

**Committee Name:**  
**Joint Committee – Finance**  
**(JC–Fi)**

**Appointments**

99hr\_JC–Fi\_Appt\_pt00

**Committee Hearings**

99hr\_JC–Fi\_CH\_pt00

**Committee Reports**

99hr\_JC–Fi\_CR\_pt00

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**Clearinghouse Rules**

99hr\_JC–Fi\_CRule\_99–

**Executive Sessions**

99hr\_JC–Fi\_ES\_pt00

**Hearing Records**

99hr\_ab0000

99hr\_sb0000

**Misc.**

99hr\_JC–Fi\_\_Misc\_\_s.13.10\_pt12b3

**Record of Committee Proceedings**

99hr\_JC–Fi\_RCP\_pt00

May 3, 2000  
13.10 JFC Meeting

Agenda Item XVIII  
DNR - Gypsy Moth Suppression

Issue:

DNR wants \$187,000 SEG and 2.75 SEG positions from the forestry account of the conservation fund to help DATCP wage dubious battle against the dreaded gypsy moth.

Summary:

This continued war on gypsy moths is pure folly in my opinion. It's a waste of time and money. More effort should be put into the issue of how we deal with gypsy moths once they eventually cover the state.

That said, however, I guess it's better to have these positions in DNR than DATCP.

Staff Recommendation:

**Alternative A - 1**  
**Alternative B - 1**  
**Alternative C - 1**

(note: alternative 2 for either A, B or C is also fine.)

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

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SUBJECT: Natural Resources: Section 13.10 Request Related to Gypsy Moth Suppression --  
Agenda Item XVIII

### REQUEST

The Department of Natural Resources (DNR) requests an increase in expenditure authority of \$186,900 SEG and 2.75 SEG positions from the forestry account of the conservation fund in 2000-01 for gypsy moth pest management activities in the federally-quarantined counties of eastern Wisconsin. The requested funding would be allocated as follows: (a) \$151,700 and 2.0 positions in the Division of Forestry; (b) \$19,300 and 0.5 position in the Bureau of Community Financial Assistance; and (c) \$15,900 and 0.25 position in the Bureau of Finance.

### BACKGROUND

*Gypsy Moths.* The gypsy moth is a leaf-eating pest of trees and shrubs. Gypsy moth caterpillars favor oak but will feed on the foliage of many tree species, including some conifers. As each caterpillar eats several leaves per day, infestation by caterpillars may remove much, if not all foliage from trees. The resulting defoliation weakens trees, leaving them susceptible to disease. Trees may die after two or more consecutive years of defoliation.

From its accidental release in Massachusetts in 1869, the gypsy moth has slowly spread south and west through natural progression and the movement of infested products. Currently, all or parts of 18 states are federally quarantined for gypsy moth infestations, including parts of Ohio and Indiana and nearly all of Michigan. By 1999, the United States Department of Agriculture (USDA) had quarantined 20 counties in eastern Wisconsin: Marinette, Oconto, Menominee, Shawano, Door, Outagamie, Brown, Kewaunee, Winnebago, Calumet, Manitowoc, Fond du Lac, Sheboygan, Dodge, Washington, Ozaukee, Waukesha, Milwaukee, Racine and Kenosha.

Since gypsy moths spread by human transport of infested goods, as well as naturally, the quarantine requires the check of those items that gypsy moths and their eggs readily attach to. Items such as nursery stock, Christmas trees, firewood, pulpwood, logs and certain household articles must be certified free of gypsy moths before they can be transported from a quarantined area to a nonquarantined area. In most cases, certification is done annually by state or federal inspectors.

A Wisconsin gypsy moth control program has been conducted since 1971 in a cooperative effort between the Department of Agriculture, Trade and Consumer Protection (DATCP), DNR, USDA, the University of Wisconsin, local governments, and private businesses and individuals. Through the gypsy moth program, DATCP surveys, controls and provides public education on the moths and their movement to control their spread. Under the cooperative plan, DATCP is the lead agency for gypsy moth suppression in areas of the state that have not yet been quarantined, while DNR is responsible for management efforts where the gypsy moth has become established. A portion of the program includes annual spraying to control the gypsy moth population. The following table shows gypsy moth program expenditures in DATCP and allotments in DNR between 1994-95 and 1998-99.

**TABLE 1**

**Gypsy Moth Program Expenditures, 1994-95 to 1998-99**

	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99</u>
<b>DATCP</b>					
State Funds	\$646,600	\$963,000	\$921,100	\$1,190,800	\$1,345,100
Federal Funds	716,100	691,800	776,200	624,100	885,600
<b>DNR</b>					
State Funds	<u>165,100</u>	<u>165,100</u>	<u>165,100</u>	<u>176,700*</u>	<u>201,600*</u>
<b>TOTAL</b>	\$1,527,800	\$1,819,900	\$1,862,400	\$1,991,600	\$2,432,300

\*Includes \$36,900 in 1997-98 and \$87,100 in 1998-99 (\$30,000 of which was one-time) with 1.0 gypsy moth coordinator position provided in the 1997-99 budget.

In 1998-99, approximately 9.0 staff in DATCP and approximately 1.3 staff in DNR were devoted to the gypsy moth program. DNR has allotted \$169,700 to the gypsy moth program in 1999-2000, with \$46,200 of that amount allocated to research and \$16,600 allocated to education.

*Forestry Account.* The primary source of revenue deposited in the forestry account of the conservation fund is the forestry mill tax, a state tax on property of 0.20 mill (20¢ per \$1,000 of property value). Other sources of revenue to the forestry account include: (a) revenue from the sale of timber on state forest lands; (b) revenue from the sale of stock from the state's tree nurseries; (c)

camping and entrance fees at state forests; and (d) severance and withdrawal payments from timber harvests on cooperatively-managed county forests and on privately-owned land entered under the forest crop land and managed forest land programs.

Forestry account revenues are used to fund several forestry programs and related administrative activities in DNR. The main expenditure from the forestry account relates to the operations of state forest and nursery properties and programs in the Division of Forestry. In 2000-01, \$29.8 million is appropriated in this Division, with a total of 406.4 positions authorized. Other DNR activities funded from the forestry account include: (a) forest management assistance for private landowners and county foresters; (b) aid payments under forest tax law programs; (c) county forest acreage payments and loans; and (d) forest fire control activities. The forestry account also funds programs in seven other agencies, the largest expenditures being for administrative and worker salary costs of the Wisconsin Conservation Corps and the gypsy moth program in DATCP.

Among the DNR bureaus partially funded from the forestry account are the Bureaus of Finance and Community Financial Assistance. The Bureau of Finance is responsible for the administration and management of the Department's fiscal and controllership functions. In 2000-01, the Bureau is funded at almost \$7.9 million with 81.8 authorized positions. The Bureau of Community Financial Assistance administers various conservation and environmental grant, loan and aid programs. Base funding of \$4.3 million and 56.0 positions are appropriated to this bureau in 2000-01.

## ANALYSIS

The forestry account is currently anticipated to have an estimated closing balance of approximately \$1.5 million as of June 30, 2001. Revenue to the account in 2000-01 is expected to be roughly \$67 million with base level expenditures in that year of approximately \$65 million. In addition to this request, the Committee is also scheduled to consider another DNR request for \$150,000 in 1999-00 and \$226,700 and 1.0 position in 2000-01 from the forestry account for staffing and contracting under the managed forest land program. If both requests are approved as submitted, the estimated balance of the forestry account as of June 30, 2001, would be nearly \$1.0 million. Traditionally, a balance of \$1.0 million is maintained in the forestry account as a contingency for forest fire emergencies.

On December 27, 1999, the Co-Chairs of the Joint Committee on Finance wrote a letter requesting DATCP to develop a plan and criteria for grants to local governments in areas of the state that are federally quarantined for gypsy moths. The Co-Chairs requested that DATCP submit the proposal for approval to the Committee at the next quarterly s. 13.10 meeting. A copy of the report was distributed to Committee members on March 3, 2000.

The report outlines the potential process for local governments (typically counties) to obtain federal cost sharing to suppress gypsy moth populations in highly infested areas. The process has

been approved by the Wisconsin Gypsy Moth Coordinating Group, which consists of one representative from each of the following organizations: DATCP, DNR, UW, USDA-Forest Service and USDA-Animal and Plant Health Inspection Service. Federal funds, if available from the Forest Service, would be provided to local governments through DNR to counties that meet minimum acreage, foliage cover and egg mass density requirements. To receive matching funds, eligible counties would have to apply for inclusion in the state sponsored gypsy moth suppression program. Further, local cost sharing of at least 50% would be required. The report declares the objective of the suppression program is to maintain at least half of the leaf cover on 80% or more of the favored host trees in an area.

DNR anticipates that favorable weather for the gypsy moth (warm and dry conditions) in the quarantined areas of the Department's Southeast and Northeast regions will lead to pockets of defoliation in the spring of 2000 and over larger areas by the spring of 2001. To assist with suppression efforts in the spring of 2001, the Department anticipates applying for federal funding under the Forest Service cost-sharing program. The Forest Service requires that the state administer the program, and DNR would be the lead agency in Wisconsin. The Department indicates that staff resources would need to be available by this summer to begin the application process by informing affected communities of the availability of federal funds. The Forest Service would ask for an estimate from DNR in November of how many acres will likely be included under the cost-share program, and local applications would have to be finalized by December. The Department anticipates contracting with treatment applicators in January, with funding allotments to the states announced by the Forest Service in February. Based on the annual amount of funding appropriated by Congress for gypsy moth suppression and the amount requested by other states, the federal share could drop below 50%. While shortfalls in federal funding are not anticipated to be common, the Department has not yet determined whether local governments would be required to cover any funding shortfalls should they occur.

To coordinate this effort, the Department has requested funding for staff in the Division of Forestry to coordinate suppression activities (\$96,700 and 2.0 positions), for staff in the Bureau of Finance and Community Financial Assistance to disburse the funding (\$35,200 and 0.75 positions) and for education and research activities in the Division of Forestry (\$55,000).

*Forestry staff.* The 2.0 positions requested in Forestry would be plant pest and disease specialists who would coordinate the suppression program. The coordinators would work with landowners and local units of government in the affected areas, assist in the application process and provide information and coordinate gypsy moth suppression and research in the area. The Department indicates that one coordinator would be located both in the Southeast and Northeast regions.

*Financial staff.* A half-time financial assistance specialist position in the Bureau of Community Financial Assistance would process the grant applications from interested communities and coordinate the overall request for assistance from the federal government. A quarter-time grant

accountant in the Bureau of Finance would be responsible for disbursing the payments to communities.

*Education and research.* The Department has requested \$30,000 for an education program to alert the affected public about the gypsy moth, inform people of the development of outbreaks and provide information on the options for pest management. An additional \$25,000 is requested for research to test suppression criteria for affected areas, improve gypsy moth survey techniques and study various means of gypsy moth suppression.

Given that Wisconsin has not received federal funding for gypsy moth suppression in quarantined areas, that the level of interest in the program is preliminary at this time and that it is unclear what the level of defoliation will be in the spring of 2001, the level of staffing needed by the Department is uncertain. DNR indicates that the requests from the three programs are generally based on anticipated workload needed to implement an ongoing program, both in the regions and in the central office. However, no workload data is available. The Committee could, therefore, choose to provide a lesser level of funding and staffing under s. 13.10 to allow the Department to begin participation in the federal suppression program and then evaluate the need for further funding and staffing in the 2001-03 biennial budget or subsequent legislation.

The Committee could, for example, choose to provide 1.0 gypsy moth suppression coordinator position for eastern Wisconsin, rather than one in each of the Northeast and Southeast regions. Forestry staff believe that, if outbreaks of defoliation occur in both regions this spring and next spring, that the workload would justify two staff to ensure the program is adequately implemented. Similarly, rather than provide new positions for financial staff, the Committee could defer additional staff until workload data becomes available or provide for limited-term employees (LTEs) rather than permanent positions. The additional education and research funding could also be provided on a one-time basis in conjunction with the start of the suppression program.

Further, as shown in Table 1, while the Legislature provided a funding increase of \$87,100 in 1998-99 (including \$57,100 in ongoing funds), DNR increased expenditures by only \$36,500 that year (over the 1994-97 period). Therefore, it appears DNR reduced its effort by approximately \$50,000 from the level provided by the Legislature and is planning a similar commitment this year. Since gypsy moth expenditures come from the forestry general program operations appropriation (funded at approximately \$29 million annually) rather than generally dedicated appropriations as in DATCP, DNR has considerable flexibility in allocating resources. Thus, it could be argued that if DNR maintained its prior gypsy moth effort, the request could be funded in part from existing resources.

However, it is likely that the cost of gypsy moth control will increase as the moths penetrate further westward into the state and more counties become quarantined. More funds may need to be allocated to DNR control efforts. The Department indicates that it may request additional positions and resources as more counties in the other three DNR regions are placed under federal quarantine.





May 3, 2000  
13.10 JFC Meeting

Agenda Item XIX  
DNR - Forest Tax Law Program

Issue:

DNR wants \$377,000 SEG and 1.0 SEG position from the forestry account of the conservation fund for staffing and contracting work related to the forest tax law program.

Summary:

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The Managed Forest Law program is a good program and there is growing demand for contracts and other services. DNR needs to be able to meet this customer demand in a reasonable time frame and therefore needs sufficient staff to take care of the workload. However, FB makes a good point on p. 6, paragraph 2, that DNR says much of the increased workload is related to the recent large forestland purchases, so the positions could be made 3-year project positions and reevaluated later.

