

DATE: December 21, 2007

TO: Natural Resources Board

FROM: Matthew J. Frank

SUBJECT: New Stewardship Program Implementation Briefing

2007 Wis. Act 20, the 2007-2009 Biennial Budget, reauthorized the Warren Knowles – Gaylord Nelson Stewardship Program for a ten-year period, beginning with fiscal year 2010-11 and ending fiscal year 2019-20. The annual bonding authority was increased from \$60 million to \$86 million for this additional 10-year period. *2007 Wis. Act 20* became effective on October 27, 2007. As you know, this is a major conservation achievement for the State of Wisconsin under Governor Doyle's leadership.

Continuing the Stewardship Program for an additional ten years provides for great stability in land protection by the DNR, local governments, land trusts, and many conservation partners. Knowing the program will continue to 2020 allows for long-range planning and patient negotiations with landowners to be successful. It will also allow the DNR and its partners to be ready and capable of taking advantage of matching federal funding sources as they become available in future years.

The purpose of this briefing is three-fold:

- 1.) To inform you of the changes that were made to the Stewardship Program as a result of reauthorization;
- 2.) To describe the general timeframe and administrative rule and policy making processes the DNR needs to conduct to implement the new program; and
- 3.) To obtain your feedback and guidance on implementation and the rule and policy process.

1.) Changes Made to the Existing Stewardship Program

The changes that occurred involve two timeframes. The first timeframe pertains to things the DNR is required to begin implementing upon enactment of the law (*i.e.*, October 27, 2007). The second timeframe pertains to things that would begin in the first year of the new program (*i.e.*, fiscal year 2010-11). The changes are listed below under each category. Thorough descriptions of the changes listed are contained in the Appendix to this memo.

Statutory Changes that Occur upon Enactment of 2007 Wis. Act 20 (i.e. October 27, 2007)

- Knowles-Nelson Stewardship Program extended through fiscal year 2019-2020.
- New Recreational Boating Aids subprogram created.
- NRB may allow a grant to an NCO for up to 75% of eligible costs if certain conditions are met.
- Second appraisal for grant not required unless land value exceeds \$350,000.
- Public access (including hunting, fishing, trapping, hiking, and cross country skiing) required of Stewardship land acquisition purchases unless NRB finds a closure meets one of 3 conditions (rules must be developed for this).
- DNR must report annually to the Legislature identifying lands where public access has been restricted or prohibited and the reasons.

- No more than 20% of Stewardship bond revenue in any fiscal year can be used to acquire parcels less than 10 acres in size.
- Within 48 months of the effective date of the law, DNR must establish an interactive web mapping tool identifying stewardship lands open for public access.
- Within 48 months of the effective date of the law, DNR must prepare or make available a directory of all Stewardship lands.
- New signage is required by owners of Stewardship land to identify the land as open to public access and to specify which, if any, activities are restricted.
- Hunting fees on NCO stewardship land cannot exceed price of a daily state park sticker for the season.
- Five stewardship earmarks are specified.
- DNR is authorized to contract for land management and must report annually to the Legislature on contracting.

Statutory Changes that Occur Beginning Fiscal Year 2010-2011 (i.e. July 1, 2010)

- New county land acquisition grant program begins (rules must be developed for this).
- Joint Finance review of stewardship land acquisition and grants restored if Stewardship funds totaling \$750,000 or greater are used.

Total bond revenue level appropriation increases to \$86 million per year and is allocated as follows:

Summary - New Stewardship Allocations (as of July 1, 2010)	
DNR (& County) Land Acquisition	\$ 45,000,000
Grants to NCOs (minimum)	\$ 12,000,000
Bd. of Commissioners of Public Lands Acquisitions	\$ 2,000,000
Ice Age & Other Trails	\$ 3,000,000
Recreational Boating Aids	\$ 2,500,000
DNR Property Development	\$ 10,000,000
Local Assistance Grants (maximum)	<u>\$ 11,500,000</u>
TOTAL	\$ 86,000,000

2.) Administrative Rule Development Needed

Administrative rules will be needed for:

- 1.) Establishing a process by which the NR Board may restrict public access for one or more nature-based activities and by which such decisions may be appealed.
- 2.) Creating the process for counties to apply for land acquisition grants.
- 3.) Updating ch. NR 51, the existing administrative code for the stewardship grants program, and corresponding changes to ch. NR 1 and ch. NR 44 as needed.

