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WISCONSIN NATURAL RESOURCES BOARD

D R A F T AMENDED BRIEF OF ACTION (rev 4/11/22)

Clarified on Page 11 under 8.B. – Board Members' Matters at Terry Hilgenberg requests

For hybrid meeting at:
Room G09, State Natural Resources Building (GEF 2)
101 South Webster Street
Madison, Wisconsin

Wednesday, February 23, 2022

The regular meeting of the Wisconsin Natural Resources Board was held virtually on Wednesday, February 23, 2022 originating from Public Meeting Room G09, State Natural Resources Building (GEF 2), 101 South Webster Street, Madison Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-4 and 7-8. The meeting adjourned at 3:44 p.m.

ORDER OF BUSINESS

1. ORGANIZATIONAL MATTERS (0:00:02 – 0:06:52)

A. Calling the roll (0:05:23 – 0:05:56)

William Bruins – present
Sharon Adams – present
Terry Hilgenberg – present
Marcy West – present

William Smith – present
Dr. Frederick Prehn – present
Greg Kazmierski – present

B. Approval of agenda for February 23, 2022 (0:05:57 – 0:06:52)

At 0:06:23, Dr. Prehn MOVED, seconded by Mr. Hilgenberg approval of the agenda for February 23, 2022. The motion carried unanimously.

2. CONSENT (0:06:53 – 0:08:50)

A. Approval of brief of action from January 26, 2022

NRB Liaison Laurie Ross, at 0:07:02, offered the following corrections: 1) on page 1 at 1.B., add in approval of the agenda for January 26, 2022, and 2) on page 6 at 4.J., remove the word “are” after “verified that the quota numbers on the green sheet ~~are~~ for bear are for state licensed...”

- B. The Natural Resources Foundation of Wisconsin will donate \$45,000 to be used to support Rush Creek State Natural Area
(Preston Cole, DNR Secretary)
- C. The Paul E. Stry Foundation will donate \$25,000.00 to be used to support the management of State Natural Areas.
(Preston Cole, DNR Secretary)
- D. The Friends of Lapham Peak have donated one Pole Cat Snow Gun valued at \$21,000 to be used to enhance and improve the snowmaking operations at Kettle Moraine State Forest-Lapham Peak.
(Preston Cole, DNR Secretary)
- E. Land Donation – Green Bay West Shores Wildlife Area – Oconto County
(Jim Lemke, Real Estate Section Chief)

At 0:08:02, Dr. Prehn MOVED, seconded by Ms. West, approval of the Consent Agenda as corrected by Laurie Ross and to acknowledge the donations. The motion carried unanimously.

- 3. DISCUSSION AND POSSIBLE ACTION CONCERNING ITEMS REMOVED FROM THE CONSENT AGENDA - None
- 4. ACTION ITEMS (0:08:51 - 1:33:20, and 1:57:25 - 5:26:34)
ADOPTION (0:08:51 - 1:33:20, and 1:57:25 - 5:26:34)
 - A. Request adoption of Board Order WM-06-21 proposed rules affecting chapter NR 19 related to wild rice harvesting (0:08:51 – 0:19:19)
PowerPoint presentation by Jason Fleener, Wetland Habitat Specialist, Bureau of Wildlife Management
No written comments or public appearances

At 0:15:39, Mr. Hilgenberg MOVED, seconded by Dr. Prehn, approval of the department’s recommendation.

At 0:19:10, the motion carried unanimously.

- B. Request adoption of Board Order DG-25-19, proposed rules affecting chapter NR 812 related to well construction and pump installation (0:19:20 – 0:43:24)
PowerPoint presentation by Marty Nessman, Private Water Supply Section Chief
Written Comment: 2

Public Appearances (0:22:36 – 0:39:19):

- 1. **Jeffrey Beiriger**, Menasha, representing Wisconsin Water Well Association
- 2. **Bruce Walker**, Grand Marsh, representing self

At 0:39:20, Mr. Bruins MOVED, seconded by Dr. Prehn, approval of the

department's recommendation.

