



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

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Monthly Meeting Minutes  
Two Hundred Ninety Second Meeting  
8 June 2009

Dept of Environmental Conservation, 625 Broadway, Albany, NY

**Call to Order** – Vice Chair Bevilacqua called the meeting to order at 9:06 AM.

**Roll Call**

Voting Board Members Present

|                    |          |
|--------------------|----------|
| Charles Bevilacqua | Region 1 |
| Alan Rosa          | Region 4 |
| Jason Kemper       | Region 5 |
| Linda Sicley       | Region 6 |
| Charles Pace       | Region 7 |
| Howard Cushing     | NYSCC    |
| Jim Petreszyn      | FWMB     |

Voting Members Excused

|                     |          |
|---------------------|----------|
| Gordon Whiting      | Region 2 |
| Dominick Scarzafava | Region 3 |
| Charles Hancock     | Region 8 |
| Dale Dunkelberger   | Region 9 |

DEC Personnel

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

Patricia Arnold, CANY  
Steve Piatt, Outdoor News

Ex-Officio Members Absent

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

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

## Correspondence

1. Chairman Hancock received a letter on 18 May 09, referencing the CFAB minutes of 9 March 09, and objecting to the raise of the age of a Senior for hunting, fishing and trapping licenses from 65 to 70 years.
2. Chairman Hancock was copied on two letters from Douglas Stang, Assistant Director of the DEC Division of Fish, Wildlife & Marine Resources to Michael Zeh of the NYS Fish & Wildlife Management Board (FWMB). The first letter, dated 20 May 09, was regarding the FWMB Resolution requesting free hunting, trapping and fishing licenses to NY residents in the active military and stationed in NY. Mr. Stang's letter suggested that the FWMB work with CFAB to enact such a change in the state law, adding a caution that there may be significant ramifications to revenues into the cons fund as a result. The second letter, dated 21 May 09, was regarding the FWMB resolution to place a surcharge on all violations to the fish & wildlife law and the funds to be placed in the Cons Fund. Mr. Stang's letter suggested that the FWMB work with CFAB to enact such a change in the state law, adding that DEC has attempted to get stiffer penalties and will continue to do so.
3. Chairman Hancock sent a letter, dated 27 May 09 to Ms. Alison Crocker, DEC General Counsel, requesting a written, legal opinion on whether CFAB is subject to the NYS Open Meetings Law, in particular to determine 1) which specifics on timing and availability of meeting minutes to the public apply to the Board, and 2) whether CFAB may conduct meetings via telephone and video conferencing.

## Minutes of prior meetings

**Mr. Petreszyn made a motion to accept the 13 April 09 minutes as presented; seconded by Mr. Kemper and passed unanimously.**

## Committee Reports

### CF Expense Reporting – Annual Report: Structure and Content

Mr. Rosa suggested that Mr. Kemper should send a letter to Nancy Lussier requesting that the FY 08 Level of Effort Report be delivered to the Board by the end of July. Mr. Kemper concurred, and the task was confirmed by Mr. Bevilacqua.

The Board had a discussion on the relative value of using planned time and costs in a DFWMR work plan for a fiscal year vs. actual time and costs of activities of a completed fiscal year. Mr. Stang said that Time & Activity (T&A) data for the entire FY 08-09 was now available. Time and costs for DFWMR T&A can be easily produced, but it would be a very time consuming task to obtain time and cost of other divisions' work in a way that it could be added to the cost of similar T&A and objectives within the FWMR program, to obtain total DEC cost on specific categories of work. Mr. Petreszyn asked if the Board could get a time and cost report on USFWS Wildlife and Sport Fish Restoration (WSFR) program work; the answer was, yes, but it would include time and cost of state matching funds as well as federal funds. The Board discussed funding of "game wildlife" vs. all wildlife. There was general agreement that some CF and WSFR could be spent on non-game wildlife and habitats, but not the main support for this work. Mr. Pace said that the Board's review of FWMR program work should

focus on those non-game related activities that receive most of their support from CF. Mr. Petreszyn suggested use of EPF money for work on wetlands, water quality, etc., and Mr. Stang said that EPF may not be used to fund staff; would require a law change that the legislature is reluctant to do because they don't trust themselves not to raid the fund. Mr. Pace said, then find other funds, and Mr. Stang offered that CFAB could recommend that themselves to the Commissioner, Governor and Legislature.

