

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

Item No. **Tuesday**
3.B.2.

SUBJECT: Request Approval of the Department's proposed amendment to the Land Acquisition and Sales Handbook to include new policies the Department and Natural Resources Board will follow when making land available for sale in accordance with s. 23.145, Wis. Stats.

FOR: December 2013 Board meeting

TO BE PRESENTED BY: Kurt Thiede, Land Division Administrator, Doug Haag, Bureau of Facilities and Lands

SUMMARY:

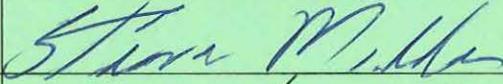
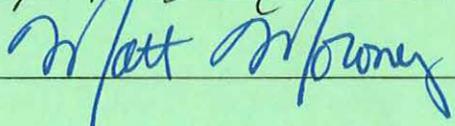
Wisconsin Act 20 contained a provision requiring the Natural Resource Board to make 10,000 acres of land available for sale by June 30th, 2017. The law further stipulates that the land must be outside of Department project boundaries established on or before May 1st, 2013. The Department has drafted an amendment to the Land Acquisition and Sales Handbook to guide the Department and the Natural Resources Board through this process and is seeking approval of the policy from the Natural Resources Board.

The Department shared this draft policy with the public at five public information meetings which were held on October 28th 2013. The locations of the hearings were; Eau Claire, Fitchburg, Green Bay, Rhinelander and Waukesha. Approximately 22 people registered at the public meetings. A few asked a variety of general questions at the meeting. Four people at the meeting submitted written comments. The Department also posted the draft policy on the Department's public comment web site for three weeks and received several additional comments about the policy by e-mail.

RECOMMENDATION: The Department recommends your approval of this policy.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- Background memo
- Type name of attachment or type N/A if not applicable
- Type name of attachment or type N/A if not applicable
- Type name of attachment or type N/A if not applicable

Approved by	Signature	Date
Steve Miller, Bureau Director		11-18-13
Kurt Thiede, Administrator		11/18/13
Cathy Stepp, Secretary		11/19/13

cc: Board Liaison – AD/8

DATE: November 14, 2013

FILE REF: [Click [here](#) and type file ref.]

TO: Natural Resources Board

FROM: Cathy Stepp

SUBJECT: Policy on Sale of State Lands

Wisconsin Act 20 contained a provision requiring the Natural Resource Board to make 10,000 acres of land available for sale by June 30, 2017. The law further stipulates that the land must be outside of Department project boundaries established on or before May 1, 2013. The Department has drafted an amendment to the Land Acquisition and Sales Handbook to guide the Department and the Natural Resources Board through this process and is seeking approval of the policy from the Natural Resources Board.

This exercise will allow the Department to realign ownership of some land with conservation partners and private citizens that are better suited to manage the land. We have already heard from some municipalities and citizens that would like to take over ownership and management of a few parcels of land that the Department owns but does not actively manage.

This effort has also resulted in the Department upgrading its information technology applications so that surplus lands identified through this process or that might be designated by the Natural Resources Board for sale in the future can be tracked and marketed more efficiently. This technology upgrade will ensure that future recommendations by the Natural Resources Board to sell or trade land will be carried out in an efficient manner so that the Department does not spend staff time or financial resources managing those lands.

The Department shared this draft policy with the public at five public information meetings which were held on October 28, 2013. The locations of the hearings were; Eau Claire, Fitchburg, Green Bay, Rhinelander and Waukesha. Approximately 22 people registered at the public meetings. A few asked a variety of general questions at the meeting. Four people at the meeting submitted written comments. The Department also posted the draft policy on the Department's public comment web site for three weeks and received several additional comments about the policy by e-mail.

A summary of the most common questions we heard and a general response to those questions is attached to this memo.

The Department believes this draft policy to be an efficient way to identify, evaluate and market surplus lands. The policy ensures that all actions taken by the Department and the Natural Resources Board will be shared with the public and sales resulting from this policy will lead to management efficiencies that will be beneficial to the Department over time.

Land Sale Questions Received During Public Comment Period

Q: Why is the DNR selling 10,000 acres of land?

A: Per 2013 Wisconsin Act 20, the Natural Resources Board is required to offer for sale at least 10,000 acres of land located outside of project boundaries by 2017.

Q: Why aren't the proceeds from these sales going back into the Stewardship fund for future land purchases?

A: Per 2013 Wisconsin Act 20, the State is required to use the proceeds from the sales to pay off existing Stewardship debt.

Q: Why aren't Non-Profit Conservation Organizations (i.e. The Nature Conservancy) included in the initial direct marketing strategy with Counties and Wisconsin Tribal Nations?

