

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

SUBJECT: Ratification of Department decision to issue a Stewardship grant that will prohibit two nature-based outdoor activity (NBOA) on non-department land: River Revitalization Foundation, City of Milwaukee, Milwaukee County

FOR: February 2013 Board meeting

TO BE PRESENTED BY: Lavane Hessler, Stewardship Local Government Grant Manager

SUMMARY:

The Department is requesting the Board ratify the Department's determination that the prohibition of two NBOA (hunting and trapping) is necessary for public safety on 6.47 acres (1.97-acre acquisition, 4.5-acre donation) in the City of Milwaukee, Milwaukee County to create the Milwaukee Rotary Centennial Arboretum.

This project will provide pedestrian trails, a disabled accessible trail loop, fishing areas, improved access to a disabled-accessible canoe launch, parking, a boat launch and a connection to the City of Milwaukee's downtown Riverwalk and Milwaukee County's Beerline Trail and East Bank Trail.

The Department has made the determination that the prohibition of hunting and trapping is necessary to protect public safety because:

- * The parcels are located within the city limits;
- * City and county ordinances prohibiting the discharge of weapons;
- * Proximity of the parcel to homes, a school, an environmental education center, public trails, and municipal structures; and
- * The parcels will become part of an urban trail system and will be visited by users who have an expectation of no hunting or trapping on the properties.

The proposed grant of \$1,323,920 will come from both the Urban Rivers and Urban Green Space subprograms of the Stewardship Program for the acquisition of 2 parcels totaling 1.97 acres and one donated parcel of 4.5 acres along the Milwaukee River in the City of Milwaukee, Milwaukee County.

RECOMMENDATION: Ratify the Department's decision that the prohibition of hunting and trapping on 6.47 acres is necessary for public safety on the River Revitalization Foundation in the City of Milwaukee, Milwaukee County Stewardship project.

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

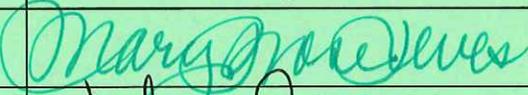
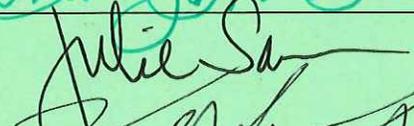
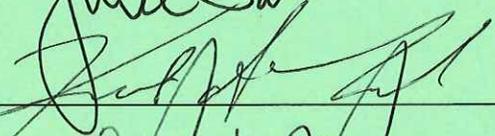
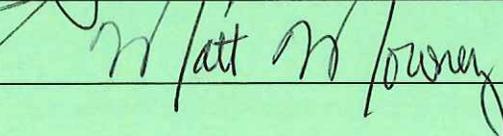
Approved by	Signature	Date
Mary Rose Teves, Bureau Director		Jan. 17, 2013
Julie Sauer, Administrator		1/24/13
Kurt Thiede, Administrator		1/24/13
Cathy Stepp, Secretary		1/28/13

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<ul style="list-style-type: none">• Appendix A – Compliance Memo A compliance memo is required by s. NR 52.04(2)(e), the Department must summarize the procedure followed to reach any determination to approve an NBOA prohibition and provide that summary to the Board.	6
<ul style="list-style-type: none">• Appendix B - Project Maps	8
<ul style="list-style-type: none">• Appendix C – Staff Analysis of NBOA Prohibitions The staffs’ analysis of any proposed NBOA prohibitions, including a signature from the regional Public Safety Warden who reviewed prohibitions proposed as necessary to protect public safety. The format of this analysis is a standard checklist, approved by DNR Legal Services, and completed for all Stewardship grant projects with an NBOA prohibition for safety reasons. Any relevant ordinances and statutes are also included.	12
<ul style="list-style-type: none">• Appendix D – Public Comment Certification Memo This confirms that regional grant staff have completed the requirements for public notice set forth in s. NR 52.04 and summarizes any comment/s received.	24
<ul style="list-style-type: none">• Appendix E – News Release. The Department is required by s. NR 52.04, Wis. Adm. Code, to give notice to the public of our intentions to award grant funds to purchase property on which any NBOAs will be prohibited. The news releases also follow an approved template. Because of the timing of these news releases in our grant cycle (often before appraisals have been completed and certified) and per the department’s obligations to protect the confidentiality of incomplete real estate transactions, news releases do not identify the exact location of the property, name of the seller, or any information about project financing.	25
<ul style="list-style-type: none">• Appendix F – NR 52 A copy of NR 52 for your reference.	26

CORRESPONDENCE/MEMORANDUM

DATE: January 18, 2013

TO: Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: RATIFICATION OF THE DEPARTMENT'S DETERMINATION THAT TWO NATURE-BASED OUTDOOR ACTIVITY (NBOA) PROHIBITIONS ARE NECESSARY ON NON-DEPARTMENT STEWARDSHIP LANDS

The Department requests that the Board ratify a determination that the prohibition of two nature-based outdoor activities is necessary on a 6.47 acres in the City of Milwaukee, Milwaukee County. The project includes the acquisition of two parcels totaling 1.97 acres and a land donation of 4.5 acres. The Department proposes to award a grant in the amount of \$1,323,920 to the River Revitalization Foundation for this project on which hunting and trapping will be prohibited to protect public safety.

I. PROJECT DETAILS

Project Sponsor: River Revitalization Foundation
Sellers: Milwaukee Urban River Foundation (1.5 acres)
 Faiza B1 Properties, LLC (Lazenby 0.47 acres)
 Donated land: Godfrey, LLC (4.5 acres)
Grant sub-program: Urban Green Space
 Urban Rivers

Project Description:

The project is known as the Rotary Club of Milwaukee's Centennial Anniversary Project and includes the following properties:

Donated land: Godfrey, LLC (4.5 acres): The east 2/3 of the property is mostly level; the western 1/3 of the property slopes dramatically to the Milwaukee River. The parcel is vacant with mostly shrub brush, piles of construction debris, no buildings, and a history of industrial use and 328 feet of frontage on the Milwaukee River. The parcel will be remediated of all site contamination by spring 2013, restored to a natural condition, and planted with native tree, plant cover and shrub species. Trails, including special disabled-accessible trails and shoreline fishing areas will be developed and stream bank erosion control measures installed. The River Revitalization Foundation plans to transfer title to this property to the Milwaukee County Parks Department.