Staff Recommendation:

- Alternative A - 1** (note: A2 is ok, but not preferred)
- Alternative B - 2** (note: B1 is ok as well)

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Section 13.10 Request Related to Forest Tax Law Program --  
Agenda Item XIX

### REQUEST

The Department of Natural Resources (DNR) requests an increase in expenditure authority of \$150,000 SEG in 1999-00 and \$226,700 SEG and 1.0 SEG position in 2000-01 from the forestry account of the conservation fund in the forestry general program operations appropriation [s.20.370(1)(mu)] for staffing and contracting for the forest tax law program.

### BACKGROUND

The forest crop land (FCL) and the managed forest land (MFL) programs are designed to encourage landowners to manage private forest land for the production of future forest crops for commercial use through sound forestry practices. Land enrolled under these programs is exempt from local property taxes. Instead, landowners make payments to towns or villages in amounts determined by the date the land is entered into these programs. The Department distributes state aids to the towns and counties in which land entered under the forest crop land and managed forest land programs is located, generally based on the acreage of forest tax land located in the jurisdiction.

Landowners with land enrolled in FCL must comply with certain forestry practices and must allow hunting and fishing on all of the designated land. In return, the landowner pays the town 10¢ per acre for land entered prior to January 1, 1972. On land entered since 1972, owners pay 83¢ per acre and will pay this amount through 2002. The rate will be readjusted in 2002 and every tenth year thereafter. Certain special classes pay 20¢ per acre. The last FCL contract expires in 2035. On

January 1, 1986, new entries into FCL were eliminated, although existing FCL contracts will remain in effect until their expiration. 1985 Act 29 created the MFL program to encourage the productive management of private forest lands.

Owners of ten acres or more of contiguous forest land who agree to follow a forest management plan may enter into a 25-year or 50-year contract under the MFL program. Land enrolled in MFL is exempt from local property taxes; instead, landowners pay the town 74¢ per acre each year through 2002. In addition, a landowner has the option of closing a maximum of 80 contiguous acres to public access if an additional \$1.00 per acre is paid for each acre closed to public access. The rates will be readjusted in 2002 and every fifth year thereafter using a formula that accounts for changes in the average statewide property tax.

Any landowner may petition the Department to designate an eligible parcel of land as MFL. The petition must contain certain statutorily specified information, including a management plan for the land or a request that DNR prepare a plan. A landowner can also petition the Department to designate as MFL certain additional parcels of land contiguous to designated land. Upon receipt of such a petition, DNR is required to provide written notice of the petition to the clerk of the municipality in which the land is located. The Department is authorized to conduct any investigation necessary to reach a decision on a petition. Petitions must generally be approved by November 20 each year. If a petition is approved, DNR must issue an order designating the land as MFL and provide a copy to the petitioner, the Department of Revenue, the supervisor of assessments and the clerk of the municipality and record the order with the register of deeds in the county.

An owner may generally sell or otherwise transfer ownership of all or part of land enrolled in a forest tax law program. If the land transferred meets the eligibility requirements of the program, it continues to be designated as FCL or MFL. If the land does not meet eligibility requirements, DNR must issue an order withdrawing the land from the forest tax program and assess a withdrawal tax. Also, DNR may, at the request of the governing body of the municipality in which forest tax land is located or at its own discretion, investigate to determine whether the forest tax designation on a parcel of land should be withdrawn. The Department may order the withdrawal of all or part of a parcel of MFL for a number of reasons, including failure to comply with the management plan, intentional cutting in violation of statutory criteria and development of the property in violation of statutory criteria. If DNR determines that the land should be withdrawn, an order must be issued and a withdrawal tax must be assessed. The amount of the withdrawal tax varies based on whether the land is FCL or MFL and on the date the land is withdrawn relative to the date of entry into the program, but is generally based on either the property taxes that would have been due on the land, less severance or yield taxes, or the value of the merchantable timber on the land. Withdrawal orders must generally be issued under MFL by December 15 each year.

Any landowner who intends to cut merchantable timber on land enrolled in a forest tax law program must file a cutting invoice and request approval of the proposed cutting from DNR at least 30 days before the timber cutting is to take place. For MFL land, DNR must approve the cutting

request if it conforms to the management plan for the land and must assist the owner in developing an acceptable proposal if it does not conform. All cutting must begin within one year after the date the proposed cutting is approved. The landowner must report to the Department the date on which the cutting is commenced, and, within 30 days after completion of the cutting, must report to DNR on the type and quantity of wood harvested. For FCL land, DNR assesses a severance tax on any landowner who cuts merchantable timber equal to 10% of the value of the cut timber, based on stumpage values established by DNR in administrative rule. For MFL land, DNR assesses a yield tax equal to 5% of the value of the timber.

Under FCL, DNR retains from severance and withdrawal taxes an amount generally equal to the amount paid to municipalities under FCL aid programs for the applicable land and remits the remainder to municipalities. Under MFL, DNR retains 50% of the revenue derived from withdrawal and yield taxes on the land. The Department is required to annually remit the other 50% of that revenue to the municipalities in which the land is located. A municipality must pay 20% of the amount received from DNR under the forest tax law program to the county in which the municipality is located.

The Department indicates that failure to meet the statutorily-specified deadlines for the processing of application and withdrawal orders under the forest tax law programs could potentially open the state to liability for the property taxes of the landowner. However, the state is generally immune from such liability unless it specifically consents to liability. Although a landowner could choose to file a claim against the Department through the Claims Board on equitable grounds, to date, the state has not been held responsible with respect to any forest tax law applications or withdrawals that were not processed by the statutory deadlines.

*Forestry Account.* The primary source of revenue deposited in the forestry account of the conservation fund is the forestry mill tax, a state tax on property of 0.20 mill (20¢ per \$1,000 of property value). Other sources of revenue to the forestry account include: (a) revenue from the sale of timber on state forest lands; (b) revenue from the sale of stock from the state's tree nurseries; (c) camping and entrance fees at state forests; and (d) severance and withdrawal payments from timber harvests on cooperatively-managed county forests and on privately-owned land entered under the forest crop land and managed forest land programs.

Forestry account revenues are used to fund several forestry programs and related administrative activities in DNR. The main expenditure from the forestry account relates to the operations of state forest and nursery properties and programs in the Division of Forestry. In 2000-01, \$29.8 million is appropriated in this division, with a total of 406.4 positions authorized. Other DNR activities funded from the forestry account include: (a) forest management assistance for private landowners and county foresters; (b) aid payments under forest tax law programs; (c) county forest acreage payments and loans; and (d) forest fire control activities. The forestry account also funds programs in seven other agencies, the largest expenditures being for administrative and worker salary costs of the Wisconsin Conservation Corps and the gypsy moth program in DATCP.

## ANALYSIS

The forestry account is currently anticipated to have an estimated closing balance of approximately \$1.5 million as of June 30, 2001. Revenue to the account in 2000-01 is expected to be roughly \$67 million with base level expenditures in that year of approximately \$65 million. In addition to this request, the Committee is also scheduled to consider another DNR request for \$186,900 and 2.75 position in 2000-01 from the forestry account for gypsy moth program staffing. If both requests are approved as submitted, the estimated balance of the forestry account as of June 30, 2001, would be nearly \$1.0 million. Traditionally, a balance of \$1.0 million is maintained in the forestry account as a contingency for forest fire emergencies.

*Contract Funding.* The 1999-01 biennial budget provided \$150,000 annually from the forestry account on a one-time basis in this biennium only to allow DNR to contract with private foresters to prepare management plans for the entry of land into the MFL. The Department estimates that this will fund the preparation of approximately 240 management plans annually. Contractors have bid to do up to 400 plans in 1999-00. The number of contractors bidding has also increased from 16 in 1998-99 to 23 in 1999-00. The Department estimates that there is a need for 500 management plans in 1999-00 that cannot be accommodated by the current forester staffing levels. Providing the additional funding would more easily allow the Department to meet the demand for plans with the number of contractors available. Forestry staff indicate that, given landowner demand and contractor availability, the \$150,000 requested for the current fiscal year could be still be utilized if approved in time to finalize the necessary paperwork by the end of May.

DNR staff estimate that a forester can complete between 30 and 60 forest tax law management plans annually, depending on how much of the person's time is spent on such activity. The salary, fringe benefits and supplies costs for a forester position are approximately \$43,000 annually. Thus, the additional \$150,000 being requested by DNR to contract for completion of approximately 240 plans could instead have funded 3.5 forester positions, who could have completed between 105 and 210 plans.

Given that the contract funding provided in the 1999-01 budget was on a one-time basis, it could be argued that any funding provided under s. 13.10 should also be provided on a one-time basis. This would allow the entire allocation for contract funding to be reevaluated in the 2001-03 biennial budget process. However, if funding were provided under s.13.10 on a permanent basis, it would give the Department a level of ongoing contract funding and allow any additional funding to be considered in subsequent legislation.

*Program Staffing.* Currently, there are eight staff positions in the Forest Tax Law Section in the Division of Forestry. Six staff are located in Madison (a section chief, an operations specialist, a financial specialist and three program assistants), while two forest tax law field specialists are located in Tomahawk. The last increase in base staffing for the program occurred in 1988.

Table 1 illustrates the annual changes in various forest tax law activities over the past five years.

**TABLE 1**

**Forest Tax Law Activities, 1995-1999**

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
<u>Forest Crop Law</u>					
Cutting Invoices	392	322	296	284	794
Transfers	22	269	282	237	367
Withdrawals	73	40	139	66	69
<u>Managed Forest Land</u>					
Applications	1,871	1,928	1,699	1,821	1,637
Cutting Invoices	858	837	916	1,077	829
Transfers	389	449	448	363	710
Withdrawals	<u>91</u>	<u>215</u>	<u>265</u>	<u>280</u>	<u>272</u>
<b>TOTAL</b>	<b>3,696</b>	<b>4,060</b>	<b>4,045</b>	<b>4,128</b>	<b>4,678</b>

In addition to the 6% average annual increase in total forest tax transactions noted in the table, five recent large industrial timber sales involving a total of over 613,000 acres (shown in Table 2) are cited by the Department as evidence for the need for increased staff.

**TABLE 2**

**Recent Industrial Forest Tax Law Sales**

<u>Company</u>	<u>Acreage</u>
Consolidated Papers	323,000
Four States Timber/Packaging Corporation of America	158,600
Lake Superior Land	67,400
Tigerton Lumber	54,600
Champion International	<u>10,000</u>
<b>TOTAL</b>	<b>613,600</b>

The transfer of ownership of these large industrial holdings will require reviewing the ownership changes (some properties were sold to multiple parties), documenting legal descriptions in numerous towns, discussing the requirements of the tax law programs with the new owners,

evaluating the management practices of the new owners, filing withdrawal orders for parcels that become ineligible for the program, undertaking enforcement action against noncompliant owners and issuing orders for changes of ownership.

The funding requested would provide \$40,500 (nine months of funding) for a permanent forest tax special assistant in Madison and \$36,200 for an LTE contract coordinator in LaCrosse and two LTE program assistant positions, one each in Tomahawk and Madison. The special assistant position would be involved in both enforcement and customer service activities, including correcting discrepancies between DNR records and those of other government entities involved in the forest tax law program, developing tax law information and forms, publishing forest tax law reference data on the DNR web site and publishing the forest tax law newsletter. The contract coordinator position would oversee the various aspects of the contracting for the completion of forest management plans. The program assistant positions would handle daily incoming application, transfer and withdrawal forms; coordinate various outgoing program mailings; return incomplete filings to landowners and other clerical tasks for the program. Forestry staff indicate that the special assistant and contract coordinator positions would allow current staff to focus on the increased workload created by the industrial sales.

Given that part of the Department's argument for the additional position is the workload associated with the five recent large industrial timber sales, it could be argued that any additional positions provided under s. 13.10 be more closely linked to that part of the forest tax workload that was unanticipated. The Committee could accordingly choose to authorize a three-year project, rather than permanent, position to give the Department some additional resources to address the statutory tax law deadlines and any subsequent workload associated with the unexpected turnover in relatively large industrial holdings. The need for permanent position authority could then be reevaluated and provided through subsequent legislation if necessary. Another option would be to defer the consideration of staffing until the 2001-03 budget so it could be considered along with overall state and agency priorities.

## **ALTERNATIVES**

### **A. Contract Funding**

1. Approve DNR's request to increase expenditure authority by \$150,000 SEG annually from the forestry account of the conservation fund [s.20.370(1)(mu)] for contracts with private foresters to prepare management plans for the entry of land into MFL.
2. Provide \$150,000 SEG annually from the forestry account on a one-time basis in the 1999-01 biennium only for contracting with private foresters.
3. Deny the request.

**B. Staffing**

1. Approve DNR's request to increase expenditure authority by \$76,700 SEG and 1.0 SEG position in 2000-01 from the forestry account of the conservation fund [s.20.370(1)(mu)] for permanent and LTE staffing related to forest tax law workload.

2. Provide \$76,700 SEG and 1.0 SEG three-year project position in 2000-01 from the forestry account for staffing related to forest tax law workload.