Discussion continued on review of FWMR program activities. Mr. Stang cautioned that the work plan doesn't specifically describe work on "game" and "non-game" animals; the Board needs to tell DFWMR how to categorize/combine activities as they would like to see them. Mr. Pace said he is still most concerned CF that is spent on "non-game." Mr. Bevilacqua opined that the Board needed to review all FWMR program work. Mr. Rosa asked, can DFWMR give the Board a report on fish & game, and Mr. Stang said yes – once those activities that constitute work on "game" are agreed to by CFAB members. There was more discussion on how to devise such a report. Mr. Cushing requested that Director Riexinger give a presentation on the DEC wetlands programs, work done, cost, etc., at the September Board meeting. Mr. Cushing also asked if there were any funds such as penalties from wetland violations that went into CF. Mr. John said the new freshwater wetland fees and penalties go into GF. Mr. Newell said that tidal wetland penalties have always gone into the Marine Account (MA), and certain portions of water quality violation penalties have also gone into the MA.

### Regional Review

In Mr. Scarzafava's absence Mr. Newell gave an update on the planning of the 2& 3 August 2009 review of Region 3 FWMR programs. Essentially, there has been no change to the schedule and itinerary that Mr. Scarzafava handed out at the May meeting. However, the boat hire for visiting a number of sites on the Hudson requires an approved Attachment A from div of Budget per DOB Bulletin-1184 because the cost exceeds \$500. The Att. A was submitted on 12 May; it has not yet been approved. If the boat hire is not approved, Bill Rudge in Region 3 has a contingency plan to use DEC vans to visit the sites. The Board discussed some other possibilities to raise the money or obtain free use of a boat.

### Legislation

Mr. Cushing gave the report, describing a number of bills the Board should be looking at; they are

1. Assemblyman Engelbright's freshwater wetland bill, A6363/S848, that would expand regulatory jurisdiction to wetlands one acre or greater.
2. A4777/S5423 on trapping; would authorize municipalities and counties to regulate trapping.
3. The bottle bill is on hold by court order; incidentally, the annual appropriation of about \$180 million of bottle bill revenue would not be in the 2010 budget if this enjoinder affects all current bottle bill revenue.
4. A4463/S4286 Regarding sale of state property
5. Wildlife Cruelty, A6077/S5144
6. Firearms, A7183-B/S4753-A, prohibits concealed firearms in state campgrounds and parks

## By-Laws

The Board will continue to defer on adoption of revisions to the By-laws until it receives written legal opinion from DEC on the applicability of the Open Meetings Law to CFAB.

Mr. Rosa asked if the Board should address conduct of Executive Sessions in the By-laws, and wasn't DEC supposed to give the Board a handbook on Executive Sessions. Mr. Piatt offered his observation that in his past 30 years of reporting on CFAB activities there have been very few Executive Sessions, and they were usually related to internal Board personnel matters or potential litigation matters.

## DECALS

Mr. Newell distributed the latest DECALS manuals to all Board members.

## **Department Reports**

### Division of Law Enforcement

The report was given by Director Fanelli.

Director Fanelli reminded the Board that at the last meeting he said that eight of his positions were targeted on the agency layoff list; it is now his understanding that the apparent agreement between the Governor and the unions will alleviate the need for layoffs of ECOs.

He has been told that Div of Budget is skeptical about the need for a new ECO Academy facility. Mr. Kemper asked if the Board could be provided information on the amount of money spent to date in readying the new training facility for use. Director Fanelli said the total cost of readying the facility "in house" would only cost about \$2 million vs. about \$20 million if built from scratch. Mr. Bevilacqua asked Mr. Kemper to send a CFAB letter to the Commissioner regarding the need for this facility.

Mr. Pace asked if the Governor's \$20,000 buyout proposal will change any DLE staff minds about retiring. Director Fanelli thought probably not because ECOs will get other changes retroactively, e.g., settlement on a raise, and, historically, ECOs have not been offered incentives.

The ECO union declared an impasse on contract negotiation; it will now go to arbitration.

### Fish, Wildlife and Marine Resources

Mr. Stang gave the report.

