

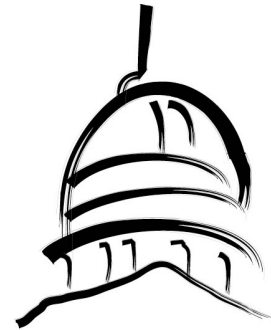
*Warren Knowles-Gaylord Nelson
Stewardship Program*



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Warren Knowles-Gaylord Nelson Stewardship Program

Introduction

Wisconsin's first stewardship program was created in 1989 Act 31 for the purpose of acquiring land to expand recreational opportunities and protect environmentally sensitive areas. In that act, the Legislature authorized \$250 million of general obligation bonding (reduced to \$231 million in 1995 Act 27) for this purpose over a 10-year period, ending in fiscal year 1999-2000. The law allocated funding among twelve categories of land acquisition and development programs. Some were extensions of land acquisition activities that existed prior to the stewardship initiative and others were newly-created programs. 1993 Act 343 renamed the stewardship program the Warren Knowles-Gaylord Nelson stewardship program.

The stewardship program was reauthorized in 1999 Act 9 (the 1999-01 biennial budget) as the Warren Knowles-Gaylord Nelson Stewardship 2000 program. Under that act, the state would be able to contract public debt in an amount not to exceed \$460 million. The annual bonding allotment under the program was set at \$46 million, from fiscal years 2000-01 to 2009-10. Under 2001 Act 16, the bonding authorization was increased from \$46 million to \$60 million annually, beginning in fiscal year 2002-03 and continuing through the remainder of the program (2009-10). This increased the total general obligation bonding authority of the reauthorized program to \$572 million (\$803 million in total bonding is authorized for the 20-year program).

As of July 1, 2002, the Department of Natural

Resources (DNR) controlled a total of 1,408,730 acres of land (including 59,560 acres under easement), which represents approximately 4% of the state's land area (34.76 million acres) and approximately 24% of the publicly held conservation land in Wisconsin. Total public conservation land ownership throughout the state of Wisconsin is estimated to include approximately 5.7 million acres (or 16.4% of the state's land area). The federal government holds almost 1.8 million (or 32%) of the 5.7 million acres (the majority of which constitutes national forests), and county ownership (in the form of county parks and forests) makes up an additional 2.6 million acres (or 44%) of the total.

The Department utilizes both fee title and easement purchases in its land acquisition activities. Fee title acquisition involves outright purchases of land by the Department, allowing for complete DNR management of the parcel. The Department pays aids in lieu of property taxes primarily from state general purpose revenue (GPR) (\$3,906,100 GPR in 2001-02) on the land it owns. An easement is a permanent, perpetual agreement entered into by the landowner and DNR. It conveys certain specifically identified rights to the Department (such as public access or certain development restrictions) and provides a lump-sum payment to the owner. With an easement, the land owner continues to pay property taxes. The land can be sold or passed on to the owner's heirs, but the conditions of the easement are part of the deed and are binding on future owners.

DNR properties are located in 71 of the state's 72 counties and range in size from less than one-

tenth of an acre (the Jaegers Island Wildlife Area in Wood County) to over 168,000 acres (the Northern Highland/American Legion State Forest in Iron and Vilas counties). The Department has established a total acquisition goal of approximately 1,825,600 acres throughout the state. However, DNR periodically reviews and revises acreage goals or adds new acquisition projects with the approval of the Natural Resources Board. Of the current goal, over 1.4 million acres have either been purchased or protected by easement, bringing the Department to within 77% of its current goal.

In 1994, DNR established the Stewardship Advisory Council and solicited membership from a wide range of organizations that have an interest in the stewardship program. The purpose of the Council is to advise DNR on policy and administrative issues relating to the program and to determine ways the Department, nonprofit groups and local units of government can improve communication and work more effectively together.

In 1998, the Governor appointed a Blue Ribbon Task Force on the Stewardship Program to evaluate the program and propose alternatives for its future. The task force released its findings and recommendations in early 1999, and its findings guided key changes in the reauthorized Stewardship 2000 program (as discussed later).

Program Funding and General Requirements

The statutes currently allocate \$60 million of general obligation bonding authority annually for stewardship. Under the original stewardship program, DNR allocated \$1.9 million annually of federal land acquisition funds from various sources, including the Land and Water Conservation Act, the Sport Fish Restoration Act and the Wildlife Restoration Act in order to reach an annual expenditure authority of \$25 million. The Department may continue to use federal funds for land acquisition,

but the amount of the annual allocation is uncertain.

Table 1 provides a summary of the annual general fund-supported bonding expenditures authorized for the original stewardship program ending June 30, 2000. During the 1990-91 and 1991-92 fiscal years, the general land acquisition program was funded at a level of \$8,600,000. In 1992-93, the urban rivers grant program was created at a level of \$1,900,000 and the general land acquisition program was reduced to \$6,700,000.

Table 1: Annual Bonding Authorization 1992-93 through 1999-2000

Program	Amount
General Land Acquisition	\$6,700,000
General Property Development	3,500,000
Local Park Aids	2,250,000
Lower Wisconsin State Riverway	2,000,000
Urban Rivers	1,900,000
Habitat Areas	1,500,000
Natural Areas Acquisition	1,500,000
Stream Bank Protection	1,000,000
Trails	1,000,000
Urban Green Spaces	750,000
Natural Areas Heritage Program	500,000
Ice Age Trail	<u>500,000</u>
TOTAL	\$23,100,000

Stewardship spending by component through June 30, 2002, is summarized in Table 2 for the initial ten-year program. The total allotment is the level of funding authorized for each component. The total amount actually expended by the Department is shown in the next column. The net balance column shows the amount that had not been expended by the end of June, 2002. DNR indicates that much of the remaining funding is encumbered through grant awards. In some instances where grants were previously awarded, the entire amount of the grant was not required to complete the project, leaving a balance of uncommitted funds in several of the categories after June 30, 2000. These funds were subsequently awarded as grants to

Table 2: Stewardship Program Allotments and Balances From Initial Program Authorizations As of June 30, 2002

	Total Allotment (10 Years)	Total Expended	Net Balance
General Obligation Bonding			
General Land Acquisition	\$70,800,000	\$70,800,000	\$0
General Property Development	35,000,000	34,980,200	19,800
Local Park Aids	22,500,000	22,473,600	26,400
Lower Wisconsin State Riverway	20,000,000	20,000,000	0
Habitat Areas	15,000,000	14,568,100	431,900
Natural Areas Acquisition	15,000,000	14,993,500	6,500
Urban Rivers	15,200,000	14,842,300	357,700
Stream Bank Protection	10,000,000	9,911,700	88,300
Trails	10,000,000	10,000,000	0
Urban Green Spaces	7,500,000	7,421,400	78,600
Natural Areas Heritage	5,000,000	5,000,000	0
Ice Age Trail	5,000,000	4,964,700	35,300
Bonding Subtotal	\$231,000,000	\$229,955,500	\$1,044,500
Federal Land Acquisition	\$19,000,000	\$19,000,000	\$0
TOTAL	\$250,00,000	\$248,955,500	\$1,044,500

support additional projects under the appropriate category. Further, \$670,000 was enumerated under 1999 Act 9 for the development of the Hank Aaron State Trail. These funds will be provided to Milwaukee County upon the completion of the project's final plan, which the Department expects to occur in 2003. In addition, approximately \$35,300 remains available for land acquisition for the Ice Age state trail. Any bonding authority allocated but not utilized under the Warren Knowles-Gaylord Nelson Stewardship program before June 30, 2000, remains in the funding categories to which they were originally assigned and expended. However, under 1999 Act 9, if moneys available for expenditure under any of the original stewardship categories are not sufficient to fund a project or activity that is "uniquely valuable in conserving natural resources", the Department may expend moneys from any of the categories for the project.

For comparison, Table 3 shows the annual bonding authority for the reauthorized Stewardship 2000 program. The main body of the program consists of two funding categories, (a) land acquisition and (b) property development and local assis-

tance. In the first year, programs for purchases related to the Baraboo Hills and bluff protection were added. Both of these programs contain sunset provisions. Any funds not obligated or expended from the bluff protection program by July 1, 2004, or from the Baraboo Hills program by January 1, 2006, will be transferred to the land acquisition subprogram.

