



# 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 to recognize \$19 million in anticipated federal funding) 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, 2004, the Department of Natural Resources (DNR) controlled a total of 1,410,900

acres of land (including 61,200 acres under easement), which represents approximately 4% of the state's land area (34.76 million acres) and approximately 24.6% of the publicly held conservation land in Wisconsin. Total public conservation land ownership throughout the state of Wisconsin is estimated to include approximately 5.74 million acres (or 16.5% of the state's land area). The federal government holds almost 1.8 million (or 31%) of the 5.74 million acres (the majority of which constitutes national forests), and county ownership (in the form of county parks and forests) makes up an additional 2.5 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 (\$4,349,000 GPR in 2003-04), but partly from the segregated forestry account of the conservation fund (\$1,000,000 SEG in 2003-04) 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 1,985,800 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 71% 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).

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### **Program Funding and General Requirements**

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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 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>
<b>TOTAL</b>	<b>\$23,100,000</b>

Stewardship spending by component for the initial ten-year program is summarized in Table 2.

**Table 2: Stewardship Program Allotments From Initial Program Authorizations**

	Total Allotment (10 Years)
General Obligation Bonding	
General Land Acquisition	\$70,800,000
General Property Development	35,000,000
Local Park Aids	22,500,000
Lower Wisconsin State Riverway	20,000,000
Habitat Areas	15,000,000
Natural Areas Acquisition	15,000,000
Urban Rivers	15,200,000
Stream Bank Protection	10,000,000
Trails	10,000,000
Urban Green Spaces	7,500,000
Natural Areas Heritage	5,000,000
Ice Age Trail	<u>5,000,000</u>
Bonding Subtotal	\$231,000,000
Federal Land Acquisition	<u>\$19,000,000</u>
TOTAL	\$250,00,000

For comparison, Table 3 shows how the \$572 million of bonding authority for the reauthorized Stewardship 2000 program is allocated by fiscal year. The main body of the program consists of two funding categories, (a) land acquisition and (b) property development and local assistance. Out of the first year allotment only, programs for purchases related to the Baraboo Hills and bluff protection were added.

As passed by the Legislature, the 2003-05 biennial budget would have reduced the total authorized bonding authority of the Stewardship 2000 program by \$245 million, to \$327 million over 10 years. Bonding authority would have been reduced to \$15 million in 2003-04, to \$10 million in 2004-05, and to \$30 million annually in subsequent years for the remainder of the authorized program. However, the Governor item-vetoed this provision.

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

**Table 3: Stewardship 2000**

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

**Table 4: Land Acquisition Allotments for Non-Profit Conservation Organizations**

Year	Total Available	Available for Land Acquisition	Available for NCOs	Percentage of Funds Allocated to NCOs
2000-01	\$28,500,000	\$22,500,000	\$6,000,000	21.1%
2001-02	34,500,000	27,250,000	7,250,000	21.0
2002-03	45,000,000	37,750,000	7,250,000	16.1
2003-04	45,000,000	37,000,000	8,000,000	17.7
2004-05	45,000,000	36,750,000	8,250,000	18.3
2005-06*	45,000,000	36,000,000	9,000,000	20.0

\*Estimated.

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 since 2000-01.

The Department had expended a total of \$127.6 million in stewardship funds for land acquisition under the reauthorized Stewardship 2000 program

as of July 1, 2004. 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 2004-05 is \$41,750,000 (which includes \$36,750,000 in Stewardship 2000 land acquisition funds, and an estimated \$5 million in federal aid). Table 5 does not include the land acquisition funds earmarked for grants to non-profit conservation organizations (NCOs). The table reflects transactions entered into by June 30, 2004.

According to the state accounting system, as of December 14, 2004, \$36.3 million had been expended and an additional \$10.1 million encumbered from the property development and local assistance subprogram for a total of over \$46.4 million in committed funds since the reauthorization of the stewardship program. Of this amount, almost \$9.4 million supports property development activities and \$37 million funds local assistance efforts.

As of July 1, 2004, the stewardship program has allowed DNR to purchase, or acquire easements on, 286,600 acres. Table 6 provides a summary of the acreage acquired by program area.