1. The new license fee schedule is on the DEC web site, along with a brief overview and Frequently Asked Questions and answers.
2. DECALS was switched over to the internet for license sales agents on 1 June; after some time some modifications will be made as necessary.
3. DFWMR received its Temporary Service and Non-personal Service allocations last week; they were

less than expected.

4. Pheasant production activities at the game farm are going well.

5. Fish stocking is just about done

6. Lake Ontario fishing has been phenomenal this year.

7. DFWMR received from Div of Operations the project schedule for the Rome hatchery; bid requests are expected to go out on 13 July 2009, and anticipated completion of the project is July 2010.

9. The hunting and fishing guides have gone back to the publisher with our revisions, and we are awaiting the second pass to review.

### Board questions for DEC

Mr. Pace asked why DEC did not issue a department-wide press release concerning NYS DEC's first Annual National Archery in Schools Program first annual State Tournament in New York, with mention of the winners going to the National Tournament; why only a Region 6 press release? Staff present did not know.

Mrs Sicley asked several questions on matters brought up at the last meeting:

1. Why will there be no license sales at the State Fair. Mr. John said it was not cost effective; there is a high staff cost, including significant over time. Mr. Newell added that it was hoped that a computer would be set up to purchase licenses on-line.

2. Is the Trail patch administrative cost paid from CF? Mr. John said it was not.

3. Is the Watchable Wildlife program charged to CF? Mr. John said it was not.

4. Will there be layoffs in DEC? Mr. Newell said there has been no official notice to DEC programs about this, but according to the news media reports on the Governor, the answer is no. Director Fanelli added that even though there may not be layoffs a buyout would reduce staff numbers, and he expected DEC management would be able to decide which positions could be eliminated. Ms Sicley responded that Region 6 is bare bones and can't lose any staff by any means. She added that the license fee increases were supposed to hold DFWMR harmless from staffing reductions.

5. Mrs Sicley asked about the split of Sport Fish Restoration funds between freshwater and saltwater programs once the new marine license is instituted. Mr. Stang described the federal law and rule that dictate how this is to be done. Mr. John said that the new marine license could change the split for NY.

Mr. Cushing asked what the balance was in the Marine Account (MA), to which Mr. Stang responded, about \$6 million, and then Mr. Cushing asked if the MA could fund the marine license sale start up, including the installation of license agents and equipment downstate. Mr. Stang said MA could and will be the source of funds for the start up, adding that new license agents downstate will receive equipment surrendered by upstate agents that will no longer issue licenses. Mr. Stang also informed the Board that although there was sufficient cash in the MA at this time, 15 Marine Resources staff funded by GF were

moved to the Marine Account last month which would increase the pace of depletion of the balance in the account.

**Mr. Rosa made a motion that it would be the Board's position that no Conservation Fund monies should be used on development of the new marine license fee component in DECALS nor for DECALS operating costs of the new license; seconded by Mr. Cushing; passed with six yeas and one abstention.**

Mr. Cushing asked if the new marine license fee schedule would be in the syllabus, and Mr. Stang said yes.

### **Review of Classification and Categorization of Work Performed by DEC Staff on FWMR Programs**

The Board had considerable discussion on what FWMR work plan activities should be funded, what should not, and the relative merits of making these recommendations based on planned activities for FY 2010 vs. actual time and cost spent on activities in FYs 08 &/or 09. Mr. Stang briefly left the meeting and returned with a table of DFWMR costs associated with each T&A code used in FY 08, broken out by funding source. The Board then began its review of the FY 09 work plan that was submitted to the Governor and Legislature in September 08 and worked with Mr. Stang to pencil in on this plan the actual cost of these activities in FY 08, including a recommendation on whether that activity should receive any CF or WSFR fund support in FY 2010. This review by the Board continued until the end of the meeting.

### **Board Member Reports**

Mrs. Sicley reported for Region 6 that DEC staff are keeping up with Cormorant work, and Windpower reviews were consuming a lot of DEC staff time.

**Vice Chairman Bevilacqua adjourned the meeting at 2:10 PM.**

### **Upcoming CFAB meetings**

**Region 3 Review, 2 & 3 August 09**

**NYSDEC, 625 Broadway, Albany: 14 September 09**

**NYSDEC, 625 Broadway, Albany: 13 October 09**

**NYSDEC, 625 Broadway, Albany: 9 November 09**

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Jason Kemper, Secretary