

SUBJECT: Approval of department policy on the use of trail cameras on state lands.

FOR: DECEMBER, 2011 BOARD MEETING

TO BE PRESENTED BY / TITLE: Scott Loomans, Wildlife Regulation Policy Specialist

SUMMARY:

This agenda item provides background information for consideration and suggested language should the board decide that it wants to authorize the use of unattended trail cameras by the public on department managed lands.

The storage of personal property on DNR managed lands is generally prohibited but the DNR has flexibility to authorize specific activities without promulgating new rules. Trail cameras left out overnight are currently prohibited. Department staff people and board members have received requests from individuals who would like to use trail cameras on department lands.

Placing cameras and checking them for images of wildlife may be a form of outdoor recreation that will engage people to utilize public lands. Their use may help hunters be more aware and more excited about the opportunities available on department managed lands.

However, there are a variety of concerns related to the potential use of trail cameras. Some are concerned that trail camera use will give users or people who observe cameras the impression that an area is already "claimed" or "staked out". Others have a variety of concerns about privacy, damage to trees, destruction of cameras through normal management activities such as controlled burning, and unnatural objects in natural areas.

RECOMMENDATION:

Request approval of department policy on the use of trail cameras on state lands.

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input checked="" type="checkbox"/> | Fiscal Estimate Required | Yes | <input type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

Tom Hauge jdf
Bureau Director, Tom Hauge

11-16-11
Date

Kurt Thiede
Administrator, Kurt Thiede

11-17-11
Date

Cathy Stepp
Secretary, Cathy Stepp

11-17-11
Date

cc: NRB Liaison
DNR Rules Coordinator

Tom Hauge - WM/6

Scott Loomans - WM/6

DATE: November 9, 2011

TO: Natural Resources Board Members

FROM: Secretary Cathy Stepp

SUBJECT: Policy on the use of trail cameras on department managed lands

At its September meeting, members of the board requested information regarding the regulations, existing policies, and property management issues related to the use of trail cameras on public lands managed by the department. This memo provides potential language that could be adopted if the board decides to authorize the use of trail cameras as well as a discussion of related issues.

Background

A prohibition on the storage of personal property on department managed lands is established in administrative code. Based on this provision, the department has explained that it is illegal to leave an unattended trail camera overnight unless authorized by the department. We are not aware of situations where individuals have been authorized to use trail cameras.

NR 45.04(3)(m) *Structures*. Except as authorized by the department, no person may construct, place, occupy or use structures or store personal property on lands subject to this chapter. This paragraph does not apply to tents or canopies which are less than 100 square feet in area or other temporary structures which are used for recreational purposes and removed by 11:00 p.m. of the day they are placed on the property.

Trail cameras are popular and very commonly used by hunters on private land and other public lands for scouting wildlife. Department staff and board members have received requests from individuals who would like to use trail cameras on department lands.

The prohibition in NR Ch. 45.04(3)(m) predates the common use of trail cameras and this provision was likely not developed specifically in response to concerns about their use.

Discussion

Following the September meeting of the natural resources board, department staff surveyed several programs with property management and law enforcement experience. They were asked about their concern, experiences, and public contacts about trail cameras.

A number of comments favorable to the idea of allowing trail cameras on department managed lands were received. Placing cameras and checking them for images of wildlife may actually be a form of outdoor recreation that will engage people to utilize public lands. Their use may help hunters be more aware and more excited about the opportunities available on department managed lands. Additionally, their use may result in people providing information that is valuable to the department about species observed on those lands.

Primary concerns about trail camera use are that their presence will “privatize” a location or at least give the impression that an area is already “claimed” or “staked out” and could lead to conflict in the field. Comments expressed concerns that the public will expect department staff to respond to complaints about

trail camera theft even though there would be little the department can do in response. Abandonment of cameras and tree damage were other commonly expressed concerns.

Parks staff expressed concerns about privacy issues. If allowed trail cameras should only be used in areas that are open to hunting and not in special use areas, and only during or close to hunting seasons.

Law enforcement shared the concern that it could be more difficult to investigate illegal baits or stands on state lands. A responsible party may know that wardens are aware of their illegal activities because they have captured photos of wardens inspecting an illegal bait or stand.