DNR has 19.5 positions in the agency funded from 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

**Table 5: Stewardship 2000 – DNR General Land Acquisition as of July 1, 2004**

Category	Allotment	Cost	Acres Purchased
Fisheries, Streambank	\$16,680,000	\$14,110,100	6,248
Parks & Southern Forests	16,123,900	14,223,400	5,328
Northern Forests*	33,140,000	29,011,700	45,498
Wild Rivers & Resources	20,680,000	22,245,600	24,012
Wildlife & Habitat	24,650,000	25,307,400	27,010
Natural Areas	10,350,000	11,028,400	11,607
Trail & Ice Age Trail	11,610,000	11,494,500	7,795
Non-point And Other	<u>4,433,100</u>	<u>211,800</u>	<u>825</u>
<b>TOTAL</b>	<b>\$137,667,000**</b>	<b>\$127,632,900</b>	<b>128,322</b>

\*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. Expenditures shown for individual categories may exceed shown allotments for this reason.

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

**Table 6: Cumulative DNR Stewardship Program Acreage as of July 1, 2004 \***

Program	Acres
General Land Acquisition:	
Fisheries Management and Streambank Protection	27,954
Northern Forests	50,883
Southern Forests	4,232
Parks, Trails, and Recreation Areas	20,477
Wild Rivers and Resource areas	74,306
Wildlife Management	67,986
Natural Areas	37,718
Non-Point/Other	<u>3,061</u>
<b>TOTAL</b>	<b>286,617</b>

\*Includes easement acres.

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.

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 57% 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 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.

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### **Stewardship Program Oversight**

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A heightened review procedure for stewardship projects was enacted in 1995 in order to provide an increased level of legislative scrutiny for major expenditures under the stewardship program. The stewardship program is a considerable commitment of state funds with \$803 million in general obligation bonds authorized. Debt service payments (principal repayment and interest) could total approximately \$1.3 billion over the life of the program bonds (about a 40-year period).

Prior to the passage of 2003 Act 33 (the 2003-05 biennial budget), DNR was prohibited from obligating any funding from the Warren Knowles-Gaylord Nelson Stewardship program for any project or activity that exceeded \$250,000 unless the Department first notified the Joint Committee on Finance in writing of the proposal. If the Co-Chairpersons of the Committee did not notify DNR within 14 working days after the date of the Department's notification that the Committee had

scheduled a meeting to review the proposal, the Department was permitted to obligate the moneys. If, within 14 working days after the date of the notification by DNR, the Co-Chairpersons of the Committee notified the Department that the Committee had scheduled a meeting to review the proposal, DNR could only obligate the funding upon approval of the Committee.

During the deliberations on the 2003-05 biennial budget, the Legislature proposed lowering the threshold of the Joint Committee on Finance review of stewardship land acquisition and property development projects from \$250,000 to zero. As passed by the Legislature, all land acquisition and property development activities under stewardship would have been reviewed by Joint Finance under the 14-day passive review process. The \$250,000 threshold of review by the Committee would have been maintained for local assistance or non-profit conservation (NCO) grants provided under the stewardship program.

The Governor, in his partial vetoes of 2003 Act 33, deleted this provision. Further, the partial veto repealed all passive review requirements for land acquisition, property development, and grant activities supported by funding from the stewardship program. The repeal was accomplished by completely vetoing the sections in Senate Bill 44 (the bill passed by the Legislature) relating to this item, with the exception of Section 802m, which read: "23.0917 (6)(b) of the statutes is repealed" (this provision would have repealed the \$250,000 review threshold on stewardship projects). The Governor deleted the "(b)", thereby repealing all of 23.0917 (6), which provided for the review of stewardship projects by the Joint Committee on Finance.

Prior to July 26, 2003 (the effective date of Act 33), 109 projects had been submitted to the Committee. Of these, 48 were reviewed by the full Committee. All but four were approved. Three projects were denied, and one project was deferred. 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.

Non-legislative review procedures remain in place, however. Under DNR administrative rule, the following land transactions require the approval of the Natural Resources Board: (a) acquisitions where the purchase price is \$150,000 or more; (b) acquisitions where more than 40 acres are outside of an established project boundary; (c) acquisitions where the purchase price exceeds the highest appraised value; (d) acquisitions where improvement values exceed 35% of the total appraised value; (e) acquisitions of short tenure with substantial increased value; and (f) sales of state land that are no longer needed for conservation purposes where the value exceeds \$50,000 or where the acreage exceeds 40 acres. The Natural Resources Board need not approve stewardship grants provided by the Department.

