issue in terms of clarity [No.], the importance of being clear on proposed changes to an

established operation going forward, on whether proposed changes would constitute a minor action or require another environmental impact statement [A farm could go through changes that are minor actions but some changes could trip a permitting change where they might need an integrated analysis.], whether this is defined somewhere [It is defined within NR 243 which establishes the CAFO process.], and that the process should not hold business up for one year when not necessary and it should be sufficient and expedited in a timely manner.

Deputy Secretary Thiede offered clarification that often times we have within specific rules cross-referenced to statutes. We do not publish statutes or administrative code. We usually have guidance documents or other information on our website to help walk through the complexities of cross referencing various rules or statutes. We believe through this rule and through existing rules and statutes, we can provide the clarity and felt this could be addressed through a clarifying note to say how these various things link together or through the guidance we provide to the public so this ambiguity of reading the actual rule language is cleared up.

Discussion followed on whether Ms. Wheeler was in agreement with a clarifying note [Yes.] and whether this language for the note needed to be acted upon today.

Tim Andryk, Legal Services Bureau Director, stated that a clarifying note is not a rule change so the Board does not have to approve the exact wording of it. However, the Board could approve this going forward with a directive to staff to create a clarifying note to explain how CAFOs are treated as an integrated analysis review. Staff can draft it and share with the Board. If concerns, the Board can tee it up for an action item at a future Board meeting.

Discussion followed on whether the two accusations made that this rule is not in compliance with statute [The department is going forward with this rule to clarify how the department will comply with WEPA statute; accusation is not completely accurate.], whether this rule simplifies or expands regulation [This does not affect any department regulations.], whether the proposed rule increases or decreases the department's responsibilities of protecting the natural resources of the state of Wisconsin [It does not.], whether the proposed rule increases or decreases the opportunity for citizens and taxpayers of Wisconsin to enjoy the natural resources of Wisconsin [It does not.], whether equivalent analysis and change to integrated analysis were from these comments or from something that popped up after the fact [Somewhere in-between. Equivalency word was tripping people up], and whether WWF was involved in conversations with the department on this item as part of a working group.

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

Dr. Prehn moved to amend the motion to direct the department to insert a note in 150.20(1m) to clarify that some actions relating to large farm operation are minor actions, while the actual permitting for these projects are considered integrated analysis actions.

Discussion followed on whether anything else in the NR 150 rule language that is ambiguous needs clarification.

Mr. Bruins accepted as a friendly amendment.

Chair Cole clarified that this will not come back to the Board as an action item unless directed by the Board. He is comfortable with the department working with MEA and Clean Wisconsin to create the clarifying language.

The motion as amended carried unanimously.

- 3.A.2. Request adoption of Board Order AM-08-11, proposed rules affecting Chapters NR 404 and 484 related to National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO₂) and Sulfur Dioxide (SO₂)

Discussion on why the process took five years.

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

- 3.B. Land Management, Recreation, Fisheries, and Wildlife
3.B.1. Request adoption of Emergency Board Order WM-05-15(E) and Permanent Board Order WM-06-15, proposed rules modifying Ch. NR 10 related to establishing the 2015 migratory bird hunting seasons **PowerPoint**

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

Discussion followed on whether support for the early teal season was strong [In the beginning, people were not sure. Last year's evaluation looked pretty good and that report is on line.], and whether the early opener will have enforcement issues.

Dr. Prehn requested a report-back from law enforcement as to whether the early opener created chaos and whether hunters had problems identifying game before harvest.

Public Appearances:

1. **Al Shook**, Waukesha, representing WI Conservation Congress Migratory Committee. He agreed with the department's proposal without exception.
2. **George Meyer**, Madison, representing the Wisconsin Wildlife Federation. **(Handout)**
3. **Don Kirby**, Freedom, representing the Wisconsin Waterfowl Association. **(Handout)**

Discussion followed on the 5 day split brought up by Mr. Meyer, whether it should be talked about next year [Yes. Don Kirby stated they had more agreement this year than ever in his tenure.], the Horicon zone goose population related to the survey, and whether the record in continental ducks this year was the result of wetland management [Last year was a historic wet year.].

The motion carried unanimously.

- 3.B.2. Request adoption of Emergency Board Order FH-08-15(E), proposed rules affecting Ch. NR 23 related to lake sturgeon regulations on the Menominee River **PowerPoint**

Discussion followed on how fish ladders are used and whether this process could spread invasive species and disease.

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

- 3.B.3. Request approval of the Northern Kettle Moraine Region Wildlife, Fish, and Natural Areas Master Plan **PowerPoint and Map**

Discussion followed on public comments received with concerns on the boardwalk and boat storage area, defining boat storage and the process of regularizing boat storage [determining specific area where boats could be stored and time of year], whether duck hunter concerns that bird watchers might be disruptive are being adequately addressed [Hunters have a voice at the table.], whether boat storage and access are an unsettled issue [Yes.], whether the current random trails going through the area would be restricted [The main used trails/access points would be used and lesser used trails would be phased out], and whether the boat storage issue at Cedarburg Bog is the only place in the state or is there a policy for boat storage.

