



STATE OF NEW YORK CONSERVATION FUND ADVISORY BOARD
625 Broadway, Albany, NY 12233-4750

DRAFT Monthly Meeting Minutes
Two Hundred Ninety Fourth Meeting
14 September 2009

Dept of Environmental Conservation, 625 Broadway, Albany, NY

Call to Order – Chairman Hancock called the meeting to order at 9:02 AM.

Roll Call

Voting Board Members Present

Charles Bevilacqua	Region 1
Gordon Whiting	Region 2
Dominick Scarzafava	Region 3
Alan Rosa	Region 4
Jason Kemper	Region 5
Linda Sicley	Region 6
Charles Pace	Region 7
Charles Hancock	Region 8
Dale Dunkelberger	Region 9
Howard Cushing	NYSCC
Jim Petreszyn	FWMB

DEC Personnel

Steve Hurst & Arthur J. Newell, Division of Fish,
Wildlife and Marine Resources
Peter Fanelli, Director, Division of Law
Enforcement

Ex-Officio Members Present

NYS DEC Commissioner, represented by
Douglas Stang, Division of Fish,
Wildlife and Marine Resources and
Wallace John, Office of Natural
Resources

Guest

Dick Nelson, Hudson Valley Newspapers

Ex-Officio Members Absent

Senate Finance Committee
Senate EnCon Committee
Assembly Ways and Means Committee
Assembly EnCon Committee

Chairman Hancock stated that a quorum of voting members was present and opened the meeting for the conduct of business.

Correspondence

Chairman Hancock reported that he has been getting 2-3 calls/day, mostly about 1) DEC business because the caller couldn't find a regional phone number and 2) complaints on the license fee changes, especially, a) the change in "Senior" age for sporting licenses, b) across the board increases and c) the addition of a \$10 fee to apply for a DMP. The rest of the Board said they were generally getting the same complaints. Mr. Stang said that DMP applications were about 50,000 behind the number at this time last year. Chairman said the Board should wait a while before summarizing the comments received.

Minutes of prior meetings

The minutes of the 8 June 09 Board meeting were approved as presented by acclamation.

Committee Reports

Regional Review

Mr. Scarzafava turned the report over to Mr. Kemper. Mr. Kemper is preparing a report of the Region 3 Review. He noted that a main reason is not complete is that he has received reports from only 2 of 7 of the DEC staff that need to contribute. Mr. Cushing asked Mr. Stang to dun the regional staff; the Board needs to get this report to the Commissioner.

The Board discussed the issue of a second snakehead treatment in Region 3. DEC got the OK to purchase the rotenone. Mr. Cushing asked if there was any public opposition to the treatment. Mr. Stang that he was not aware of any at the time, adding that DEC will treat in October, using specialized wetland vehicles and sprayers. Mr. Cushing asked if DEC will keep an eye on members of the public who may wish to put snakeheads in lakes to harvest later. Mr. Stang did not think that would occur because snakeheads are hard to catch.

By-laws

Mr. Cushing recommended that the By-laws be changed so that the deadline for submission of the Annual Report be moved up from 15 November to sometime in September. Mr. Rosa pointed out that the 15 November deadline is in the ECL, so the Board could not make that change to the By-laws. Chairman Hancock said that Nancy Lussier (Director of the DEC Div of Mgt & Budget) has not provided the information that was promised and said the record should show that because of this the Board will not be able to submit its Annual Report by 15 November.

Chairman Hancock said that he and Mr. Rosa will address all comments to date and provide a proposed final draft of the By-laws for consideration at the October meeting.

Deer Survey

Chairman Hancock reported that he gave Region 8 comments to Jeremy Hurst (Bureau of Wildlife) and asked if other Board members have attended DEC's Deer Survey meetings, encouraging all Board members and other to go the meetings and express their opinions. Other Board members indicated their involvement in the meetings. Mr. Stang said that all regions have set dates for Deer Survey meetings in

their regions.

Annual Report

Chairman Hancock said the 15 November deadline for the Report is problematic; receipt of the Level of Effort Report in early July is reasonable, but it has never been received then; typically don't get it until it is too late for the Board to produce a report with useful, accurate information. If the Board submits opinions on the budget during the summer, they will not be based on solid information and could well be wrong. The Board's constituents want accountability, and the Chairman is not sure about the best way to do that. Mr. Rosa said that the majority of license buyers think all the license revenue (CF) is going toward fish and game, but some don't and that needs to be addressed in the report; as well as differences of opinion on what activities CF should support, e.g., should CF pay for eagle work?; some say yes, some, no.