3. Deny the request.

Prepared by: Russ Kava

MO# A-1, B-1

2 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
DARLING	<input checked="" type="radio"/>	N	A
1 GARD	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
RILEY	<input checked="" type="radio"/>	N	A

AYE 10 NO 0 ABS 0



NATURAL RESOURCES

Forest Tax Law Program  
Agenda Item XIX

Motion:

Move to direct DNR to require that any management plans for the forest tax law program prepared with any staffing or funding approved at the May 3, 2000, s. 13.10 meeting include a component dealing with gypsy moth pest management activities.

MO#			
	BURKE	Y	N A
	DECKER	Y	N A
	JAUCH	Y	N A
	MOORE	Y	N A
	SHIBILSKI	Y	N A
	PLACHE	Y	N A
	COWLES	Y	N A
	DARLING	Y	N A
2	GARD	Y	N A
	PORTER	Y	N A
	KAUFERT	Y	N A
1	ALBERS	Y	N A
	DUFF	Y	N A
	WARD	Y	N A
	HUBER	Y	N A
	RILEY	Y	N A
	AYE	16	NO 0 ABS 0

May 3, 2000  
13.10 JFC Meeting

Agenda Item XX  
DNR - Fish & Wildlife Account

Issue:

DNR is supposed to keep its administrative expenses at 16% of total fish and wildlife account dollars, per a GOP Caucus budget amendment.

Summary:

I don't think you have a dog in this fight. Do what Decker wants.

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Albers had a JFC motion similar to this that lost 8-8. It was revived in the GOP Caucus, and included in the overall package of natural resources items that we were excluded from negotiating on during conference committee talks.

It seems like DNR is fudging the definition of "administrative expenses" somewhat, but who cares. I don't know that 16% was a scientifically determined percentage to begin with.

I recommend asking DNR to refine their definition somewhat and come back at the next 13.10 meeting. But we should also be careful to not hamstringing their fish & wildlife efforts.

Staff Recommendation:

**Alternatives 2A & 3**

(note: any set of options under alternative 5 would also be ok, as would alternative 1)

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

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SUBJECT: Natural Resources: Request Related to Fish and Wildlife Account Administrative Expenditure Limit -- Agenda Item XX

### REQUEST

The Department of Natural Resources (DNR) indicates it is currently in compliance with the 16% limit on administrative expenditures from the fish and wildlife account of the conservation fund, and that no transfer of funding or positions in 2000-01 is necessary under the provisions of 1999 Act 9 (the 1999-01 biennial budget).

### BACKGROUND

The primary source of revenue to the fish and wildlife account is the statutory fees charged by DNR for hunting, fishing and special licenses and stamps. There are a wide variety of licenses authorizing residents and nonresidents to hunt and fish. Hunting and fishing licenses vary according to the type of species that may be pursued, the method of pursuit, the number of people for whom the license is valid and the time period for which the license is valid. To hunt or fish certain species, a stamp must be purchased in addition to the license. Expenditures from the fish and wildlife account are made for fish and game management and education, conservation law enforcement, wildlife damage programs, habitat improvement, conservation aids and a portion of DNR administrative and support costs. Table 1 lists the major expenditure categories funded by the fish and wildlife account and the amounts appropriated in the 1999-01 biennium for each of these categories.

TABLE 1

## Fish and Wildlife Account Appropriations, 1999-01

<u>Expenditure Categories</u>	<u>1999-00 Appropriated</u>	<u>2000-01 Appropriated</u>	<u>2000-01 % of Total</u>
<b>Fish and Wildlife Program Appropriations</b>			
Law Enforcement	11,829,800	11,842,000	19.5%
Fish Management	11,676,600	11,687,100	19.3
Wildlife Management	7,829,100	7,865,100	13.0
Car Killed Deer	286,000	314,600	0.5
Wisconsin Conservation Corps	283,300	283,300	0.5
Principal Repayment and Interest	238,700	247,900	0.4
County Conservation Aids	150,000	150,000	0.2
<b>Dedicated Revenue Appropriations</b>			
<i>Wildlife Damage Programs</i>			
Claims and Abatement Program	2,187,700	2,187,700	3.6
Control of Wild Animals	170,400	170,400	0.3
Urban Wildlife Abatement and Control Grants	25,000	25,000	0.0
<i>Stamp-Funded Programs</i>			
Great Lakes Trout and Salmon	1,099,900	1,099,900	1.8
Trout Habitat Improvement	1,088,100	1,088,100	1.8
Pheasant Restoration	469,400	469,400	0.8
Wetlands Habitat Improvement	338,400	338,400	0.6
Wild Turkey Restoration	212,200	212,200	0.4
Canadian Agencies Migratory Waterfowl Aids	169,200	169,200	0.3
Handling Fees	464,000	534,000	0.9
<b>Split-Funded Appropriations</b>			
Administration and Technology Division *	6,955,000	6,925,000	11.4
Customer Assistance and External Relations Div.	(5,571,500)	(5,506,400)	(9.1)
Customer Service and Licensing	4,949,300	4,884,200	8.1
Communication and Education	393,300	393,300	0.6
Community Financial Assistance	228,900	228,900	0.4
Division Management	(3,239,600)	(3,239,100)	(5.3)
Land Division *	1,487,800	1,497,800	2.5
Water Division *	935,900	925,400	1.5
Enforcement and Science Division	423,200	423,200	0.7
CAER Division	392,700	392,700	0.6
Facilities and Lands Operations	2,296,000	2,260,700	3.7
Integrated Science Services Operations	1,672,400	1,691,900	2.8
Admin. Facility Repair and Debt Service	1,003,000	1,144,100	1.9
Mississippi and Lower St. Croix	525,800	525,800	0.9
Aids in Lieu of Taxes	296,300	296,300	0.5
Resource Acquisition and Development	229,600	218,500	0.4
Taxes and Assessments	<u>102,000</u>	<u>102,000</u>	<u>0.2</u>
<b>TOTAL</b>	<b>60,409,000</b>	<b>60,594,100</b>	<b>100.0%</b>

\* Included in the DNR definition of administrative costs

1999 Act 9 specifies that the total amount that DNR may expend from the fish and wildlife account for certain administrative costs may not exceed 16% of the expenditures from the account for any given fiscal year. As passed by the Legislature, the definition of administrative costs consisted of the costs incurred in the administration of the Department and its divisions and bureaus, in providing support services for the Department and in the issuance of licenses and other approvals by the Department. This definition was consistent with that identified in a July, 1998, review of fish and wildlife funding by the Legislative Audit Bureau (LAB). A partial veto by the Governor deleted bureau administration and licensing from the definition of administrative costs with respect to the 16% limit. Based on the appropriations listed in Table 1, the Department would be able to expend up to \$9,665,400 in 1999-00 and \$9,695,100 in 2000-01 from the fish and wildlife account on administrative costs.

Act 9 further requires DNR to submit a request under s. 13.101 by April 1, 2000, to the Joint Committee on Finance to transfer funds between appropriations and change the number of positions authorized in the Department as a result of the 16% administrative expenditure limit. Under Act 9, the Committee is not required to find that an emergency exists before acting upon the request. The DNR request was received on April 4, 2000.

## ANALYSIS

In the request, the Department includes the budgeted appropriations for the Administration and Technology Division and of the management of the Land and Water Divisions as administrative costs. The Administration and Technology Division is included based on the definition of "support services" used by the LAB, which includes the functions of those Bureaus in the Division of Administration and Technology (administration, legal services, finance, management and budget, administrative and field services, enterprise information technology and applications, human resources and facility rental costs). The Land and Water Divisions are included based on a comparison of the staffing levels noted by LAB for division administrative support in 1996-97 with the staffing levels for land program management and water program management authorized in this biennium. As shown in Table 2, DNR's proposed definition of administrative costs would place the Department underneath the 16% administrative spending limit from the fish and wildlife account.

**TABLE 2**

**DNR Definition of Administrative Costs**

	<u>1999-00</u>	<u>2000-01</u>
Division of Administration and Technology	\$6,955,000	\$6,925,000
Land Division Management	1,487,800	1,497,800
Water Division Management	<u>935,200</u>	<u>925,400</u>
Administrative Total	\$9,378,000	\$9,348,200
<hr/>		
Authorized Account Expenditures	\$60,409,000	\$60,594,100
Administrative Costs as Percent of Account Expenditures	15.5%	15.4%

The expenditures identified by the Department as administrative costs all appear to be included under the statutory definition of administrative costs under Act 9. If the Committee chose to accept this definition, no appropriation reductions would need to be made to bring the Department into compliance with the statutory 16% limit.

However, based on the LAB review, it would appear the Committee could also choose to include three additional appropriations under the definition of administrative costs: Enforcement and Science Division Management, Customer Assistance and External Relations (CAER) Division Management and the Bureau of Community Financial Assistance.

Funding from the fish and wildlife account is currently budgeted for the management of five of the seven divisions in DNR. (Management of the Division of Air and Waste and the Division of Forestry are fully funded from other revenue sources.) Under the proposed DNR definition of administrative costs, the management of only three of those five divisions (Land, Water and Administration and Technology) would be considered administrative, while the other two (Enforcement and Science and CAER) would not. Divisionwide program management appropriations are established in DNR for the management of the divisions in the central office and regions. Division administrator and regional division leader positions are authorized in each of these appropriations, and regional land, water and CAER Division media leaders and regional land and water geographic management unit leaders are also authorized. CAER Division program management also include liaison staff to the Legislature, business, the Conservation Congress and tribal, local and federal governments.

Including the appropriations for the management of all DNR divisions that are partially funded from the fish and wildlife account would arguably provide more uniform treatment of these

functions with respect to the 16% limit. A regional Land Division leader would be treated similarly to a regional Enforcement and Science leader under this definition, for example. This would not be the case under the proposed DNR definition. Given that the Act 9 provision states that administration of DNR divisions are included in administrative costs, it appears that fish and wildlife expenditures in all five divisions should be considered against the 16% limit.

The Department, however, argues that, since the LAB study identified a total of 31.0 positions in 1996-97 that provided "division administrative support," including only Land and Water Division Management under the 16% limit is consistent, in that 31.0 staff are authorized in the program management appropriations for those two divisions in 2000-01. It should be noted, however, that the LAB classification reflected the Department's organizational structure prior to the recent reorganization. The program management appropriations reflected under current law did not exist under the prior Department organization. Further, under the DNR definition, a total of 113 staff are considered support services staff, while LAB found 131 support services staff (excluding the Customer Service and Licensing staff vetoed by the Governor). Including all fish and wildlife-funded division management staff brings the total to 121.

Table 3 illustrates the effect of including CAER and Enforcement and Science Division Management under the definition of "administrative costs." As shown in the table, under this definition, the Department would not be in compliance with the 16% limit on administrative expenditures from the fish and wildlife account. A total of \$529,200 in 1999-00 and \$469,000 in 2000-01 (approximately 5% of budgeted levels) would need to be reduced or reallocated from these administrative functions to other programs funded from the fish and wildlife account.

**TABLE 3**

**Administrative Costs Including All Division Management**

	<u>1999-00</u>	<u>2000-01</u>
Division of Administration and Technology	\$6,955,000	\$6,925,000
Land Division Management	1,487,800	1,497,800
Water Division Management	935,900	925,400
Enforcement and Science Division Management	423,200	423,200
CAER Division Management	<u>392,700</u>	<u>392,700</u>
Administrative Total	\$10,194,600	\$10,164,100
Authorized Account Expenditures	\$60,409,000	\$60,594,100
Administrative Costs as Percent of Account Expenditures	16.9%	16.8%

The Committee could also consider including the appropriation for the Bureau of Community Financial Assistance under the definition of administration costs with respect to the 16% limit. This bureau provides administration for several conservation, environmental and recreational loan, grant and aid programs in the Department. The Bureau is responsible for the administration of fish and game related programs under the federal Land and Water Conservation, Pittman-Robertson and Dingell-Johnson programs and the Wisconsin county conservation aids program and the stream bank protection program under stewardship. The staff in the bureau include a bureau director and section chiefs, community service specialists (who review project applications, recommend and monitor funding and coordinate specific projects) and administrative and clerical support.

The Department argues that it is not appropriate to include the Bureau of Community Financial Assistance under the definition of administrative costs because, in classifying fish and wildlife-funded staff, Community Assistance was included separately from Support Services by the LAB. That classification, however, reflected the Department's organizational structure prior to the recent reorganization. Most of the staff in Community Financial Assistance were authorized in separate aids administration appropriations under the prior Department organization. Also, while Community Financial Assistance may not be part of the Department's "support services" as defined by the LAB, the statutory definition is broader than that category alone and includes departmentwide administrative costs as well. It could be argued that the functions of the Bureau of Community Financial Assistance are similar to those of the Bureaus of Administration, Legal Services, Finance, Management and Budget, Administrative and Field Services, Enterprise Information Technology and Applications and Human Resources included as departmentwide by DNR and LAB. To the extent that the functions of this bureau could be viewed primarily as providing departmentwide administrative services, it could be appropriate to include it in the administrative definition as well. On the other hand, to the extent these grant administration functions are viewed as providing more direct support to communities and DNR field projects the Bureau could be excluded from administration, as proposed by DNR.

Table 4 illustrates the effect of including the Bureau of Community Financial Assistance under the definition of administrative costs. As shown in the table, under this definition, the Department would be in compliance with the 16% limit on administrative expenditures from the fish and wildlife account.