As a means of encouraging private conservation groups to cooperate with the state in the acquisition and development of recreational lands, the stewardship program authorizes DNR to award grants to non-profit conservation organizations (NCOs) to acquire property. Grants may be awarded for up to

50% of the land's current fair market value plus other acquisition costs as determined in rule by the DNR. Table 4 shows the amounts provided for this purpose from the land acquisition subprogram

Table 3: Stewardship 2000

Subprogram	Bonding Authority (In Millions)
2000-01	
Land Acquisition	\$28.5
Property Development and Local Assistance	11.5
Baraboo Hills	5.0
Bluff Protection	1.0
Total	\$46.0
2001-02	
Land Acquisition	\$34.5
Property Development and Local Assistance	11.5
Total	\$46.0
2002-03 through 2009-10	
Land Acquisition	\$45.0
Property Development and Local Assistance	15.0
TOTAL	\$60.0

since 2000-01.

Table 4: Annual Grant Awards Provided to Non-Profit Conservation Organizations

Year	Total Available for Land Acquisition	Total Available for NCOs	Percentage of Funds Allocated to NCOs
2000-01	\$28,500,000	\$6,000,000	21.1%
2001-02	27,250,000	7,250,000	26.6
2002-03	37,750,000	7,250,000	19.2
2003-04*	37,000,000	8,000,000	21.6
2004-05*	36,250,000	8,750,000	24.1

*Estimated.

The Department had expended a total of \$88.9 million in stewardship funds for land acquisition under the reauthorized Stewardship 2000 program as of January 1, 2003. Stewardship spending and acreage acquisition by component to date is summarized in Table 5. Total funding allotted under the land acquisition subprogram for fiscal year 2002-03 is \$47,464,100 (which includes \$37,750,000

Table 5: Stewardship 2000 – DNR General Land Acquisition as of January 1, 2003

Category	Allotment	Cost to date	Acres Purchased
Fisheries, Streambank	\$15,598,500	\$12,264,700	5,106
Parks & Southern Forests	14,270,900	9,936,300	3,437
Northern Forests*	17,400,000	21,465,900	41,735
Wild Rivers & Resources	5,777,900	13,734,600	19,548
Wildlife & Habitat	14,586,700	16,638,900	19,870
Natural Areas	9,423,600	6,265,400	8,838
Trail & Ice Age Trail	11,479,400	4,770,600	4,381
Non-point Bonding And Other	<u>4,433,100</u>	<u>3,789,000</u>	<u>802</u>
TOTAL	\$109,570,000**	\$88,865,400	103,717

*Northern Forests was grouped with Parks & Southern Forests for fiscal year 2000-01, and was separated out into its own function beginning in fiscal year 2001-02.

**Includes \$16.6 million allotted for Great Addition adjustments not included in category breakdowns.

in Stewardship 2000 land acquisition funds, \$9,678,800 in federal aid, and \$35,300 in carryover funds available from the original stewardship program). Table 5 does not include the land acquisition funds earmarked for grants to non-profit conservation organizations (NCOs). The table reflects transactions entered into before December 31, 2002.

According to the state accounting system, as of January 1, 2003, \$11,946,900 had been expended and an additional \$7,126,100 encumbered from the property development and local assistance subprogram for a total of almost \$19.1 million in committed funds. Of this amount, almost \$6.1 million supports property development activities and \$13 million funds local assistance efforts. In addition, \$450,000 had been spent from the bluff protection program, and \$119,430 had been expended or encumbered from the Baraboo Hills subprogram.

As of January 1, 2003, the stewardship program has allowed DNR to purchase or acquire easements on 257,807 acres. Table 6 provides a summary of the acreage acquired by program area.

Table 6: DNR Stewardship Program Acreage as of January 1, 2003 *

Program	Acres
General Land Acquisition:	
Fisheries Management and Streambank Protection	29,278
Northern Forests	47,205
Parks and Southern Forests	16,393
Wild Rivers and Resource areas	47,425
Wildlife Management	52,833
Natural Areas	<u>28,873</u>
Subtotal	222,007
Ice Age Trail	4,818
Lower Wisconsin State Riverway	24,040
Natural Areas Heritage	6,140
Non-Point Bonding/Other	<u>802</u>
Subtotal	35,800
TOTAL	257,807

*Includes easement acres.

DNR has 19.5 positions in the agency funded from the Department's general program operations appropriations that are involved in various aspects of the stewardship program. These 19.5 positions are assigned to the following Bureaus: (a) 11.0 positions in Facilities and Lands; (b) 2.5 positions in Community Financial Assistance; (c) 2.0 positions in Wildlife Management; (d) 2.0 positions in Parks; and (e) 1.0 position each in Fisheries Management and Legal Services. Staff in the Bureau of Facilities and Lands process approximately 200 to 250 real estate transactions per year, ranging from less than one acre parcel sizes to hundreds or thousands of acres per parcel.

Unless otherwise noted, an annual funding level has been established for each subprogram within the stewardship initiative for fiscal years 2000-01 through 2009-2010. Statutes provide the Department with some flexibility with respect to the annual bonding authority amounts for the subprograms. If the amount of funding obligated by DNR under the land acquisition and property development and local assistance subprograms in a given fiscal year is less than the annual bonding authority for a subprogram, the Department can carry over the unobligated amount to the next fiscal year. If there is any remaining bonding authority under either subprogram on June 30, 2010, DNR would have the authority to expend that funding for the same purposes in subsequent fiscal years.

In addition to obligating the available bonding authority for the land acquisition and property development and local assistance subprograms, DNR may also obligate for either subprogram up to 100% of the succeeding year's annual bonding authority for that subprogram for expenditure in the current fiscal year for a project or activity if the Natural Resources Board determines that all of the following conditions apply: (a) that moneys appropriated to the Department for that subprogram do not provide sufficient funding for the project or activity; (b) that any land involved in the project or activity covers a large area or the land is uniquely

valuable in conserving the natural resources of the state; and (c) that delaying or deferring all or part of the cost to a subsequent fiscal year is not reasonably possible. The Department must then reduce the annual bonding authority for that subprogram for the next fiscal year by the amount obligated.

Beginning in fiscal year 1999-00, the Department was permitted, subject to the approval of the Governor and the Joint Committee on Finance under a 14-day passive review process, to obligate any amount not in excess of the total bonding authority for the land acquisition subprogram under the reauthorized Stewardship 2000 initiative. To utilize this funding, the Department would be required to sell a portion of the acquired land. This provision was utilized to conduct the 32,000-acre "Great Addition" purchase, as well as to acquire 9,239 acres from Wisconsin Public Service Corporation (WPSC) for the Peshtigo River State Forest in Marinette and Oconto Counties (which is discussed in greater detail under the description of the reauthorized land acquisition subprogram).

The Department may not acquire land using funding from the Warren Knowles-Gaylord Nelson Stewardship 2000 program without the prior approval of a majority of the members-elect of the county board of supervisors of a county in which the land is located if at least 66% of the land in the county is owned or under the jurisdiction of the state, the federal government or a local governmental unit. Before determining whether to approve the acquisition, the county in which the land is located must post notices that inform the residents of the community surrounding the land of the possible acquisition. While no county is currently subject to this provision, Forest County is closest with approximately 58% of its total land area under public ownership.

Under 2001 Act 16, DNR is required to provide the appraisals of any property acquired using stewardship funds to the clerk and the assessor of the local unit of government where the property is

located within 30 days of acquiring the property. In addition, assessors are directed to include the information in the appraisals (including comparable sales) when setting land values.

Also, DNR may not obligate funding from the Warren Knowles-Gaylord Nelson Stewardship 2000 program for: (a) the acquisition of land for golf courses or for the development of golf courses; or (b) the acquisition by a municipality of land that is outside the boundaries of the municipality unless the municipality acquiring the land and the municipality in which the land is located approve the acquisition; or (c) for the acquisition or development of land by a county or other local unit of government if the land involved would be acquired by condemnation. Further, under 2001 Act 16, the use of stewardship funds for the acquisition or development of land by a county or other local unit of government was prohibited if the land was acquired through condemnation.

For the purpose of awarding grants under stewardship, the acquisition costs shall equal the sum of the land's current fair market value and other acquisition costs, as defined in rule by DNR. For land that has been owned by the current owner for less than three years, the acquisition costs of the land for grant purposes equals the owner's acquisition price and an annual adjustment increase of 5% per full year of ownership. Prior to 2000-01, for any land for which stewardship funding is proposed to be obligated to provide a grant to a local unit of governmental unit or an NCO, the locality or organization was required to submit two appraisals to DNR if the Department estimated that the fair market value of the land is greater than \$200,000. However, under 2001 Act 109, this requirement was modified to instead require grant applicants to pay for and submit one appraisal, and to require DNR to independently obtain a second appraisal. DNR is allowed to require a third appraisal from the applicant. However, the additional appraisal would be considered an eligible expense under the grant program, requiring DNR to pay for 50% of the cost of the additional appraisal if the grant is

awarded.