Chairman Hancock distributed a draft Executive Summary for this year's Annual Report, with some key changes to the first two paragraphs. Mr. Cushing said it was too late to offer any opinions on the FY 2010 budget; there is already about \$9 million of CF that will be used to shore up deficits; the Board should tell Commissioner Grannis to put a stop to that, and if he doesn't, the Board should go to the Attorney General. Chairman Hancock said that the Board's duty is to produce an Annual Report, and if it doesn't, then there is no point to the Board.

Chairman Hancock asked the Board if the Executive Summary says what it should about support of the FWMR program. There was much discussion about this. Some key points made follow. Mr. Petreszyn said the Board needs to spell out that programs like the Protection of Waters and Freshwater Wetlands programs are supported by CF, which may surprise some/many hunters and anglers. Mr. Cushing added that federal Wildlife & Sport Fish Restoration (WSFR) funds spent on these habitat programs should also be disclosed. Mr. Rosa said that contrary to what has been said by DEC, the General Fund has been bailed out by the CF, not the opposite, e.g., people can't hunt on NYC owned freshwater wetlands, which are protected by the DFWMR freshwater wetlands regulatory program. Mr. Petreszyn said he did not like the use of the word "subsidize" in the description of the support for mandatory DEC programs. Mrs. Sicley said that hunters/anglers/trappers pay twice: once when they buy their licenses, and twice when they pay their general state taxes. Both Messrs. Cushing and Hancock said the FWMR program should receive a percent of the state sales tax. Mr. John said that the report should make it clear that the CF does not support all DEC programs, only a small piece e.g., dispel myths such as wastewater treatment plants, brownfields and Hudson River cleanup, and air monitoring are paid for with CF; the Board general agreed with this. Mr. Cushing said that the Board and public need to know what work is planned and what work actually gets paid for, including work done by contract.

Mr. Stang reminded the Board that the State Finance Law provides for a broad range of activities that can be supported with CF, including bats and wetlands, and everything that is currently funded by the CF is eligible according to the law. Mr. John added it is appropriate for the Board to voice its opinion re what to spend CF on. Mr. Cushing said that right now DEC is spinning its wheels because it has no nonpersonal service funds with which to get work done. Mr. Petreszyn said there is a need for hunters, anglers and trappers to be educated on the uses of the CF and WSFR funds. He had a problem with using CF and WSFR funds on lands where hunting is prohibited, e.g., NYC watershed lands. Mr. Cushing said the Board should spend a whole day reviewing the DFWMR work plan. Chairman Hancock said that most of the rest of the day would be spent reviewing the actual costs of the FWMR program in FY 08, by activity and funding source.

Department Reports

Division of Law Enforcement

The report was given by Director Fanelli.

The Commissioner visited the new Academy two weeks ago; he was impressed. Demolition has been completed and conversion is in progress. The Commissioner is arguing the case that there is a special need for a separate ECO Academy.

DLE is losing a Secretary to the incentive (voluntary severance program). ECOs are not eligible. ECOs are retiring at the rate of about one/month, mostly experienced supervisors and investigators; good news is, DLE gets to keep their cars.

The ECO 05-07 contract will go into binding arbitration on 10 Feb 2010.

Majors are now in the union; currently there are four Majors.

TIP incorporated wants to get going again; Director Fanelli asked Ms. Coffin to convene a new Board. Mr. Dunkelberger said he received a letter from Linda Coffin about reestablishing the Board. Director Fanelli said the Humane Society supports TIP Inc.

The saltwater fishing license requirement goes into effect 1 Oct 09. For a time ECOS will only issue warnings.

The Homeland Security grant of \$1.2 million for Safe Boats was returned to the federal government because DEC lost the \$300,000 non-fed match as a NYS cost saving measure. At his own initiative and diligence Capt. St. Jeanos obtained a 32 ft. Naval Militia boat.

Fish, Wildlife and Marine Resources

The report was given by Mr. Stang.

The following Rules activity has occurred:

- Proposed redefinition of firearms; primarily affects air guns; there will probably be no changes to the rule based on public comments; comments will be accepted until 2 Nov 09.
- A simultaneous emergency/proposed rule to change migratory game bird hunting regulations to conform to federal regulations is open for comments until 9 Nov 09.
- A simultaneous emergency/proposed rule to allow the use of a higher dosage level of rotenone necessary to eradicate the Northern snakehead identified in Orange County is open for comment until 7 Dec 09.
- A proposed rulemaking to revise regulations governing sportfishing and associated activities including use of bait fish is open for comment until 2 Nov 09.
- A proposed rulemaking to increase opportunities for fishing at DEC boat launching sites, and increase opportunities and ease conditions for the use of bait is open for comment until 5 Oct 09.

The Rome Hatchery demolition is complete and the groundbreaking ceremony will occur soon. Mr. Cushing asked what capital funds DFWMR currently has available to spend. Messrs. Stang and Newell

described the FY 09 funds that were recently allocated for DFWMR projects. Mr. Cushing then asked if any capital funds prior to FY 09 are still available. Mr. Newell said that only those older funds that were encumbered for a specific project are still available, and DFWMR would obtain a list of those projects.