In addition, building projects over \$500,000 in costs are required to be specifically enumerated in state law. For example, 1999 Act 9 enumerates a \$690,000 stewardship project for a nature and conference center at Lapham Peak State Forest. The Legislature typically enumerates these projects in the state budget. Also, any state-funded development project in excess of \$100,000 but less than \$500,000 must be reviewed by the State Building Commission for approval prior to bidding

Further, all land acquisition projects, proposals for the sale of any DNR managed land, and any development projects over \$60,000 are submitted to the Governor for review, and are subject to his approval.

While grants to local governments and NCOs go through an internal DNR review and scoring process, they generally are not subject to review by

either the Natural Resources Board or the Governor. For grants over \$250,000 the only additional oversight procedure for these expenditures had been the Joint Finance passive review provision.

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### **Stewardship Debt Service**

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The state generally issues 20-year tax exempt general obligation bonds to support stewardship purchases and grants. Debt service for stewardship bonding is primarily funded from a sum sufficient, general purpose revenue (GPR) appropriation in DNR. 1997 Act 27 created two additional appropriations to offset a portion of the GPR payment of stewardship debt service from the segregated conservation fund. Annual debt service payments of over \$8.9 million 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. Under 2003 Act 33, \$10 million in 2003-04 and \$10 million in 2004-05 was provided from the forestry account. Table 7 shows state stewardship related debt services costs over the past seven years. Costs did not increase significantly in 2001-02 and declined in 2003-04 primarily because of a state debt refinancing

**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
2002-03	8,400,000	19,187,700	27,587,700
2003-04	10,000,000	8,649,200	18,649,200

initiative to take advantage of lower interest rates and reduce short-term liabilities.

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### **Stewardship 2000**

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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 subprograms, 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 eligible 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 (the requirement of Joint Finance review of these transactions was cast in some doubt by the Governor's item vetoes in 2003 Act 33). 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 took place in four phases over three years, concluding in December, 2004. As a result of the purchase, DNR acquired land

surrounding Caldron Falls, High Falls, Johnson Falls, Sandstone Rapids, and Potato Rapids. The Department anticipates selling or trading some excess property from the purchase to municipalities and the United States Forest Service, but has not yet done so.

Portions of the Great Addition purchase were resold or traded for other parcels. As of December, 2004, 190 acres of the Great Addition purchase had been sold to Vilas County for \$148,200 and 1,390 acres were sold 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 had anticipated reselling up to 7,000 acres from this purchase. However, it appears that further sales of land from the Great Addition to counties or local units of government are unlikely to occur. Department officials cite the appeal of the payment in lieu of property taxes that DNR makes to local governments with stewardship land within their boundaries and the cost of developing recreational property for public use as key reasons for a lack of interest by counties in purchasing additional property from DNR.

The agency allotted the \$25 million purchase price over three years beginning in fiscal year 2001-02 (as shown in Table 8). Effective reductions in general land acquisition funds available from 2001-02 through 2004-05 are also detailed in the table.

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, Madison, 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

**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	\$28.45	\$36.00
Acquisition by Non-Profit Conservation Organizations	7.25	7.25	8.00	8.25	9.00
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.

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 Wisconsin Land Legacy report was released by the Department in November, 2002, and provides a guideline for applying acquisition criteria and priorities to specific land areas statewide. A copy of this extensive report may be obtained from DNR.

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.

### **Recent Major Acquisitions**

*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 is permitted (including hiking, fishing, hunting, nature appreciation, and snowmobiling), as is sustainable forestry and resource management. Additional development on the parcels is prohibited, and the future resale of the parcels is 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 were 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.

*Fiscal Year 2003-04.* In May, 2004, DNR acquired 5,875 acres from the Wisconsin Valley Improvement company for \$7.95 million in Oneida and Vilas Counties to expand state land ownership within the Rainbow Flowage. The purchase included undeveloped forest land, 63 miles of frontage on the Rainbow Flowage and Pickerel Lake, 10 islands, and seven boat access sites. Both

Rainbow Flowage and Pickerel Lake are noted for their productive fishery, including walleye, northern pike, and panfish. Resident wildlife include deer, bear, ruffed grouse, woodcock, osprey, and nesting bald eagles. The property is expected to see significant use for fishing, hunting, hiking, boating, and nature appreciation.