**TABLE 4****Administrative Costs Including Community Financial Assistance**

	<u>1999-00</u>	<u>2000-01</u>
Division of Administration and Technology	\$6,955,000	\$6,925,000
Land Division Management	1,487,800	1,497,800
Water Division Management	935,900	925,400
Bureau of Community Financial Assistance	<u>228,900</u>	<u>228,900</u>
Administrative Total	\$9,607,600	\$9,577,100
Authorized Account Expenditures	\$60,409,000	\$60,594,100
Administrative Costs as Percent of Account Expenditures	15.9%	15.8%

Table 5 illustrates the effect of including all division management and community financial assistance under the proposed DNR definition of "administrative costs." As shown in the table, under this definition, the Department would not currently be in compliance with the 16% limit on administrative expenditures from the fish and wildlife account. A total of \$758,100 in 1999-00 and \$697,900 in 2000-01 (approximately 7% of budgeted levels) would need to be reduced or reallocated from these functions to other programs funded from the fish and wildlife account.

**TABLE 5****Administrative Costs Including All Division Management and Community Financial Assistance**

	<u>1999-00</u>	<u>2000-01</u>
Division of Administration and Technology	\$6,955,000	\$6,925,000
Land Division Management	1,487,800	1,497,800
Water Division Management	935,900	925,400
Enforcement and Science Division Management	423,200	423,200
CAER Division Management	392,700	392,700
Bureau of Community Financial Assistance	<u>228,900</u>	<u>228,900</u>
Administrative Total	\$10,423,500	\$10,393,000
Authorized Account Expenditures	\$60,409,000	\$60,594,100
Administrative Costs as Percent of Account Expenditures	17.3%	17.2%

If the Committee adopts a definition of administrative costs under which the Department would be above the 16% limit, the Committee could also choose to reduce the included administrative appropriations at this time to bring the Department into compliance with the administrative limit. This could be accomplished by distributing the cuts proportionately across all included administrative appropriations for 1999-00 and 2000-01 (Alternatives 2a, 2b, 4a and 4b). Given that only two months remain in fiscal year 1999-00, it is uncertain how the Department would manage this reduction. DNR indicates that, depending on the magnitude of the reduction required, at least a portion of the reduction could be managed within any lapses from these appropriations that may occur. (For example, two to four percent of the expenditure authority from the conservation fund appropriation for the Division of Administration and Technology has lapsed in recent fiscal years. This has meant \$125,000 to \$250,000 has lapsed to the balance of the fish and wildlife account annually.) The Committee could also choose to first apply any reductions in fiscal year 2000-01 and reduce authorized positions proportionately as well. This alternative would ensure that DNR meets the funding limit established in statute, while allowing the agency to seek adjustments to specific appropriations, if necessary, in future legislation or through the s. 13.10 process. Consistent with the intent of Act 9, the Committee could also choose to increase any of the non-administrative appropriations identified in Table 1 by an amount up to that by which the administrative appropriations are reduced. Another option would be to specify that DNR submit a request for consideration at the September, 2000, meeting under s. 13.10 detailing the amounts by which the various administrative appropriations should be reduced or transferred to bring the Department into compliance with the 16% limit.

If program increases are considered, many options are possible. Often cited are needs for fisheries and wildlife biologists and technicians and conservation wardens. Fisheries and wildlife biologists generally conduct survey and research studies of fish or wildlife habitat of various species in a defined geographic area, plan and implement fish or wildlife management projects and provide public education related to fish or wildlife management activities. Fisheries and wildlife technicians generally conduct field survey work, collect data from field samples and construct and repair habitat improvement structures. Conservation wardens have general law enforcement authority relating to natural resources and patrol on state-owned lands under DNR management. The 2000-01 costs of salary, fringe benefits and supplies for these positions are: (a) \$83,100 for a conservation warden position; (b) \$53,400 for a fisheries or wildlife biologist position; and (c) \$35,400 for a fisheries or wildlife technician position.

## **ALTERNATIVES**

1. Approve the DNR definition of administrative costs, which would include the Division of Administration and Technology and Land and Water Program Management. (No reductions in administrative appropriations would need to be made to bring the Department into compliance with the 16% administrative funding limit.)

2. In addition to the DNR definition, include Enforcement and Science and CAER Program Management as administrative costs. In addition,

- a. Delete \$529,200 in 1999-00 from the Division of Administration and Technology (\$361,000), Land Program Management (\$77,200), Water Program Management (\$48,600), Enforcement and Science Program Management (\$22,000) and CAER Program Management (\$20,400).
- b. Delete \$469,000 and 4.5 positions in 2000-01 from the Division of Administration and Technology (\$319,600 and 3.5 positions), Land Program Management (\$69,100 and 0.5 position), Water Program Management (\$42,700 and 0.5 position), Enforcement and Science Program Management (\$19,500) and CAER Program Management (\$18,100).
- c. Direct DNR to submit a request under s. 13.101 within the time designated by the Committee for consideration at the third quarterly meeting in 2000 (September) describing where reductions or transfers of ~~\$469,000~~ in 2000-01 should be made from the indicated administrative appropriations.

3. In addition to the DNR definition, include the Bureau of Community Financial Assistance as an administrative cost. (No reductions in administrative appropriations would need to be made to bring the Department into compliance with the 16% administrative funding limit.)

4. In addition to the DNR definition, include Enforcement and Science and CAER Program Management and the Bureau of Community Financial Assistance as administrative costs. In addition,

- a. Delete \$758,100 in 1999-00 from the Division of Administration and Technology (\$505,800), Land Program Management (\$108,200), Water Program Management (\$68,100), Enforcement and Science Program Management (\$30,800), CAER Program Management (\$28,600) and the Bureau of Community Financial Assistance (\$16,600).
- b. Delete \$697,900 and 6.5 positions in 2000-01 from the Division of Administration and Technology (\$465,000 and 5.0 positions), Land Program Management (\$100,600 and 1.0 position), Water Program Management (\$62,100 and 0.5 position), Enforcement and Science Program Management (\$28,400), CAER Program Management (\$26,400) and the Bureau of Community Financial Assistance (\$15,400).
- c. Direct DNR to submit a request under s. 13.101 within the time designated by the Committee for consideration at the third quarterly meeting in 2000 (September) describing where reductions or transfers of \$697,900 in 2000-01 should be made from the indicated administrative appropriations.

5. In addition to Alternatives 2 or 4, provide staffing or appropriation increases or both in 2000-01 up to the amount of any administrative reduction taken under any of the programmatic areas listed in Table 1 that are not included as an administrative cost. Examples of possible staffing classifications and the 2000-01 costs per position include:

- a. conservation warden (\$83,100)
- b. fisheries biologist or wildlife biologist (\$53,400)
- c. fisheries technician or wildlife technician (\$35,400)
- d. direct DNR to submit a request under s. 13.101 within the time designated by the Committee for (\_\_\_\_\_ tember) specifying staff at \_\_\_\_\_

Prepared by: Russ Kava

MO# 2C (but no A)

BURKE	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
DECKER	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
JAUCH	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MOORE	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
SHIBILSKI	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
PLACHE	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
COWLES	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
DARLING	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
GARD	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
PORTER	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
KAUFERT	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
ALBERS	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
DUFF	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
WARD	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
HUBER	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
RILEY	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
AYE	8	NO	8	ABS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

MO# Alt 1

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A
AYE	8	NO	8
ABS	0	0	0

MO# Alt 2b + 5d

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A
AYE	8	NO	8
ABS	0	0	0

MO# 2C

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A
AYE	8	NO	8
ABS	0	0	0

May 3, 2000  
13.10 JFC Meeting

Agenda Item XXI  
DNR - Request for Facility Designer Position

Issue:

DNR wants 1 PR position to help them decide where employee cubicles should go, and keep lanes clear to the bathroom. The funding comes from inter-agency charges. They whine that other agencies have many more cubicle arrangers.

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Summary:

FB says DNR already got 1/2 of the position paid for with FED (see p.2, paragraph 3), so I am recommending that you only provide another 1/2 position to meet DNR's initial request. I am also recommending that it be full time, rather than a 4-year project position.

Staff Recommendation:

**Alternative 3(b)**

*(note: any other alternative, other than #4 is also ok)*

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Natural Resources: Section 16.505(2) Request for Facility Designer Position --  
Agenda Item XXI

### REQUEST

The Department of Administration (DOA) requests additional position authority for 1.0 PR facility designer position on a four-year project basis in the general program operations service funds appropriation [s.20.370(8)(mk)] in the Bureau of Administrative and Field Services in the Department of Natural Resources (DNR).

### BACKGROUND

On December 29, 1999, a request was submitted under s. 16.505(2) to the Joint Committee on Finance from DOA, recommending the increase in PR position authority in DNR. The Co-Chairs of the Committee, in a letter to the Secretary of DOA on January 20, 2000, indicated that an objection had been raised to this request and that the Committee would schedule a meeting to consider the matter.

The position authority is requested in the general program operations service funds appropriation [s. 20.370(8)(mk)] in DNR's Division of Administration and Technology. The appropriation receives funds through charges to the bureaus in the Department and from other agencies for facilities, support services and materials (with the exception of geographic information systems services) provided relating to administrative services to pay for expenses associated with those facilities, services or materials. The DNR bureaus pay the charges from various

appropriations funded from GPR, conservation and environmental fund SEG, federal funds and other funding sources.

The Bureau of Administrative and Field Services in DNR provides numerous agencywide management and operational services, including general inventory control, document storage and distribution, mail distribution, desktop publishing, employe health and safety management, aeronautics, fleet management and procurement. In 2000-01, a total of \$6.7 million is appropriated to this bureau, with 64.5 positions authorized.

## ANALYSIS

Expenditures of \$49,000 annually are identified in the DNR request to DOA. However, no expenditure authority is recommended by DOA. This is because the appropriation is a continuing PR appropriation (where all moneys received are available for expenditure) and additional expenditure authority could be obtained through allotments approved by DOA. Further, DNR staff have indicated that LTE funding would be reallocated to support the permanent position requested. Further, the bureau could charge other bureaus for the work done by the position, thus generating revenue to cover position costs.

Facilities designers generally facilitate agency space planning and design services. Currently, there are 1.5 permanent facility designer positions in DNR, with 1.0 position funded from the conservation fund and 0.5 position funded from federal indirect cost reimbursements. The requested position would be funded through chargebacks which would be paid from a variety of funds (conservation, environmental or federal funds, for example) based on the funding of the bureau receiving services. At the time of the original DNR request to DOA (December, 1998), 1.0 facilities designer position was authorized in the Bureau of Facilities and Lands. Subsequent to that, an additional 0.5 FED position was reallocated for these purposes and the capital budget and planning section was transferred to the Bureau of Administrative and Field Services. Therefore, the Committee could consider providing a one-half time position, consistent with DNR's original request for a total of two facility design staff.

Two of the main tasks cited by DNR for additional staff in this area are the reconfiguration of the Department's office space in the GEF 2 and 3 state office buildings in Madison and the continued implementation of the Department's service centers. Currently, there are approximately 110 unfilled DNR space design requests, with 46 dealing with central office reconfiguration and 30 related to service center implementation.

The reconfiguration of office space will involve DNR staff being relocated within the central office to more closely reflect the structure created in the recent agency reorganization. Some of the space planning requests involve bringing staff in newly-organized divisions and bureaus into closer proximity with each other. DNR staff anticipate that they will also be able to more equitably address the space needs of the bureaus during this time. In addition, new systems furniture will be

installed to make more efficient use of office space. It is anticipated that much of this work will be completed by the 2003-04 fiscal year.

The Department has opened 23 of the originally anticipated 35 service centers to date. Ten additional service centers are expected to be opened by the end of the 2002-03 fiscal year. Seven of these ten will be "full" service centers as originally planned by the Department, with a full range of DNR staff representing all divisions and offering most Department services. Three of these (Florence, Boscobel and Shawano) will be "reduced-scope" service centers where more limited services will be offered and only DNR staff from programs with sufficient workload in the area will be placed. Two of the service centers originally anticipated by the Department (Medford and Tomah) will not be opened, based on reassessed workload and community support.

DNR originally requested a permanent facilities designer position to address not only central office reconfiguration and service center implementation, but ongoing facility design needs as well. DOA recommends a four-year project position so as to give the agency the additional staffing needed to complete the service center initiatives and much of the central office reconfiguration during the anticipated time frame. Once those initiatives are complete, the ongoing facilities design needs of the Department could be reevaluated and additional staff could be provided through future legislative action if necessary.

DNR argues that, compared to other state agencies of relatively comparable size and statewide presence, they are understaffed in the area of space planning. Currently, the Department of Workforce Development has seven facility designer positions, while the Department of Transportation has three and the Department of Health and Family Services has two. It should also be noted that these agencies may also have more specialized position classifications that have some duties related to space planning, such as the three engineer positions in the Division of Care and Treatment Facilities in DHFS. DNR argues a permanent position should be authorized to provide DNR a more comparable level of staffing with other state agencies.

If the request is not approved, the Department could either increase its use of LTE staff, reallocate additional permanent staff to increase space planning activities in the agency or maintain the current level of service.

## **ALTERNATIVES**

1. Approve the DOA recommendation for 1.0 PR facility designer position on a four-year project basis in the Bureau of Administrative and Field Services in DNR's general program operations service funds appropriation [s.20.370(8)(mk)].
2. Provide 1.0 PR facility designer position on a permanent basis in the Bureau of Administrative and Field Services (consistent with the original DNR request).