Milwaukee Urban River Foundation (1.5 acres): The parcel is mostly level but with a steep slope to the Milwaukee River along the western edge. The parcel had a single-story industrial building that has been raised, mostly shrub cover and 160 feet of frontage on the Milwaukee River. The parcel will be remediated of all site contamination by spring 2013, restored to a natural condition, and planted with native tree, plant cover and shrub species. Trails, including special disabled-accessible trails and shoreline fishing areas will be developed and stream bank erosion control measures installed. The River Revitalization Foundation plans to transfer title to this property to the Milwaukee County Parks Department.

Faiza B1 Properties, LLC (Lazenby; 0.47 acres): The parcel is mostly level, but with a steep slope down to the Milwaukee River on the southern edge. The property includes 150 feet of frontage on North Riverboat Road and 160 feet of frontage along the Milwaukee River. The property includes a private, deteriorated boat ramp to the Milwaukee River that will be restored for public access and a vacated house

which is not part of the project. Streambank erosion controls will be installed. The parcel is adjacent to a prior Stewardship-funded parcel and will serve as the southern gateway to the Milwaukee Rotary Arboretum. Title to this property will be retained by the River Revitalization Foundation.

Project Goals: The Milwaukee Rotary Centennial Arboretum acquisition project meets the following goals:

- Provides new public land for nature-based outdoor recreation that will include pedestrian trails, a disabled accessible trail loop, fishing areas, improved access to a disabled-accessible canoe launch, parking, a boat launch and a connection to the City of Milwaukee's downtown Riverwalk and Milwaukee County's Beerline Trail and East Bank Trail.
- Protects the Milwaukee River.
- Improves and provides additional public access to the Milwaukee River.
- Provides a connecting linkage to City of Milwaukee and Milwaukee County trails.
- Expands outdoor classroom and education opportunities for Milwaukee Public School students and the Urban Ecology Center.
- Provides for the remediation of site contamination, eliminating urban blight on six acres of prior industrial property along the Milwaukee River.
- Provides for ecological restoration projects, including invasive species management and "one of a kind" reforestation of native shrubs, 1,000 native tree species, and native plant cover species.
- Protects unique natural resources.
- Implements recommendations from the following plans:
 - *Milwaukee River Basin Master Plan, Rivers and Lakefront Parkway Plan, Riverway Plan* (Milwaukee River Revitalization Council, DNR);
 - *SEWRPC Regional Water Quality Management Update Plan 2007*;
 - *Milwaukee River Greenway Coalition Master Plan*;
 - *A Park and Open Space Plan for Milwaukee County*;
 - *A Greenway Connection Plan for the Milwaukee Metropolitan Sewerage District*;
 - *City of Milwaukee Comprehensive Plan for the Northeast Side*

Current/Prior Use of Property: The donated Godfrey, LLC, parcel (4.5 acres) and the adjacent Milwaukee Urban River Foundation parcel (1.5 acres) were prior industrial sites that are now vacant. There were no prior public uses of these properties. The Faiza/Lazenby property (0.47 acres) was a prior residential site with no prior public uses.

Proposed Public Uses: The Milwaukee Rotary Centennial Arboretum will be available to the public from 7:00AM to 10:00 PM, seven days per week, and 365 days per year. Users will be able to fish, hike, cross-country ski, snowshoe, canoe and boat, and enjoy nature. The project will also feature a one-of-a-kind outdoor arboretum with 1,000 newly planted native tree species and outdoor classroom and education opportunities for Milwaukee Public School students and the Urban Ecology Center. Project partners anticipate approximately 300,000 visitors will enjoy the Milwaukee Centennial Rotary Arboretum annually.

Recreation opportunities include fishing, hiking, cross-country skiing, snowshoeing, canoeing and boating and nature enjoyment. The Department's analysis of the permitted nature-based outdoor activities is attached in Appendix C.

Hunting and trapping will be prohibited on the property by Milwaukee County and City of Milwaukee ordinances. The Department has determined that the prohibition of these two nature-based outdoor activities is necessary to protect public safety. See Appendix A for a summary of the Department's determination. The memo attached from Mary Rose Teves, as required by s. NR 52.04(2)(e), Wis. Adm. Code, describes the procedure followed by the Department to make this determination.

Property Management:

Title to the donated Godfrey, LLC, parcel and the adjacent Milwaukee Urban River Foundation parcel will be transferred to the Milwaukee County Parks Department and will be operated and maintained by the Milwaukee County Parks Department, in cooperation with the Urban Ecology Center, consistent with their management policy.

Ownership of the Faiza/Lazenby parcel will be retained by the River Revitalization Foundation and will be managed by the River Revitalization Foundation as the southern gateway to the Milwaukee Rotary Centennial Arboretum and managed according to a Land Management Plan approved by the Department.

Timetable: The River Revitalization Foundation closed on all three properties in 2012.

II. PROJECT FINANCES**A. Partnerships:**

- The **River Revitalization Foundation**, which has acquired the land, applied for the Stewardship grant, is developing and maintaining the 0.47-acre Faiza/Lazenby property, including the public boat launch, and is helping to coordinate the project.
- The **Godfrey, LLC, and Pieter Godfrey family**, donated the 4.5-acre parcel and donated an additional \$1.2 million for the remediation of site contamination.
- The **Rotary Club of Milwaukee**, which made this project its *Centennial Anniversary Project*, and has contributed \$500,000 for the development of the Milwaukee Rotary Centennial Arboretum.
- The **Urban Ecology Center**, which is providing overall project coordination, fund raising, and which will manage the northern 4.5-acre and 1.5-acre Milwaukee Rotary Centennial Arboretum properties, in cooperation with the Milwaukee County Parks Department.
- The **Milwaukee Urban Rivers Foundation**, sold its 1.5-acre parcel to the River Revitalization Foundation for the project and will use the proceeds of the sale for establishing a revolving fund for further shoreline restoration and water quality protection improvements along the Milwaukee River.
- The **Milwaukee County Parks Department**, which will hold title to and provide overall management of the northern 4.5-acre and 1.5-acre Milwaukee Rotary Centennial Arboretum properties, in cooperation with the Urban Ecology Center.
- The **Milwaukee Metropolitan Sewerage District**, which has provided an easement to provide for parking for the Milwaukee Rotary Centennial Arboretum on adjacent property.
- The **City of Milwaukee**, which has adopted the “Milwaukee River Greenway Site Plan Review Overlay Zone” that supports the creation of the Milwaukee Rotary Centennial Arboretum.
- The **US Environmental Protection Agency** which provided a \$1 million “Great Lakes Restoration Initiative” grant to the Urban Ecology Center to develop the arboretum, control shoreline erosion, and improve and maintain Milwaukee River water quality.
- **Sigma Environmental Services, Inc.** which is donating environmental audit services.
- **GRAEF, Inc.**, which is donating engineering and design services.
- **CG Schmidt, Inc.**, which is donating overall project management services.
- The **Department of Natural Resources**, which will provide Stewardship Program funding for the acquisition of land for the project and is overseeing the remediation of site contamination through the Department’s Remediation and Redevelopment Program.