### 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 administrative rule NR 51; 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 December 14, 2004, 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

**Table 9: Stewardship 2000 Property Development and Local Assistance Subprogram Expenditures as of December 14, 2004**

Category	Allotment	Cost	
		as of 12/14/04*	Balance
Local Assistance Grants	\$35,630,000	\$27,558,900	\$8,071,100
DNR Property Development	8,705,100	3,901,000	4,804,100
Milwaukee Lakeshore Park	5,000,000	143,500	4,856,500
Rib Mountain Ski Chalet	1,000,000	981,200	18,800
State Fair Park Construction	2,000,000	2,000,000	0
Kickapoo Valley Reserve			
Visitor Center	2,370,000	1,851,500	518,500
Grants to Friends Groups	<u>623,400</u>	<u>519,500</u>	<u>103,900</u>
TOTAL	\$55,328,500	\$36,955,600	\$18,372,900

\*Includes funds encumbered to pay costs incurred or legally obligated.

funding of any grant category (\$2.25 million annually) and was the only category allowing for 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 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.

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.

As of December, 2004, DNR has expended \$1,274,600 and encumbered \$55,000 from the program. Among its acquisitions are a conservation easement to prevent further development on 267 acres in Columbia County, purchase of 102 acres of land adjacent to Devil's Lake State Park in Sauk County, 70 acres adjacent to Natural Bridge State Park, and 56.7 acres in the western end of the Baraboo Hills, within one mile of Natural Bridge State Park.

## **Bluff Protection Subprogram**

\$1 million in bonding authority is allocated for a bluff protection program. 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 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. One grant totaling \$450,000 (plus \$4,700 in closing costs and acquisition expenses) 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. Remaining bonding authority totaling \$545,300 is available under the general land acquisition subprogram as of July 1, 2004.

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### **Grants to Nonprofit Conservation Organizations**

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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 any of the subprograms.

As of December 14, 2004, DNR had expended or encumbered almost \$44.2 million for grant requests under Stewardship 2000. This total includes \$16,626,100 under the land acquisition subprogram and \$27,558,900 under the property development and local assistance subprogram.

Grants to NCOs and local governments for land acquisition may be for up to 50% of the land's current fair market value plus other acquisition costs as determined in rule by 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.

Small groups that do not qualify as a nonprofit organization may 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, 2004, 45 NCOs (not including friends groups) have been awarded 245 grants totaling almost \$35 million under eight of the stewardship components, as follows: (a) 95 grants for natural areas; (b) 77 habitat areas grants; (c) 23 for the Ice Age Trail; (d) 23 grants under the stream bank protection program; (e) 10 grants under the urban greenspace component; (f) six for local park aids; and (g) four grants under the urban rivers component; (h) four grants for the acquisition of

development rights; and (i) two grants for state trails. In addition, one grant was awarded for recreational areas. 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, the Madison Audubon Society, the Natural Heritage Land Trust, Ridges Sanctuary, and the Waukesha Land Conservancy.

NCOs are eligible to apply for grants under both of the major Stewardship 2000 subprograms, as well as under the Baraboo Hills component. 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.

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 purchase 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 (easements) 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 2005, there will be \$15 million available to be divided between the Department's capital development budget and local assistance grants. Statutorily, at least \$3.5 million must 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 2004-05.

**Table 10: Stewardship 2004-05 Expenditure Plan**

Subprogram	2004-05
Land Acquisition	
Department Acquisitions	\$36,750,000
Grants to NCOs	8,250,000
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>
<b>TOTAL</b>	<b>\$60,000,000</b>

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 June 30, 2004, nearly 30,000 acres of land have been enrolled in CREP (25,200 acres in 15-year easements and 4,800 acres in perpetual easements). The Farm Service Agency projects that total federal payments associated with these 30,000 acres over their CREP contracts (generally 15 years, unless a permanent easement is granted) will total about \$57 million. In addition, through June 30, 2004, the state had expended about \$8 million on incentive payments to enroll this land into the program and on cost-share grants to landowners for the installation of conservation practices (with additional state expenditures of over \$3 million expected for future state cost-share payments associated with this enrolled land). As a result, expenditures of approximately \$68 million (out of the total \$240 million available) are expected over the life of the CREP contracts for the 30,000 acres enrolled in CREP as of June 30, 2004. Under the current agreement with the USDA, state landowners are allowed to participate in CREP provided they have signed a federal contract by December 31, 2007.