3. Provide 0.5 PR position (to provide DNR with a total of 2.0 facility designers) authorized as follows:

- a. a four-year project position
  - b. a permanent position
4. Deny the request.

Prepared by: Russ Kava

MO# Set 1

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A

AYE 8 NO 8 ABS 0

MO# \_\_\_\_\_

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A

AYE \_\_\_\_\_ NO \_\_\_\_\_ ABS \_\_\_\_\_

May 3, 2000  
13.10 JFC Meeting

Agenda Item XXII  
DNR - Stewardship Purchase of Railroad Right of Way in Brown  
County

Issue:

DNR requests authority to purchase 14 miles of railroad right-of-way from Wisconsin Central for a trail from Green Bay to Greenleaf in Brown County. The cost is \$435,000.

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Summary:

This is the long-awaited Fox River Trail project. The controversy is mostly coming from some (Republican) property owners who don't want the trail running through their yard. There are other property owners, however, who don't mind that and are actively supporting the trail. In addition, it seems that most of the rest of the community supports the trail (i.e. the 12 inches of petitions everyone received, etc.).

FB details the arguments against the trail on p. 6, and the arguments in favor of the trail towards the bottom of p. 7.

The National Trails System Act encourages states to establish trails on railroad right-of-ways that would be otherwise abandoned. This will be a multi-use trail, and it was discussed initially way back in 1987.

Staff Recommendation:

**Alternative 1**

(note: alternative 2 is probably ok as well, as long as DNR feels it won't kill the deal. Apparently they were thinking about asking for this indemnification clause anyway, but not sure it should be required.)

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Natural Resources: Stewardship Grants to Kenosha and Waukesha Counties --  
Agenda Item XXIII

### REQUEST

The Department of Natural Resources (DNR) requests approval to make the following expenditures from the Warren Knowles-Gaylord Nelson stewardship program:

- \$303,500 for a grant to Kenosha County (\$224,100 from the urban rivers program and \$79,400 from the stream bank protection program) for the acquisition of 233 acres of land for Wheatland-Randall-Twin Lakes County Park; and
- \$670,000 for a grant to Waukesha County (\$380,000 from the urban rivers program and \$290,000 from the urban green space program) for the acquisition of 347 acres of land for Ashippun River County Park.

### BACKGROUND

#### Stewardship Program

The stewardship program was created in 1989 Act 31 for the purpose of acquiring land to expand recreational opportunities and protect environmentally sensitive areas. The Legislature authorized \$231 million in general obligation bonding for this purpose over a ten-year period ending in fiscal year 1999-2000. The law allocates funding among twelve categories of land acquisition and development programs. (The 1999-01 biennial budget act provides \$460 million in bonding for a ten-year reauthorization of the stewardship program beginning in 2000-01).

The urban rivers grant program is funded at a level of \$1.9 million annually. The program provides grants to towns, cities, villages, counties, tribal governments and nonprofit conservation organizations (NCOs) for land acquisition on, or adjacent to, rivers that flow through urban areas. Urban rivers projects must emphasize the preservation or restoration of urban rivers or riverfronts for the purposes of economic revitalization and outdoor recreation, such as fishing, wildlife observation, enjoyment of scenic beauty, canoeing, boating, hiking and bicycling. No municipality may receive more than 20 percent of the funds available for urban river grants (\$380,000) in any fiscal year.

The Department considers all of the following criteria in awarding urban rivers grants: (a) the diversity of outdoor recreational opportunities provided to all segments of the population; (b) the extent of preservation or restoration of an urban riverfront; (c) the project's aesthetic value; (d) the project's potential for increased tourism; (e) the extent of planning, coordination and local support which exists for the project; (f) the potential economic benefits to the community; (g) the extent to which the project preserves an area of historical or cultural value; (h) the improvement of public access to the riverfront; and (i) the project's relation to brownfields redevelopment.

Under the stream bank protection program, \$1,000,000 is authorized annually to protect water quality and support fish habitat by eliminating stream degradation that may result from agricultural and urban runoff. Under the stream bank protection program, DNR has identified those streams most in need of protection from degradation and gives priority to activities that enhance other state and federal programs with similar or complementary goals.

DNR may purchase land or acquire easements under the stream bank protection program from the owner of land adjacent to a stream. Whenever possible, the land and easements acquired under the program are to include the area within at least 66 feet from either side of the stream. In addition, cities, villages, towns, counties, lake sanitary districts, public inland lake protection and rehabilitation districts and nonprofit conservation organizations may receive grants and purchase land or easements under this component. Under statute, no more than \$300,000 of the \$1,000,000 provided annually may be used for grants to local units of government.

Under stewardship, there is also \$750,000 authorized annually for local governments to acquire urban green space, either through the acquisition of land or the rights in land. Eligible local governments include cities, villages, towns, counties, lake sanitary districts or public inland lake protection and rehabilitation districts. Each grant application must include a comprehensive description of the proposed acquisition, plans for development and management of the land and any other information required by DNR.

The Department may approve urban green space grants for the following purposes: (a) to provide an open natural space near an urban development; (b) to protect from urban development an area or naturally-formed feature that is near an urban area and that has scenic, ecological or other natural value; and (c) to provide land for noncommercial gardening. DNR may not approve a grant

unless the urban green space is identified in any master plan that the local governmental unit may have.

Stewardship grants are awarded for up to 50 percent of the cost of acquiring land or rights in land. The local unit of government is responsible for the remainder of the cost. The title to the land or the rights in the land acquired under stewardship belong to the local units of government. By rule, the administrative costs associated with land acquisition and the development, operation and maintenance costs of land are not eligible for grant assistance. Local governments which receive financial assistance under stewardship are not allowed to convert the land or rights in the land acquired to a use that is inconsistent with the uses approved by DNR.

Under s. 23.0915(4) of the statutes, the Joint Committee on Finance reviews all stewardship projects of more than \$250,000. DNR must notify the Co-chairpersons of the Committee in writing of the proposed encumbrance or expenditure. If the Co-chairpersons of the Committee do not notify DNR within 14 working days after the Department's notification that a meeting has been scheduled to review the request, then DNR may make the encumbrance or expenditure. If an objection to the project is made, then the Co-chairpersons must schedule a meeting to review the request. The Department may make the proposed expenditure only with Committee approval.

DNR notification of the proposed grants to Kenosha and Waukesha Counties was received by the Co-chairpersons on April 11, 2000. On April 18, 2000, the Co-chairpersons notified DNR that a meeting would be scheduled to consider the proposed grants.

### **Kenosha County Grant**

The proposed grant to Kenosha County would be used to purchase a 233 acre abandoned gravel quarry owned by Meyer Material Company in the Towns of Randall and Wheatland. This would be the first acquisition of a proposed 488 acre Wheatland-Randall-Twin Lakes County Park under the County's park and open space plan. The topography of the parcel is varied, including hills, rolling agricultural land, the wetland and pond headwater areas of Palmer Creek (a Class III trout stream), a 38-acre lake and species habitat area for the endangered Forster's Tern and the threatened Great Egret. The property borders the New Munster State Wildlife Area and a Town of Randall park. Currently, the mined portion of the parcel has been graded and left vacant, while the agricultural areas are farmed. A single family home, built in 1978, is located on a 2.5-acre portion of the parcel near the northeastern section of the lake.

The 141 acres of land including the gravel pit and the man-made lake are currently zoned M-3 Mineral Extraction District. The appraisal indicates that this area could be marketed as large exclusive residential single-family lots, but would be limited due to access, location of the lake and topography. The 32-acre pond and wetland area is zoned C-1 Lowland Resource Conservancy District, which is restricted to wildlife, recreational or limited agricultural uses. The remaining 60 acres are zoned A-2 General Agricultural District and are considered to have good residential

subdivision potential. The assessed value of the property in 1998 was \$664,200 (\$459,800 for the land and \$204,400 for the improvements).

The appraisal approved by the Department for determining the grant amount estimated the value of the Meyer Material property at \$807,000. The valuation, completed in March, 1999, indicated a highest and best use for three separate sections of the property: (a) a 2.5-acre improved single-family residential site for the existing house; (b) 38 acres of subdividable agricultural land; and (c) 192.5 acres for large lots surrounding the lake. Through the use of comparable sales, the value of the existing house and surrounding land is estimated at \$157,000, the value of the subdividable agricultural land is estimated at \$227,000, and the value of the acreage for large lots is estimated at \$465,000. The appraiser then applied a 5% discount to the sum (given that the relatively large parcel is being sold as a whole rather than in smaller tracts, reducing transaction costs) to place a total value on the property of \$807,000. Because this final value assumed the mining equipment on-site would be removed and the site would be restored with top soil and various planting, the appraised value was reduced by \$200,000 for grant purposes to reflect the estimated costs for reclamation of the quarry site.

A second appraisal of the property that was completed in December, 1998, and accepted by the Department, set the value of the property at \$1 million. The highest and best use identified in this appraisal was for two or three residential sites. Using the cost method to determine the value of the land separate from any improvements, the value of the land was placed at \$900,000, while the improvements were estimated to be worth \$100,000.

The proposed use of the property includes protection and restoration of the wetland and water resource areas of tributary systems to the Illinois Fox River. Proposed winter uses of the property include ice-skating, ice-fishing, sledding and cross-country skiing. Proposed summer activities allowed on the property include swimming, fishing, non-motorized boating, hiking and picnicking. Four baseball diamonds are anticipated to be placed on the parcel on an interim basis. The county anticipates relocating the diamonds and adding additional diamonds and soccer fields to the remaining land in the park's project boundary once it becomes available. The existing residence is anticipated to be converted to a park headquarters building.

DNR staff indicate that Kenosha County has not yet reached agreement on a purchase price for this property. However, if the purchase price were less than the \$607,000 appraisal the DNR grant would not exceed one-half of the purchase costs. If the purchase price exceeds \$607,000, the County would have to provide the difference.

### **Waukesha County Grant**

The proposed grant to Waukesha County would be used to assist the county with the purchase of 347 acres of land in the Town of Oconomowoc. The County purchased the land in June, 1999, from James Williams and John Zurheide for \$1.75 million from county land acquisition funds after requesting and receiving an approved waiver of retroactivity from DNR for grant

purposes. The acquisition was approved for funding from the urban rivers and stream bank protection programs of stewardship in the 1997 grant cycle, but the County did not accept the grant at the time due to negotiation delays and increased acquisition costs.

The topography of the site includes 237 acres of varied terrain, including hills and generally level agricultural land, and 110 acres of wetlands. The parcel has almost one mile of river frontage along the Ashippun River and is adjacent to a state-owned, county-operated public boat launch on Ashippun Lake. A farmhouse and storage buildings are also located on the property.

Approximately 297 acres of the parcel are currently zoned A-P (Agricultural Preservation) and C-1 (Conservancy). An additional 34 acres are zoned A-T (Agricultural Land Transition), while 13 are zoned E-C (Environmental Corridor). An estimated maximum of 26 lots could likely be developed on the parcel, according to the appraisal. The assessed value of the property in 1998 was \$466,700 (\$333,000 for the land and \$133,700 for the improvements).

The appraisal approved by the Department for determining the grant amount estimated the value of the Williams-Zurheide property at \$1.34 million. The valuation, completed in June, 1998, indicates the highest and best use of the property is for low-density residential development. Through the use of comparable sales, the value of the 342 acres of unimproved land was estimated at \$1.1 million, while the value of the 5-acre lot with the improvements was estimated at \$240,000.

A second appraisal of the property was completed in September, 1998. This appraisal, which was accepted by the Department, established the value of the property at \$1,705,000. Using comparable sales, the value of the 342 acres of vacant land was estimated to be worth \$1,505,000, while the value of the improvements was placed at \$200,000.

The site is currently used for public open space. Prior to the purchase by the County, the land was primarily used for agriculture. The proposed use of the property is for protection and preservation of the environmental corridor along the river. Anticipated recreational uses for the park include hiking, picnicking, cross-country skiing, snowshoeing, nature study, fields for lawn sports and river access for canoeing. According to the County's park and open space plan, acquisition of this site will complete the acquisition of large, regional park sites in the County.

## **ANALYSIS**

The funding for these grants would come from the urban rivers, urban green space and stream bank protection programs of stewardship. As of January 31, 2000, the Department indicates that, including these two projects as obligated, the urban rivers category of stewardship had an unobligated balance of \$2.5 million, the urban green space category had an unobligated balance of nearly \$900,000 and the streambank protection category had an unobligated balance of over \$70,000.

Given that the proposed grants would be used to purchase land in high-growth areas, the cost could be considered relatively high compared to potential grant purchases in most other areas of the state. The value of the land for the Waukesha County grant is over \$3,200 per acre, while the value of the land for the Kenosha County grant is nearly \$3,000 per acre. It could be argued that the Department could better use stewardship funding for grants to purchase larger areas of land in less-developed areas of the state. In this way, the purchasing power of stewardship in terms of acres acquired and landscape preserved could be better maximized. This would then maintain relatively larger areas of land under state control as development spreads into new areas of the state.

On the other hand, the nature of the urban rivers and urban green space categories of stewardship is that they focus on land preservation and redevelopment in areas of the state where land may often be valued relatively high. In administrative code, urban area is defined for the urban rivers component of stewardship as any area that is within or is characteristic of a city or village. To the extent that improved land with relatively high value is characteristic of cities, grants for land purchases similar to the proposed grants may be seen as an inevitable part of these components. In addition, under administrative rule, DNR places principal emphasis on acquisition of lands in the more heavily populated areas of the state and in places readily accessible to such areas.