B. Appraisals

As required by s. 23.0917(7)(e)1., Wis. Stats., two appraisals were used on all properties to determine the fair market value of the land, as follows:

Donated land: Godfrey, LLC (4.5 acres)

Appraisal 1	\$1,900,000
Appraisal 2	\$1,675,000
Value certified by Department	\$1,675,000

The property was donated.

Milwaukee Urban River Foundation (1.5 acres)

Appraisal 1	\$950,000
Appraisal 2	\$835,000
Value certified by Department	\$835,000

The purchase price was \$865,000.

Faiza B1 Properties, LLC (Lazenby; 0.47 acres)

Appraisal 1	\$592,000
Appraisal 2	\$475,000
Value certified by Department	\$475,000

The purchase price was \$475,000.

Note: The cost per square foot of these parcels is typical for City of Milwaukee riverfront property along the Milwaukee River.

C. Grant Calculation

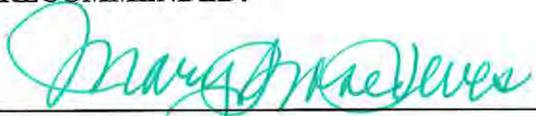
As required by s. NR 51.006(1), Wis. Adm. Code, financial assistance is limited to 50% of the acquisition and associated costs.

Total certified appraised value	\$2,985,000
Associated eligible real estate costs	\$13,920
Total Maximum Project Costs	\$2,998,920

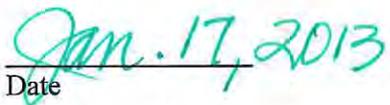
D. Funding Sources

River Revitalization Foundation	\$1,675,000
Stewardship Grant Award	\$1,323,920 (44 %)

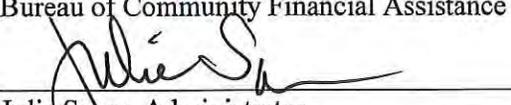
III. RECOMMENDED:



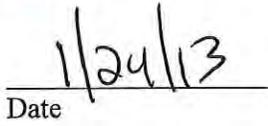
Mary Rose Teves, Director
Bureau of Community Financial Assistance



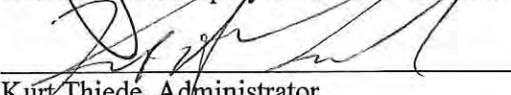
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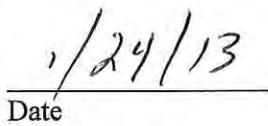
Julie Sauer, Administrator
Customer and Employee Services Division



Date



Kurt Thiede, Administrator
Lands Division



Date

CORRESPONDENCE/MEMORANDUM

DATE: January 18, 2013

APPENDIX A

TO: Natural Resources Board

FROM: Mary Rose Teves, Director
Bureau of Community Financial Assistance

SUBJECT: **Summary of Department's Determination to Prohibit Two Nature-based Outdoor Activities on the Milwaukee Rotary Centennial Arboretum Land Purchase, City of Milwaukee, Milwaukee County**

I recommend that the NRB exercise its authority under s. 23.0916(2), Wis. Stats., and s. NR 52.05, Wis. Adm. Code, to ratify the Department's decision to award a Stewardship grant of \$1,323,920 to the River Revitalization Foundation for the acquisition of 6.47 acres (1.97-acre acquisition, 4.5-acre donation) located within the City of Milwaukee, Milwaukee County, even though the prohibition of hunting and trapping will be necessary to protect public safety.

PROJECT BACKGROUND

The River Revitalization Foundation is eligible to receive grant funds from both the Urban Green Space and Urban Rivers subprograms of the Knowles-Nelson Stewardship Program and has requested a Stewardship grant. The project involves a donated parcel of 4.5 acres and two subject parcels totaling 1.97 acres. All three parcels are on the Milwaukee River.

The purpose of the acquisition is to create the outdoor Milwaukee Rotary Centennial Arboretum and to provide outdoor recreation opportunities, including hiking, fishing, cross-country skiing, snowshoeing, nature appreciation, and non-motorized boat access. In addition, a public boat launch will be developed on the smaller of the 2 subject parcels (0.47 acre). Title to the 4.5-acre donated property and the adjacent acquired 1.5-acre property will be transferred to the Milwaukee County Parks Department. Ownership of the .47 acre parcel will be retained by the River Revitalization Foundation.

Nature-based outdoor activities (NBOAs) are defined in s. NR 52.02(7), Wis. Adm. Code, as hunting, trapping, fishing, hiking, or cross-country skiing. The River Revitalization Foundation proposes to prohibit hunting and trapping in the arboretum project area in the City of Milwaukee. Review under ch. NR 52 was undertaken to determine whether it is necessary to prohibit hunting and trapping to protect public safety.

Because title to two of the properties will be transferred to Milwaukee County, a copy of the county's firearms ordinance as well as City of Milwaukee ordinances are attached to this Green Sheet as Appendix C. A copy of the prohibition team review is attached to this Green Sheet as Appendix C.