At 0:43:08, the motion carried on a voice vote of 6-1, with Chair Kazmierski opposed.

Chair Kazmierski, at 0:43:25, spoke to the meeting process for items 4.C., 4.D., and 4.E. The Board would hear staff presentations on each rule, then welcome public appearances, have Board discussions and questions, and then take action on each of the rules.

- C. Request adoption of Board Order DG-15-19, proposed rules affecting chapter NR 140 related to numerical standards to minimize the concentration of polluting substances in groundwater
Staff presentation by Steve Elmore, Drinking Water and Groundwater Program Director
Written Comments: 3
- D. Request adoption of Board Order DG-24-19, proposed rules affecting chapter NR 809, related to the promulgation of new drinking water maximum contaminant levels for Per- and Polyfluoroalkyl Substances (PFAS) including Perfluorooctanesulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA)
PowerPoint presentation by Steve Elmore, Drinking Water and Groundwater Program Director
Written Comments: 2
- E. Request adoption of Board Order WY-23-19, proposed rules affecting chapters NR 105, 106, 219, and other related regulations to add surface water quality criteria and analytical methods for poly- and perfluoroalkyl substances (PFAS) including PFOS and PFOA for the purpose of protecting public health as well as revisions to the procedures in the Wisconsin Pollutant Discharge Elimination System ("WPDES") permitting program to implement the new water quality criteria
PowerPoint presentation by Adrian Stocks, Water Quality Program Director
Written Comments: 4
Combined Written Comments on 4.C., 4.D., and 4.E.: 215
(0:43:25 - 1:33:20, and 1:57:25 - 5:26:34)

Secretary Cole, at 1:09:47, noted that item 5.A. – Rebecca Wallace Award be moved to under item 7. - Secretary's Matters.

Public Appearances (1:10:48 – 1:33:20 and 1:57:25 - 3:31:07):

1. **Steve Risotto**, Washington, D.C., representing American Chemical Council (**Handout**) (4C & 4D)
2. **Dr. Bill Reeves**, Chesterfield, MO, representing Bayer U.S. Crop Science, Monsanto Company (4C)
3. **Tom Kilian**, Wausau, representing self (4D)
4. **Katie Rosenberg**, Wausau, City of Wausau as Mayor (4D)
5. **Denise Fenton**, Appleton, representing self (4E)

Chair Kazmierski, at 1:33:21, moved the meeting to item 5.B. – Open Forum. At the end of Open Form, he noted the meeting would return to public appearances with combined presentations for 4C, 4D, and 4E.

5. Open Forum (1:34:07 – 1:57:24, and 5:26:35 - 5:42:44)B. Open Forum (1:34:07 – 1:57:24)

1. **Nicholas Christianson**, Madison, representing self
Topic: Dr. Prehn
Note: He was removed from Zoom for not following posted guidelines concerning an individual's personal information.
2. **Mike Brust**, Wausau, representing Wisconsin Bowhunters Association
Topic: Wolf Management Plan
3. **Corky Meyer**, Kewaskum, representing Wisconsin Coon Hunters Assoc.
Topic: Use of flashlights at night for hunting
4. **Jerome Donohoe**, Milwaukee, representing self
Topic: Meeting process regarding information provided to NRB

Chair Kazmierski, at 1:46:19, requested a review on minutes from WCC, etc. to make sure they are proper.

5. **Laurie Groskopf**, Tomahawk, representing self (**Handout**)
Topic: Wolf Management

Secretary Cole, at 1:48:29, asked Fish, Wildlife, and Parks Division Administrator Keith Warnke to the podium to give an update on the Wolf Management Plan.

Mr. Warnke, at 1:48:46, spoke to the Wolf Management Plan.

6. **Todd Stuth**, Bailey's Harbor, representing Lake Michigan Commercial Fishing Board
Topic: Development of a lake trout scope statement for the Wisconsin waters of Lake Michigan
7. **Dr. Jan Schnell**, Dairyland, representing self
Topic: non-ferrous mining

Chair Kazmierski, at 1:57:25, returned the meeting to 4.C., 4.D., and 4.E. combined appearances.