DNR may not obligate any funding from the Warren Knowles-Gaylord Nelson Stewardship 2000 program for a given project or activity that exceeds \$250,000 unless the Department first notifies the Joint Committee on Finance in writing of the proposal. If the Co-Chairpersons of the Committee do not notify DNR within 14 working days after the date of the Department's notification that the Committee has scheduled a meeting to review the proposal, the Department may obligate the moneys. If, within 14 working days after the date of the notification by DNR, the Co-Chairpersons of the Committee notify the Department that the Committee has scheduled a meeting to review the proposal, DNR may obligate the funding only upon approval of the Committee.

As of January 1, 2003, 40 projects have been reviewed by the full Committee. All were approved upon review by the Committee. In addition, a \$350,000 grant to the City of Green Bay to fund a portion of the cost of the acquisition of 34.2 acres of land in the Bairds Creek Parkway was scheduled for Committee review in December, 1998, but was withdrawn by DNR. The Department then reduced the amount of the grant below the \$250,000 threshold for Joint Finance review.

Debt service for the stewardship program is primarily funded from a sum-sufficient, general-purpose revenue (GPR) appropriation in DNR. 1997 Act 27 created two additional appropriations to allow for the payment of some stewardship debt service from the segregated (SEG) conservation fund. Annual debt service payments of over \$8.9 million SEG from the conservation fund (\$8.7 million from the forestry account and \$225,000 from the water resources account) were authorized in 1997-98 and 1998-99 for the payment of principal and interest related to the acquisition and development of state forests and recreational boating-related properties under the stewardship program. These appropriations sunset on June 30,

1999. Under the Stewardship 2000 program, debt service is again funded from a sum-sufficient, GPR appropriation in DNR. In addition, 1999 Act 9 shifted \$6 million SEG in debt service over the biennium (\$3 million for both 1999-00 and 2000-01) to the forestry account of the conservation fund. This shift was specified to be one-time only. Under 2001 Act 16, \$8 million in 2001-02 and \$4 million in 2002-03 was appropriated from the forestry account for debt service payments. Table 7 shows state stewardship related debt services costs over the past seven years. Costs did not increase significantly in 2001-02 primarily because of a state debt refinancing initiative to take advantage of lower interest rates and reduce short-term liabilities.

Table 7: Stewardship Debt Repayments

<u>Fiscal Year</u>	<u>SEG</u>	<u>GPR</u>	<u>Total</u>
1995-96		\$14,599,000	\$14,599,000
1996-97		16,034,000	16,034,000
1997-98	\$8,925,000	9,517,800	18,442,800
1998-99	8,925,000	10,130,100	19,055,100
1999-00	3,000,000	18,744,900	21,744,900
2000-01	3,000,000	21,334,700	24,334,700
2001-02	4,901,900	19,774,000	24,675,900

Stewardship 2000

In 1998, the Governor appointed a Blue Ribbon Task Force on the Stewardship Program to evaluate the program and propose alternatives for its future. Among the issues the task force was required to address under the Governor's executive order were: (a) the effectiveness of the stewardship program in preserving, protecting and providing opportunities for the enjoyment of the state's natural resources; (b) identification of long-term natural resource needs; and (c) funding alternatives for any reauthorization of the stewardship program. The task force was composed of legislators, current and former state and local government officials, and representatives from the University of Wisconsin,

business and environmental groups. The task force released its findings and recommendations in early 1999. Several key components of the task force's recommendations were incorporated into the Stewardship 2000 reauthorization in the 1999-01 biennial budget, including increasing the bonding authority, reducing the number of designated sub-programs, facilitating increased small-group participation, and providing greater flexibility for DNR to transfer funding between fiscal years. This last provision was intended to facilitate the Department's efforts to take advantage of unique opportunities to acquire and preserve larger blocks of unfragmented habitat as it became available. Some task force recommendations were addressed outside of the reauthorized stewardship program, including efforts to facilitate the involvement of smaller groups through a capacity-building grant component that was funded through the conservation fund. The task force also recommended that DNR be designated as the agency responsible for managing State Public Trust Lands, that a separate state initiative should be created to permanently protect farmland through easements, that user fees should be employed to a greater extent, and that the DNR should have the authority to develop administrative rules providing incentives to local units of government to submit projects that are consistent with a local or regional land use plan and zoning.

The budget language reauthorizing the stewardship program removed some of the direction and restrictions of the original program. The Warren Knowles-Gaylord Nelson Stewardship 2000 program created four subprograms, and allowed DNR (upon review by the Joint Committee on Finance and the Governor) to reallocate spending authority across fiscal years.

Land Acquisition Subprogram

DNR may obligate moneys under this subprogram to acquire land for any of the purposes specified under statute (such as forests, parks, wildlife areas and natural areas). In addition, nonprofit conservation organizations (NCOs) would be eligi-

ble to receive grants for land purchases. In obligating funding under this subprogram for land acquisition, DNR is required to set aside \$3 million in each fiscal year for purchases and grants for state trails and the Ice Age Trail. Also, in obligating moneys under this subprogram, DNR must give priority to the following purposes: (a) acquisition of land that preserves or enhances the state's water resources, including land in and for the Lower Wisconsin State Riverway and land abutting wild rivers, wild lakes and 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. The Department has defined "wild lake" in administrative rule to mean "a lake or flowage of at least five acres, or significant points thereof, identified in the Wisconsin register of waterbodies, where human influence, such as structural development of its shorelands, is not significant or can be removed at costs deemed warranted by the department. If the waterbody is not found in the Wisconsin register of waterbodies database, department staff will make a determination on whether to add the waterbody to the register as a lake or flowage."

Use Of Future Bonding Authority For Certain Land Acquisitions. Beginning in fiscal year 1999-00, DNR may obligate under the land acquisition subprogram any amount not in excess of the total bonding authority for that subprogram for the acquisition of land, subject to the approval of the Governor and the Joint Committee on Finance under a 14-day passive review process. For such transactions, the Department must sell a portion of the acquired land. All proceeds from such sales, up to the amount obligated for the original purchase, shall be credited to a program revenue appropriation for the payment of principal and interest associated with such purchases. Any resale proceeds in excess of the amount originally obligated are deposited in the general fund.

For bonds that are retired from the proceeds of

the sale of the acquired land within three years after the date on which the land was acquired by DNR, the Department must adjust the available bonding authority for the land acquisition subprogram by increasing the available bonding authority for the fiscal year in which the bonds are retired by an amount equal to the total amount of the bonds issued for the sale that have been retired in that fiscal year. For bonds that are not retired from the proceeds of the sale of the acquired land within three years after the date on which the land was acquired, DNR must adjust the available bonding authority for the land acquisition subprogram by decreasing the available bonding authority for the next fiscal year beginning after the end of that three-year period by an amount equal to the total amount of the bonds that have not been retired from such proceeds in that fiscal year and, if necessary, shall decrease for each subsequent fiscal year the available bonding authority in an amount equal to that available bonding authority or equal to the amount still needed to equal the total amount of the bonds that have not been retired from such proceeds, whichever is less, until the available bonding authority has been decreased by an amount equal to the total of the bonds that have not been retired.

Land acquired using these provisions does not have to be for conservation or recreational purposes. The Department of Administration is required to monitor all transactions under these provisions to ensure compliance with federal law and to ensure that interest on the bonds is tax-exempt for the holders of the bonds.

The Department requested authority to use this provision in September of 1999 to finance the \$25 million "Great Addition" purchase of approximately 32,000 acres in Iron, Lincoln, Oneida, and Vilas Counties from Packaging Corporation of America. The purchase included 42 miles of river and stream frontage and all or part of 20 lakes with 6.3 miles of frontage. Further, 924 acres of scenic and trail easements were purchased.

The Department used this authority again in December, 2001, to purchase 9,239 acres of land and acquire easements on an additional 383 acres from Wisconsin Public Service Commission (WPSC) for the Peshtigo River State Forest in Marinette and Oconto Counties for \$25 million. The acquisition would take place in four phases over three years, concluding no later than December 31, 2004 (unless otherwise delayed by the mutual agreement of DNR and WPSC). The purchase would result in the acquisition of land surrounding Caldron Falls, High Falls, Johnson Falls, Sandstone Rapids, and Potato Rapids. The Department anticipates some excess property may be sold or traded to municipalities and the United States Forest Service.