The fact that a stewardship grant is being proposed for a purchase of properties with improvements may raise concerns. The value of the improvements for both parcels of land for which grants are proposed to be given are nearly 20 percent of the total appraised value. To reflect this concern, the Committee could approve a grant for half of the value of only the land, which would equal \$550,000 for Waukesha County and \$225,000 for Kenosha County. It should be noted that Kenosha County anticipates using the current residence on the Meyer Material property for a park headquarters building and that the eligible costs for the Kenosha County grant have already been reduced by the estimated costs of reclamation of the gravel pit. Waukesha County anticipates demolishing most of the improvements on the property, but may maintain some for storage purposes. Further, it should be noted that the proposed state grant of \$670,000 represents only 38% of the actual \$1.75 million purchase price paid by Waukesha County.

A similar issue was raised regarding the grant to the City of Janesville for the purchase of the Panoramic property that was considered by the Committee in April, 1999. DNR requested approval to provide a grant of \$342,500 for the purchase of a 17.4 acre parcel of land where 85 percent of the appraised value was related to factors other than the land itself. The Committee instead allowed the Department to provide a grant of \$281,900 to the City of Janesville.

However, the purchases of improvements on parcels of land is not uncommon in stewardship land acquisition. In addition, by statute, the urban rivers component emphasizes other factors in addition to natural resources-related land acquisition. For example, a previous grant under the urban rivers program was for a total of \$560,000 over two consecutive fiscal years (prior to enactment of the Joint Finance passive review provision) to the City of Beloit for the acquisition of 8.53 acres, which provided the City with the opportunity to remove blighted buildings along the Rock River.



If the proposed grants are not approved, the funding would remain in the overall balance of the stewardship program and would be available for future urban rivers, urban green space and stream bank protection grants.

**ALTERNATIVES**

**A. Kenosha County Grant**

1. Approve the DNR request to expend \$303,500 for a grant to Kenosha County (\$224,100 from the urban rivers program and \$79,400 from the stream bank protection program) for the acquisition of 233 acres of land for Wheatland-Randall-Twin Lakes County Park.

2. Approve a grant expenditure of \$225,000 (half of the appraised value of only the land).

3. Deny the request.

**B. Waukesha County Grant**

1. Approve the DNR request to expend \$670,000 from the Warren Knowles-Gaylord Nelson stewardship program (\$380,000 from the urban rivers program and \$290,000 from the urban green space program) for a grant to Waukesha County for the acquisition of 347 acres of land for Ashippun River County Park.

2. Approve a grant expenditure of \$550,000 (half of the appraised value of only the land).

3. Deny the request.

Prepared by: Russ Kava

MO# A-1, B-1

2	BURKE	Y	N	A
	DECKER	Y	N	A
	JAUCH	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	COWLES	Y	N	A
	DARLING	Y	N	A
	GARD	Y	N	A
	PORTER	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
1	DUFF	Y	N	A
	WARD	Y	N	A
	HUBER	Y	N	A
	RILEY	Y	N	A

AYE 15 NO 1 ABS 0

May 3, 2000  
13.10 JFC Meeting

Agenda Item XXII  
DNR - Stewardship Purchase of Railroad Right of Way in Brown  
County

Issue:

DNR requests authority to purchase 14 miles of railroad right-of-way from Wisconsin Central for a trail from Green Bay to Greenleaf in Brown County. The cost is \$435,000.

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Summary:

This is the long-awaited Fox River Trail project. The controversy is mostly coming from some (Republican) property owners who don't want the trail running through their yard. There are other property owners, however, who don't mind that and are actively supporting the trail. In addition, it seems that most of the rest of the community supports the trail (i.e. the 12 inches of petitions everyone received, etc.).

FB details the arguments against the trail on p. 6, and the arguments in favor of the trail towards the bottom of p. 7.

The National Trails System Act encourages states to establish trails on railroad right-of-ways that would be otherwise abandoned. This will be a multi-use trail, and it was discussed initially way back in 1987.

Staff Recommendation:

**Alternative 1**

(note: alternative 2 is probably ok as well, as long as DNR feels it won't kill the deal. Apparently they were thinking about asking for this indemnification clause anyway, but not sure it should be required.)

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

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FROM: Bob Lang, Director

SUBJECT: Natural Resources: Stewardship Purchase of Railroad Right-of-Way in Brown County  
-- Agenda Item XXII

### REQUEST

The Department of Natural Resources (DNR) requests approval to purchase approximately 14 miles of railroad right-of-way from Green Bay to Greenleaf in Brown County from Wisconsin Central Ltd. (WCL) for \$435,000 from the general land acquisition component of the Warren Knowles-Gaylord Nelson stewardship program.

### BACKGROUND

#### Stewardship Program

The stewardship program was created in 1989 Act 31 for the purpose of acquiring land to expand recreational opportunities and protect environmentally sensitive areas. The Legislature has authorized \$231 million in general obligation bonding for this purpose over a 10-year period, ending in fiscal year 1999-00. The law allocates funding among twelve categories of land acquisition and development programs. (The 1999-01 biennial budget act provides \$460 million in bonding for a ten-year reauthorization of the stewardship program beginning in 2000-01.)

Under the stewardship program, \$6.7 million annually is authorized for the Department's general land acquisition program. General land acquisition bonding is used to purchase land for a number of Department functions, including fisheries management, forests, parks, wildlife management, wild rivers and resources areas. When a DNR project is planned, a map showing the desired borders for the whole project is drawn. Usually, not all of the land proposed for the project

is for sale at that time. Under this program, DNR purchases property that is available within the mapped boundaries and then attempts to buy additional parcels as they come on the market to fill out the project borders.

Under s. 23.0915(4) of the statutes, the Joint Committee on Finance reviews all stewardship projects of more than \$250,000. DNR must notify the Co-chairpersons of the Committee in writing of the proposed encumbrance or expenditure. If the Co-chairpersons of the Committee do not notify the DNR within 14 working days after the Department's notification that a meeting has been scheduled to review the request, then DNR may make the encumbrance or expenditure. If an objection to the project is made, then the Co-chairpersons must schedule a meeting to review the request. The Department may make the proposed expenditure only with Committee approval.

DNR notification of the purchase of land from Green Bay to Greenleaf was received on July 2, 1999. Notice of an objection to the proposed purchase was made on July 21, 1999.

### **Rails-To-Trails**

Under the National Trails System Act, 16 U.S.C. 1247(d), the federal government encourages states to establish trails as an interim use of railroad right-of-way that would otherwise be abandoned. Under 49 U.S.C. 10903-4, rail carriers must notify the federal Surface Transportation Board (STB) of their intent to abandon any part of its railroad lines and discontinue operation on the lines, with some exceptions based on the scope of the abandonment.

In the 1960s, Wisconsin acquired the Elroy-Sparta Trail and began acquiring other railroad right-of-ways and establishing recreational trails. The state currently owns approximately 700 miles of such trails statewide. Since the mid-1990s, the federal rails-to-trails law has been the primary vehicle for these acquisitions.

### **Green Bay to Greenleaf Purchase**

The proposed land purchase involves 144.23 acres in Brown County, primarily consisting of a narrow 13.9-mile strip of former railroad grade varying between approximately 30 to 100 feet in width. A project boundary for the Green Bay to Greenleaf State Trail was established by the Natural Resources Board in 1991, with an acquisition goal of 150 acres. To date, no land has been purchased by DNR within the project boundary.

DNR will be responsible for providing the right-of-way for a continuous public recreation trail. DNR would enter into a memorandum of agreement (MOA) with Brown County under which the county will develop, maintain, and operate the trail. The MOA will require Brown County to develop a master plan for the trail, which must then be approved by the Natural Resources Board. In the plan, the County can recommend various recreational uses of the trail that may include hiking, bicycling, snowmobiling, horseback riding, ATVs, cross-country skiing and other recreational uses. At this time, the proposed trail is being considered only for hiking, bicycling and cross-country skiing use, with no motorized uses anticipated. The proposed trail is being considered

for connection to Fox River access and other area parks and trails in the future, including the Mountain Bay State Trail, Heritage Hill State Park in Green Bay and De Pere's Fox Point and Voyageur Parks.

### **Purchase History**

Serious discussions of the use of the Fox River portion of this railway right-of-way from Green Bay to De Pere as a recreational trail began in 1987 when the Soo Line Railroad was sold to Wisconsin Central Ltd. In 1992, Escanaba & Lake Superior Railroad (E&LS) obtained a right of first refusal to purchase the railway at net liquidation value in the event of certain contingencies, including abandonment. In September, 1994, WCL notified E&SL of its intent to abandon the 14-mile stretch from Green Bay to Greenleaf. WCL notified the ICC of their intent to seek an exemption to abandonment proceedings for the corridor in October of 1994, and DNR submitted a statement of willingness to assume financial and operational responsibility for the trail in December of 1994. In a petition filed in December of 1994, the Wisconsin Department of Transportation (DOT) requested issuance of a notice of interim trail use on behalf of DNR to acquire and use the right-of-way for recreational trail purposes and rail banking under the National Trails System Act.

DNR made no offer to WCL within the initial 180-day time period due to ongoing negotiations between WCL and E&SL for purchase of the right-of-way. At the end of the 180 days, however, no agreement had been reached between the railroads, and DNR and WCL submitted joint motions to the ICC and STB for a series of 180-day extensions of the time to reach an agreement. The railroads could not agree on the value of the property and eventually sought arbitration on the purchase price. A 1997 arbitrator's opinion found the net liquidation value of the 14-mile stretch to be \$408,000. In January, 1998, E&LS waived its right of first refusal when it could not secure financing for a purchase. In July, 1998, WCL and DNR obtained a final extension from the STB to negotiate through January 18, 1999. A purchase agreement for \$435,000 is dated January 15, 1999. The Natural Resources Board approved the purchase at their June, 1999, meeting by a 6-0 vote.

In August of 1998, some of the persons who own land adjoining the railroad line filed a petition with the STB for administrative review of the extension decisions. The landowners group alleged that STB's jurisdiction over the line ended at the end of the initial 180-day negotiating period, that the extensions had not been filed properly and that the line had to be abandoned since an interim trail use had not been negotiated by the requisite time. On February 17, 2000, the STB denied the petition. The landowners group has since filed suit in the federal Circuit Court of Appeals challenging the STB decision.

During the negotiations between DNR and the railroad for the purchase of the land, DNR contacted Brown County to see if there was interest in a partnership to develop a recreational trail. A public hearing and a number of public forums have been held in Green Bay and Wrightstown to provide citizens with information on the trail and to solicit public opinion. In October of 1998, the Brown County Board voted 19-4 in support of entering into a cooperative agreement with the state for purchase and development of the trail.

## Appraisal and Purchase Considerations

A May, 1999, appraisal approved by DNR places the value of the property at \$445,000. The appraisal utilizes an "across the fence" valuation technique to estimate the selling price of the 144 acres of railway property if the railroad owned clear title and was selling to adjoining landowners. Other railway improvements (the built up track surface, bridges and culverts) are not given any marketable value, although they would be integrated into the trail. The approximately 60 acres of urban right-of-way is valued at \$891,000 and the 84 acres of rural lands at \$197,500. Bridge removal costs estimated at \$100,000 are deducted for a gross retail value of the property of \$988,500. From this various selling expenses and other costs associated with selling the right-of-way by individual parcel totaling \$544,000 are subtracted for an estimated market value to WCL of \$445,000.

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A 1996 appraisal completed for WCL for "litigation purposes" (primarily the E&LS matter) placed the fair market value of the land (also using an across-the-fence valuation technique) at \$2.5 million before deduction of expenses. The bridges, culverts and earthwork were estimated at a depreciated value of \$1.8 million. The arbitrator found that the value of WCL's actual ownership interest in the corridor in a forced sale (such as under abandonment) was \$315,500 for its real estate and after recognizing various discount factors and selling expenses the railroad would be expected to net less than \$50,000.

The 1999 appraisal value is based on DNR obtaining the property under the federal rails-to-trails provisions whereby the intact corridor could be utilized for interim trail purposes without additional acquisition costs. While not contained in the purchase agreement, DNR real estate officials state the purchase will not be made (or a refund provision will be included at closing) if the petitioners were to prevail in a legal challenge under the federal law. Some titles to parcels of land acquired by the railroad are by warranty deeds that assign complete ownership to the railroad regardless of land use. Other titles assign ownership (or easements) to the railroad only as long as the land has not been abandoned by the railroad. Some parcels of land were acquired by the railroad by condemnation for railroad purposes only, which could raise legal questions of ownership. Most of the parcels in this purchase were not obtained through warranty deeds. Wisconsin Central Ltd. could convey a "quit claim" deed to DNR that, essentially, states whatever ownership interest the railroad has is transferred to the state. This type of deed does not guarantee DNR ownership in the parcels conveyed, but rather ensures the railroad has given up any ownership interest it held. It is estimated that the railroad owns between 25% and 30% of the land in this 14-mile corridor. That is, if abandoned, an estimated 70% to 75% of the land could be subject to ownership claims by adjacent landowners. Therefore, for the sale to convey the interest sought by DNR (an intact 14-mile recreational trail corridor) it is critical that the federal rails-to-trails provisions apply and are utilized to preserve the right-of-way as a transportation corridor with an interim recreational trail use.