C. Request adoption of Board Order DG-15-19, proposed rules affecting chapter NR 140 related to numerical standards to minimize the concentration of polluting substances in groundwater

Staff presentation by Steve Elmore, Drinking Water and Groundwater Program Director
Written Comments: 3

- D. Request adoption of Board Order DG-24-19, proposed rules affecting chapter NR 809, related to the promulgation of new drinking water maximum contaminant levels for Per- and Polyfluoroalkyl Substances (PFAS) including Perfluorooctanesulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA)

PowerPoint presentation by Steve Elmore, Drinking Water and Groundwater Program Director

Written Comments: 2

- E. Request adoption of Board Order WY-23-19, proposed rules affecting chapters NR 105, 106, 219, and other related regulations to add surface water quality criteria and analytical methods for poly- and perfluoroalkyl substances (PFAS) including PFOS and PFOA for the purpose of protecting public health as well as revisions to the procedures in the Wisconsin Pollutant Discharge Elimination System (“WPDES”) permitting program to implement the new water quality criteria

PowerPoint presentation by Adrian Stocks, Water Quality Program Director

Written Comments: 4

(0:43:25 - 1:33:20, and 1:57:25 - 5:26:34)

Combined Written Comments on 4.C., 4.D., and 4.E.: 215

Public Appearances – continued (1:57:28 - 3:31:07):

6. **Doug Oitzinger**, Marinette, representing self (**Handout**)
7. **Jeffrey Lamont**, Port Washington, representing self
8. **Lee Donahue**, LaCrosse, representing Town of Campbell
9. **Laura Olah**, Merrimac, representing Citizens for Safe Water Around Badger (CSWAB.org)
10. **Cindy Boyle**, Peshtigo, representing Town of Peshtigo as Chair
11. **Pete Thorson**, Tomah, representing self
12. **Peter Burress**, Madison, representing Wisconsin Conservation Voters
13. **John Robinson**, Wausau, representing Wisconsin’s Green Fire (**Handout**)
14. **Cheryl Nenn**, Milwaukee, representing Milwaukee Riverkeeper
15. **Darsi Foss**, Madison, representing self (**Handout**)
16. **Kayla Furton**, Marinette, representing self (**Handout**)
17. **Richard Diaz**, Milwaukee, representing Coalition on Lead Emergency (COLE) (**Handout**) He was not on Zoom when called upon.
18. **Scott Manley**, Madison, representing Wisconsin Manufacturers & Commerce (WMC) (**Handout**)
19. **Scott Laeser**, Argyle, representing Clean Wisconsin (**Handout**)

Secretary Cole, at 3:31:28, spoke to Scott Manley’s testimony and asked General Counsel Cheryl Heilman to address DNR’s authority for regulating PFAS in Wisconsin.

General Counsel Heilman, at 3:31:53, spoke to 1) the department’s authority for combined standards and 2) testing effluent of WPDES permittees.

Chair Kazmierski, at 3:39:40, asked Dr. Jonathan Meiman, Chief Medical Officer, and Dr. Sarah Yang, Toxicologist, both with the Wisconsin Department of Health, to the Podium to respond to Board Member questions.

ACTION on items 4.C., 4.D., and then 4.E.:

- C. Request adoption of Board Order DG-15-19, proposed rules affecting chapter NR 140 related to numerical standards to minimize the concentration of polluting substances in groundwater

At 3:54:59, Ms. West MOVED, seconded by Mr. Smith, approval of the department's recommendation.

At 4:08:55, Mr. Bruins MOVED, seconded by Dr. Prehn, to table item 4.C.

At 4:10:25, the motion to table failed on a roll call vote of 3-4.

William Bruins – yes

William Smith – no

Sharon Adams –no

Dr. Frederick Prehn – yes

Terry Hilgenberg – no

Greg Kazmierski – yes

Marcy West – no

At 4:11:40, Mr. Hilgenberg MOVED to amend the numerical standard from 20 ppt to 70 ppt.