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### **Conservation Reserve Enhancement Program**

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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

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### **Appraised Versus Assessed Value**

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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 Joint Committee on Finance 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 Joint Committee on Finance 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 determining just compensation for the property.

Questions are sometimes raised about 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.

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### **Aids in Lieu of Property Taxes**

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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. 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).

Aids in lieu payments are made primarily from a sum sufficient, GPR appropriation. However, beginning in 2003-04, a portion of the payments are made from the forestry account of the conservation fund (\$1 million in 2003-04 and \$2 million beginning in 2004-05). Table 11 shows aids in lieu of property tax payments made since fiscal year 1996-97.

**Table 11: Aids in Lieu of Property Tax Payments**

Fiscal Year	GPR	SEG	Total
1996-97	\$1,735,600	\$0	\$1,735,600
1997-98	1,873,000	0	1,873,000
1998-99	2,374,200	0	2,374,200
1999-00	2,537,900	0	2,537,900
2000-01	3,393,500	0	3,393,500
2001-02	3,906,100	0	3,906,100
2002-03	4,755,400	0	4,755,400
2003-04	4,349,000	1,000,000	5,349,000

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 adjustments 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.

Table 12 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, agricultural 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 attributed 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 indicates 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.

As passed by the Legislature, the 2003-05 biennial budget would have changed the formula by which aids in lieu payments are calculated for lands purchased from the effective date of the bill forward. The modified formula would have defined the estimated value of the property to mean the lower of the equalized value of the property prior to purchase by DNR or the purchase

**Table 12: 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	56,700	310	987	218
<b>Total</b>		<b>\$5,798,758</b>	<b>\$36,224</b>	<b>\$117,640</b>	<b>225%</b>

\*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.

price (instead of the purchase price, as currently provided in statute). In cases where the property had previously been tax-exempt, the last recorded equalized value would be used, or a payment of \$1 per acre would be made, whichever amount was greater. The amount determined under this formula would continue to be adjusted annually to

reflect changes in the equalized valuation of all land, excluding improvements, in the taxation district. Under this formula, aids in lieu of property tax payments would be expected to decline by between one-half and two-thirds for future purchases. The Governor item vetoed this provision in 2003 Act 33.

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## Appendices

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Following are five 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 through 2003-04. 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 IV provides general information on expenditures made from the property development program, and Appendix V shows the amount of stewardship funding spent on DNR properties since 1990.



## APPENDIX I

### Warren Knowles-Gaylord Nelson Stewardship 2000 Program Expenditures

Category	2000-01	2001-02	2002-03	2003-04	Total
General Land Acquisition	\$21,203,800	\$35,583,100	\$37,841,200	\$40,682,600	\$135,310,700
Property Development	0	2,275,800	2,182,700	1,629,300	6,087,800
Local Assistance	1,153,600	3,320,800	5,005,800	7,501,900	16,982,100
Baraboo Hills	0	119,400	212,900	782,300	1,114,600
Bluff Protection	<u>0</u>	<u>450,000</u>	<u>4,700</u>	<u>0</u>	<u>454,700</u>
Total	\$22,357,400	\$41,749,100	\$45,247,300	\$50,596,000	\$159,949,800