3.) Other Policy and Procedure Needs

Interactive Web Site

The DNR has already begun to comply with the requirement to identify Stewardship lands. An interactive web site has been developed and some of the required signage has been initiated. This is an issue that the DNR had been working on with the Legislature for the past few years before it was statutorily required in the reauthorized program. The Bureau of Facilities and Lands will lead the internal process of standardizing implementation of the new requirements across all DNR land holding programs.

Contracting for Land Management

Contracting for land management on DNR lands was a significant issue for the legislature during reauthorization. Some of this already occurs. I will have the Divisions of Forestry and Lands identify what they are already doing and recommend additional types of contracting that can be done.

Various Reporting Requirements

The various reporting requirements contained in the reauthorized program will require the DNR to create new or expand existing databases or data management systems that will track and collect the required information in a timely and efficient manner.

APPENDIX

DESCRIPTION OF THE CHANGES MADE TO THE STEWARDSHIP LAW

1.) GENERAL STEWARDSHIP REAUTHORIZATION

The Warren Knowles-Gaylord Nelson Stewardship 2000 Program (hereafter “Stewardship Program”) will be extended for another 10 years to fiscal year 2019-20. The annual bonding authority will be increased from \$60 million to \$86 million beginning in fiscal year 2010-11.

The current Stewardship Program, administered by DNR, authorizes the state to incur public debt by issuing bonds for the purposes of:

- (a) acquiring land to expand recreational opportunities and protect environmentally sensitive areas;
- (b) developing outdoor recreational facilities on these state lands; and
- (c) providing grants to local governments and non-profit conservation organizations (NCOs) for up to 50% of the cost of acquiring or developing land for nature-based outdoor recreation.

These purposes remain the same in the reauthorized program.

The current program consists of two subprograms: the land acquisition subprogram, and the property development and local assistance subprogram. The reauthorized program adds a third subprogram: recreational boating aids.

The current program is authorized until 2009-10, with annual bonding authority of \$60 million. Of this \$60 million, \$45 million is dedicated to the land acquisition subprogram and \$15 million is dedicated to the property development and local assistance subprogram. The reauthorized program increases the annual bonding authority to \$86 million beginning in 2010-11, with \$62,000,000 dedicated to the land acquisition subprogram, \$21.5 million dedicated to the property development and local assistance subprogram, and \$2.5 million dedicated the new recreational boating aids subprogram.

The following table shows annual bonding allocations under the current program and under the reauthorized program.

	Current 2006-07	per 2007 Wis. Act 20		
		2007-08	2008-09 and 2009-10	Beginning 2010-11
Land acquisition	45,000,000	43,500,000	42,500,000	62,000,000
Property Development and Local Assistance	15,000,000	15,000,000	15,000,000	21,500,000
Recreational Boating Aids	0	1,500,000	2,500,000	2,500,000
Total Annual Bonding Allocation	60,000,000	60,000,000	60,000,000	86,000,000

Land Acquisition Subprogram

In obligating moneys under the land acquisition subprogram (current program and reauthorized program), the DNR must give priority to the following purposes:

- (a) acquisition of land that preserves or enhances the state's water resources, including land along 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.

DNR must also set aside \$3,000,000 in each fiscal year for state trails and the Ice Age Trail. And, beginning in fiscal year 2006-07 and ending in fiscal year 2019-20, the DNR must set aside \$2,000,000 in each fiscal year to acquire land from the Board of Commissioners of Public Lands (BCPL).

In addition, DNR is required to set aside at least \$2,000,000, over the life of the program (until 2019-20), for matching funds for the purchase of land or easements under the federal Forest Legacy Program.

Under the reauthorized program, beginning in 2010-11 and ending in fiscal year 2019-20, DNR is also required to set aside a minimum of \$12,000,000 in each fiscal year for matching grants that will be awarded only to nonprofit conservation organizations (NCOs). This is an increase from the \$8,250,000 million under the current program. The following table illustrates how funding is allocated annually under the land acquisition subprogram under current law, and how it would be allocated under the reauthorized program.