PUBLIC NOTICE AND COMMENTS

I certify that public notice requirements identified in s. NR 52.04, Wis. Adm. Code, have been followed for this Stewardship project. Public notice about this proposed project was posted on

GovDelivery on December 12, 2012. One comment was received supporting the grant. No comments were received opposing the grant because of the prohibition of hunting and trapping.

The public notice and a summary of the comments submitted may be found in Appendices D and E attached to this Green Sheet.

DETERMINATION

The River Revitalization Foundation has listed the Milwaukee County ordinance, City of Milwaukee ordinances, and several urban density concerns as reasons for the prohibition of hunting and trapping.

The DNR regional Recreational Safety Wardens determined that the prohibition on hunting and trapping was necessary to protect public safety. The warden reviewed the following factors:

1. The primary purpose of the project;
2. A Milwaukee County ordinance prohibiting hunting and trapping in county parks;
3. City of Milwaukee ordinances prohibiting hunting and trapping in parks, the discharge of firearms, and the use of a bow and arrow within the city;
4. User conflicts;
5. The size of the parcels;
6. Proximity to homes, roads, and a school (Riverside High School);
7. Recreational and public use of adjacent properties, including trails; and
8. Extensive classes and visitors throughout the year at the Urban Ecology Center.

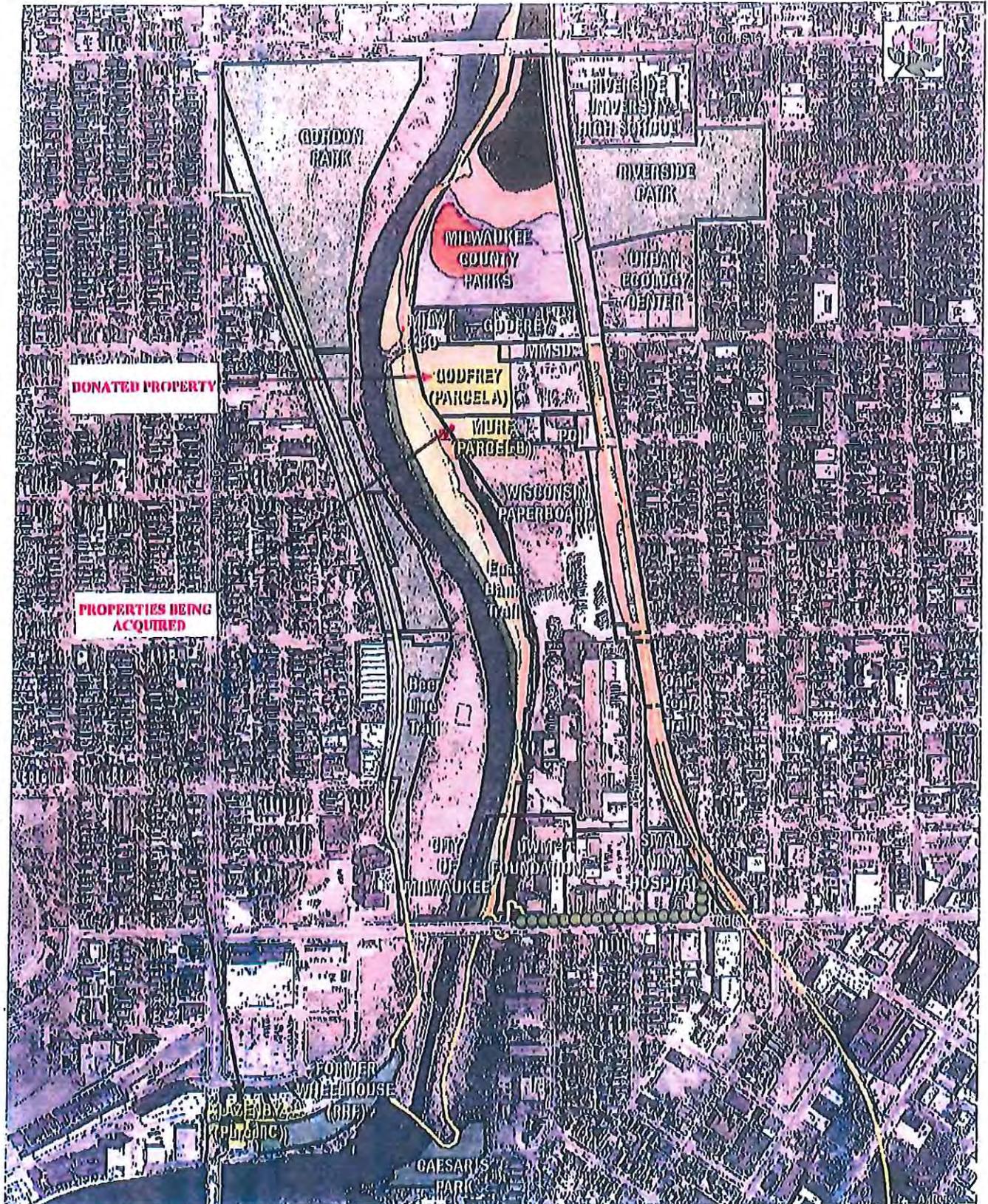
We've concluded that the hunting and trapping prohibitions on these properties are necessary to protect public safety because the parcels:

- Are located within the city limits;
- Are adjacent to Milwaukee County trails with extensive recreational usage;
- Are small in size (1.5 acre, 0.47 acres, and 4.5 acres)
- Have proximity to homes, roads, and Riverside High School such that hunting and trapping would otherwise be prohibited by Wis. Stats.;
- Will be visited by users who have a reasonable expectation of no hunting or trapping on properties of this type and in this location.

FINAL ACTIONS

Per s. NR 52.04(2)(d), Wis. Adm. Code, a copy of this determination will be provided to the individuals who objected to a Stewardship grant award.

This determination is submitted to the Natural Resources Board as required in s. NR 52.04(2)(e), Wis. Adm. Code.