DFWMR staff worked at the State Fair and sold licenses. Lots of comments were received, mostly favorable. Most people did not know the fees were increased, and many came back to convert to a Lifetime license.

There will be a public meetings on the Hudson River shad fishery, which is planned to be closed.

DFWMR learned today (14 Sep 09) that Cornell Univ. will hire a wildlife vet using the candidate list that was developed last year before the DEC hiring freeze was imposed and DEC could not hire a vet. This Cornell position will head up DEC's new fish and wildlife health initiative.

A draft Pheasant Management Plan to cover the next ten year period (2010-2020) has been completed and will be distributed for comment shortly.

Deer meetings will be held soon, two/region.

For the 2010 DFWMR work plan, it is expected that the 2009 plan will be re-issued with little or no change. A survey of the bureaus indicated that a change of no more 5% was anticipated which is not enough to warrant the time staff would have to spend to produce a new plan.

Probably only about half of the 25 DFWMR staff who expressed an interest in the voluntary severance plan will actually take it. Some PEF staff are pulling out because they will get a 4% raise in April, along with a raise sufficient to gain equity with staff in CSEA.

Mr. Stang distributed tables with the data on sales of licenses for the new license year. The number of sales are down compared with last year, but gross sales dollar values are about the same. However, a significant portion of the sales have been for Lifetime L/T licenses for a total value so far of about \$7 million compared with a total last year of \$406,000. There were some questions and discussion on the significance of this, e.g., L/T revenue goes into a trust fund and only interest is available to go into the regular CF each year. Mr. Pace suggested a change to the State Finance Law to get some minimum amount of money moved from the Trust Fund to the CF each year. There was a discussion of the value of L/T licenses and the overall reduction in license sales, apparently due to the economy.

Board questions for DEC

Mr. Petreszyn asked about the new PFD rule, in particular, in regards to what "underway" means. Director Fanelli offered his understanding. [Note: after the meeting, 14 Sep 09, Director Fanelli sent to Mr. Newell an e-mail clarifying the law, which Mr. Newell then sent to The Board. Director Fanelli's e-mail is below.

>>> Peter Fanelli 9/14/2009 4:24 PM >>>

Here is the language of the new law on the wearing of the pfd:

No owner or operator of a pleasure vessel less than twenty-one feet, including rowboats, canoes, and kayaks shall permit its operation, between November first and May first, unless each person on board such vessel is

wearing a securely fastened United States Coast Guard approved wearable personal flotation device of an appropriate size when such vessel is underway.

My answer to the question of "what is underway" was not correct. "Underway" is defined in the Navigation Law: "Under way" shall mean that the vessel is not at anchor, or made fast to the shore, or aground.

Not surprisingly, this definition matches that found in "Chapman Piloting" the boaters' equivalent of the bible. This means that a drifting boat, moving or not, is under way, and a pfd is required.

Please make a note when you do the minutes.

Mr. Bevilacqua said that the change in Game Management Unit 7P causes a problem for many people who hunt geese in that area. Mr. Stang acknowledged the change, and unfortunately such changes don't always benefit everyone.

Mr. Kemper said that there is an unfortunate misspelling of his name in the new hunting guide.

Chairman Hancock asked if nuisance permits have been issued for turkey, and he said that no one is tracking the use of such permits in Region 8 and that he has heard that some farmers are selling them. Mr. Dunkelberger said he is aware that there is a complete reporting on nuisance permits in Region 9. There was then a discussion about DMAPs, nuisance permits and their uses.

Mr. Dunkelberger asked if there could be a bear season change. Mr. Stang said that it could be done by regulation, e.g., if there is a population increase and it could support more harvest. He added that the bear population number in western NY was about right at this time, but don't want any in Niagara County and some other populated areas.

CF Expense Reporting – Annual Report: Structure and Content

For the remainder of the meeting the Board worked on a review of classification and categorization of work performed by DEC Staff on FWMR programs during FY 08-09. Mr. Stang highlighted those activities on which CFAB reached general consensus they should not be paid for out of the Conservation Fund. During the meeting the Board reviewed 23 pages of the 28 page document. The total staff time cost of the 28 page description of work done in FY 08 is about \$26 million, and the activities highlighted by the Board so far on the first 23 pages cost about \$6.5 million. The Board plans to finish this task at the October meeting.

Chairman Hancock adjourned the meeting at 3:15 PM.

Upcoming CFAB meetings

NYSDEC, 625 Broadway, Albany: 13 October 09

NYSDEC, 625 Broadway, Albany: 9 November 09

Jason Kemper, Secretary