Land Acquisition Subprogram

	Current <u>2006-07</u>	Conference Committee		
		<u>2007-08</u>	2008-09 and <u>2009-10</u>	Beginning <u>2010-11</u>
Department (and County) Acquisitions	\$31,750,000	\$30,500,000	\$29,500,000	\$45,000,000
Grants to NCOs	8,250,000	8,000,000	8,000,000	12,000,000
BCPL Natural Areas	2,000,000	2,000,000	2,000,000	2,000,000
Ice Age and Other Trails	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>
Total Annual Bonding Authority	\$45,000,000	\$43,500,000	\$42,500,000	\$62,000,000

Beginning in 2010-11, the reauthorized program creates a new initiative under the land acquisition subprogram to provide grants to counties to acquire land to be included in a county forest and for projects that DNR requests a county's assistance for nature-based outdoor recreation and conservation purposes. The DNR has defined "nature-based outdoor recreation" in ch. NR 51 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, and multi-use trail activities. This new initiative would require each county receiving a grant under this program to provide matching funds of at least 50% of the land acquisition costs. Further, a county would be prohibited from converting the land or the rights in the land acquired using Stewardship grant money to a use that is inconsistent with the type of nature-based outdoor recreation for which the grant was awarded, without the approval of the Natural Resources Board. Grant awards are for no more than 50% of eligible costs (typically property acquisition + closing costs). Counties are eligible for local assistance grants under the current program; this provision extends a county's eligibility to now also include funding from the DNR's land acquisition portion of the programs.

Property Development and Local Assistance Subprogram

The reauthorized Stewardship Program increases the annual bonding authority dedicated to property development and local assistance from \$15 million to \$21.5 million, and increases the maximum amount that may be obligated for local assistance to \$11.5 million annually, leaving at least \$10 million annually for DNR property development. The following table illustrates how funding is allocated annually under the property development and local assistance subprogram under current law, and how it would be allocated under the reauthorized program.

Property Development and Local Assistance Subprogram	Current Law (Through 2009-10)	2007 Wis. Act 20 (Beginning 2010-11)
Property Development (minimum)	7,000,000	10,000,000
Local Assistance Grants (maximum)	8,000,000	11,500,000
Total Annual Bonding Allocation	15,000,000	21,500,000

Property development allocations may be used for:

- (a) development on DNR land;
- (b) development on conservation easements adjacent to DNR land; and
- (c) grants to Friends Groups and non-profit conservation organizations (NCOs) for property development activities on DNR land.

DNR may not obligate more than \$250,000 annually for grants to Friends Groups and NCOs for property development activities on DNR land, and Friends Group or NCO must provide matching funds of at least 50% of project costs. (This applies only to property development grants for NCOs; NCOs are also eligible for land acquisition grants under any of the stewardship subprograms).

Local assistance allocations may be used for grants for:

- (a) acquisition of urban green space;
- (b) acquisition and development of local parks;
- (c) acquisition of property development rights; and
- (d) acquisition and development of urban rivers.

Grant awards are available for up to 50% of eligible project costs. Eligible recipients of these grants include: cities, towns, villages, counties, and tribal governments.

NCO Land Acquisition Grants

DNR may award grants under either the land acquisition and the property development and local assistance subprogram to non-profit conservation organizations (NCOs) for land acquisition. Under current law, these grants may be for up to 50% of the land's current fair market value plus other acquisition costs as determined in rule by DNR (generally, the costs of appraisals and closing costs, but not attorney fees).

Under the reauthorized program, grants of up to 75% of the property acquisition costs could be made to NCOs if the Natural Resources Board determined that all of the following apply:

- (a) The property is uniquely valuable in conserving the natural resources of the state;

- (b) Delaying or deferring the acquisition until 50% of the acquisition costs are procured by the NCO is not reasonably possible; and
- (c) Sufficient bonding authority remains in the \$12 million set aside for land acquisition grants to NCOs for that fiscal year, after awarding grants to nonprofit conservation organizations that meet the 50% matching requirement.

The reauthorized Stewardship Program also specifies that the DNR is not required to obtain a second appraisal for a Stewardship grant to a governmental unit or a nonprofit conservation organization if the fair market value of the land is estimated by the DNR to be at, or below, \$350,000 (rather than the current benchmark of \$200,000).

Recreational Boating Aids Subprogram

The reauthorized Stewardship Program creates a new recreational boating aids subprogram and dedicates \$1.5 million of Stewardship funding in 2007-08 and \$2.5 million beginning in 2008-09 extending through 2019-20 to this subprogram. *2007 Wis. Act 20* transferred \$1.5 million in 2007-08 and \$2.5 million in 2008-09 from recreational boating aids to an appropriation to provide grants for the control of aquatic invasive species. This action, using Stewardship funding, maintained funding for recreational boating projects at the current level of \$3.1 million annually.