As of January, 2003, 190 acres of the Great Addition purchase had been resold to Vilas County for \$148,200 and 1,390 acres were resold to the Lac du Flambeau tribe for \$1,080,400. In addition, DNR entered into a three-way agreement with the Board of Commissioners of Public Lands and the United States Forest Service in June, 2002, to exchange and resell parcels of land totaling 2,134 acres acquired under the Great Addition for \$997,000 and conservation easement rights. The Department anticipates reselling up to 7,000 acres from this purchase. The agency has allotted the \$25 million purchase price over three years beginning in fiscal year 2001-02 (as shown in Table 8). Estimated effective reductions in land acquisition funds available from 2001-

02 through 2004-05 are also detailed in the table. Adjustments noted for the Peshtigo River State Forest acquisition are expected to decrease in future years as DNR completes sales of excess property.

The Department has set additional priorities for the acquisition of recreational land in administrative rule. Under rule, DNR places principal emphasis on the acquisition of lands in the heavily populated areas of the state and in places readily accessible to such areas. The Department undertakes projects based on various criteria. The top priority for acquisition is for the consolidation and completion of existing projects.

The next priority is on new acquisition projects based on the following criteria, listed in descending order of priority: (a) land to protect rare and threatened natural resources, genetic and biological diversity and critical fish and wildlife habitat; (b) unique, one-of-a-kind opportunities involving projects of special scenic quality of sufficient size to provide immediate and significant results in meeting program goals; (c) water-based resources, including land for protecting and improving surface and ground water quality and land for recreation along streams, rivers, lakes and flowages; (d) lands for natural resource-based outdoor recreation and state recreational trails; (e) land within 40 miles of Wisconsin's 12 largest cities (Appleton, Eau Claire, Green Bay, Janesville, Kenosha, La Crosse, Madi-

Table 8: Annual Allocations for the Great Addition and Peshtigo River State Forest (\$ in Millions)

Land Acquisition Allotments	2001-02	2002-03	2003-04*	2004-05*	2005-06*
General Land Acquisition	\$18.95	\$21.05	\$22.50	\$27.95	\$35.50
Acquisition by Non-Profit Conservation Organizations	7.25	7.25	8.00	8.75	9.50
Great Addition Adjustment**	8.30	8.30	6.20	0.00	0.00
Peshtigo River State Forest Adjustment	<u>0.00</u>	<u>8.40</u>	<u>8.30</u>	<u>8.30</u>	<u>0.00</u>
Total	\$34.50	\$45.00	\$45.00	\$45.00	\$45.00

*Estimated.

**The adjustment for the Great Addition allocation in 2003-04 includes anticipated revenues of \$2.2 million from the resale of excess property to municipalities, the Board of Commissioners of Public Lands, the U.S. Forest Service, and tribal governments.

son, Milwaukee, Oshkosh, Racine, Waukesha, and West Allis); and (f) protection of scenic lands that meet the preceding priorities. All new projects are subject to Natural Resources Board approval.

Proposed new projects which fall within the following criteria are given lower priority (the criteria are not listed in rank order): (a) wetland projects acquired primarily to provide additional protection beyond regulation and zoning that do not meet other recreational, water quality or resource management needs; (b) projects to protect and preserve natural resources not threatened with incompatible use; (c) projects not part of large, broad-based integrated management efforts to provide multiple outdoor recreational opportunities; (d) timber production areas that do not meet other recreational, water quality or resource management needs; and (e) lands owned by another unit of government and not threatened with sale or incompatible use.

In conjunction with these established priorities, the Department developed a fifty-year land acquisition plan. The first phase of the initiative involved determining criteria for the selection of land areas. The proposed criteria were sent to the Natural Resources Board for approval in June of 2000, after a public comment period. The second phase of the fifty-year plan involved applying the established criteria and priorities to specific land areas. A draft of the fifty-year plan was presented to the Natural Resources Board in November, 2002, and is scheduled to be shared for public review and comment through January 24, 2003.

When a state park, forest, wildlife area or recreation area 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 purchases additional parcels as they come onto the market to fill out the project borders.

Major Acquisitions

Fiscal Year 2000-01. Major land acquisitions under the Stewardship 2000 program in 2000-01 include initial purchases for two new state parks marking the 100th anniversary of the Wisconsin state park system (Interstate State Park was created in 1900). The Tommy G. Thompson (Caldron Falls) Centennial State Park in Marinette County was created through two purchases totaling \$2,850,000 for 2,187 acres. The park includes almost four miles of meandering water frontage on the Caldron Falls Flowage of the Peshtigo River, a mile of frontage on Woods and Huber (also known as Deer) Lakes and 4,000 feet of trout stream.

Capital Springs Centennial State Park in Dane County was created through two purchases that totaled \$3,435,000 for 326 acres. The park includes approximately 3,700 feet of frontage on the western shores of Lake Waubesa and is connected to an almost 3,000 acre recreational area including Dane County's Lake Farm County Park and Nine Springs E-Way, the Capital City State Trail and DNR's 320-acre Nevin Springs Fish and Wildlife area.

Fiscal Year 2001-02. As previously mentioned, DNR used its authority to "borrow ahead" in December, 2001, to purchase 9,239 acres of land and acquire easements on an additional 383 acres from Wisconsin Public Service Commission (WPSC) for the Peshtigo River State Forest in Marinette and Oconto Counties for \$25 million. The purchase consisted of large blocks of forested land on several flowages and river areas, and included 60 miles of water frontage on four flowages as well as a six-mile stretch of the Peshtigo River.

Fiscal Year 2002-03. In October, 2002, DNR purchased an easement on 35,340 acres of forested land from Tomahawk Timberlands across four tracts in Lincoln, Oneida, Marathon, and Iron Counties for \$7,244,000 (\$5 million of which was federal forest legacy easement funding, with remaining funds provided from stewardship). Under the conditions of the easement, public recreational

access would be permitted (including hiking, fishing, hunting, nature appreciation, and snowmobiling), as would sustainable forestry and resource management. Additional development on the parcels would be prohibited, and the future resale of the parcels was restricted through a non-fragmentation clause (no splitting of ownership beyond the current four parcels would be permitted).

At the December 17, 2002, meeting of the Joint Committee on Finance, the Committee approved the purchase of 912 acres of land in Oneida County for the Willow Flowage Scenic Waterway project. The acquisition of this additional acreage adjoins 8,720 acres of land within and around the Willow Flowage purchased by the state in 1997 from Four States Timber Venture/Tenneco at a cost of \$9.8 million. With this purchase, 95% of the flowage's 77 miles of water frontage will be consolidated under state ownership. The flowage itself is a roughly 5,000-acre impoundment created in 1926 when a dam was constructed on the Tomahawk River downstream of its confluence with the Willow River.

Property Development and Local Assistance Subprogram

Of the \$15 million in annual bonding authority for this subprogram, the Department may obligate up to \$8 million on local assistance and at least \$7 million on property development annually. Funding obligated for local assistance may be used for: (a) grants for urban green space; (b) grants for local park aids; (c) grants for acquisition of property development rights, under a program that DNR would be required to develop in rule; and (d) grants for urban rivers. Funding obligated for property development could be used for: (a) property development on DNR land; (b) property development on conservation easements adjacent to DNR land; and (c) grants to friends groups and non profit conservation organizations for property development activities on DNR land.

Under 1999 Act 9, moneys obligated under the property development and local assistance subprogram may only be used for nature-based outdoor recreation. The Department has defined "nature-based outdoor recreation" in administrative rule to mean: "Activities where the primary focus or purpose is the appreciation or enjoyment of nature." These activities may include but are not limited to hiking, bicycling, wildlife or nature observation, camping, nature study, fishing, hunting picnicking, cross-country skiing, canoeing, and multi-use trail activities. Support facilities for these activities may include but are not limited to access roads, parking areas, utility and sanitation systems, sanitary and shelter buildings, signs, interpretive items, and other features that enhance nature-based outdoor recreation or improve disabled accessibility. Ineligible activities include but are not limited to sports that require extensively developed open space such as dedicated sports fields, swimming pools, and tennis courts.

Under statute, DNR (similar to other state agencies) is required to submit a six-year facility plan to the Division of Facilities Development in the Department of Administration listing the facilities development needs of the agency and setting a preliminary timeline for their completion.

Table 9 lists allotments and expenditures from the property development and local assistance subprogram as of January 1, 2003, as included in the state accounting system. Detail on the Rib Mountain, State Fair Park, and Kickapoo Valley Reserve allotments may be found in the section to follow describing legislatively earmarked projects.