## APPENDIX II

### DNR Land Purchases Under Stewardship by County as of June 30, 2004

County	Conservation Easement	Acres	Federal Expenditures	Stewardship Expenditures	Total Expenditures
Adams	1,638	5,643	\$373,050	\$4,331,590	\$4,704,640
Ashland	20	479	25,500	303,300	328,800
Barron	22	671	18,100	720,978	739,078
Bayfield	8	6,080	539,956	1,324,994	1,864,950
Brown	44	1,209	596,571	1,454,012	2,050,583
Buffalo	1	1,343	46,200	616,400	662,600
Burnett	1	1,681	245,140	1,038,886	1,284,026
Calumet	1	1,757	203,197	2,228,972	2,432,169
Chippewa	67	4,088	758,508	1,683,124	2,441,632
Clark	0	224	0	468,833	468,833
Columbia	618	2,097	519,384	3,179,688	3,699,072
Crawford	572	6,796	180,733	5,603,504	5,784,237
Dane	889	4,624	889,743	12,027,017	12,916,760
Dodge	481	1,193	445,850	1,284,411	1,730,261
Door	616	1,098	2,646,105	3,165,495	5,811,600
Douglas	73	8,505	187,550	2,053,075	2,240,625
Dunn	925	1,997	32,257	1,537,534	1,569,791
Eau Claire	108	144	14,700	249,800	264,500
Florence	1,980	5,830	9,450	2,983,392	2,992,842
Fond du Lac	1,556	4,760	568,450	5,026,739	5,595,189
Forest	0	544	0	245,001	245,001
Grant	724	3,851	232,026	3,087,077	3,319,103
Green	146	297	162,000	745,075	907,075
Green Lake	9	971	58,388	793,741	852,129
Iowa	1,095	3,841	61,742	4,346,958	4,408,700
Iron	5,728	37,280	1,151,880	13,025,057	14,176,937
Jackson	4	3,282	235,028	2,346,774	2,581,802
Jefferson	28	5,280	59,446	2,689,376	2,748,822
Juneau	462	4,462	211,500	4,311,740	4,523,240
Kenosha	86	143	363,765	719,559	1,083,324
Kewaunee	14	498	0	567,600	567,600
La Crosse	120	133	137,625	201,581	339,206
Lafayette	151	337	117,143	422,985	540,128
Langlade	332	1,735	548,612	921,344	1,469,956
Lincoln	20,753	7,743	3,722,977	4,251,227	7,974,204
Manitowoc	620	622	0	2,124,623	2,124,623
Marathon	1,368	1,988	333,641	2,441,847	2,775,488
Marinette	59	12,853	415,119	19,529,245	19,944,364
Marquette	19	1,658	435,147	1,524,104	1,959,251
Menominee	0	0	0	0	0

**APPENDIX II (continued)**

**DNR Land Purchases Under Stewardship by County as of June 30, 2004**

County	Conservation Easement	Acres	Federal Expenditures	Stewardship Expenditures	Total Expenditures
Milwaukee	0	0	\$0	\$0	\$0
Monroe	599	898	83,686	1,142,715	1,226,401
Oconto	3	1,750	358,062	1,423,149	1,781,211
Oneida	12,528	26,516	46,602	19,302,374	19,348,976
Outagamie	6	3,690	554,075	2,980,940	3,535,015
Ozaukee	74	218	120,000	449,920	569,920
Pepin	73	1,760	268,000	1,274,351	1,542,351
Pierce	61	790	0	694,450	694,450
Polk	245	1,625	549,950	1,818,230	2,368,180
Portage	9	3,955	672,961	2,541,009	3,213,970
Price	1	94	0	68,125	68,125
Racine	27	127	30,000	313,500	343,500
Richland	232	4,107	263,014	3,200,053	3,463,067
Rock	4	1,374	0	1,473,596	1,473,596
Rusk	1	92	23,250	117,950	141,200
Sauk	2,067	3,642	1,244,992	5,558,322	6,803,314
Sawyer	51	959	126,857	989,652	1,116,509
Shawano	27	1,111	15,088	358,431	373,519
Sheboygan	83	2,158	301,175	4,091,728	4,392,903
St Croix	128	2,457	634,369	4,153,269	4,787,638
Taylor	6	798	68,880	1,002,976	1,071,856
Trempealeau	93	1,137	80,151	624,802	704,953
Vernon	215	1,174	459,848	805,720	1,265,568
Vilas	414	2,175	87,000	2,708,625	2,795,625
Walworth	207	3,138	191,475	4,368,404	4,559,879
Washburn	10	1,125	90,750	1,589,141	1,679,891
Washington	226	1,239	457,617	4,824,609	5,282,226
Waukesha	43	1,884	825,996	7,857,303	8,683,299
Waupaca	101	1,828	1,147,274	2,315,035	3,462,309
Waushara	96	3,228	1,421,932	2,491,032	3,912,964
Winnebago	2,516	2,175	165,750	2,851,106	3,016,856
Wood	<u>28</u>	<u>709</u>	<u>21,000</u>	<u>1,142,700</u>	<u>1,163,700</u>
<b>Total</b>	<b>61,509</b>	<b>225,673</b>	<b>\$26,856,237</b>	<b>\$200,109,872</b>	<b>\$226,966,109</b>