Chair Kazmierski, at 4:12:17, questioned whether the motion to amend included all substances under 4.C. or only PFAS related.

Mr. Hilgenberg, at 4:12:25, clarified only PFAS related.

At 4:12:37, the motion to amend failed due to lack of a second.

At 4:38:03, Mr. Bruins called the question, seconded by Dr. Prehn.

At 4:38:20, the motion to call the question passed on a roll call vote of 4-3.

William Bruins – yes

William Smith – no

Sharon Adams – yes

Dr. Frederick Prehn – yes

Terry Hilgenberg – no

Greg Kazmierski – yes

Marcy West – no

At 4:47:05, the motion to approve item 4.C. Board Order DG-15-19 failed on a roll call vote of 3-3, Mr. Hilgenberg abstained.

William Bruins – no

William Smith – yes

Sharon Adams – yes

Dr. Frederick Prehn – no

Terry Hilgenberg – abstained

Greg Kazmierski – no

Marcy West – yes

- D. Request adoption of Board Order DG-24-19, proposed rules affecting chapter NR 809, related to the promulgation of new drinking water maximum contaminant levels for Per- and Polyfluoroalkyl Substances (PFAS) including Perfluorooctanesulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA)

At 4:47:43, Ms. West MOVED, seconded by Mr. Smith, approval of the department's recommendation for item 4.D. Board Order DG-24-19.

At 4:49:46, Mr. Hilgenberg MOVED to amend the Maximum Contaminant Levels

standard from 20 ppt to 70 ppt., seconded by Dr. Prehn.

At 4:59:12, Mr. Bruins called the question.

At 4:59:40, the motion to approve the amendment carried on a roll call vote of 4-3.

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| William Bruins – yes | William Smith – no |
| Sharon Adams – no | Dr. Frederick Prehn – yes |
| Terry Hilgenberg – yes | Greg Kazmierski – yes |
| Marcy West – no | |

At 5:00:36, the motion to approve the original motion as amended carried on a roll call vote of 6-1, with Mr. Smith and Ms. Adams qualifying their vote.

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| William Bruins – yes | William Smith – yes |
| Sharon Adams – yes | Dr. Frederick Prehn – yes |
| Terry Hilgenberg – yes | Greg Kazmierski – yes |
| Marcy West – no | |

- E. Request adoption of Board Order WY-23-19, proposed rules affecting chapters NR 105, 106, 219, and other related regulations to add surface water quality criteria and analytical methods for poly- and perfluoroalkyl substances (PFAS) including PFOS and PFOA for the purpose of protecting public health as well as revisions to the procedures in the Wisconsin Pollutant Discharge Elimination System (“WPDES”) permitting program to implement the new water quality criteria

At 5:02:01, Ms. West MOVED, seconded by Mr. Smith, approval of the department’s recommendation.

At 5:25:16, the motion carried unanimously on a roll call vote.

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| William Bruins – yes | William Smith – yes |
| Sharon Adams – yes | Dr. Frederick Prehn – yes |
| Terry Hilgenberg – yes | Greg Kazmierski – yes |
| Marcy West – yes | |

SCOPE STATEMENTS - None

MISCELLANEOUS - None

Chair Kazmierski, at 5:26:35, continued the meeting with item 5.A.

5. OPEN FORUM (1:34:07 – 1:57:24, and 5:26:35 – 5:42:44)
- A. Recognition – The 2021 Rebecca Wallace Award (5:26:35 – 5:42:44)
Presentation by Preston Cole, DNR Secretary, Dave Siebert, External Services Division Administrator, and Dan Bauman, West Central Region Secretary’s Director

Secretary Cole, at 5:27:36, recognized the outstanding group of nominees for this prestigious award.

Secretary Cole, at 5:28:03, announced Jim Fischer, Mississippi River Team Leader, as the 2021 award recipient and asked him to the podium. He then spoke to his accomplishments. Mr. Fischer received a standing ovation.