**MILWAUKEE
ROTARY
CENTENNIAL
PROJECT**

SITE PLAN
 ○○○ North Ave Greenway
 County Trails

PROPOSED PLANT COMMUNITIES
 □ Boreal Forest
 □ Ephemeral Pond
 □ Floodplain Forest

□ Meslo Prairie
 □ Oak Opening (Savanna)
 □ Oak Woodland (Savanna)
 □ Shrub Carr
 □ Southern Dry-Meslo Forest
 □ Southern Meslo Forest
 □ Wet Prairie

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Exhibit A

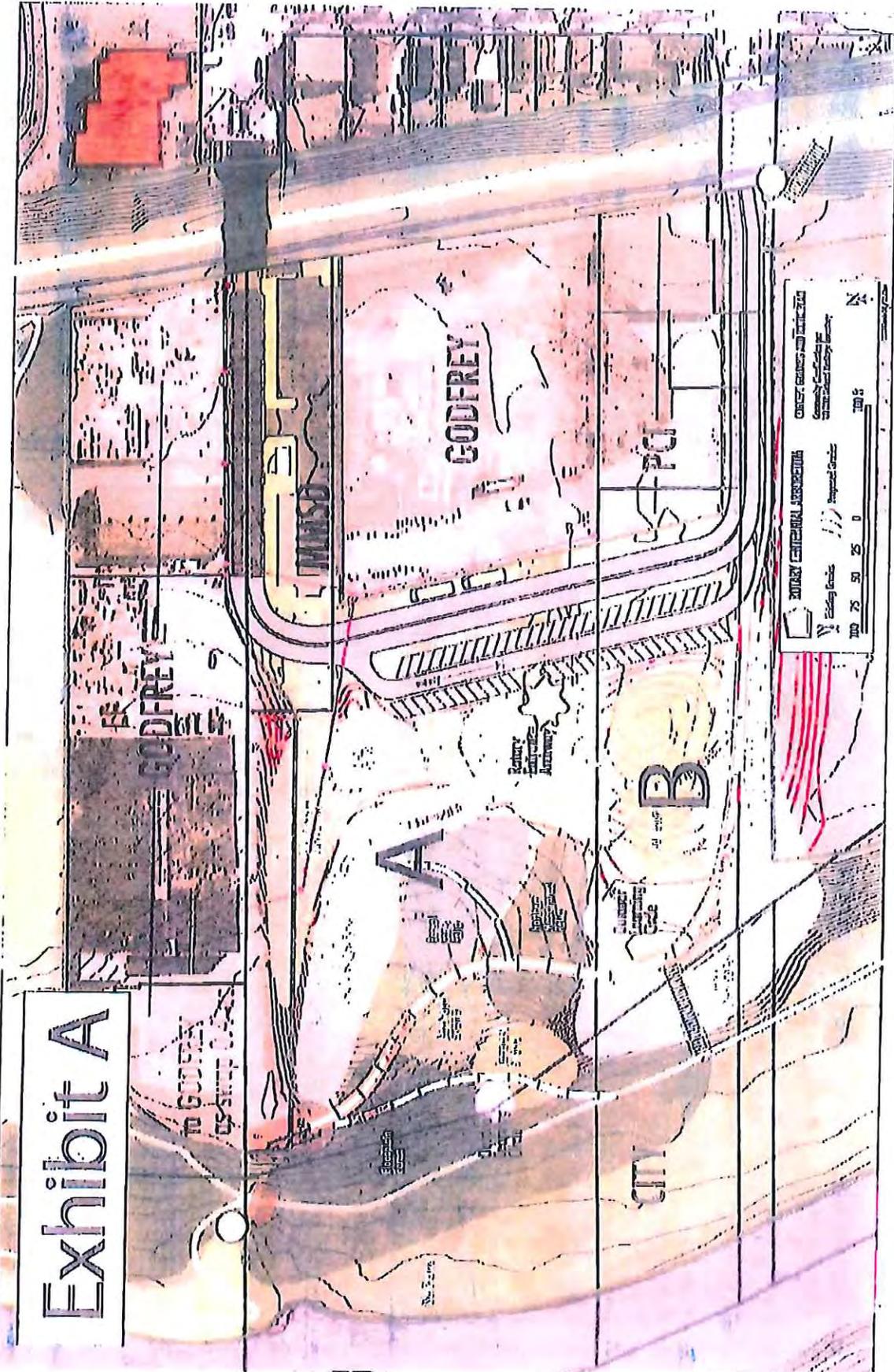
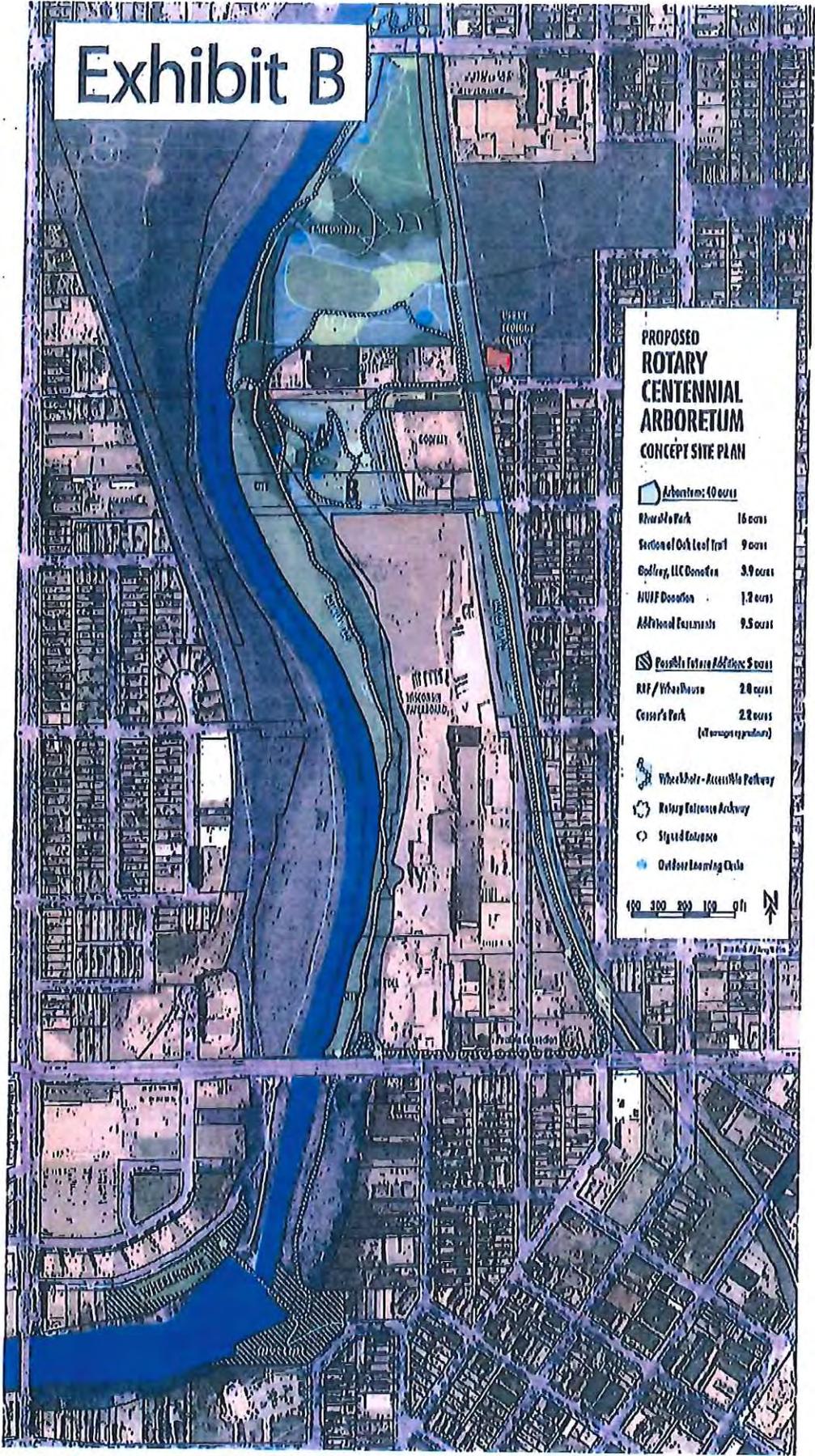
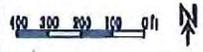