Deputy Secretary Thiede stated that typically on department properties, the overnight storage of boats is not permitted. What we have here is an established historic use by duck hunters and UW-Milwaukee researchers. We are looking at a unique situation where we want to make sure through the public process to establish a solution for this situation that will not be imposed elsewhere.

Discussion continued on tabling the Cedarburg Bog portion of the Northern Kettle Moraine Region Wildlife, Fish and Natural Areas Master Plan until the boardwalk and boat storage issue is resolved

Public Appearances:

1. **Bruce Ross**, Mequon, representing Friends of the Cedarburg Bog, Inc.
(Handout)

Mr. Zimmer MOVED approval of eight of the nine master plans: Theresa WA, Jackson Marsh WA, Mullet Creek WA, Allenton WA, Kiel Marsh WA, Nichols Creek WA, Onion River SBP, and La Budde Creek FA; and to table Cedarburg Bog NA., seconded by Dr. Prehn.

Discussion followed on the rationale of the motion [Eight of the master plans received unanimous support from the public, and whether there is a rush to approve the Northern Kettle Moraine Region Wildlife, Fish, and Natural Areas Master Plan [No.].

Mr. Zimmer and **Dr. Prehn** withdrew their motion.

Dr. Prehn MOVED, seconded by Mr. Hilgenberg, to table the Northern Kettle Moraine Region Wildlife, Fish, and Natural Areas Master Plan. The motion to table carried unanimously.

- 3.B.4. Request approval of the 2015—2025 Fish, Wildlife, and Habitat Management Plan and Wildlife Action Plan
DELETED - moved to 9/23/15 agenda
- 3.B.5. Request approval of a Wisconsin Beaver Management Plan for 2015—2025
DELETED - moved to 9/23/15 agenda
- 3.B.6. Request approval to name a Public Access Site Property in the Glacial Heritage Area, Jefferson County

Public Appearances (Both appearances were registered to take questions only. No testimony was given.):

1. **Joe Nehmer**, Fort Atkinson, representing Jefferson County Parks Department as Director
2. **Richard “Augie” Tietz**, Watertown, representing Jefferson County Parks Committee as Chair

Dr. Prehn MOVED, seconded by Mr. Hilgenberg, approval of the department’s recommendations.

Deputy Secretary Thiede announced that Facilities and Lands Bureau Director Steve Miller is retiring. He recognized him for an outstanding career of over 40 years of service to the department. Steve was his former Division Administrator and his former boss. He thanked him for his friendship and leadership. [Mr. Miller received a round of applause.]

The motion carried unanimously.

3.C. Scope Statements

3.C.1. Request approval of the Statement of Scope for Board Order FH-10-15 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting Ch. NR 25 related to lake whitefish commercial fisheries in Lake Michigan **PowerPoint**

Discussion followed on whether this process is going to be controversial [Potentially part of it.], whether there are reference to other programs or states that have created this controversy [No immediate experience to base this on.], the number of licensed commercial fishers in Wisconsin [Approximately 65 licensed holders. Not sure how many are for whitefish.], whether an economic analysis will be completed [Yes.], whether this is for Lake Superior and Lake Michigan [Lake Michigan only], and whether the numbers in Lake Superior are changing as well [He does not know.].

Public Appearances:

1. **Charlie Henricksen**, Sister Bay, representing Lake Michigan Commercial Fishing Board. He spoke in support of approving the scope statement. He stated that this discussion needs to take place. He added that he is hopeful that consensus can be reached on these topics before they come back to the Board. **(Handout)**

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

Chair Cole moved the meeting to agenda item 6.B.1.

6.B. Donations

6.B.1 Friends of the Horicon Marsh Education & Visitors Center will donate a total of \$983,059.41 including \$555,000 in cash and donated interpretive displays valued at \$428,059.41 and informational displays throughout the building

Deputy Secretary Thiede stated that the department purchased the former Flyway Clinic in Horicon over 20 years ago with the intent of developing an education center for the public. A few years later the local community stepped up and the Friends of the Horicon Marsh Education & Visitor Center was

established. The Friends group provides countless volunteer hours for the education program and has raised almost \$2,000,000 towards the reconstruction of the facility that was completed in 2009. The project did not stop there. They embarked on fundraising to complete the package to design and construct the amazing and informative interpretive displays found at the Explorium. He was proud to announce that the grand opening of the Horicon Marsh Explorium is planned for Saturday, August 22, 2015. He acknowledged and praised department staff Bret Owsley and Liz Herzmann for working alongside the Friends Group.