Mr. Fischer, at 5:31:24, reflected on his career and acknowledged Rebecca Wallace and her family.

INFORMATION ONLY – NO ACTION

6. INFORMATION ITEMS (5:42:45 – 5:57:05)

- A. Congress Matters: Wisconsin Conservation Congress 2022 Spring Hearing Advisory Questions (5:42:45 – 5:48:33)
Presentation by Tony Blattler, Wisconsin Conservation Chair
Written Comment: 1

Mr. Hilgenberg, at 5:44:44, asked whether there was an age limit on question 24 – Do you support the Conservation Congress working with the DNR, Legislature, and the NRB to allow passengers on ATV's not designed to transport passengers, for hunting, fishing, trapping, and agricultural activities?

Mr. Hilgenberg, at 5:46:52, asked for the names of the three counties that requested question 44 – Do you support banning the use of dogs from hunting wolves in WI should wolves get delisted again?; and question 45 – Do you support the Conservation Congress working with the DNR to develop and support a ban on all wildlife killing contests?

INFORMATIONAL ITEM – NO ACTION

- B. Wildlife Management's 2022 spring meeting agenda (5:48:34 – 5:54:14)
Staff presentation by Scott Karel, Wildlife Policy Specialist
Written Comment: 1

INFORMATIONAL ITEM – NO ACTION

- C. The 2022 Fisheries Management Spring Hearings agenda of advisory questions (5:54:15 – 5:57:05)
Staff presentation by Meredith Penthorn, Fisheries Management policy specialist
Written Comment: 1

INFORMATIONAL ITEM – NO ACTION

7. DEPARTMENT SECRETARY'S MATTERS (5:57:06 – 6:06:39)

- A. RETIREMENT RECOGNITION (5:57:06 – 5:58:11)
1. Laura A. Chern, Drinking Water and Groundwater, 30 years

At 5:58:00, Mr. Hilgenberg MOVED, seconded by Ms. West, to recognize the department retiree. The motion carried unanimously.

- B. DEPARTMENT SECRETARY'S MATTERS (5:58:12 – 6:06:39)
 1. Acts of the Department Secretary – Real Estate Transactions (5:58:12 – 5:58:16)

INFORMATIONAL ITEM – NO ACTION

2. Department Secretary's Matters
 a. Sandra Dee Naas report (5:58:17 – 6:06:39)

INFORMATIONAL ITEM – NO ACTION

3. Planning Status Update - None
8. BOARD MEMBERS' MATTERS (6:06:40 – 6:18:20)
 A. Review of Board Member Spring Hearing Questions (6:06:40 – 6:09:58)