Exhibit B



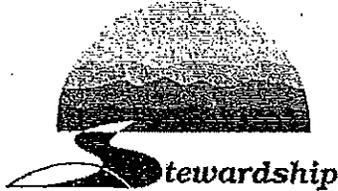
PROPOSED ROTARY CENTENNIAL ARBORETUM CONCEPT SITE PLAN

- Arboreta:** 40 acres
- Shaw's Park:** 16 acres
- Section of Oak Leaf Trail:** 9 acres
- Boiley, LLC Donor:** 3.9 acres
- HUIF Donor:** 1.2 acres
- Additional Exempts:** 9.5 acres
- Possible Future Additions:** 5 acres
- RIF / Wheelhouse:** 2.0 acres
- Cover's Park:** 2.2 acres
(if storage operations)
- Wheelchair-Accessible Pathway**
- Relay Distance Archway**
- Signpost Entrance**
- Outdoor Learning Circle**



Appendix C

Knowles-Nelson Stewardship Grant Program



Public Safety Team Analysis of Nature Based Outdoor Activities on Projects Purchased with Stewardship Grant Funds

Rev. August 2012

NOTE TO DNR STAFF: This completed form will be attached to the NBOA notice that the DNR will publish when considering a request for Stewardship grant funding. Do not list location information for the subject property or the seller's name because WI courts have held that this information is confidential until land ownership has changed hands. CF Staff completes the project proposal section prior to submitting to public safety team for review.	
PUBLIC SAFETY REVIEW TEAM	
Jason Roberts _____ Regional Recreational Safety Warden	10-31-12 _____ Date
Kevin Mickelberg _____ Regional Warden Supervisor	11-15-12 _____ Date
PROJECT DESCRIPTION	
Applicant/ Sponsor: River Revitalization Foundation	
Year of Application: 2012	
Project Name: Rotary Arboretum	Primary Purpose: <input type="checkbox"/> Habitat Areas <input type="checkbox"/> Local Parks <input type="checkbox"/> Natural Areas <input type="checkbox"/> Urban Rivers <input type="checkbox"/> State Trails <input checked="" type="checkbox"/> Urban Greenspace <input type="checkbox"/> Streambank Protection
Project Description: Approximately 2 acres of property being purchased for purposes of creating the outdoor Milwaukee Rotary Centennial Arboretum. The project looks to increase public access to established green space within the City of Milwaukee boundaries. The project will provide for planting and restoration of native tree and plant species within the arboretum. The property lies within the Milwaukee River corridor from Locust Street south to Caesars Park. The acquisition is looking to expand multiple nature based outdoor activities. The properties currently have several buildings on the property that will be razed. Title to two of the properties will be transferred to Milwaukee County which will manage the properties as part of their park system.	
FINDINGS OF FACT:	
<p>The River Revitalization Foundation has applied for Stewardship Funding for the purposes of acquiring approximately 2 acres of property located on several parcels along the Milwaukee River. The project is looking to create the planned Milwaukee Rotary Centennial Arboretum. The sites currently have several buildings on the property parcels which are scheduled for demolition.</p> <p>A City of Milwaukee and Milwaukee County ordinances currently prohibit hunting and trapping within all of the City and County of Milwaukee. There are currently no hunting or trapping opportunities on any of the adjacent parkway properties along the Milwaukee River. Additionally, the contiguous proximity of residential and commercial buildings near the proposed properties would constantly put hunters and trappers in violation of state law prohibiting firearm discharge and most forms of trapping within 100 yards of a home. A portion of proposed Parcel A is within 1000 feet of Riverside University High School on Locust Ave. This proximity to the school places the proposed property within a designated "school zone". State law restricts the use and possession of firearms on public lands within these designated school zones.</p> <p>The SER NBOA Public Safety Team has determined that the prohibition of hunting and trapping is necessary to insure compliance with current state firearms and trapping laws, school zone restrictions and to protect the public's safety.</p>	

Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity on this site.

The properties are small pieces of land adjacent to the Milwaukee River and the East Bank Milwaukee County hiking trails. These parcels are surrounded by schools, parks, educational centers, residential homes and industry. State law prohibits the possession of firearms within school zones and prohibits the discharge of firearms when within 100 yards of a home devoted to occupancy. It is noted the development of this site will lead to access to several other nature based outdoor activities.