Public Appearances:

1. **Merlin Pieper**, President of the Friends of Horicon Marsh Education and Visitor Center.

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

Chair Cole moved the meeting to agenda item 3.C.2.

- 3.C.2. Request approval of the Statement of Scope for Board Order AM-07-15 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting Chapters NR 404 and 484 related to incorporation of the national ambient air quality standards for fine particles (PM_{2.5})

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

Chair Cole moved the meeting to agenda item 5.A.1.

5. Information Items
 - 5.A. Air, Waste, Water, and Enforcement
 - 5.A.1. The department's activities and strategies to reduce nutrient discharge to waters of the state with a primary focus on phosphorus **PowerPoint**

Discussion followed on whether the 45% reduction determination in the Nutrient Reduction Implementation is state specific based on each states contribution to the hypoxia zone or whether it was a 45% reduction for each state [Each state has a goal to reduce their inputs by 45%.], and how this determination is measured.

Mr. Bruins commented that the presentations included extremely important background information. The department has been accused of doing nothing at all regarding phosphorus. This presentation shows that the department has come a long way in meeting the new phosphorus requirements and there is a concerted effort to work with other agencies in particular DATCP on resolving issues that

exist in agriculture. What he finds concerning as we go forward, is how we address Nutrient Management Plan's that fail, and what the department will do going forward.

Discussion followed on the complex and multi-government issue of point and non-point source pollution and what the department can do to at least contribute in a sensible manner.

Dr. Prehn stated it is important that the Board be kept up to speed on this issue. He requested a copy of the department's timeline, proactive steps addressing storage/spreading of animal byproducts, and benchmarks of the department's action plan when available. He stated this is a big issue and that we cannot fix it alone. He would like to have department administration held accountable to the Board.

Deputy Secretary Thiede stated the department will shoot for the October meeting to respond to your request today.

Discussion followed on how the department will balance DATCP's role and responsibility, the need to acknowledge that the dairy industry is changing dramatically, and that we did not get into this situation overnight and we need to be patient as to how fast we can accomplish these goals.

Chair Cole thanked Bill Bruins for his constant voice on this matter.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

Chair Cole returned meeting to 4.A.

4. **Citizen Participation**

4.A. **Citizen Appearances**

1. **Jim Schaefer**, Horicon, representing City of Horicon as Director of Economic Development

Topic: Palmatory St. Overlook and bike access upgrade. **(Handout)**

Chair Cole directed Mark Aquino, Business Support/External Services Director, to discuss with Mr. Schaefer his concerns and report back to the Board with solutions.

2. **Cindy Steinbach**, Mayville, representing Gold Star Memorial Trail Committee
Topic: Proposed trail, a concept that is connecting communities to remembering fallen service members, from Theiler Park in Mayville to Horicon Marsh Education and Visitors Center. **(Handout)**

Discussion followed on how close is the starting point in Mayville to Palmatory [It is on the other end of the trail.].

Chair Cole thanked her for her presentation and asked her to keep the Board updated on the progress. It is a very worthy project.

3. **Bill Ehlenbeck**, Juneau, representing Dodge County Land Resources & Parks as Parks and Trails Manager
Topic: Current efforts to develop a bike/ped connection between the Wild Goose State Trail and the Horicon Marsh Education and Visitors Center.
(Handout)

Chair Cole moved the meeting to 5.B.2.

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

5.B.1. ~~Wisconsin Youth Conservation Congress initiative update~~
~~(Rob Bohmann, Wisconsin Conservation Congress Chair)~~

5.B.2. Department Strategic Alignment Effort

(Mike Bruhn, Assistant Deputy Secretary, and Mark Aquino, Business Support/External Services Director)

Chair Cole stated that the Board is responsible for promulgating conservation and environmental policy. We stay out of the lane of the Secretary for the day-to-day operation and management of the department. He asked Board Members to pay attention to the organizational structure as it changes and if a Board Member sees opportunities or challenges then that is where we should weigh in. He asked the department to include Board Members, as appropriate and as schedules allow, to some of your briefings with employees who are impacted due to these changes. Include the departments approach, and what will happen to these employees when they are moved from section to section. He encouraged Board Members to spend time with Deputy Secretary Kurt Thiede, Assistant Deputy Secretary Mike Bruhn and Business Support/External Services Director Mark Aquino to stay abreast of this alignment effort.

Discussion followed on encouraging the public to pause and see what happens.

INFORMATIONAL ITEM – NO ACTION WAS TAKEN

6. Department Secretary's Matters

6.A. Retirement Resolutions

6.A.1. Donna Anderson

6.A.2. Mark Kubisiak

6.A.3. Scott Laurie

6.A.4. Michael (Mike) W. Meyer

6.A.5. Phillip A. Miller

- 6.A. Retirement Resolutions - Continued
- 6.A.6. Paul W. Rasmussen
- 6.A.7. Clifford Sebero
- 6.A.8. Raymond Sobiesczyk
- 6.A.9. Kathleen M. Sylvester
- 6.A.10. William G. Wawrzyn
- 6.A.11. James Tomasko

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

Note: Donation agenda item 6.B.1. was moved earlier in the meeting to accommodate the donor's schedule.