Under the recreational boating program, DNR provides grants to municipalities, counties, town sanitary districts, public inland lake protection and rehabilitation districts, qualified lake associations, the Milwaukee River Revitalization Council, and the Lower Wisconsin State Riverway Board for up to 50% of the costs (or more in certain circumstances) of developing recreational boating facilities approved by the Wisconsin Waterways Commission. The Wisconsin Waterways Commission is a five-member board appointed by the Governor with the advice and consent of the Senate for staggered, five-year terms. Grants are available for recreational boating projects that include providing public access (boat ramps and related parking facilities), navigational aids or markers, dredging, weed removal, and capital equipment used for trash or debris removal.

2. STEWARDSHIP REVIEW

2007 Wis. Act 20 restored the authority of the Joint Committee on Finance to review projects under the Stewardship Program through a 14-day passive review process. The law specifies that all stewardship projects, excluding DNR property development projects and DNR acquisition of land held by the Board of Commissioners of Public Lands, in excess of \$750,000 will be subject to review. Further, the law also specifies that a DNR project or activity using stewardship funds of less than or equal to \$750,000 is subject to review by the Joint Committee on Finance if all of the following apply:

- (a) it is so closely related to one or more other DNR projects or activities proposed or conducted using Stewardship funds that the projects or activities, if combined, would constitute a larger project or activity that exceeds \$750,000; and
- (b) the DNR separated the projects or activities primarily to avoid Joint Committee on Finance review.

If the Joint Committee on Finance Co-chairs do not notify DNR within 14 working days that the Committee is scheduling a meeting to review the proposal, DNR may proceed with the project. *2007 Wis. Act 20* specifies that at least five members of the Committee, including at least one Co-Chair, are required to object, in writing, to a project before a meeting about it can be scheduled. If the Committee does not hold a meeting to review the proposal within 16 working days after the Co-Chair notifies the DNR that a

meeting would be scheduled, the DNR could proceed with the transaction. However, if the notification is made after the Legislature has adjourned its final general business floor period in an even-numbered year, then the Committee would have 31 working days to hold a meeting.

Currently, 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. This provision would clarify that the 14-day passive review process applies to these transactions.

Under current law, the DNR must set aside \$2,000,000 in each fiscal year to acquire land from the Board of Commissioners of Public Lands (BCPL). These acquisitions would not be subject to Joint Finance review.

3. PUBLIC ACCESS ON STEWARDSHIP LAND

2007 Wis. Act 20 requires that all land acquired in fee simple, or land acquired by an easement that was withdrawn from the managed forest land program using stewardship funds, must be open to the public for hunting, fishing, trapping, hiking, cross-country skiing, and other nature-based outdoor recreation (as defined by DNR rule), unless the Natural Resources Board determines that a closure is necessary to:

- (a) protect public safety;
- (b) protect a unique plant or animal community; or
- (c) to accommodate usership patterns, as defined by administrative rule.

The Natural Resources Board is required to develop rules relating to public access for all other lands (such as for other conservation easement parcels) acquired in whole or in part from Stewardship program funds. Stewardship-funded lands in fish or game refuges may be closed to hunting, fishing, and trapping. In addition, the Natural Resources Board is required to develop a process by rule to allow for review of a closure.

DNR is required to submit a report to the Legislature within 48 months of the effective date of the budget, which lists all stewardship land that was acquired before the effective date of the budget for which public access has been restricted or prohibited and the reasons for that action. The DNR is further required to report by November 15 annually to the Joint Committee on Finance and standing committees on natural resources, beginning in 2008, identifying each property acquired in the previous fiscal year that is not open for one or more of the purposes listed above and the reason for the closure.

4. STEWARDSHIP ACREAGE ALLOCATION

2007 Wis. Act 20 also specifies that no more than 20% of available Stewardship bonding authority in any fiscal year may be used to purchase parcels less than 10 acres in size.

5. IDENTIFICATION OF STEWARDSHIP LANDS

The DNR is required, within 48 months of the effective date of the budget, to establish and maintain an interactive mapping tool at the DNR's website that identifies all stewardship land that is open for public access. DNR is further required to make available a directory of all stewardship land that is open for public access. This directory must be updated every two years and be organized by county and town and clearly show the location of the stewardship land and named or numbered roads. The DNR may prepare the directory or may make available a map, book, or directory published by a private entity. *2007 Wis. Act 20* specifies that the mapping tool be available without charge, but the DNR may charge a fee for the Directory, not to exceed the cost of publication.