An October, 2000, review of the original stewardship program by the Legislative Audit Bureau (LAB) noted that some concerns have been raised regarding development activities paid for with aid to local parks grants. The report noted that under the original stewardship program, the aids to local parks category was allocated the most funding of any grant category (\$2.25 million annually) and was the only category allowing for

Table 9: Stewardship 2000 Property Development and Local Assistance Subprogram Expenditures as of January 1, 2003

Category	Allotment	Cost	
		as of 1/1/03*	Balance
Local Assistance Grants	\$19,630,000	\$13,064,900	\$6,565,100
DNR Property Development	5,967,100	961,100	5,006,000
Milwaukee Lakeshore Park	5,000,000	1,506,600	3,493,400
Rib Mountain Ski Chalet	1,000,000	997,400	2,600
State Fair Park Construction	2,000,000	2,000,000	0
Kickapoo Valley Reserve			
Visitor Center	2,370,000	176,300	2,193,700
Grants to Friends Groups	<u>438,400</u>	<u>366,700</u>	<u>71,700</u>
TOTAL	\$36,405,500	\$19,073,000	\$17,332,500

*Includes encumbrances.

these matching land acquisitions. For land that is acquired by purchase at fair market value, the value certified as a qualifying matching land acquisition would be equal to the sum of the purchase price and the acquisition costs incurred by the federal government, local governmental unit or NCO. For land that is acquired by gift, bequest or purchase at less than fair market value, the value certified would be equal to the sum of the appraised fair market value of the land at the time of the acquisition as determined by an appraisal supplied by the acquiring entity and the acquisition costs incurred by the acquiring entity.

local development activities. The LAB found that for 119 local development grants reviewed, over one-third included the development of sport facilities and playground equipment. These facilities would generally be prohibited under Stewardship 2000 grants. However, the LAB noted that by using the term "primary focus or purpose" being the enjoyment of nature it was unclear to what extent sport facilities or playground equipment might be eligible if they were not the "primary focus" of the project. Further for land acquisition grants it may be unclear under the DNR administrative rule whether sports fields or facilities may be sited on property purchased with Stewardship 2000 grants.

Baraboo Hills Subprogram

Under this subprogram, DNR may provide up to \$5 million in funding to match the value of land acquisitions that are certified by the Department as qualifying under the following conditions: (a) the land is being acquired for conservation purposes; (b) the land is being acquired by the federal government, a local governmental unit or NCO; and (c) any federal moneys being used for the acquisition are federal non-transportation moneys.

The Department must certify which land acquisitions qualify as matching land acquisitions for the subprogram as well as determine the values of

DNR must make available for expenditure funding in an amount that equals the value of each qualifying matching land acquisition. Moneys made available for expenditure may be used by the Department to acquire land in the Baraboo Hills for conservation purposes and to award grants for these purposes to local governmental units and NCOs. A local unit of government or NCO that receives such a grant need not provide any matching funding. Land acquired with moneys from a grant from this subprogram may not be certified by DNR as a qualifying matching land acquisition.

The DNR is prohibited from obligating more than \$5 million under this subprogram. Also, the amount of non-federal money that may be used by local units of government or non-profit conservation organizations to make land acquisitions that may be certified as qualifying for matching land acquisitions may not exceed \$2.5 million. Land owned by the DNR or otherwise under the jurisdiction of the state as of October 29, 1999 may not be certified as a qualifying matching land acquisition, and may not be acquired by local governments or NCOs with money made available under this subprogram. Funds that remain unobligated by January 1, 2006, will be transferred to the land acquisition subprogram.

Finally, funding under this subprogram cannot be obligated until the Department of Transportation certifies to DNR that highway construction that will result in at least four traffic lanes has begun on the portion of USH 12 between the City of Middleton and the Village of Sauk City.

To date, DNR has purchased one conservation easement on 267 acres in Columbia County under this subprogram. Funding for the easement, which would prevent further development of the property, was provided from both the USDA Farmland Protection Program (\$163,800) as well as stewardship (\$119,430).

Bluff Protection Subprogram

1999 Act 9 allocates \$1 million in bonding authority for a bluff protection program, and specifies that the Department may acquire bluff lands outside of established project boundaries. The purpose of this subprogram is to permit DNR to acquire bluff land or interests in bluff land along the Great Lakes and award grants to NCOs to acquire these lands or interests. DNR may acquire Great Lakes bluff land outside of established project boundaries. The Department has defined "bluff land" in emergency administrative rule to mean "A hill, ridge, or similar landform significantly elevated above the surrounding landscape, having a broad, steep face or cliff, and adjoining the shoreline or coastline lowlands of Lakes Michigan and Superior." The term "bluff" also includes an elevated landform having a steep face or bedrock cliff associated with the escarpment of Niagara dolomite within six miles of the Lake Michigan shoreline in Door and Brown counties.

No money may be obligated for the bluff protection subprogram after June 30, 2004. If the total amount obligated for the bluff protection subprogram on that date is less than \$1 million, DNR would transfer the unobligated bonding authority to the land acquisition subprogram.

To date, one grant totaling \$450,000 was

awarded to the Ozaukee Washington Land Trust under this subprogram to assist in the acquisition of 77 acres of bluff land ("Lion's Den Gorge") along the Lake Michigan shore in Ozaukee County.

Grants to Nonprofit Conservation Organizations

As a means of encouraging private conservation groups to cooperate with the state in the acquisition and development of recreational lands, the stewardship program authorizes DNR to award grants to nonprofit conservation organizations (NCOs) to acquire property. The Department may award grants under each of the four subprograms.

As of January 1, 2003, DNR had expended or encumbered \$4,492,400 for grant requests under Stewardship 2000. This total includes \$3,925,600 under the land acquisition subprogram and \$566,800 under the property development and local assistance subprogram.

Under 1999 Act 9, grants to NCOs and local governments for land acquisition are for up to 50% of the land's current fair market value plus other acquisition costs as determined in rule by the DNR. Previously, this 50% match requirement for NCOs and local governments was dictated by DNR administrative rule only. Prior to receiving a grant, an NCO must enter into a contract with DNR. The contract must: (a) specify standards for the management of the property to be acquired; (b) prohibit use of the property as security for any debt, unless DNR approves; and (c) prohibit the property to be acquired from being closed to the public, unless DNR determines it is necessary to protect wild animals, plants or other natural features. In addition, the contract must specify that any subsequent sale or transfer of the property by the NCO may be made only with the approval of the Department and only if the potential owner

enters into a new contract with DNR. If the NCO violates any essential provision of the contract, title to the acquired property will vest in the state.

Under 1993 Act 343, DNR was instructed to provide a one-time grant of \$75,000 from the water resources account of the conservation fund, to a Wisconsin-based nonstock, nonprofit corporation. The nonprofit corporation was required to meet all of the following requirements to be eligible for the grant: (a) have an exemption from the federal income tax; (b) provide support to NCOs; (c) have a board of directors that has a majority of members who are representatives of NCOs; and (d) provide \$25,000 to be used with the grant.

This grant was awarded to Gathering Waters, Inc., in January, 1995. According to their mission statement, Gathering Waters is formed to serve as an informational clearinghouse and technical assistance center to aid individuals and NCOs in preserving, protecting and enhancing the ecological integrity of Wisconsin's land and water. In accordance with statute, the group: (a) assists in establishing new NCOs; (b) sponsors conferences and other educational programs; (c) publishes a newsletter; and (d) provides technical assistance on such issues as incorporation, organizational development, real estate transactions and land protection options.

1995 Act 459 instructed DNR to provide a similar grant of \$75,000 in 1996-97 and annually thereafter to Gathering Waters. This aspect of the original stewardship program was continued under the reauthorized Stewardship 2000 initiative. Also included in 1999 Act 9 were provisions and funding for similar groups to support urban land conservation, the Ice Age trail, and to encourage and assist private conservation activities. These grants were likewise funded by the conservation fund.

1999 Act 9 includes a provision that would permit small groups that did not qualify as a nonprofit organization to enter into a partnership

with a qualified NCO in order to apply for a one-time stewardship grant of up to \$20,000 for habitat restoration and land acquisition. Under this provision the qualified NCO would act as the fiscal agent for the grant and would retain title to the land.

As of July 1, 2002, 35 NCOs (not including friends groups) have been awarded 180 grants totaling almost \$18 million under eight of the stewardship components, as follows: (a) 67 grants for natural areas; (b) 62 habitat areas grants; (c) 21 for the Ice Age Trail; (d) 18 grants under the stream bank protection program; (e) three grants each under the local park aids and urban green space components; and (f) two grants each under the state trails and urban rivers components. In addition, one grant was awarded for the acquisition of development rights. Among the nonprofit conservation organizations that have received multiple grants under stewardship are the Nature Conservancy, the Ice Age Park and Trail Foundation, the Woodland Dunes Nature Center, Door County Land Trust, West Wisconsin Land Trust, Ozaukee Washington Land Trust, and the Madison Audubon Society.