6.C. Department Secretary's Matters

Deputy Secretary Thiede stated that the Board had requested a list of opportunities to get out and participate and see the great work that staff does. There are excellent opportunities through the Natural Resources Foundation of Wisconsin field trips; many of which are led by or have involvement by department staff that highlight work that is either done on our state properties or by species that we manage. In conversations with the Foundation, we have provided the Board with a list of tours available and a complete booklet. **(Handout)**

Chair Cole stated that the goal for Board Members and specifically new Board Members is that you do not know what you do not know. This gives you opportunity to engage not only with the Foundation but with other programs put on by the department. This is intended for your education.

Deputy Secretary Thiede, in follow-up to a previous Board request, distributed a list of recurring annual Board meeting agenda items to see what is coming up on the schedule. Obviously, there are scope statements, master plans, and other items that the department cannot anticipate. **(Handout)**

- 7. Board Members' Matters
- 7.A. Approval of the 2016 Meeting Calendar

Mr. Zimmer reminded the Board and department of a previous discussion to include a winter component in the 2016 and future year calendars.

Chair Cole supported the winter out-state component and will look at a January or February opportunity so the Board can weigh in on policy related issues as it relates to winter activities.

Deputy Secretary Thiede added for the Board's consideration, from the department's perspective understanding what you want to see in February, if it could take place at a location where significant logistic hurdles would not be needed. He requested the department have flexibility in location.

Chair Cole stated his agreement. He added as long as it is surrounding the Milwaukee area or Madison area where people can get to relatively easily.

Mr. Bruins MOVED, seconded by Mr. Zimmer, approval of the 2016 meeting calendar.

Mr. Hilgenberg MOVED to amend the calendar to move the August 9-10 date to August 2-3.

Discussion followed on whether this change would affect the migratory bird season rule [No, it will not affect this rule going forward.].

Seconded by Dr. Prehn. The motion as amended carried unanimously.

7.B. Board Members' Matters

Dr. Prehn stated that land management is important. We need to take care of what we own. He also understands that the department cannot do it all on their own. We heard today how important partnerships...and what we can accomplish if we work together.

Being from north central WI – He is keenly interested in how the Central WI grasslands are being managed. He believes that by partnering with agriculture we may be able to do more to help the Greater Prairie Chicken numbers on the Buena Vista Marsh. Next week the department is holding a workshop to unveil a 320 acre rotational grazing pilot. He thanked Bill Bruins for his interest in this issue and for getting that ball rolling, but he believes we can do even more.

He asked the department to put together a briefing and tour so he can get some questions answered, learn what we are doing on the marsh, and find out why our prairie chicken numbers continue to decline. What we are doing does not appear to be working.

Better leveraging ag and local landowners and our local partners, to him, seems to be a recipe for success. He said Deputy Secretary Thiede assured him that the department has staff working on setting up that tour and briefing very soon. He will report back on his findings and possible actions no later than the October meeting.

Mr. Kazmierski requested a written report on the issue of fish passages including jurisdiction involved, costs, benefits and risks, and any other pertinent information at the October 28, 2015.

Mr. Hilgenberg appreciated the report from department and DATCP staff at item 5.A.1. regarding phosphorus. An accompanying issue is high-capacity wells. He requested the department to put forth an effort to present a summary to the Board about what our vision is on dealing with high-capacity wells by the October meeting or end of year.

We have some major users of wells and it is starting to have some impact on property values. Everyone in this room knows the value of water and the impact it will have on dropping lake levels.

Ms. Anderson stated she attended a public meeting in Town of Waterford where they talked about starry stonewort, an invasive species being found in southeast Wisconsin lakes. It was a very informative and helpful session.

She thanked Russ Rasmussen for his presentation at agenda item 5.A.1. today. This is a huge issue and CAFOs are a big deal. As Mr. Bruins stated, this is not something that just happened. The presentations were very informative.

She then thanked the Board for moving up the August 2016 meeting date. She looks forward to celebrating her 25th wedding anniversary.

Mr. Bruins stated his support for Dr. Prehn's request regarding land management. The Board can use that area as an example going forward in how we manage our properties. He encouraged those to visit the 320 acre rotational grazing pilot.

Deputy Secretary Thiede stated this is a unique landscape. It is an area where great efforts been made to develop local partnerships. He stressed the importance of partners.

Chair Cole reminded folks that the state fair is still going on and to visit the department's area.

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

The meeting adjourned at 12:48 p.m.

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