At state natural areas, concern was expressed that the use of trail cameras would run counter to most users' expectations that they not encounter human-made elements when on State Natural Areas. Natural area policy is to place such objects at entry points or parking lots, and avoid placement of signs, etc. in the interior of a property.

Department staff suggested that, if trail camera use is authorized, information should be relayed to the public that users place cameras at their own risk. For instance, department staff will conduct land management practices regardless of presence of cameras. If a camera is found in an area where management activity is planned that is likely to damage the camera, the DNR will make an effort to contact owners using contact information on the camera. However, there is no expectation that any or all cameras will be located or that owners will be successfully contacted before management actions are undertaken. Camera owners would be able to contact property managers to find out if and where management actions are planned.

Trail camera use on public land in other states

Ten Midwestern states responded to a request for information on the use of trail cameras on state owned land and all indicated that their use is not prohibited. North Dakota has initiated the process of prohibiting them because of concerns about how the technology will evolve.

Department Recommendation

The board could establish a policy to authorize the use of trail cameras by the public on department managed lands at this time, without the need to immediately promulgate rules. The board could establish conditions on the use of trail cameras. Use of trail cameras that is contrary to the established conditions would be a violation of NR 45.04(3)(m) Wis. Admin. Code. The department would notify the public of newly established policy in future hunting regulations publications.

If it is the department's intention to permanently authorize the use of trail cameras, an exception specifically allowing their use and establishing conditions should be promulgated in NR 45.04(3)(m).

If the board determines that trail cameras should be allowed for use and overnight placement, we recommend the following conditions:

1. Placement is limited to the period beginning on September 1 and continuing through the end of the archery deer hunting seasons established in NR 10.01(3)(em).
2. Placement only occurs in areas where hunting is allowed and outside of designated special use zones.

3. Trail cameras bear the name and address or department issued customer identification number of the owner or operator permanently attached or engraved to the outside of the camera so that it is clearly visible without the need to move or adjust the camera,
4. Cameras are secured to prevent theft, without causing damage to natural vegetation or other department property,
5. As a condition of placement, the owner or operator authorizes the department to move or remove the camera when the department determines it is necessary to do so, and to view and retain a copy of any images stored on the camera.

Unauthorized use of trail cameras left unattended past 11:00 p.m. continues to be a violation of the prohibition of the placement and storage of personal property on department lands established in NR 45.04(3)(m).

BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

In the matter of a Secretary's Order pertaining to the placement of trail cameras on department managed lands.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

FINDINGS OF FACT

Trail cameras are popular and very commonly used by hunters and wildlife watchers on private land and some public lands for scouting wildlife. The most common technique for the use of trail cameras is to place them where wildlife observations are likely and to leave the camera unattended, overnight, for an extended period of time.

The department has received requests from people who would like to use trail cameras on department lands.

CONCLUSION OF LAW

Sec. NR 45.04(3), Wis. Adm. Code prohibits personal property, such as unattended trail cameras, from being stored or left overnight on Department lands, unless authorized by the Department.

ORDER

Placement of trail cameras on department managed lands. The placement and unattended, overnight, use of trail cameras is authorized on department lands only under the following conditions; 1) placement is limited to the period beginning on September 1 and continuing through the end of the archery deer hunting seasons established in NR 10.01(3)(em) Wis. Adm. Code, 2) placement only occurs in areas where hunting is allowed and outside of designated special use zones, 3) trail cameras bear the name and address or department issued customer identification number of the owner or operator permanently attached or engraved to the outside of the camera so that it is clearly visible without the need to move or adjust the camera, 4) cameras are secured to prevent theft, without causing damage to natural vegetation or other department property, 5) as a condition of placement, the owner or operator authorizes the department to move or remove the camera when the department determines it is necessary to do so, and to view and retain a copy of any images stored on the camera.

Unauthorized use of trail cameras left unattended past 11:00 p.m. continues to be a violation of the prohibition of the placement and storage of personal property on department lands established in NR 45.04(3)(m) Wis. Adm. Code.

Dated at Madison, Wisconsin, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL
RESOURCES

By Cathy Stepp, Secretary