NCOs are eligible to apply for grants under both of the major Stewardship 2000 subprograms, as well as under the Baraboo Hills and Great Lakes bluff protection components. Since DNR and local governments draw from these programs as well, it can become a competitive process. Funds received as grants under the land acquisition subprogram are used to acquire land for a variety of purposes in accordance with the statutorily enumerated priorities for land acquisition funding. NCOs may also apply for grants under the bluff protection subprogram if the acquisition of land meets the requirements of protecting and preserving Great Lakes bluff regions.

Funds under the property development and local assistance subprogram may be used for a variety of purposes, including property development on land owned by the Department and the pur-

chase of conservation easements on property adjacent to DNR owned lands. The DNR may obligate funding for property development as well as provide matching grants to NCOs for this purpose. Matching grants may also be given to either local government or NCOs for acquisition of urban green space, local parks, and urban rivers areas, and for the purchase of development rights for conservation purposes. In addition, local governments can receive matching grants for the development of local parks and shoreline enhancements of urban rivers. All funds expended under this subprogram must be used for nature-based outdoor recreational purposes.

The DNR may provide up to \$250,000 each year in matching grants to friends groups and NCOs for property development activities on Department owned property, with no more than \$20,000 in grants for any property in a given fiscal year. Friends groups have first option on available funds.

In fiscal year 2003, there will be \$15 million available to be divided between the Department's capital development budget and local assistance grants. 1999 Act 9 specifies that at least \$3.5 million go toward property development, with no more than \$8 million devoted to local assistance grants. The Natural Resources Board allocated \$7 million to the capital development budget, with \$250,000 set aside for Friends' Group development grants. This left \$8 million in grant funds for local assistance. Table 10 illustrates the expenditure plan approved by the Natural Resources Board for fiscal year 2002-03.

Table 10: Stewardship 2002-03 Expenditure Plan

Subprogram	Fiscal Year 2002-03
Land Acquisition	
Department Acquisitions	\$37,750,000
Grants to NCOs	7,250,000
Property Development and Local Assistance	
DNR Property Development	6,750,000
Grants to Friends Groups and NCOs	250,000
Local Assistance Grants	
Local Units of Government and NCOs	<u>8,000,000</u>
TOTAL	\$60,000,000

- \$2 million from property development for infrastructure projects at State Fair Park;
- \$1 million from property development to reconstruct the chalet at Rib Mountain State Park;
- \$1 million from the land acquisition subprogram to the University of Wisconsin-Platteville for the construction of a building for the Wisconsin Agricultural Stewardship Initiative;
- \$3 million from property development for the development of Milwaukee Lakeshore State Park;
- \$2,370,000 from either subprogram for the Kickapoo Valley Reserve visitor center;
- \$450,000 from the local assistance subprogram to the City of Merrill to restore exposed lakebed on the Prairie River; and
- up to \$375,000 from either subprogram for the Root River Multi-Purpose Pathway project in the City of Racine.

Earmarked Projects

Under 2001 Act 16, the Department is required to provide funding from the stewardship program for several projects.

Conservation Reserve Enhancement Program

While not a stewardship program, the 1999-01 biennial budget authorized \$40 million in general fund supported bonding for the Department of Agriculture, Trade and Consumer Protection to participate in the Conservation Reserve Enhancement Program (CREP). Under the federal land retirement conservation program, the state provides at least a 20% match to federal funds to provide financial incentives for farmers and ranchers who enroll in a minimum of 14-year conservation easements (permanent easements are allowed). Under these easements, land is removed from agricultural production to improve water quality, erosion control, and wildlife habitat in specific geographical areas. The U.S. Department of Agriculture has authorized \$200 million in federal funds for Wisconsin to enroll up to 100,000 acres in CREP. Through January 1, 2003, approximately \$2 million has been spent to enroll 9,600 acres in the program.

Appraised Versus Assessed Value

Assessors and appraisers generally determine the value of property based on the property's highest and best use, which is that use which will produce the greatest net return to the property owner over a reasonable period of time. Three methods are generally accepted in determining the value of property.

- Under the sales comparison method, value is determined by analyzing recent sales of property that are similar in size, age, use, location and other factors.
- Under the cost method, the value of the land is estimated and added to the cost of replacing any attached structures.

- Under the income method, the present value of the property is determined from the estimated future income derived from the property. While all three approaches are accepted, the sales method is the approach most commonly used.

Commonly-accepted definitions of highest and best use utilized by appraisers generally take into account four different factors when making the determination:

- Physical possibility, taking into account the size, terrain, soil composition and utility availability for the parcel that may limit the use of the land;
- Legal permissibility, including applicable zoning regulations (including rezoning prospects), building codes, deed restrictions, historic district controls and environmental regulations;
- Financial feasibility, meaning any use that produces a positive rate of return based on the characteristics of the property; and
- Maximum productivity, under which no other use of the land would provide a greater net return to the owner based on land costs, physical characteristics, legal constraints and the economic characteristics of the surrounding area.

For a particular piece of property, there may be some difference of opinion among those doing the property valuation relating to any of these factors. The physically possible uses of the parcel, for example, would be influenced by the proximity of a sewer line to the parcel. The legally permissible uses of a parcel of land could be affected by current zoning designations and a particular municipality's history of approving zoning changes that affect the ability of land in the municipality to be developed. In these cases, assessors and appraisers (and potential buyers) must make certain assumptions related to these factors to be able to determine a value for the property.

For example, the stewardship grant to the Trust

for Public Land for \$1,555,355 for the acquisition of 86.2 acres for Ellison Bluff County Park in Door County that was considered by the Committee in May, 2000, involved property that was zoned to allow for minimum residential lot sizes of either 3.5 or five acres. The three appraisals that were accepted by DNR for grant determination all judged the highest and best use as residential development. These appraisers then estimated values based on development scenarios that would be allowable under current zoning. In the case of the proposed DNR grant to the Ice Age Park and Trail Foundation for \$993,565 for the acquisition of 93 acres for the trail in Dane County that was considered by the Committee in March, 1998, however, the land was zoned A-3 agricultural. That designation is intended to preserve those lands near developed areas in the County for agricultural and open space uses for an unspecified period of time, but where urban expansion is expected. While city officials indicated at the time that at least some portions of the land would be maintained as green space in the absence of the purchase by the Foundation, residential development had occurred up to the border of the property on at least one side and a sewer line ran through the property. The appraisers believed that absent purchase by a governmental body or nonprofit conservation organization (NCO) for green space, the property would be annexed by the City of Madison and developed. The two appraisals that were accepted by the Department for grant determination both judged the highest and best use of the property as residential development.

Providing less than the fair market value for land could be considered a taking without just compensation in violation of the Fifth and Fourteenth Amendment to the U.S. Constitution. Further, under Wisconsin Statutes s. 32.09(5)(b), any increase or decrease in the fair market value of a property caused by any public improvement for which property is acquired, or the likelihood that the property would be acquired for such an improvement, may not be taken into account in de-

termining just compensation for the property.

A number of purchases that have come before the Joint Committee on Finance for review have involved parcels of land proposed for acquisition where the appraised value was significantly greater than the assessed value. Assessed value is the value placed on a property by the local unit of government for property tax purposes. Most assessors value property at some fraction of market value, despite a statutory requirement that property be assessed at full value. A series of court cases, dating back to the nineteenth century, has interpreted statutes to allow assessed values at a fraction of market value, provided the same fraction applies to all property in the taxation district. As a result, local assessors can assess property at a level below market value without violating the state constitution's requirement of uniform taxation.

DNR, local governments, and NCOs hire private real estate appraisers to determine the fair market value of prospective land purchases. A large disparity between assessed and appraised value may result from local assessors significantly undervaluing all property, not having updated assessments or as a result of local land use policies. If open space 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. In addition, a significant contributor to the rapidly escalating value of some properties may be a municipality's history of rezoning agricultural or open space land to allow residential or commercial development.

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. Further, zoning ordinances must allow a reasonable use of the property by the owner to avoid a taking of private property for public use.

Aids in Lieu of Property Taxes

The difference between assessed and appraised values also has an affect on payments made by the state in lieu of property taxes. Since 1992, when DNR acquires land, the Department pays aids in lieu of property taxes on the land to the city, village or town in which the land is located 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 (\$3.9 million GPR in 2001-02). To the extent that the purchase price paid by DNR for land is based on appraised values and to the extent that appraised values exceed assessed values, the resulting aids in lieu payments made under state ownership of land are greater than the property taxes that would be paid if the property remained under private ownership. Further, in some cases lands purchased by the state were fully or partially exempted from property taxation before purchase (such as managed forest lands, railroad rights-of-way or properties owned by certain tax-exempt corporations).