Proposed NBOA Prohibition or Restrictions

HUNTING			
	Gun Prohibition/Restriction	Archery Prohibition/Restriction	List Dates/Seasons (opening and closing)
Waterfowl	X	X	N/A
Small Game	X	X	N/A
Turkey	X	X	N/A
Large Game	X	X	N/A

HUNTING

Public Safety Team Narrative:

The extraordinarily high density of people, schools, homes, hiking trails, industry and educational centers adjacent to the proposed property parcels would create an undesirable public safety concern.

It is the opinion of SER NBOA Public Safety Team that the prohibition on all hunting is necessary to insure compliance with current state firearm laws, limit user conflict on the properties and to insure the safety of the public.

HUNTING

Public Safety Factors Considered: Check all that apply.

The sponsor is within its own municipality boundary

Parcel is within 100 yards of building devoted to human occupancy

Parcel is within 50 feet of the center line of highways & roads

Parcel is within 1700 feet of school grounds, hospital, or senatorium

Ordinance exists – City of Milwaukee and Milwaukee County

Discharge or carrying a weapon Hunting within a park Throwing or shooting missiles, arrows, spears, etc.

Parcel is subjected to a non-sponsor ordinance (City of Milwaukee ordinance)

Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.

Parcel is adjacent to a public waterway.

Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

TRAPPING		
Location	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Upland	X	N/A
Water	X	N/A

Public Safety Team Narrative:

The high volume of visitors, hikers, bikers and fishermen would certainly create user conflicts along the trail system with legalized trapping. The extraordinarily high density of residential homes, schools, educational centers and parks near the proposed property would make legal trapping extremely difficult. The expected foot and dog traffic will be significant in and around the proposed parcels and could lead to significant user conflicts.

It is the opinion of SER NBOA Public Safety Team the prohibition on all trapping is necessary to insure compliance with current state trapping laws, insure municipal ordinance consistency, reduce user conflict and insure the safety of the public.

No Water On Site

Public Safety Factors Considered: Check all that apply.

The sponsor is within its own municipality boundary.

Parcel is within 100 yards of building devoted to human occupancy and per s. NR 13.(1)(b)(12), the following traps are prohibited: conibear body gripping traps (with jaws wider than 60 sq. inches) and cable restraints.

X Ordinance exists that prohibits trapping or some type of trapping.

X Parcel is subjected to a non-sponsor ordinance (City of Milwaukee ordinance)

Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.

X Parcel is adjacent to a public waterway.

X Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

FISHING		
Method	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Shore	None	Per state regulation
Boat	None	Per state regulation

Public Safety Team Narrative:
Fishing will be allowed on the property.

No Water on Site

Public Safety Factors Considered: Check all that apply.

Ordinance exists - _____

Parcel is subjected to a non-sponsor ordinance

Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.

Parcel is adjacent to a public waterway.

Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

HIKING		
Location	Prohibition/Restriction	List Dates (opening and closing)
On-Trail	None	All year
Off-Trail	None	All year

Public Safety Team Narrative:
Hiking will be allowed on the property.

Public Safety Factors Considered: Check all that apply.

Parcel is subjected to a non-sponsor ordinance

Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.

Parcel is adjacent to a public waterway.

Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

CROSS COUNTRY SKIING		
Type of Trail	Prohibition/Restriction	List Dates (opening and closing)
Off-Trail (un-groomed)	None	Winter
On-Trail (un-groomed)	None	Winter
On-Trail (groomed)	N/A	N/A
Public Safety Team Narrative: Cross-country skiing will be allowed on the property.		
Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

CHAPTER 63
PARKS AND PARKWAYS

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63-23	Use of Skateboards Regulated
63-25	Use of Motor Vehicles in Parks
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63-1. Definitions. In this chapter:

1. AT LARGE means an animal is off the premises of its owner and on any park or parkway without the permission of the department or the director. Any animal shall not be deemed to be at large if any one of the following conditions occurs:

a. It is attached to a leash not more than 6 feet in length which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying persons in the park or parkway.

b. It is properly restrained within a motor vehicle.

c. It is a dangerous animal that is in compliance with the requirements of s. 78-23-2.

2. DEPARTMENT means the Milwaukee county department of parks, recreation and culture.

3. DIRECTOR means the Milwaukee county director of parks, recreation and culture, or designee.

4. PARK OR PARKWAY means the grounds, buildings thereon, waters therein and any other property within the city which is under the control or jurisdiction of the Milwaukee county department of parks, recreation and culture.

5. PERSON means any individual, firm, partnership, corporation or association of persons, and the singular number shall include the plural.

63-3. Park Hours. Parks, other than those adjacent to Lake Michigan, and parkways shall be closed daily between midnight and 6 a.m., except as otherwise posted by the director. Parks adjacent to Lake Michigan shall open at 4:30 a.m. No person shall enter or remain within the parks or parkways, except vehicular traffic, during hours that the parks are closed.

63-5. Noise. 1. No person shall use or operate any radio, phonograph, musical instrument or other mechanical, electrical sound making, reproducing or amplification device in a park or parkway so as to be heard at a distance greater than 50 feet from such instrument or device, radio or phonograph.

2. No such radio, phonograph, musical instrument or device described in sub. 1 may be used or operated within the park within 50 feet of the legal boundaries of the park or parkway such that the device can be heard outside the park or parkway.

3. Musical shows, cultural events, public gatherings or exhibitions authorized by the director or the Milwaukee county board are exempt from this section.

63-7. Permits for Exclusive Use; Interference With Prohibited. Permits for the exclusive use of any picnic or play area for any specified date or time may be granted at the discretion of the director, and no person shall, in any manner, disturb or interfere with any person or party occupying the ground under such a permit, nor with any of their equipment or property.

63-9. Sales and Solicitation for Sale, and Distribution of Advertisements Prohibited Without Permit. No person shall sell or offer for sale any article, merchandise or thing, nor solicit for or pursue any trade, occupation, business or profession, within any park or parkway, without the written permit of the director.

63-11. Dangerous Weapons. 1. No person may possess any airgun, BB gun, spring gun, bow with arrows, crossbow, sling or slingshot in any park or parkway except in an area designated by the director for target shooting or practice, without the written permit of the director.