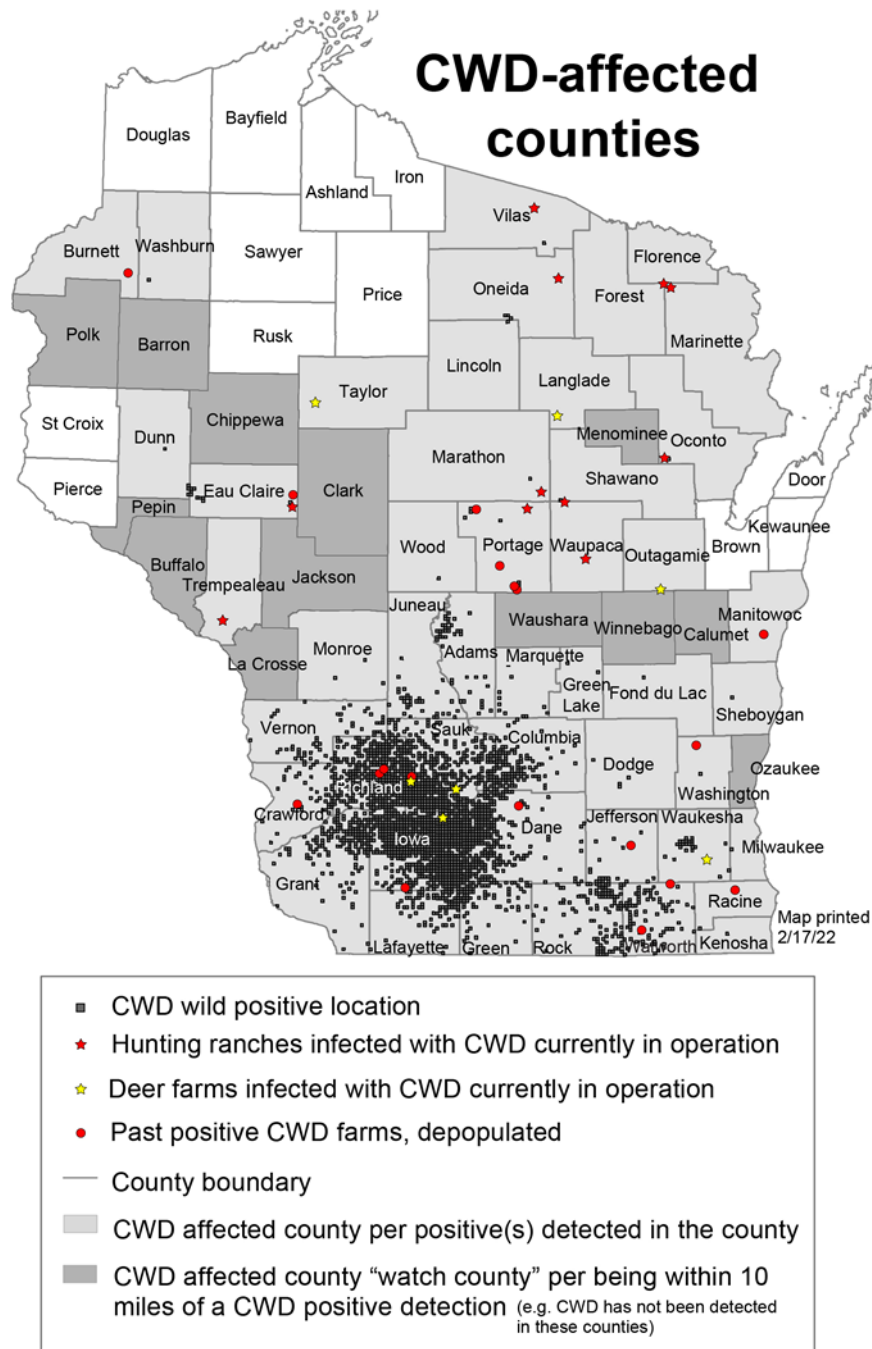
Ms. West, at 6:07:14, offered the following question:

1. Reducing prevalence, increase testing and slowing the spread of Chronic Wasting Disease (CWD)

February 28th marked the 20th year since CWD was detected in Wisconsin. Annual surveillance data has shown a steady growth in the number of counties where CWD has been found in the wild deer herd. Where CWD has become established the estimated local prevalence in the herd in many impacted areas has reached high and undesirable levels. It's clear that CWD is a very difficult disease to manage and available regulatory actions have not been adequate to control the spread or prevalence of CWD.

Collaborative scientific research to identify how best to reduce the spread and prevalence of CWD are underway across the country. Recently, a CWD systems analyst working in partnership with the National Wildlife Health Center and the Wisconsin DNR in the 2nd five-year review of Wisconsin's CWD Response Plan, produced a graphic of what the population of positive deer in the state might look like through a simple estimate as part of a predictive model building exercise. While that estimate simply took county deer population estimates multiplied by the fraction positive in the harvest, and both of these factors are possibly subject to measurement biases, it was estimated that Wisconsin had 50,000 CWD+ on the landscape after the 2020 deer hunt and that this number has been growing at 25% per year. While the model needs more testing and multiple iterations to be accurate, it does exemplify that if we want to reduce prevalence and slow the spread of CWD in Wisconsin we must start reducing that number.

