

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

FOR: MAY, 2012 BOARD MEETING

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

SUMMARY:

This agenda item provides background information 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. Staff people and board members have received requests from individuals who would like to use trail cameras on department lands.

Spring Fish & Wildlife Meeting/Hearing attendees showed 57% support for a Natural Resources Board advisory question asked to gauge public opinion of trail camera use on DNR lands.

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

1. Placement only occurs in areas where hunting is allowed and outside of designated special use zones.
2. 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,
3. Cameras may not cause damage to natural vegetation or other department property.
4. The placement of trail cameras on department managed lands is done at your own risk. The department will not be responsible for theft or damage of trail cameras on department managed lands.

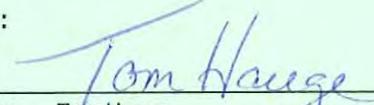
RECOMMENDATION:

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

LIST OF ATTACHED MATERIALS:

- | | |
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| 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:



Bureau Director, Tom Hauge

5/2/12

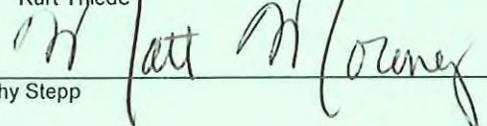
Date



Administrator, Kurt Thiede

5/3/12

Date



Secretary, Cathy Stepp

5/7/12

Date

cc: NRB Liaison
DNR Rules Coordinator

Tom Hauge - WM/6

Scott Loomans - WM/6

DATE: April 10, 2012

TO: Natural Resources Board Members

FROM: Secretary Cathy Stepp

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

Through this agenda item, the board will establish department policy on the use of trail cameras on DNR managed lands. The storage of personal property on DNR managed lands, including trail cameras left out overnight, is generally prohibited. The DNR has flexibility to authorize specific activities without promulgating new rules. In December the board considered the pros and cons of trail camera use and requested that the department assess public opinion with a 2012 spring hearings/meeting question.

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.

Public Hearings, Written Comments

At the 2012 spring hearings/meetings held in each county on April 9, attendees voted Ayes, 2,190; Noes, 1,605 in favor of allowing the overnight use and placement of trail cameras on department managed lands. The proposal was supported in 56 counties, rejected in 14, and voting results were tied in 2. The advisory question that the public considered is attached as Appendix A.

Trail camera use on other public lands and 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.

The department received 19 responses to a January email survey of Wisconsin County Forest Administrators. All of the counties that responded indicated that they do allow the use of trail cameras on their properties. A number of comments about their use were received and most reported that there have not been issues or complaints in their counties. The counties that responded do not have special regulations in place related specifically to the use of trail cameras.

Discussion, Need for Additional Requirements, and Related Statutes

Following the September, 2011 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.

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 the department will search public land parcels before management actions are undertaken. Camera owners would be able to contact property managers to find out if and where management actions are planned.

Need for additional requirements

At the January meeting of the board, and when department staff considered trail camera use in 2011, a wide variety of concerns and potential regulatory solutions were discussed. For example, department

staff considered whether-or-not there should be limits on the number of trail cameras that can be placed by one individual. Should a regulatory policy try to anticipate new technology that is not currently in common use? We considered whether-or-not there will be issues related to bait locations and camera use that require special attention. Should there be limits on the length of time that a camera can remain in place?

In general, the opinion of department staff has been that the simplest policy that is practical will meet our needs and be easiest to explain to the public. This view is reinforced by reports from county forest administrators of very few complaints related to their use, even without specific ordinances in place to manage trail camera activity. We considered also that, in the short term, this will be a department policy and not a detailed administrative rule.

If a trail camera policy is approved by the board, we intend to initiate the administrative rulemaking process to reflect that decision. The rulemaking process will allow time to survey department staff people and gather public input again after Wisconsin has at least one year of experience with trail camera use. The rulemaking process would be an opportunity to make additional recommendations if needed.

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 only occurs in areas where hunting is allowed and outside of designated special use zones.
2. 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,
3. Cameras may not cause damage to natural vegetation or other department property.
4. The placement of trail cameras on department managed lands is done at your own risk. The department will not be responsible for theft or damage of trail cameras on department managed lands.

The overnight placement of unattended trail cameras in ways that are contrary to the above conditions 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).

This order would not authorize the use of unattended trail cameras on lands the department leases but which are not under the management, supervision and control of the department. Thus, on leased lands, trail cameras can only be allowed with landowner permission.

	<p>Department of Natural Resources Annual Spring Fish & Wildlife Informational Hearing & Wisconsin Conservation Congress Annual Spring County Conservation Meeting</p>	
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NATURAL RESOURCES BOARD ADVISORY QUESTIONS

QUESTION 39. Use of trail cameras on DNR managed public hunting lands.

A prohibition on the storage of personal property on department managed lands is established by the department by administrative rule. Based on this provision, the department has explained that it is illegal to leave an unattended trail camera overnight on DNR lands unless first authorized by the department.

Trail cameras are popular and very commonly used by hunters on private land for scouting wildlife. Department staff 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. Additionally, their use may result in people providing information that is valuable to the department about species observed on those lands.

A concern about trail camera use is that their presence will give the impression that an area is already “claimed” or “staked out” and could lead to conflict in the field. Trail camera theft, abandonment, personal privacy, and damage to cameras through land management practices such as prescribed burning or timber harvest are other concerns.

Some concerns about the use of trail cameras on DNR managed lands could be addressed by establishing the following conditions on their use:

- Placement only occurs in areas where hunting is allowed and outside of designated special use zones such as campgrounds and improved trails.
- 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.
- The placement of trail cameras on department managed lands is done at your own risk. The department will not be responsible for theft or damage to trail cameras on department managed lands

39. Do you favor allowing the overnight placement and use of trail cameras on lands open to public hunting that are managed by the department, but not in special use zones such as campgrounds and improved trails? 39. YES _____ NO _____

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 only occurs in areas where hunting is allowed and outside of designated special use zones, 2) 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, 3) cameras may not cause damage to natural vegetation or other department property, 4) The placement of trail cameras on department managed lands is done at your own risk. The department will not be responsible for theft or damage of trail cameras on department managed lands.

The overnight placement of unattended trail cameras in ways that are contrary to the above conditions 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).

This order does not authorize the use of unattended trail cameras on lands the department leases but which are not under the management, supervision and control of the department. Thus, on leased lands, trail cameras can only be allowed with landowner permission.

Dated at Madison, Wisconsin, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL
RESOURCES

By Cathy Stepp, Secretary