Although the formula for calculating aids in lieu of taxes is intended to produce a state payment that is equivalent to what is paid in property taxes, in practice, state payments typically exceed the property taxes that would have been paid on the property because the purchase price of conservation land has routinely exceeded the property's assessed value. In October of 2000, the Legislative Audit Bureau (LAB) released an evaluation of the Warren Knowles-Gaylord Nelson Stewardship program. The report found that within a sample of 74 property acquisition grants, the average appraised value per acre of the property was more than double (120% greater than) the average assessed value per acre. When ad-

justments were made to make comparisons on a per-property rather than a per acre basis, the average difference increased to 305%. The Legislative Audit Bureau noted that the sample was specifically selected to include large grants. Since it was not a random sample, the result could not be projected to all grants. While these wide discrepancies in appraised and assessed valuations have raised questions by some about the fair market value of stewardship properties, the report also notes that infrequent updates in assessed values also raise questions about fairness in local property taxes.

When the DNR property being purchased (a) is exempt from local property taxes (such as when owned by certain nonprofits or public utilities), (b) is subject to preferential tax treatment (such as under the managed forest law or agricultural use value), or (c) has a purchase price that exceeds the local assessed value, transferring the property to DNR results in a net gain in revenues for the affected local governments. Further, the location of tax-exempt property causes tax base sensitive state aids to be shifted between local governments. These aids include general school aids and the aidable revenues component of shared revenue, which is paid to counties and municipalities. These aid programs employ distribution formulas based on the policy of tax base equalization. This policy allows local governments with the same level of per student or per capita expenditures to have identical tax rates, regardless of their differences in tax base. When land becomes tax-exempt due to its purchase by the state, a local government or a conservation organization, state aid is shifted to the local governments that experience the tax base loss. Although this policy should result in local tax rates remaining unchanged, each aid program contains features that delay or distort the complete effects of the aid shift. An example would be the maximum constraint provision of the shared revenue program, which "caps" the percentage increase that a county or municipality can receive in any year.

Table 11 compares the estimated aids in lieu of taxes payment due on a sample of 32 properties acquired by DNR under the stewardship program

to the amount paid in taxes for the year prior to the state acquiring the property. Examples were selected based on an August, 2001 expiration date of the state's option to purchase. In some cases, properties benefited from use value assessment, which would result in a lower than expected tax bill in the previous year. In cases where the property acquired was a fraction of a larger parcel, the tax at-

tributed to the smaller parcel is estimated. While only a very limited sample was reviewed, on average, local payments more than tripled under state ownership for the 32 parcels.

In most cases, the aids in lieu payment to municipalities exceeds revenues previously generated by property taxes. The Department indi-

Table 11: Selected 2001 State Land Purchases

Property Category	County	Purchase Price	2000 Taxes	Aids in Lieu Estimation*	% Change
North Fish Creek Fishing Area	Bayfield	\$40,000	\$130	\$845	550%
South Shore Lake Superior Fish and Wildlife Area	Bayfield	30,000	254	662	161
Statewide Natural Area	Buffalo	260,100	2,400	6,240	160
Ludwig Woods Natural Area	Calumet	43,000	68	832	1,124
Statewide Natural Area	Calumet	28,500	167	551	230
Chippewa Moraine State Recreation Area	Chippewa	26,000	418	463	11
Tom Lawin Wildlife Area	Chippewa	130,000	308	1,963	537
Kickapoo Wildlife Area	Crawford	345,000	1,675	7,887	371
Rush Creek State Natural Area	Crawford	57,000	869	1,320	52
Statewide Natural Area	Crawford	400,000	37**	9500	25,576
Ice Age Trail	Dane	557,460	2,400	11,300	371
North County Trail	Douglas	28,000	65	415	539
Statewide Natural Area	Green Lake	64,500	806	1,195	48
White River Wildlife Area	Green Lake	18,000	109	325	198
Governor Dodge State Park	Iowa	335,000	3,375	8,499	152
Streambank Protection	Iowa	100,000	977	2,537	160
Waterloo Wildlife Area	Jefferson	30,400	96	582	506
Newwood Wildlife Area	Lincoln	198,000	237	3,683	1,454
Statewide Spring Ponds	Marathon	6,000	51**	119	132
Lower Chippewa State Natural Area	Pepin	308,275	5,460	7,765	42
Nine Mile Island State Natural Area	Pepin	280,000	1,715	5,508	221
Western Prairie Habitat Restoration Area	Polk	288,000	1,400	5,011	258
Dewey Marsh Wildlife Area	Portage	26,700	360	473	31
Paul Olson Wildlife Area	Portage	135,200	964	2,373	146
Willow Creek Fishing Area	Richland	57,800	770	1,400	82
Navarino Wildlife Area	Shawano	11,710	216	228	6
Onion River Streambank Protection	Sheboygan	615,000	4,100	9,900	141
Western Prairie Habitat Restoration Area	St. Croix	374,500	3,075**	5,917	92
Kettle Moraine State Forest	Waukesha	569,913	1,100	11,300	927
Statewide Habitat Areas	Waupaca	126,000	1,026	2,727	166
Glacial Habitat Area	Winnebago	252,000	1,286	5,133	299
Rat River Wildlife Area	Winnebago	<u>56,700</u>	<u>310</u>	<u>987</u>	218
Total		\$5,798,758	\$36,224	\$117,640	225%

*Aids in lieu estimation is calculated using the purchase price multiplied by the effective tax rate of the taxing district for 2000.

**Property enrolled in forest crop law or subject to use value assessment.

cates that the current formula has led to a reduction in the number of local objections to state acquisition of land. Conversely, the intent of the formula was to establish a fair level of compensation, rather than to create a financial incentive, for municipalities to cooperate with state land acquisition.

2000 Legislative Audit Bureau Stewardship Review

In October of 2000, the Legislative Audit Bureau (LAB) released an evaluation of the Warren Knowles-Gaylord Nelson Stewardship program. Key questions addressed in the audit were:

- Were payments for property under the grant portion of the Stewardship program excessive?
- Did local governments and NCOs comply with the cost-sharing requirements of the grants program?
- Did the DNR's review and approval process serve to overstate the value of some properties?

As noted in the previous section, the report found that within a sample of 74 property acquisition grants, the average appraised value of the property greatly exceeded the assessed value. While these wide discrepancies in appraised and assessed valuations have raised questions by some about the fair market value of stewardship properties, the report also notes that infrequent updates in assessed values also raise questions about fairness in local property taxes.

With the exception of four urban green space grants provided to purchase land for ineligible sports-related activities (this policy was changed by DNR to conform with the statutes and administrative rule in 1998), the Legislative Audit Bureau did not find evidence of ineligible costs being reimbursed, and found that DNR was correctly determining grant awards. However, LAB did note that 110

out of 243 files reviewed were missing information necessary for auditing the files. Subsequently, they recommended that DNR develop standard record-retention policies for grant files.

As part of their evaluation of DNR's review and approval process, Legislative Audit Bureau made several recommendations for improvements, including:

- Prohibiting DNR staff from using appraisals paid for by the seller to determine a property's fair-market value;
- Allowing DNR staff to develop their own appraisal value if they believed that appraisals submitted by the grant applicant were not accurate or varied widely; and
- Requiring DNR to obtain its own appraisal for proposed land acquisitions over \$200,000 (this provision was included in 2001 Act 109).

Appendices

Following are three appendices which provide additional information about the Warren Knowles-Gaylord Nelson stewardship 2000 program. Appendix I provides a summary of expenditures under the stewardship 2000 program for fiscal years 2000-01 and 2001-02. Appendix II summarizes DNR land acquisitions funded from the stewardship program (original and reauthorized) by county, including the number of acres in each county for which an easement has been purchased, the number of acres acquired by fee title purchase and total expenditures made by DNR for both fee title and easement purchases in the county. Appendix III summarizes DNR grant program activity by county under stewardship, based on the location of the property involved, to local units of government and nonprofit conservation organizations.