A: The Department has to give equal opportunity to all private citizens and groups interested in purchasing these lands.

Q: Why can't Municipalities and Conservation Organizations use Knowles Nelson Stewardship funds to help purchase land being offered for sale?

A: One of the objectives of this legislation is to sell land that is not needed for conservation and recreation purposes and to use the proceeds to pay down Stewardship program debt. Giving a stewardship grant to purchase this land would not result in the reduction of debt as a result of the sale.

Q: Would it be possible for government agencies and tribal nations to have ample notification about properties so they have time to raise enough funds or budget for the purchase of land they are interested in?

A: Yes, the Department will be able to work with these organizations to finalize transactions that fit within their budget and timeframes. However these expectations must be reasonable.

Q: Will gifted lands being included in these 10,000 acres?

A: Some lands gifted to the Department are outside project boundaries. Some gifted lands are completely land-locked and the Department and the public have no way of accessing these lands. Each parcel of land is being carefully researched before being considered for possible sale. If the land has any deed restrictions, use restrictions, specific donor intentions or reversionary interests the land will not be consider for sale. The purpose of this exercise is to sell lands that have little or no value to the Department's mission and each parcel will be looked at very carefully to be sure that the potential sale does not conflict with previous intentions of the donor or funding partners.

Q: What kind of evaluation will DNR staff do to determine if the land parcels are really needed for conservation purposes?

A: Department field biologists and real estate staff will evaluate all parcels recommended for sale for their recreational, environmental and natural resource values using Department plans, studies and data bases as well as the plans and conservation activities of others as the basis for their evaluation. All parcels will be located outside of established Department project boundaries.

Sale of Land under the Authority of s. 23.145, Wis. Stats.

I. Introduction

2013 Wisconsin Act 20 directs the Natural Resources Board to make at least 10,000 acres of land available for sale by June 30, 2017. The law stipulates that land being offered for sale shall be under the jurisdiction of the Department and located outside of project boundaries that were established as of May 1, 2013. The law further specifies that net proceeds from the sale of the land shall be used to repay outstanding public debt. For the purposes of this sub-chapter net proceeds shall be defined as the funds remaining from the sale of any parcel of land under this sub-chapter after all marketing, closing and title transfer costs incurred by the Department for that specific land sale have been paid.

The purpose of this sub-chapter is to establish the policies and procedures the Department and the Natural Resources Board will follow to implement this law.

II. Priority for Sale of Land

The Priority for sale of land under this sub-chapter shall be as follows:

1. Sale to a unit of government or Wisconsin sovereign tribal nation.
2. Private sale for trespass or boundary settlement or with adjacent property owner under special circumstances.
3. Public sale to the general public.

III. Process to Recommend Lands for Sale

A. The Bureau of Facilities and Lands, Real Estate Section shall facilitate the land sale recommendation process and shall do all of the following:

1. Analyze parcels of land for possible sale that meet some or all of the following criteria:
 - Parcels of land outside of a project boundary with difficult or no access for the Department for management purposes
 - Parcels of land outside of a project boundary with limited or no public access
 - Parcels of land outside of a project boundary that have limited public recreational or natural resources value as determined by field review criteria established elsewhere in this sub-chapter.
 - Parcels of land that have been identified for sale as a result of a Natural Resources Board action
 - Parcels of land recommended for sale as a result of a master planning process or other Department action.

NOTE: "Outside of a project boundary" means a project boundary that was established by the Department on or before May 1, 2013.

2. Solicit and collect all comments, reviews, and recommendations from all appropriate Department bureaus and divisions regarding any potential land sale under this sub-chapter (see Section III B).
3. Solicit comments from local governments and sovereign tribal nations about parcels of land proposed to be sold.
4. In conjunction with appropriate Department staff seek federal agency approvals if parcels of land proposed for sale are federally encumbered (see also Section VII in the Surplus Land Sales sub-chapter).
5. Establish minimum selling prices for each parcel of land designated by the Natural Resources Board for sale according to procedures established elsewhere in this sub-chapter (see Section IV).
6. Coordinate the review and approval by the Natural Resources Board of all parcels of land proposed for sale in accordance with s. 23.145, Wis. Stats., (see Section V).