In addition, the reauthorized program will require an owner of stewardship land to provide notice of public access to the stewardship land in the form of specific signs placed at major access points to the stewardship land that identify the land as land acquired using stewardship funds. For lands acquired on or after the effective date of the budget, signage needs to be posted within 6 months. For lands acquired before the effective date of the budget, signage must be posted within 48 months. Signs must be at least 108 square inches in size and made of a durable material.

The legislation requires the signs to include:

- (a) either the primary activities that are restricted or prohibited on the stewardship land or the primary activities that are permitted on the stewardship land;
- (b) the name of the owner of the stewardship land or a person to contact regarding the stewardship land; and,
- (c) the postal address or telephone number of the owner of the stewardship land, the postal address or telephone number of a person to contact regarding the stewardship land, or an internet website address where a person can locate that information if the stewardship land has a cumulative acreage of 10 acres or more.

The legislation specifies that if a landowner fails to comply with these requirements, the landowner would be ineligible for state aid under the Stewardship Program until DNR determines that the landowner is in compliance. If the DNR is notified that a sign needs replacing, the law requires DNR to determine whether the sign needs to be replaced within 28 days. If the DNR determines that replacement is necessary, DNR must replace the sign within 28 days, or must notify the landowner within seven days of that determination. If the landowner does not replace the sign within three months after receiving notice from DNR, the landowner would be ineligible for any state aid under the Stewardship Program. Also, all owners of land purchased with Stewardship funding must provide DNR with contact information.

Further, the reauthorized program specifies that, if the DNR authorizes a nonprofit conservation organization to charge a fee for hunting on stewardship land, the fee for the hunting season may not exceed the state park daily resident vehicle admission fee (currently \$7).

All of the above identification provisions will not apply to Stewardship easements for trails, land acquired or managed for the Ice Age Trail, and easements for which the primary purpose of the easement is not public access.

6. STEWARDSHIP EARMARKS

The following five earmarks were authorized from the Stewardship Program:

- \$1,000,000 to improve navigability for recreational boating in Mirror Lake in Sauk County and in the streams flowing into the lake.
- \$600,000 to the City of Antigo for property development activities related to the Ice Age and Springbrook trails. The DNR is to provide \$1 for each \$1 expended by the City of Antigo.
- The DNR is required to provide \$3 in state funding for every \$1 provided for the following projects up to the maximum amounts noted:
 - a. \$500,000 to Vernon County to restore Jersey Valley Lake.
 - b. \$1,000,000 to a nationwide nonprofit conservation organization dedicated to land and water resource preservation (The Conservation Fund) for property acquisition for the Milwaukee Metropolitan Sewerage District Greenseams flood management program and for habitat restoration for lands acquired under the program.
 - c. \$875,800 to the City of Green Bay for the acquisition of property to be developed into a recreational trail.

Jersey Valley Lake, located in Vernon County, was drained in response to a March 2005 incident where manure runoff resulted in the death of many of the lake's fish. Further, the lake's dam is in need of repair and the lake's structure may be leaking. The county has hired an engineering firm to estimate the cost of repairing the dam and sealing the fissures in the lake bed so the lake could be refilled. The funding provided would be for a project to install a grout curtain on the dam as well as monitoring wells downstream that record water levels and determine the effectiveness of the repair and continuing lake and dam function. The preliminary estimate of the project cost is \$700,000.

Greenseams is a flood management program aimed at conserving water and preventing flooding through land protection. To implement Greenseams, the Milwaukee Metropolitan Sewerage district chose The Conservation Fund (TCF), a national non-profit conservation organization dedicated to land and water resource preservation. TCF helps MMSD acquire land along river corridors (such as the Menomonee, Milwaukee, and Root Rivers) containing hydric soils that can rapidly absorb water.

The City of Green Bay intends to use this funding to purchase approximately 25 acres from Wisconsin Central Railroad. The city would construct an off-street multi-use bicycle and pedestrian trail separated from the city street grid. Pending purchase, trail construction is tentatively scheduled to begin in May 2008, with completion in October 2008.

8. LAND MANAGEMENT CONTRACTS

2007 Wis. Act 20 authorized the DNR to contract with non-profit conservation organizations (including land trusts) and private companies to perform land management activities on DNR properties. In addition, DNR is required to submit a report to the Joint Committee on Finance by November 15 of each year for the prior fiscal year. The report is to include information on costs of contracts, activities performed, and the cost effectiveness of the contracts.