**APPENDIX III**

**DNR Grant Program Activity Under Stewardship by County as of June 30, 2004**

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	\$347,102	\$465,289	Manitowoc	\$1,749,500	\$209,217	\$1,958,717
Ashland	124,383	292,500	416,883	Marathon	719,588	98,899	818,487
Barron	122,534	-	122,534	Marinette	99,497	-	99,497
Bayfield	176,995	76,100	253,095	Marquette	44,277	174,450	218,727
Brown	3,371,337	362,913	3,734,250	Menominee	-	-	-
			-				-
Buffalo	146,153	160,900	307,053	Milwaukee	2,509,935	207,987	2,717,922
Burnett	113,233	20,000	133,233	Monroe	560,854	10,000	570,854
Calumet	361,004	61,707	422,711	Oconto	325,099	-	325,099
Chippewa	530,391	356,500	886,891	Oneida	364,110	-	364,110
Clark	629,445	-	629,445	Outagamie	1,584,056	10,218	1,594,274
			-				-
Columbia	682,392	791,029	1,473,421	Ozaukee	1,660,033	1,867,125	3,527,158
Crawford	112,690	258,395	371,085	Pepin	30,000	645,000	675,000
Dane	13,198,414	6,648,283	19,846,697	Pierce	368,155	718,450	1,086,605
Dodge	1,327,938	311,905	1,639,843	Polk	613,357	1,876,125	2,489,482
Door	1,428,751	6,445,207	7,873,958	Portage	643,238	176,250	819,488
			-				-
Douglas	287,507	32,500	320,007	Price	371,513	-	371,513
Dunn	431,997	177,365	609,362	Racine	2,987,194	162,500	3,149,694
Eau Claire	698,445	6,600	705,045	Richland	124,073	-	124,073
Florence	141,906	-	141,906	Rock	1,968,784	42,848	2,011,632
Fond du Lac	815,256	6,800	822,056	Rusk	465,540	-	465,540
			-				-
Forest	55,625	-	55,625	Sauk	481,183	1,115,181	1,596,364
Grant	394,150	270,933	665,083	Sawyer	130,398	-	130,398
Green	109,850	77,750	187,600	Shawano	696,622	49,050	745,672
Green Lake	143,914	6,750	150,664	Sheboygan	1,219,269	210,353	1,429,622
Iowa	135,736	1,060,503	1,196,239	St. Croix	781,468	165,825	947,293
			-				-
Iron	68,766	-	68,766	Taylor	198,045	14,815	212,860
Jackson	484,172	24,000	508,172	Trempealeau	40,692	14,445	55,137
Jefferson	1,383,677	2,950,161	4,333,838	Vernon	2,756,738	-	2,756,738
Juneau	313,929	58,533	372,462	Vilas	284,284	1,992,250	2,276,534
Kenosha	662,890	253,010	915,900	Walworth	1,121,613	760,961	1,882,574
			-				-
Kewaunee	362,113	10,400	372,513	Washburn	312,869	-	312,869
La Crosse	1,073,545	385,485	1,459,030	Washington	2,919,504	2,048,947	4,968,451
Lafayette	482,900	-	482,900	Waukesha	8,303,610	1,763,746	10,067,356
Langlade	346,449	-	346,449	Waupaca	1,057,350	163,000	1,220,350
Lincoln	222,541	-	222,541	Waushara	192,030	-	192,030
			-				-
			-	Winnebago	1,519,128	148,900	1,668,028
			-	Wood	<u>766,273</u>	<u>29,700</u>	<u>795,973</u>
			-				-
			-	Total	\$71,029,096	\$36,129,574	\$107,158,670