The purchase includes a railroad bridge over the Fox River. The center section of the bridge is a 200 foot span that swings on a center pivot in the river. The span must be swung open to allow navigation on the river. The bridge is over 100 years old and has been left in the open position for

the past several years. This section of the bridge may have to be removed from the river in the future. The two trestles from either shore leading up to the center pivot section may be modified for use as fishing piers or other recreational purposes in the future. It is not clear at this time when, or if, the center portion must be removed or the extent of any removal that may be necessary for the two trestles. Due to the age, condition and structure of the bridge it is considered a liability to the state. While the cost of removal is in dispute, estimates range from minimal if the National Guard could be utilized for demolition as a training exercise to over \$400,000 if removed by a private demolition company. The arbitrator in the E&LS matter estimated the cost of removal if undertaken by WCL at \$438,000, while the DNR appraisal included a "conservative" estimate of \$100,000.

Under the purchase agreement DNR would pay \$435,000 for the corridor, including the Fox River bridge and WCL would retain the right to sell and retain income from utility or other easements for a period of 15 years from the date of closing. If the DNR purchase is not approved WCL could maintain ownership interest in the corridor or could seek abandonment. Given that the railroad has removed the ties and rails from the corridor, it is likely the corridor would be abandoned under this scenario, unless a local governmental unit decided to take up negotiations with the railroad.

If the state does not purchase the property, DNR would have to notify the STB. If any locality would like to then claim the land for interim trail use, they could file a late request for such use with the STB, provided the railroad is willing to negotiate. If the railroad is not willing to renegotiate or the STB turns down the late request, the land would then be abandoned. After abandonment, lands the railroad does not own outright may revert to the landowner of the abutting property. Further, the first right of acquisition would go to DOT under state law. Under this scenario, DNR could request the first right of acquisition from DOT to acquire the land for recreational purposes. Since it is not DNR practice to obtain trail land through condemnation, DNR could then attempt to obtain the land the railroad does not own in the abandoned railroad line in a piecemeal fashion from property owners willing to sell. This process would be more time-consuming and, potentially, more costly than obtaining the land by purchase in a single block for interim trail use.

## **ANALYSIS**

The funding for the Green Bay to Greenleaf corridor would come from the general land acquisition component of the stewardship program. Assuming this request is approved and considering other obligations and expenditures, through January of 2000, the Department estimates that the entire allocation for this stewardship component has been obligated.

Brown County estimates the total cost of developing the 14-mile trail would be approximately \$495,000. Preliminary plans are for the urban portions to be surfaced in 12 foot-wide asphalt and the rural portion in crushed limestone. Brown County also assumes that most of their development costs (80 to 100%) can be funded with state and federal grants. County officials

indicate a stewardship local parks aids grant of approximately \$70,000 is being sought (these grants are awarded by DNR on a competitive basis) and a federal transportation enhancements grant of \$395,600 has been awarded by DOT. Maintenance and operations costs are estimated at less than \$18,000 annually and are expected to be funded from trail fees and local tax revenues.

If the WCL land is acquired, DNR would have to pay aids in lieu of property taxes on the land to the five municipalities (the Cities of Green Bay and De Pere, the Towns of Rockland and Wrightstown and the Village of Allouez) in an amount equal to the tax that would be due on the estimated value of the property at the time it was purchased (generally the purchase price), adjusted annually to reflect changes in the equalized valuation of all land, excluding improvements, in the taxation district. The municipality then pays each taxing jurisdiction (including the county and school district) a proportionate share of the payment, based on its levy. Aids in lieu payments are made from a sum sufficient GPR appropriation. Payment for the WCL land would be approximately \$9,100 GPR annually. Currently, railroads do not pay property taxes to any locality through which a line runs.

A number of arguments have been raised by opponents of rails-to-trails purchases.

*Privacy, trespassing, and crime.* Some adjacent landowners have raised concerns that a recreational trail running near or through their land would infringe on their privacy, give trail users easy access for trespass on their land, allow for vandalism and theft of their property and lead to an increase in other crimes along the trail. County and DNR staff indicate that crime, littering, and trespassing by trail users has not been a significant problem along established trails.

*Future abandonments.* Some landowners have expressed concerns that if the proposed trail is purchased, the railroad grades on their property will be subject to purchase in the future. DNR and DOT program staff indicate that the intention to abandon the Green Bay to Greenleaf grade does not necessarily mean that any adjoining grade will undergo abandonment proceedings in the future. However, DNR does indicate an interest in developing other trails in the county if the land should become available in the future.

*Public ownership of land.* Another issue sometimes raised is the control of land in the state by DNR and other public entities at the expense of local property owners. As of July 1, 1999, DNR controlled a total of 1,334,390 acres of land, which represented 3.8% of the state's land area (34.8 million acres). While no centralized source of information on public land ownership exists, an estimated 5.6 million acres of land (16% of the state's land area) is owned by federal, state, and local governments for conservation and recreation purposes.

*Railroad ownership interest.* Some property owners whose land abuts the railway argue that they should have the option to purchase the adjoining right-of-way for land a railroad intends to abandon. If any section of the corridor is abandoned, issues relating to the condition of titles would arise.



If this purchase is not approved and the railroad formally abandons the property, the first right of acquisition along the corridor for transportation or recreational purposes would fall to DOT under Wisconsin statutes s. 85.09. DOT could exercise, assign, or release the first right of acquisition. If DOT wanted to exercise this right, they could acquire the remainder of the land by gift, purchase, or condemnation. DOT could also choose to assign the first right to another state agency, county, or municipality. Each of these entities could acquire land by the same methods. If DOT chose to release the land, the railroad would then be able to handle the remaining property as they saw fit. The railroad would not be obligated to sell land it owned to adjacent property owners.

*Previous easements and rights-of-way to cross the trail.* Adjoining property owners express a concern that the easements and rights-of-way that they had previously negotiated with the railroad may no longer be honored if the land is used as a trail. DNR and county officials state that previous easements obtained from the railroad would generally be honored. However, additional easements or consolidation of multiple crossings could also be negotiated as part of the planning process. Needs for occasional access across the trail may be addressed through the issuance of a temporary permit for a specific purpose.

*Motorized uses of the trail.* Some adjacent landowners expressed concern that the trail could be open to snowmobiles and ATVs, to the detriment of both adjacent landowners and hikers, bicyclers and other non-motorized users of the trail because of noise and traffic concerns. DNR mandates only that state trails be open for hiking. No other use is mandated. Other uses for the trail would be determined as part of the master plan. County officials indicate motorized uses are not currently being considered, particularly for the urban portions of the trail. Rather, it is expected that heavy hiking and biking use could result in the trail being cleared in the winter for those purposes or left snow-covered to accommodate cross-country skiing.

Proponents make a number of arguments in support of trails and of interim land-banking.

*Recreational value.* Trails provide a place for public recreation such as hiking, biking and other recreational activities. They also preserve public greenspace and often improve the aesthetic appearance of surrounding areas. Finally, trails are often used to link other recreational facilities (such as parks, playgrounds, recreational fields or other trails) of a community.

*Traffic management.* Urban trails in particular may play some role in reducing motorized traffic congestion by allowing increased use of commuting by bicycle.

*Economic benefits of trails.* Proponents argue recreational trails often help the local economy by drawing tourists to the area who spend money on food, transportation, lodging, equipment and other goods and services. Studies of other recreational trails in Wisconsin indicate that a typical person may spend an average of \$10 to \$50 per day when visiting a trail.

*Preservation for future use.* State ownership of the rail corridor would preserve it for future public needs, whether for recreational purposes, utilities, or some other form of transportation. If the land were sold to individual buyers, future restoration of the corridor would likely be difficult.

If DNR is allowed to make this purchase, the amount of land under state control for the Green Bay to Greenleaf State Trail would be at 96 percent of the overall acreage goal for the project. If the Department is not allowed to make the purchase, the \$435,000 that would otherwise have been spent on WCL purchase would revert to the unobligated balance of the general land acquisition component of stewardship.

## ALTERNATIVES

1. Approve the DNR request to purchase approximately 14 miles of railroad right-of-way from Green Bay to Greenleaf in Brown County from Wisconsin Central Ltd. for \$435,000 from the general land acquisition component of the Warren Knowles-Gaylord Nelson stewardship program.
2. Adopt Alternative 1, subject to the condition that the final sales contract include a provision requiring WCL to indemnify the state if the entire corridor does not meet the federal Rails-to-Trails criteria for interim trail use.
3. Deny the request.

Prepared by: Daryl Hinz and Russ Kava

MO# \_\_\_\_\_

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A

AYE \_\_\_\_\_ NO \_\_\_\_\_ ABS \_\_\_\_\_



NATURAL RESOURCES

Stewardship Purchase of Railroad Right-of-Way in Brown County  
Agenda Item XXII

Motion:

Move to require that any indemnity agreement entered into between DNR and Wisconsin Central Ltd. include a bond purchased by WCL sufficient to cover the purchase amount.

MO#			
BURKE	Y	<input type="radio"/> N	A
DECKER	Y	<input type="radio"/> N	A
JAUCH	Y	<input type="radio"/> N	A
MOORE	Y	<input type="radio"/> N	A
SHIBILSKI	Y	<input type="radio"/> N	A
PLACHE	Y	<input type="radio"/> N	A
COWLES	Y	<input type="radio"/> N	A
DARLING	Y	<input type="radio"/> N	A
2 GARD	Y	<input type="radio"/> N	A
PORTER	Y	<input type="radio"/> N	A
KAUFERT	Y	<input type="radio"/> N	A
1 ALBERS	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
DUFF	Y	<input type="radio"/> N	A
WARD	Y	<input type="radio"/> N	A
HUBER	Y	<input type="radio"/> N	A
RILEY	Y	<input type="radio"/> N	A

AYE 1 NO 15 ABS 0

NATURAL RESOURCES

Stewardship Purchase of Railroad Right-of-Way in Brown County  
Agenda Item XXII

Motion:

Move to require that approval of the purchase is conditioned on DNR entering into an agreement with Brown County under which, if it is found that the entire Green Bay to Greenleaf corridor is found not to meet the federal Rails-to-Trails criteria for interim trail use and that the property reverts to landowners abutting the trail, Brown County return any state development funding provided during the period between the time of the purchase and the time of the finding to the state.

MO#				
	BURKE	Y	N	A
	DECKER	Y	N	A
	JAUCH	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	COWLES	Y	N	A
	DARLING	Y	N	A
2	GARD	Y	N	A
	PORTER	Y	N	A
	KAUFERT	Y	N	A
1	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUBER	Y	N	A
	RILEY	Y	N	A

AYE 2 NO 14 ABS

May 3, 2000  
13.10 JFC Meeting

Agenda Item XXIV  
DNR - Stewardship Grant for Ellison Bluff County Park

Issue:

DNR wants authority to award a \$1.55 million grant from the Stewardship Fund for the purchase of 86 acres in Door County - the Ellison Bluff County Park.

Summary:

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This a good project and should be funded. Sen. Cowles is very supportive.

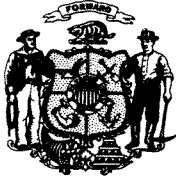
The only apparent controversy is whether some of the funding comes from the "Great Lakes Bluff Protection" subprogram account. I guess Rep. Hoven is behind the effort to limit or prohibit any funding from the Bluff Protection account - I assume he wants it all to go to Port Washington. I don't know that it's a big deal to you, but the original plan to split funding between 2 categories seems to be the best (i.e. alternative 1).

Staff Recommendation:

**Alternative 1**

(note: I would not support any other alternative, unless Cowles convinces you otherwise.)

Prepared by: Barry



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Stewardship Grant to the Trust for Public Land for Ellison Bluff  
County Park Acquisition -- Agenda Item XXIV

### REQUEST

The Department of Natural Resources (DNR) requests approval to expend \$1,555,355 from the original and reauthorized Warren Knowles-Gaylord Nelson stewardship program for a natural areas and bluff protection grant to the Trust for Public Land (TPL) for the acquisition of 86.2 acres of land for Ellison Bluff County Park in Door County.

### BACKGROUND

#### Stewardship Program

The Warren Knowles-Gaylord Nelson stewardship program was created in 1989 Act 31 for the purpose of acquiring land to expand recreation opportunities and protect environmentally sensitive areas. The Legislature authorized \$231 million in general obligation bonding for this purpose over a ten-year period ending in fiscal year 1999-00. The law allocates funding among twelve categories of land acquisition and development programs.

Under the original stewardship program, there is \$1.5 million authorized annually for the natural areas land acquisition program. Under this program, the Department either purchases land or provides grants to nonprofit conservation organizations (NCOs) for the purchase of land that has educational or scientific value or is important to the state's genetic or biological diversity. These natural areas also frequently provide habitat for endangered or threatened species and may include areas with significant geological or archaeological features.

The 1999-01 biennial budget act (1999 Act 9) provides \$460 million in bonding for a ten-year reauthorization of the stewardship program beginning in 2000-01. The annual bonding authority under the program is \$46 million, ending in fiscal year 2009-10. The four subprograms funded under the reauthorized stewardship program are: (a) land acquisition for conservation and recreation purposes (\$28.5 million in 2000-01 and \$34.5 million each fiscal year thereafter); (b) property development and local assistance (\$11.5 million annually); (c) land acquisition in the Baraboo Hills for conservation purposes (\$5.0 million in 2000-01); and (d) Great Lakes bluff protection (\$1.0 million in 2000-01).