APPENDIX I

Warren Knowles-Gaylord Nelson Stewardship 2000 Program Expenditures

Category	2000-01	2001-02	Total
General Land Acquisition	\$21,203,800	\$35,583,100	\$56,786,900
Property Development	0	2,275,800	2,275,800
Local Assistance	1,153,600	3,320,800	4,474,400
Baraboo Hills	0	119,400	119,400
Bluff Protection	<u>0</u>	<u>450,000</u>	<u>450,000</u>
Total	\$22,357,400	\$41,749,100	\$64,106,500

APPENDIX II

DNR Land Purchases under Stewardship by County as of June 30, 2002

County	Conservation Easement*	Acres	Federal Expenditures	Stewardship Expenditures**	Total Expenditures**
Adams	1,638	5,398	\$130,050	\$4,211,190	\$4,341,240
Ashland	20	479	25,500	303,300	328,800
Barron	22	671	18,100	720,978	739,078
Bayfield	8	5,429	315,581	1,007,269	1,322,850
Brown	44	1,103	49,150	1,141,433	1,190,583
Buffalo	0	1,192	27,000	491,600	518,600
Burnett	1	1,433	77,737	496,289	574,026
Calumet	1	1,549	159,637	1,891,033	2,050,670
Chippewa	54	3,667	154,398	1,159,534	1,313,932
Clark	0	224	0	556,583	556,583
Columbia	293	1,862	275,614	2,179,058	2,454,672
Crawford	483	5,795	180,733	3,729,339	3,910,072
Dane	723	4,046	539,160	11,875,871	12,415,031
Dodge	481	949	445,850	939,201	1,385,051
Door	992	888	1,331,965	3,186,935	4,518,900
Douglas	24	8,328	111,350	1,812,375	1,923,725
Dunn	891	1,451	32,257	1,372,080	1,404,337
Eau Claire	108	144	14,700	249,800	264,500
Florence	1,800	5,299	9,450	2,333,692	2,341,142
Fond du Lac	1,395	4,396	411,950	4,393,568	4,805,518
Forest	0	147	0	45,000	45,000
Grant	577	3,665	232,026	2,688,356	2,920,382
Green	69	178	162,000	264,760	426,760
Green Lake	8	918	58,388	569,741	628,129
Iowa	922	3,476	61,742	3,623,008	3,684,750
Iron	84	25,026	0	11,362,941	11,362,941
Jackson	4	2,522	235,028	1,402,774	1,637,802
Jefferson	7	2,460	59,446	2,555,158	2,614,604
Juneau	427	4,092	19,500	3,820,200	3,839,700
Kenosha	86	126	261,950	689,620	951,570
Kewaunee	1	296	0	327,600	327,600
La Crosse	105	93	137,625	135,581	273,206
Lafayette	151	301	117,143	359,412	476,555
Langlade	6	1,383	548,612	547,153	1,095,765
Lincoln	821	2,679	201,850	2,812,951	23,014,801
Manitowoc	643	413	0	1,832,360	1,832,360
Marathon	0	1,210	53,250	1,370,347	1,423,597
Marinette	51	12,155	415,119	18,151,144	18,566,263
Marquette	478	1,395	252,115	1,141,927	1,394,042
Menominee	0	0	0	0	0

APPENDIX II (continued)

DNR Land Purchases under Stewardship by County as of June 30, 2002

County	Conservation Easement*	Acres	Federal Expenditures	Stewardship Expenditures**	Total Expenditures**
Milwaukee	0	0	\$0	\$0	\$0
Monroe	585	734	83,686	819,915	903,601
Oconto	3	1,728	66,750	1,654,361	1,721,111
Oneida	295	10,650	0	14,019,850	14,019,850
Outagamie	3	3,369	554,075	2,582,440	3,136,515
Ozaukee	53	145	0	253,440	253,440
Pepin	47	1,432	0	980,751	980,751
Pierce	13	789	0	641,800	641,800
Polk	165	1169	490,200	810,580	1,300,780
Portage	9	2,893	373,961	1,731,739	2,105,700
Price	1	94	0	68,125	68,125
Racine	1	38	30,000	110,500	140,500
Richland	192	3,857	177,819	2,411,058	2,588,877
Rock	1	764	0	842,990	842,990
Rusk	0	92	23,250	117,950	141,200
Sauk	1,444	3,067	56,017	3,905,838	3,961,855
Sawyer	3	908	126,857	423,852	550,709
Shawano	27	1,081	15,088	357,781	372,869
Sheboygan	82	1,940	221,175	3,616,638	3,837,813
St. Croix	169	2,272	634,369	3,687,369	4,321,738
Taylor	8	459	68,880	874,970	943,850
Trempealeau	93	1,120	80,151	623,700	703,851
Vernon	137	1,012	406,881	500,912	907,793
Vilas	19	1,372	87,000	1,596,625	1,683,625
Walworth	735	2,923	171,875	3,703,139	3,875,014
Washburn	10	539	90,750	239,141	329,891
Washington	205	884	329,167	3,081,159	3,410,326
Waukesha	43	1,849	665,075	7,810,980	8,476,055
Waupaca	101	1,229	577,274	1,324,035	1,901,309
Waushara	95	2,309	1,351,265	1,985,999	3,337,264
Winnebago	2,289	1,960	165,750	2,421,634	2,587,384
Wood	22	245	0	244,200	244,200
TOTAL	20,266	169,765	\$13,973,291	\$161,192,631	\$175,165,922

* Acres for conservation easements include 9,791 acres purchased with assistance from federal funds available through the Sport Fishery Restoration (Dingell-Johnson Fisheries), Pittman-Robertson Wildlife, Land and Water Conservation, State Parks, Coastal Zone Management, and North American Wetland Conservation programs.

** Stewardship expenditures and total expenditures do not include miscellaneous costs, Department development activities, or grant expenditures.

APPENDIX III

DNR Grant Program Activity under Stewardship by County as of June 30, 2002

County	Grants to Local Units of Government	Grants to Nonprofit Conservation Organizations	Total Grant Expenditures	County	Grants to Local Units of Government	Grants to Nonprofit Conservation Organizations	Total Grant Expenditures
Adams	\$118,187	\$307,101	\$425,288	Manitowoc	\$1,410,229	\$188,996	\$1,599,225
Ashland	124,383	292,500	416,883	Marathon	659,088	24,855	683,943
Barron	113,341	0	113,341	Marinette	93,084	0	93,084
Bayfield	213,962	76,100	290,062	Marquette	44,277	131,114	175,391
Brown	3,211,487	326,268	3,537,755	Menominee	0	0	0
Buffalo	146,153	141,100	287,253	Milwaukee	2,277,879	0	2,277,879
Burnett	113,233	20,000	133,233	Monroe	560,854	0	560,854
Calumet	329,004	32,050	361,054	Oconto	275,258	0	275,258
Chippewa	208,650	2,250	210,900	Oneida	373,082	0	373,082
Clark	594,908	0	594,908	Outagamie	1,520,056	8,934	1,528,990
Columbia	84,032	381,849	465,881	Ozaukee	1,428,765	1,313,639	2,742,404
Crawford	112,690	0	112,690	Pepin	0	0	0
Dane	11,511,356	2,450,222	13,961,578	Pierce	368,155	238,000	606,155
Dodge	923,816	79,200	1,003,016	Polk	391,697	1,999,426	2,391,123
Door	1,611,982	3,827,134	5,439,116	Portage	643,238	32,987	676,225
Douglas	287,507	0	287,507	Price	371,513	0	371,513
Dunn	431,997	49,059	481,056	Racine	2,140,949	0	2,140,949
Eau Claire	369,162	4,000	373,162	Richland	124,073	0	124,073
Florence	141,906	0	141,906	Rock	2,176,319	42,848	2,219,167
Fond du Lac	671,756	0	671,756	Rusk	446,550	0	446,550
Forest	47,000	0	47,000	Sauk	481,183	820,211	1,301,394
Grant	355,359	200,495	555,854	Sawyer	47,448	0	47,448
Green	109,850	4,500	114,350	Shawano	511,256	9,050	520,306
Green Lake	125,200	6,750	131,950	Sheboygan	1,219,269	121,450	1,340,719
Iowa	135,736	443,472	579,208	St. Croix	700,200	656,264	1,356,464
Iron	68,766	0	68,766	Taylor	193,615	0	193,615
Jackson	393,675	0	393,675	Trempealeau	40,692	7,000	47,692
Jefferson	1,527,346	246,000	1,773,346	Vernon	437,872	0	437,872
Juneau	150,483	16,500	166,983	Vilas	229,019	168,350	397,369
Kenosha	636,145	105,035	741,180	Walworth	889,370	725,023	1,614,393
Kewaunee	235,119	0	235,119	Washburn	216,560	0	216,560
La Crosse	942,547	202,448	1,144,995	Washington	2,651,826	1,304,136	3,995,962
Lafayette	482,900	0	482,900	Waukesha	6,680,839	588,680	7,269,519
Langlade	304,633	0	304,633	Waupaca	1,005,768	43,477	1,049,245
Lincoln	168,513	0	168,513	Waushara	229,530	0	229,530
				Winnebago	1,210,128	149,182	1,359,310
				Wood	<u>574,658</u>	<u>11,250</u>	<u>585,908</u>
				TOTAL	\$59,627,084	\$17,798,905	\$77,425,989