Form 1100-001
(R 9/07)

NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3.B.23

SUBJECT: Request approval of proposed Interim Protocol for Grant Review

FOR: DEC 4-5, 2007 **BOARD MEETING**

TO BE PRESENTED BY: Pat Henderson, Deputy Secretary

SUMMARY:

The Department requests that the Natural Resources Board approve an Interim Protocol that will be used when certain parcels are acquired with Stewardship grant funding. These parcels are noteworthy because one or more of the activities now required through 2007 Wis. Act 20 (the 07-09 Biennial Budget bill) would be restricted. Those activities are: hunting, trapping, fishing, hiking, and cross-country skiing. [See s. 23.0916(1)(b), Wis. Stats.] 2007 Wis. Act 20 authorizes only the Natural Resources Board to approve activity restrictions on parcels acquired with Stewardship grant funding.

Once approved, the Department would use the Interim Protocol until such time as an administrative code specifically dealing with this topic can be promulgated. The Department expects to notify the Natural Resources Board in early 2008 that rulemaking is formally underway for such an administrative code (submittal of Pink Sheet).

Considering the level of public interest in the Stewardship program, it is realistic to expect that promulgation of this new code could take 18 months. However, between now and the effective date of the code, the Department expects to issue grants to local governments and nonprofit conservation organization that wish to acquire land on which required activities may be restricted. This Interim Protocol will make it possible for the Department to deal with project sponsors in a fair, equitable, and timely manner.

RECOMMENDATION: Approval of Interim Protocol

LIST OF ATTACHED MATERIALS:

No	☑	Fiscal Estimate Required	Yes	☐	Attached
No	☑	Environmental Assessment or Impact Statement Required	Yes	☐	Attached
No	☐	Background Memo	Yes	☑	Attached

APPROVED:

Bureau Director, Debra Martinelli — Date 11 29 07

Administrator, Vance Rayburn — Date 11/28/07

Secretary, Matt Frank — Date 11/30/07

cc: Laurie J. Ross - AD/5

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: November 29, 2007

TO: Christine L. Thomas, Chair
Natural Resources Board

John Welter, Chair
Land Management, Recreation, and Fisheries/Wildlife Committee

FROM: Matt Frank, Secretary

SUBJECT: **REQUEST APPROVAL OF PROPOSED INTERIM PROTOCOL FOR GRANT REVIEW**

INTRODUCTION

The Department requests that the Natural Resources Board approve an Interim Protocol that will be used when certain parcels are acquired with Stewardship grant funding. These parcels are noteworthy because one or more of the activities now required through *2007 Wis. Act 20* (the 07-09 Biennial Budget bill) would be restricted. Those activities are: hunting, trapping, fishing, hiking, and cross-country skiing. [See s. 23.0916(1)(b), Wis. Stats.] *2007 Wis. Act 20* authorizes only the Natural Resources Board to approve activity restrictions on parcels acquired with Stewardship grant funding.

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Considering the level of public interest in the Stewardship program, it is realistic to expect that promulgation of this new code could take 18 months. However, between now and the effective date of the code, the Department expects to issue grants to local governments and nonprofit conservation organization that wish to acquire land on which required activities may be restricted. This Interim Protocol will make it possible for the Department to deal with project sponsors in a fair, equitable, and timely manner.

BACKGROUND

The Knowles-Nelson Stewardship Program has two grant components: Grants to Nonprofit Conservation Organizations and Grants for Local Assistance. Local Assistance grants are provided primarily to local units of government. See the "Family Tree" on **Attachment A** for an outline of the Stewardship grant subprograms.

Since the inception of the program, all properties acquired in fee simple, in whole or in part, with Stewardship grant funds were required to be open to the public for "nature-based outdoor recreation" (NBOR). Section NR 51.002(19) has defined NBOR as follows:

> "... 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 building, signs, interpretive items, and other features that enhance nature-based outdoor recreation or improved 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."

In addition to the NBOR definition in s. NR 51.002(19), allowable public uses for all grant-funded properties are also defined:

- By Wisconsin Statutes
- By sub-program criteria elsewhere in ch. NR 51
- In the grant contract issued to the grantee
- In land management plans approved by the Department.

Grantees are frequently required to hunt deer in land management plans to avoid damage to plants from browsing. Although other species are frequently hunted, unless there is a land management reason to control populations, it hasn't been required but certainly allowed.

Grantees have been allowed to create permitting systems, including lotteries open to all interested parties, to manage hunting on their properties. Grantees have been allowed to charge a reasonable fee, not to exceed the daily permit to WI State Parks, to cover their costs to manage hunting programs.