Funding from the reauthorized program generally may not be obligated before July 1, 2000. Currently, with the approval of the Natural Resources Board, the Joint Committee on Finance and the Governor, the Department can obligate up to the entire allocation under the land acquisition subprogram for large or uniquely valuable acquisitions. Funding of \$25 million has been utilized from the reauthorized stewardship program for the purchase of approximately 32,000 acres from Packaging Corporation of America in northern Wisconsin commonly referred to as the Great Addition.

Both the Department and NCOs are eligible to use funding from the land acquisition subprogram. The statutory priorities enumerated for land acquisition funding are: (a) acquisition of land that preserves or enhances the state's water resources (including land along the shores of the Great Lakes); (b) acquisition of land for the stream bank protection program; (c) acquisition of land for habitat areas and fisheries; (d) acquisition of land for natural areas; and (e) acquisition of land in the Middle Kettle Moraine.

Under the property development and local assistance subprogram, the Department may not obligate more than \$8 million in each fiscal year for local assistance. Local assistance funding may be awarded for: (a) grants for urban green space; (b) grants for local parks; (c) grants for the acquisition of property development rights; and (d) grants for urban rivers. Under the reauthorized program, this funding must be used for "nature-based outdoor recreation," a term which the Department is required to define in administrative rule. Stewardship grants are made for up to 50% of the land's current fair market value and other acquisition costs, as determined by DNR in administrative rule.

The \$1 million allocated for the bluff protection subprogram may be used to acquire bluff land or interests in bluff land along the Great Lakes or to award grants to NCOs for the acquisition of these lands or interests. Under Act 9, DNR is required to define the term "bluff land" in administrative rule. If the total amount obligated under the bluff protection subprogram on June 30, 2004, is less than \$1 million, the Department must transfer the unobligated funding to the land acquisition subprogram.

Act 9 authorized DNR to promulgate emergency rules, without the finding of an emergency, to implement any provisions related to the reauthorized stewardship program if the rules are necessary for the Department to act as authorized under the program. The emergency rules may



remain in effect until June 30, 2001, or until the date any permanent rules take effect, whichever is sooner. The Department anticipates submitting emergency rules to the Natural Resources Board this summer and permanent rules in the spring of 2001.

Under s. 23.0915(4) and 23.0917(6) of the statutes, the Joint Committee on Finance reviews all stewardship projects of more than \$250,000. DNR must notify the Co-chairpersons of the Committee in writing of the proposed project. If the Co-chairpersons of the Committee do not notify DNR within 14 working days after the Department's notification that a meeting has been scheduled to review the request, then DNR may obligate funding for the project. If an objection to the project is made, then the Co-chairpersons must schedule a meeting to review the request. The Department may then obligate funding for the project only with Committee approval.

DNR notification of the proposed grant to TPL was received by the Co-chairpersons on April 25, 2000. On May 1, 2000, the Co-chairpersons notified DNR that a meeting would be scheduled to consider the proposed grant.

### **Ellison Bluff County Park Grant**

The proposed grant to TPL would be used to purchase 86.2 acres of land in the Town of Liberty Grove in Door County. The property includes 1,939 feet of frontage on the eastern shores of Green Bay. The parcel is heavily wooded with mature trees of various species. The western edge of the property consists of terraced cliffs that drop up to 200 feet to the water below. The cliffs are part of the Niagara Escarpment, a limestone formation that extends from New York and parallels the western shore of the county. A cobble stone beach lies below the cliffs. A dilapidated cabin is located on the property. The land has been used for private residential and recreational land (an additional 29 acres of land to the south of the property are not included in the proposed sale but are owned by the same person and contain a residence and other site improvements).

The proposed use of the property is for a public park and potential state natural area that would be maintained by Door County. The parcel lies immediately south of the 88-acre Ellison Bluff County Park, which was acquired in 1950. Improvements to the current park include picnic tables, a fire ring and grill, restroom facilities, parking and a scenic overlook of Green Bay. Hiking and biking trails and nature study areas are also in the park. The Department and County officials indicate that the improved area would likely not be included in any proposed natural area. County officials anticipate minimal development and operations costs as a result of acquiring the property, with development likely limited to improving some of the trails already on the property.

The eastern half of the property is zoned Heartland 5 (HL 5), with a five-acre minimum lot size for new residences. The western half is zoned Heartland 3.5 (HL 3.5), with a 3.5-acre minimum lot size for new residences. While the division of the property does not follow tax parcel lines, based on a proportional allocation of overall values done by one of the property's appraisers, the assessed value of the property in 1998 was an estimated \$2.1 million (with \$5,000 based on the

value of the improvements), with an estimated \$29,800 paid in property taxes. The property was listed for sale in 1996 at \$4.0 million and in 1998 for \$3.2 million.

Three appraisals were completed on the parcel. The first, which was accepted by the Department for grant purposes, was completed in October, 1999, and estimated the value of the property at \$3.1 million. The highest and best use of the property was identified as rural residential subdivision for permanent or seasonal residences. The appraisal used both the sales comparison and subdivision income methods to estimate the value of the parcel. The adjusted value per foot of water frontage for the one sale and two listings cited in the appraisal ranged from \$1,179 to \$1,638. Based on the sales and listings judged to be most comparable to the subject parcel, the value of the parcel was estimated at \$1,600 per front foot, for an estimated total value of \$3,102,400. Using the subdivision method, the appraiser estimated that, based on the minimum lot sizes allowable under current zoning (3.5 and 5 acres), a total of 19 lots could be developed on the property. Over six years, the appraiser estimates that the gross income from the 19 lots would be \$5.4 million, while expenses for the development (such as utilities, surveys and property management) were estimated at \$1.5 million. The appraiser uses a factor of 10% to discount the net operating income for a present worth value from subdividing the property estimated at \$3.2 million. Placing a higher weight on the sales comparison method, the final estimate for the value of the property was placed at \$3.1 million.

A second appraisal of the property, completed in October, 1999, and accepted by the Department, estimated the value of the property at \$2.6 million. The highest and best use identified in the appraisal was single-family residential subdivision development. The appraiser assumes that the parcel would be subdeveloped into five larger lots with a one-year selling period, with each lot consisting of approximately 388 feet of frontage and 13.5 inland acres. Using five comparable waterfront sales and four comparable inland sales, the value of each foot of frontage is estimated at \$1,400 and each inland acre is estimated at \$9,000. Thus, the value of each of the five lots is estimated at \$665,000, or a total of \$3,325,000. Adjusted for development costs, profit and holding costs (a total of over \$700,000 in expenses), the total value of the property is estimated at \$2.6 million.

A third appraisal of the property, completed in November, 1999, and accepted by the Department, estimated the value of the property at \$3.2 million. The highest and best use was identified as residential development. The appraiser uses a variety of scenarios with the subdivision method, based on five comparable sales, to estimate the property value, including estimating the value of both four lots (485 feet of frontage and 21 acres) and eight lots (242 feet of frontage and 10 acres) on the property and various selling periods and discount rates. The various scenarios yield a range of \$2.7 million to \$3.0 million for the estimated value of a four-lot subdivision and of \$3.2 to \$3.3 million for the estimated value of an eight-lot subdivision. Judging the eight-lot, three-year sellout period as being the best indication of the property's value, the appraiser indicates that the range of \$3.1 to \$3.2 million as the best estimated value, with \$3.2 million being the final value estimate.

The value of the grant is based on 50% of the accepted appraised value of the property of \$3.1 million plus an additional \$10,710 in associated acquisition costs (\$7,300 for appraisals, \$3,380 for title insurance and \$30 in recording fees). It is anticipated that the remainder of the funding will be provided by Door County (\$1.0 million), the Town of Liberty Grove (\$200,000), the Trust for Public Lands (\$100,000), the Nature Conservancy (\$100,000) and other private donations (\$155,355). County officials indicate they are under a contractual agreement with TPL to assume ownership of the property once TPL acquires it and will assume ongoing operations and maintenance costs.

The purchase agreement between TPL and the current owner includes a clause stating that the agreement is contingent upon TPL obtaining final approval from DNR on or before June 30, 2000, for the full amount of its grant request for \$1.55 million from the stewardship program for purchase of the property. If this contingency is not satisfied by that date, TPL has the right to terminate the agreement upon written notice to the current owner by July 10, 2000, after which neither party to the agreement would be liable to the other. Under the sales agreement, closing on the property must occur on or before July 21, 2000, with the contingency that if the grant funding is approved but has not been received by TPL by that date, that TPL may extend the closing by up to 60 days with written notice to the current owner prior to July 21.

## **ANALYSIS**

The Department indicates that funding for the grant would come from some combination of the natural areas component of the original stewardship program and the bluff protection subprogram of the reauthorized stewardship program, but that the exact breakdown between the two funding sources has not yet been determined. As of January 31, 2000, the Department indicates that the unobligated balance of the natural areas component (excluding this project) is nearly \$1.7 million.

Given that the proposed grant would be used to purchase land in a high-growth area, the cost could be considered relatively high compared to potential grant purchases in most other areas of the state. The proposed award would be the largest grant in the history of stewardship to date (excluding a statutorily-specified grant for \$3.0 million for the Frank Lloyd Wright Monona Terrace project in the City of Madison). The value of the land for the grant is \$36,000 per acre (with a state share of \$18,000 per acre). It could be argued that the Department could better use stewardship funding for grants to purchase larger areas of land in less-developed areas of the state. In this way, the purchasing power of stewardship in terms of acres acquired and landscape preserved could be better maximized. This would then maintain relatively larger areas of land owned for conservancy purposes as development spreads into new areas of the state.

However, the relative uniqueness and natural values of the property could be viewed as justifying the relatively high cost of the land. Under administrative rule, one of the priorities for the acquisition of land by the Department is for unique, one-of-a-kind opportunities that may only be

available once, projects of special scenic quality and projects that are irreplaceable. Given that the property includes over one-third of a mile of Green Bay shoreline, is part of a geological formation that spans several states and would complete county ownership of the Ellison Bluff Headwaters, it could be argued that this property meets this criteria. In addition, it could be argued that stewardship funding is best leveraged when used to purchase land that is under more immediate threat of being developed, rather than land in more slowly urbanizing areas that is more likely to remain in a less-developed state.

If, however, land that could be preserved is likely to otherwise be developed, it is often within the power of localities to zone the land in such a way as to maintain it in a relatively undeveloped state, if that is the preferred local option. Thus, rather than spending limited state stewardship money to give grants to purchase land with a relatively high per acre cost, caused in part by local zoning decisions, the state could instead rely more heavily on localities to preserve appropriate green space and natural areas through zoning and other land use planning.

The power of zoning as a tool for land preservation, however, is limited by the willingness of the locality to maintain land in an undeveloped state. Thus, it could be argued that if the state wants the land preserved, the state should be willing to provide grants to help municipalities and NCOs do so. Further, zoning ordinances must allow a reasonable use of the property by the owner to avoid a taking of private property for public use. If a parcel is not purchased by a unit of government or NCO, a change in the zoning of that parcel at any time could result in the development of land that could otherwise have been preserved.

In addition, since local zoning policy is an important factor in setting property value, it could be argued that the local government should bear the primary cost of acquisition where local actions result in relatively high per acre costs. In this regard, it should be noted that \$1.2 million, or about 38% of the acquisition cost (76% of the grant match) is being contributed by Door County and the Town of Liberty Grove.

The issue of which category of stewardship funding the grant is to be made from may also be of some concern. Given that there is only \$1.0 million under the reauthorized stewardship program for the Great Lakes bluff protection subprogram, the Department could, potentially, use the entire allocation for the proposed Ellison Bluff County Park grant. The Department indicates, however, that given the limited amount of funds available in that subprogram, the entire allocation would not be spent on any one grant, including the proposed grant. Given that the bluff protection subprogram is a relatively new category, it could be argued that the funding should not be used until rules are in place and the scope of the program is known. To address this concern, the Committee could prohibit the Department from using any funding from the bluff protection subprogram or set a maximum level of funding that can be provided for the grant from this subprogram. The Department would still have several options for categories from which to take the funding, including the natural areas or habitat areas components of the original program or the land acquisition or local assistance subprograms of the reauthorized program.

## ALTERNATIVES

1. Approve the DNR request to expend \$1,555,355 from either the original or reauthorized Warren Knowles-Gaylord Nelson stewardship program for a natural areas and bluff protection grant to the Trust for Public Lands for the acquisition of 86.2 acres of land for Ellison Bluff County Park in Door County.

2. Adopt Alternative 1, as modified to prohibit the Department from utilizing any funding from the Great Lakes bluff protection subprogram for the grant.

3. Adopt Alternative 1, but limit the amount of funding that can be provided from the Great Lakes bluff protection subprogram to no more than one of the following amounts:

a. \$250,000

b. \$500,000

4. Deny the request.

Prepared by: Russ Kava

MO#	NAME	Y	N	A
2	BURKE	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	DECKER	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	JAUCH	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	MOORE	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	SHIBILSKI	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	PLACHE	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	COWLES	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	DARLING	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	GARD	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	PORTER	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	KAUFERT	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	ALBERS	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	DUFF	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	WARD	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	HUBER	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
	RILEY	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

MO# Alt 1

AYE 16 NO 0 ABS 0