7. Carry-out the sale methods as directed by this sub-chapter and/or any specific directive of the Natural Resources Board.
 8. Maintain, and make available to the public over the internet, a computerized listing of all parcels of land evaluated for possible sale, all final recommendations of the Department regarding the sale of those parcels of land, an inventory of parcels of land approved by the Natural Resources Board for sale and the status of the sale of each parcel of land. The inventory of all parcels of land approved for sale and the status of the sale of each parcel of land also shall be made available to the public over the internet and be made available to any individual by request.
 9. Present status reports to the Natural Resources Board.
- B. The Department shall conduct a field review of each parcel of land being proposed for sale. The field review shall consider all of the following:
1. Substantial investment in infrastructure or improvements on the property (e.g. buildings, trailheads, and parking) that are currently serving a public purpose.
 2. Substantial investment in the natural resources on the property (e.g. as habitat improvement projects, tree plantings).
 3. Grant funds that have been used to manage the property or the property has been used as a match to fund land acquisition or resource management activities at a different location.
 4. Features or natural resources inventoried on the site that are identified in any statewide plans, data bases or administrative code that indicate the presence of natural, archeological, historical or cultural resources of regional or statewide significance (e.g. SCORP, Land Legacy, NHI, Wildlife Action Plan)
 5. Actions by the Department, the Natural Resources Board or a conservation partner that bolster either retention or sale of the parcel (e.g. master plan amendments or updates, additional land purchases or sales adjacent to or nearby the parcel).
 6. Public recreational use patterns that support retention of the property (e.g. necessary access to other public lands, possible route or connector to public hiking, biking, snowmobile or ATV trails located nearby or access to surface water resources).
 7. Obvious boundary encroachments or trespass issues that require resolution prior to sale.
 8. Timber management considerations.
 9. The suitability of the property for agricultural purposes.
 10. The time and cost, if any, to manage and maintain the property.
- C. The final recommendation to retain or sell any parcel of land under this sub-chapter shall be in writing and must be approved by the Bureau Director with management authority for the parcel of land, the Director of the Bureau of Facilities and Lands and the Land Division Administrator. The final recommendation for sale or retention of any parcel must be supported by important factors documented during the review process described in Section III (B) above. Any recommendation to retain a deed restriction or reservation also must be supported by factors documented during the review process described in Section III (B) above.

IV. Determining Minimum Price for Land Sales

The Bureau of Facilities and Lands, Real Estate Section shall facilitate the establishment of a minimum selling price for each parcel of land approved by the Natural Resources Board for sale under this sub-chapter. The minimum selling price shall be

established in one of two ways:

1. For parcels of land estimated to be valued greater than \$50,000, Department staff or contract appraisers will develop a minimum selling price using comparable sales data and conventional appraisal practices. Characteristics of parcels of land in this category exhibit superior market appeal because of larger parcel size, location, or parcel features.
2. For parcels of land estimated to be valued at \$50,000 or below, the Department will develop a minimum selling price through an abbreviated appraisal process utilizing assessment information from the jurisdiction in which the parcel of land is located, any relevant local market information the Department has available (private sales and listings) and any past Department land transactions that might be relevant to the parcel of land being offered for sale. Parcels of land in this category are characterized as smaller, isolated parcels, parcels with deed restrictions, or those with access issues that have little or no market appeal.
3. In the event a parcel of land is offered for sale for a period of at least 90 days at the minimum selling price and no offers have been received the Department may lower the minimum selling price by as much as 20% and offer the parcel of land for sale for another 90 day period. If the Department receives no offers during the second 90 day period the Department shall evaluate the marketability of the parcel of land and the minimum selling price and determine the best course of action. The Department may consider lowering the price and marketing the parcel of land again, retaining the parcel for a future trade opportunity, or take other action that is deemed in to be in the best interest of the Department.

V. Natural Resources Board Approvals for Land Sales

The Department will present all parcels of land proposed for sale under this sub-chapter to the Natural Resources Board for approval. The Department shall group proposed sales for presentation to the Natural Resources Board in an efficient manner. For each parcel of land presented to the Natural Resources Board for sale the Department shall include the following information at a minimum:

- A short description of the parcel of land
- A map showing its proximity to other Department lands in the County where the sale parcel is located
- The year the parcel of land was acquired
- A summary of the field review conducted by the Department
- A summary of any comments received about the proposed sale
- A recommendation by the Department to include reservations or restrictions to be placed on the deed at the time of sale

VI. Procedures for Marketing and Land Sales

The Bureau of Facilities and Lands, Real Estate Section, shall facilitate the marketing and title transfer for all parcels of land approved by the Natural Resources Board for sale under this sub-chapter. Marketing of individual parcels may occur in the following manner:

- Through direct sale to another governmental agency or Wisconsin sovereign tribal nation.
- Through direct marketing by the Department to adjacent property owners to resolve trespass or other boundary matters or directly to adjacent property owners when the parcel being sold has no legal access other than through the lands of adjacent property owners.
- Through the services of a private real estate brokerage or auctioneering firm. All private marketing service providers must have a current Wisconsin Real Estate Broker's license. This method shall be most appropriate when the parcel being sold is of significant value and the Department determines that marketing of the property by a private firm is likely to maximize the price for which the land is sold or because certain other factors exist that may require the expertise of a private marketing firm. In those instances when the Department chooses to use private marketing services, a Purchase of Services contract shall be drafted by

the Department and approved by the Division Administrator. All private marketing services shall be chosen with an equitable bidding process governed by Department policy.