**APPENDIX IV**

**Stewardship 2000  
Major Property Development Projects  
As of December, 2004**

	<u>Budgeted</u>	<u>Expended</u>	<u>Encumbered</u>	<u>Balance</u>
Lapham Peak Transmitter	\$63,000	\$63,000	\$0	\$0
Rib Mountain Ski Chalet	100,000	0	0	100,000
Rock Island State Park composting toilet	309,000	308,500	0	500
Bong Recreation Area toilet/shower building	823,300	70,000	20,500	732,800
Kettle Moraine toilet/shower building	493,500	46,300	19,000	428,200
Mirror Lake toilet/shower building	468,600	352,100	40,400	76,100
Point Beach toilet/shower building	493,000	28,800	365,600	98,600
Rib Mountain State Park entrance building	683,000	354,500	33,100	295,400
Rock Island State Park entrance building	218,700	208,100	9,200	1,400
Dewey State Park Storage Facility	99,100	79,100	1,800	18,200
High Cliff State Park accessibility modifications	122,300	118,800	0	3,500
Badger State Trail Bridges and Culverts	249,500	215,600	16,000	17,900
Buffalo River Trail bridges	191,600	110,400	74,300	6,900
Gandy Dancer State Trail pedestrian underpass	62,400	0	0	62,400
Mirror Lake State Park bridge/trail development	202,900	0	0	202,900
Badger State Trail - Exeter Tunnel	303,000	11,900	17,100	274,000
High Cliff State Park Road Repair	171,200	145,400	7,900	17,900
Pattison State Park waste water management systems	<u>476,000</u>	<u>0</u>	<u>55,800</u>	<u>420,200</u>
<b>Total</b>	<b>\$5,530,100</b>	<b>\$2,112,500</b>	<b>\$660,700</b>	<b>\$2,756,900</b>

## APPENDIX V

### Stewardship Development Expenditures by State Property, 1990 through 2004

400 Trail	\$29,000	Kettle Moraine State Forest -- Northern Unit	\$505,600
Amnicon Falls State Park	36,200	Kickapoo Valley Visitor Center	1,319,400
Badger Trail	514,400	Kohler-Andrae State Park	172,000
Baraboo Hills	3,885,500	Lake Kegonsa State Park	99,900
Bearskin State Trail	900	Lakeshore State Park	1,856,500
Big Bay State Park	27,000	Lapham Peak State Park	626,800
Big Foot Beach State Park	43,200	Lapham Peak State Forest	258,500
Blue Mounds State Park	46,700	Loew's Lake	29,200
Bong Recreational Area	761,300	Lower Wisconsin State Riverway	17,300
Brooklyn Wildlife Area	9,700	Lulu Lake Natural Area	5,000
Brule River State Forest	3,100	Mead Wildlife Area	1,700
Buckhorn State Park	9,400	Merrick State Park	28,500
Cadiz Recreation Area	49,000	Military Ridge State Trail	89,000
Central Wisconsin	123,700	Mirror Lake State Park	319,900
Chippewa River Trail	3,300	Nelson Dewey State Park	30,600
Copper Falls State Park	64,900	Northern Highland/American Legion	
Crex Meadows State Park	57,000	State Forest	73,000
Devil's Lake State Park	617,600	Pattison State Park	521,300
Drumlin Trail	69,900	Peninsula State Park	7,100
Elroy Sparta State Park	77,100	Perrot State Park	58,400
Elroy Sparta Trail	47,000	Pike Lake State Forest	129,300
Flambeau River State Forest	25,300	Point Beach State Forest	473,800
Friendship Ranger Station	5,000	Potawatomi State Park	200
Glacial Drumlin Trail	62,000	Red Cedar Trail	43,500
Governor Dodge State Park	37,000	Rib Mountain State Park	704,700
Governor Knowles State Forest	1,900	Roche-a-Cri State Park	9,700
Governor Nelson State Park	102,300	Rock Island State Park	3,500
Grantsburg	1,100	Rocky Arbor State Park	62,200
Harrington Beach State Park	36,800	Sugar River Trail	13,500
Havenswoods State Forest	44,000	Tower Hill State Park	24,000
Henry Aaron State Park Trail	0	Tuscobia Trail	95,100
High Cliff State Park	180,200	Wildcat Mountain State Park	1,500
Horicon Marsh Wildlife Area	16,000	Willow River State Park	100
Interstate State Park	93,900	Wyalusing State Park	44,400
Kettle Moraine State Forest -- Southern Unit	196,400	Yellowstone State Park	8,500
		Miscellaneous Projects	<u>951,500</u>
		Total	\$15,863,000