Like many federal farm bill conservation programs, a state healthy herd incentive payment would reward landowners and hunters working to fight this disease. To be effective, the incentives would need to be set high enough to ensure good participation and the department would need to provide detailed maps of CWD presence and prevalence. In addition, the department would need legislative spending authority and funding partners to implement the study.



1. Do you support having the Wisconsin DNR undertake a 2-year pilot project to test if offering a healthy herds incentive payment to landowners and hunters can increase the testing rates and remove CWD+ deer to levels effective in reducing prevalence and slowing disease spread?

YES _____

NO _____

NO OPINION _____

Chair Kazmierski, at 6:09:14, offered the following question:

The Natural Resources Board continues to hear growing concerns about the disproportionate number of bucks harvested prior to the Gun Deer Season. This concern was addressed by the Legislature with the passage of the original crossbow bill and the final version of the bill gave the DNR authority to review and adjust the crossbow season if necessary. Since the DNR's last review the percent of bucks harvested by crossbows has continued to increase and crossbow technology has exploded far beyond what anyone could have imagined in 2013. While many other states touted significant increases in deer hunting license sales during the pandemic bump, Wisconsin's gun deer licenses sales continued to decline, and in the last 20 years deer hunters have declined by about 100,000. It is expressed by many that with around 40% of the bucks harvested before the start of the Gun Deer Season, Wisconsin's famous and long-standing Traditional Gun Deer Season is in jeopardy.

1. **Would you support the Natural Resources Board requesting from the Department another review of the impacts of the crossbow season on Wisconsin's Gun Deer Season?**

YES _____

NO _____

B. **Board Members' Matters** (6:09:59 – 6:18:20)

Mr. Bruins, at 6:10:03, requested a presentation to the Board on producer led watersheds by the Department of Agriculture, Trade, and Consumer Protection and DNR.

Ms. Adams, at 6:11:07, spoke to the Southern Lake Michigan Coastal Ecological Area.

Mr. Hilgenberg, at 6:12:02, spoke to the public testimonies under item 5-Open Forum and asked that Jerome Donohoe (meeting process regarding information provided to NRB and whether accurate minutes are being kept by committees, including Wisconsin Conservation Congress) and Todd Stuth (status of Wisconsin waters of Lake Michigan lake trout scope statement be followed up on which has been in the works for three years.

He then requested ~~a~~ the wolf management plan schedule. He spoke to the mismanagement of the wolf program which was further exasperated by the makeup of the wolf committee which was questioned by the Board for over one year.

He addressed the department recommendations ~~received today~~ on groundwater (4.C.) and drinking water in PFAS and PFOS levels (4.D.) that many believe were advanced by the administration. The credibility of their proposal as well as its legality was questioned. The political prism by which the recommendations are seen raises very serious concerns. These issues are too important for the citizens and taxpayers of Wisconsin to be subject to political gamesmanship. It is time for the department to reestablish trust with the Board and the Board reaching out to the department to advance programs and policies that we can work together on and move forward on. Let's leave politics at the door.

He also asked that his requests from January 2022 be follow-up on. **CLARIFIED**

Mr. Smith, at 6:15:57, commented on the Lake Michigan Commercial Fishing Board and their request for a scope statement on lake trout. He noted the best thing to do is to direct the request to staff and let them pull together a response which has been on a list of priorities for the commercial fishing board for the last few years in a row. There are still some loose ends that need to be taken care of so they can run the model again in this next year and be ready for a quota in 2024. The request for a lake trout scope is an important one for the fishery but it needs to be kept in balance with the other work that is going on. He thought there was a timing issue here but with an intent to follow-through.

At 6:18:27, Dr. Prehn MOVED, seconded by Mr. Bruins to adjourn. The motion carried unanimously.

The meeting adjourned at 3:44 p.m.

The Wisconsin Natural Resources Board and Department of Natural Resources are committed to serving people with disabilities. If you need Board information in an alternative format, please contact:

Wisconsin Natural Resources Board Liaison: Laurie Ross at 608-267-7420 or laurie.ross@wisconsin.gov

Website: <https://dnr.wisconsin.gov/about/NRB>