- Through public sale using a competitive bid process open to the general public.

- A. To attract an optimum number of bidders at public sales conducted by the Department, notices that specific parcels of land are for sale shall be provided to the public in three ways:
1. A notice of such sale shall be inserted as a classified ad in the newspaper having the widest circulation in the county where the land is located and in at least two newspapers having statewide circulation. Copies of the ad or a notice of the proposed sale in some other form also shall be sent to all parties that have expressed an interest in purchasing Department lands or any individual that requests information for any specific sale.
 2. A sign shall be placed on the parcel of land advertising that the Department is offering the land for sale. The sign shall contain a phone number and web site address where more information can be obtained about the proposed sale.
 3. An electronic notice of the land sale shall be posted on the Department's website.
- B. Any notice for the sale of land by the Department either through classified ad or the Department's website shall include the general location of the parcel, the minimum selling price the Department will accept, specific instructions for submitting bids to the Department and the deadline for submitting the bids. The deadline for submitting bids shall be no sooner than 21 days following the date the sale is published in the newspaper or posted on the web site, whichever is later. Longer bidding periods will be used if the Department determines that extended marketing of the property is in the best interest of the Department.
- C. Prospective bidders shall be furnished with the minimum selling price for the parcel of land being offered for sale, any special conditions or terms to be imposed on the deed at the time of sale, the bid form for submitting a bid to the Department (Real Estate Purchase Contract) and any other information the Department determines to be relevant to the sale of the parcel of land. All bids shall be submitted on the Real Estate Purchase Contract provided by the Department. Scanned copies of the bid may be submitted by e-mail or bids may be mailed to the Department at the specific location designated by the Department for the parcel of land offered for sale. All bids must be received by the Department by the established bid deadline for that parcel of land. All bids shall be submitted on the Real Estate Purchase Contract form provided by the Department and must be signed and dated by the bidder. Any bid received by the Department that is not on the Department's Real Estate Purchase Contract or is not signed and dated by the bidder will be rejected by the Department.
- D. The Department will accept the highest bid received above the minimum selling price established for the parcel of land being offered for sale. Two permanent employees of the Department shall be present at the opening of the bids and shall complete the Report on Opening of Bids, Form 2200-10, listing all the bidders, the amount of their bids, and other persons that were present at the time the bids were opened. Both employees shall sign the Report on Opening Bids and forward it and all of the bids to the Bureau of Facilities and Lands.
- E. The Bureau of Facilities and Lands shall sign the bid form (Real Estate Purchase Contract) submitted by the highest bidder and return a copy of the signed bid form to the successful bidder by registered mail delivered to the address provided by the bidder.
- F. The successful bidder shall be required to pay a non-refundable deposit equaling 10% of the total bid amount to the Department within 14 days of the date the Real Estate Purchase Contract is signed by the Department. Payment of the deposit shall be by certified check. The amount of the deposit shall be a credit toward the purchase price at the time of closing and transfer of the title to the successful bidder. Failure to make the 10% deposit within the 14 day time period will void the original bid and the Department shall sell the parcel of land to the next highest bidder, provided that it is above the minimum selling price.

- G. All land shall be sold "as is, where is." All payments for land sold to the general public under this sub-chapter shall be by certified funds at closing and closings shall occur within 60 days of the date the Real Estate Purchase Contract is signed by the Department. Title shall be transferred by quit claim deed with no warranties or representations made by the Department as to the condition of the property, the suitability of the property for any private purpose, legal access to the property or the size of the parcel. The Department shall give evidence of title in the form of an owner's policy of title insurance in the amount of the accepted highest bid on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. The Department shall pay the cost of providing title evidence to the successful bidder. The successful bidder shall pay all costs of providing title evidence required by their lender, as well as any gap endorsement or equivalent gap coverage. The successful bidder also shall be responsible for any costs associated with special assessment letters, if any, and the recording fee for the quit claim deed. The Department will prepare a closing statement that provides proof of payment of the proceeds. The closing statement must be signed by the Department and the successful bidder. Upon receipt of full payment of the purchase price, including the successful bidder's costs as disclosed on the closing statement, the Department shall execute a quit claim deed transferring title to the successful bidder. The deed will be recorded by the Department in the Office of the Register of Deeds in the county where the parcel is located.
- H. Upon sale of the parcel the Department shall amend all records, including maps to reflect the Department no longer owns the property.