Abiding by these rules, grantees have negotiated in good faith with landowners – sometimes over several years. However, with the passage of *2007 Wis. Act 20*, hunting, trapping, fishing, hiking, and cross-country skiing **are required** unless the Natural Resources Board allows them to be restricted. The proposed Interim Protocol will allow project sponsors and landowners to transition their understanding of NBOR from that expressed in ch. NR 51 to the new definition in *2007 Wis. Act 20*.

PROPOSED PROTOCOL

Consideration will be given for hunting any/all game species as well as fishing, trapping, hiking and cross country skiing.

1. All Stewardship grant applications for land acquisition received on or after October 27, 2007, will be required to state whether or not each nature-based outdoor activity listed in s. 23.0916(1)(b), Wis. Stats., was/is available to the general public prior to grant activity, whether or not the activity will be permitted after the grant, and the reason if not.
2. All property acquired in fee simple must be open to the public as directed in s. 23.096(3)(bn), Wis. Stats., even if one or more nature-based outdoor activities is prohibited.
3. If one or more nature-based outdoor activities is proposed to be restricted, grant staff will use *Staff Guidance for Nature-based Outdoor Activities* (see **Attachment B**) to review the application.
4. If one or more nature-based outdoor activities conflicts with one of the three conditions contained in the *Staff Guidance for Nature-based Outdoor Activities*, the grant will be allowed with the proposed restriction.
5. If Department grant staff do not find that the proposed restriction fits the conditions in the *Staff Guidance for Nature-based Outdoor Activities* and the grantee requests further review, grant staff will seek Natural Resources Board review of the project.

6. Department grant staff will collect and maintain records of all grant projects where one or more nature-based outdoor activities are restricted, including the reason for the restriction, and report annually as required by s. 23.096(6), Wis. Stats.
7. Public notice will be issued prior to grants being awarded, according to the procedure in s. NR 150.20(1)(b), Wis Adm. Code. Such notice will include a press release to local papers and legal notice in the Wisconsin State Journal. Such notice will include proposed public access and allow public comment for 10 working days.

ATTACHMENT A

KNOWLES-NELSON STEWARDSHIP PROGRAM

current appropriation = $60M/year)

Sub-amount:	$37M for	$8M to	$8M to	$7M for
Title:	DNR Land Acquisition Projects	Nonprofit Cons. Orgs. for land acquisition	Local Units of Gov. for land acquisition and development	DNR Development Projects
Cost-share rate:	Not applicable	50%	50%	Not applicable
DNR Bureau:	Facilities & Lands	Community Fin. Assistance	Community Fin. Assistance	Facilities & Lands
Contact:	Dick Steffes or Doug Haag	Kim Wright	Amy Bradley	John Hagman

includes

Contact:
Kate Zurlo-Cuvo

$250,000 for Friends Grants

Sub-programs include:

Grants to NCOs	**Local Assistance Grants**
• NATURAL AREAS • HABITAT AREAS • BARABOO HILLS • STREAMBANK PROTECTION • BLUFF PROTECTION • STATE ICE AGE TRAIL	• ACQUISITION OF DEVELOPMENT RIGHTS • URBAN RIVERS • URBAN GREEN SPACE • ACQUISITION AND DEVELOPMENT OF LOCAL PARKS

ATTACHMENT B

STAFF GUIDANCE FOR NATURE-BASED OUTDOOR ACTIVITIES

The staff will consider all forms of nature-based outdoor recreation, including hunting (various seasons), fishing, trapping, hiking and cross country skiing. The following restrictions on nature-based outdoor activities may be allowed for Stewardship grant-funded projects.

1. Public Safety
    a. One or more nature-based outdoor activities is restricted by local ordinance, zoning, or regulation.
    b. Proximity of one or more nature-based outdoor activities to: public institutions: residences; trails; developed businesses, commercial or industrial areas; or roadways endangers public safety.

2. Protect Unique Plant or Animal Community
    a. Department Bureau of Endangered Resources staff determines that one or more nature-based outdoor activities will degrade, destroy, or otherwise impair individual species or natural communities to be protected in the project.
    b. One or more nature-based outdoor activities will degrade, destroy, or otherwise impair individual species or natural communities protected under state or federal law.
    c. One or more natured-based outdoor activities that has been allowed on a grant-funded property may be subsequently restricted if it is found to negatively impact plant, animal, or natural communities protected in the project.

3. Accommodate Usership Patterns
    a. One or more nature-based activities will alter or curtail a primary recreational use of the property.
    b. One or more nature-based outdoor activity interferes with land management activities necessary to preserve, enhance, and restore the conservation values protected in the project.
    c. One or more nature-based outdoor activity is retained for a period of years by the seller(s) of the grant property and will not be available to the public until a date in the future.