63-13 Parks and Parkways

2. No person shall discharge a firearm in any park or parkway.

63-13. **Hunting or Trapping.** No person shall engage in trapping or hunting within any park or parkway without a written permit from the department.

63-15. **Throwing of Stones or Missiles.** No person shall throw stones or missiles in or into any park or parkway.

63-17. **Making of Fires.** No person shall make, kindle, maintain or congregate around a fire for any purpose except in places provided therefor, and then subject to such regulations as may be prescribed by the department.

63-19. **Domestic Animals in Parks.**

1. **DOMESTIC ANIMALS NOT ALLOWED IN PARKS.** No animal, except those placed in the parks or parkways by the authority of the director shall be allowed to remain within except dogs. No person having the control or care of a dog shall permit the dog to enter or remain in a public park or parkway unless it be led by a leash of suitable strength not more than 6 feet in length, and only within such areas in parks as have been designated by the director.

2. **IMPOUNDING OF DOGS:** Dogs found running at large within any park or parkway may be impounded by any peace officer, employe of the department, or a police officer.

3. **ANIMAL LITTER NUISANCES.**

a. **Prohibited.** No owner or caretaker of any animal may permit the animal to be at large on any park or parkway. Any animal found at large in any park or on any parkway shall be deemed to be so with the permission of its owner or caretaker.

b. **Animal Litter.** An owner or caretaker of any animal in any park or parkway must have a shovel, scoop, bag or other item for the removal of fecal matter on such premises; remove all fecal matter by shovel, scoop, bag or other item; and properly wrap and deposit the fecal matter in a waste container upon his or her own premises or in a container in the park or parkway designated for such purpose.

63-21. **Fish, Waterfowl and Game Birds.**

1. **FISHING.** Fishing is permitted unless prohibited by posted signs.

a. No person shall throw any object into the waters of the parks or parkways.

b. No person shall take, capture or kill any fish or fish for fish by any means other than hook or line within 200 feet of any fishway, lock or dam.

c. No person may fish or leave any fish line unattended in any waters, or take any fish by snagging or fouling, or fish with the aid or use of any firearm or pellet gun, or by any means other than angling or trolling. Dip nets 3 feet or less in diameter and a gaff may be used for the purpose of landing fish legally hooked.

2. **WATERFOWL AND GAME BIRDS.** No person shall kill, injure or attempt to injure, or unnecessarily disturb any waterfowl or other birds or animals, wild or domestic, within any of the parks or parkways. No person shall rob or disturb the nest or eggs of any bird or other animal therein.

63-23. **Use of Skateboards Regulated.** No person shall ride or otherwise use a skateboard upon the sidewalks, walkways or any other park area where skateboarding has been prohibited by the Milwaukee county board and appropriate signs have been posted by the department.

63-25. **Use of Motor Vehicles in Parks.**

1. **DRIVING CONFINED TO REGULAR DRIVES AND PARKING AREAS.** No person shall operate or drive any motor vehicle upon any part of the parks or parkways, except roads, driveways, parking areas or other areas which have been designated by the director for vehicular traffic.

2. **VEHICLES FOR HIRE NOT TO STAND IN PARKS.** No person shall cause any taxi, bus, limousine or other vehicle for hire to stand upon any part of the parks or parkways for the purpose of soliciting or taking in passengers or persons other than those carried to the parks or parkways by the vehicles, unless licensed by the director.

3. **PARKING REGULATION.** Parking within the county parks and parkways is regulated and restricted by the director. The director may prohibit parking in specified areas, may limit the times of day and the maximum duration during which parking will be permitted in specified areas and may adopt such other regulations and restrictions on parking as the director may determine to be necessary for the

City of Milwaukee

cctr25.milwaukee.gov/netit-code81/
Volume 1 / CH105/CH105.pdf

Public Safety 106-1

CHAPTER 105
PUBLIC SAFETY

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		105-1. Riots; Unlawful Assemblies.
		1. PURPOSE AND FINDINGS. This section is enacted to protect the health, safety and welfare of the public, to preserve order and to prevent harm or injury to persons and property. The city finds that police officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason they may order all persons who are part of an assembly to disperse. It is further found that unlawful assemblies

\$1,000 or in lieu of nonpayment or default of such fine, costs and disbursements, by imprisonment in the Milwaukee county jail or house of correction for a period of not less than 90 days nor more than 180 days.

~~105-35 Discharge of Firearms~~ POLICE PERMIT. No person shall fire or discharge any cannon, gun, fowling piece, pistol, firearm, air rifle, air gun of any description, or any instrument which impels a missile or pellet by compressed air, spring or other means, within the limits of the city; provided, however, that the chief of police may from time to time issue to an authorized person or authority a permit for a specified purpose and period of time to use, fire and discharge any of the aforesaid weapons or instruments within the limits of said city.

2. REVOCATION. Any such permit may be revoked by said chief of police at any time. No such permit shall be transferred.

105-36. Archery Ranges (Bow and Arrow).

1. DESIGNATED AREAS ONLY. No person shall shoot with or discharge in or upon any street, alley, public grounds or parks within the city any bow, spring gun or other similar device which is calculated or intended to propel or project an arrow or other projectile, nor in or upon any private grounds or building where the projectile propelled or discharged by the use of such bow or similar device may endanger the life, limb or property of another, or will traverse any part of any street, alley, public grounds or parks; provided, however, that nothing in this section shall prevent the shooting with or discharging of bows or implements used in the practice of archery or implements for propelling arrows in or upon such properly supervised public areas as may be set aside and designated for that purpose by proper authority having jurisdiction and control over such public areas, or in or upon properly supervised private archery ranges constructed and maintained in such a manner as not to endanger life, limb or property, or to any shooting galleries using air rifles, when such shooting galleries are constructed and maintained as required by the commissioner of neighborhood services so as not to endanger life, limb or property.

2. PENALTY. It shall be mandatory that any person violating this section shall have the bow and arrow confiscated by the police department regardless of whether or not a fine is imposed. Any person violating this section shall be punished by a fine of not less than \$1 nor more than \$10 or by imprisonment in the house of correction of Milwaukee county for not less than 5 days nor more than 30 days, or by both such fine and imprisonment for each offense.

105-39. Regulations for Shooting Galleries (Firearms).

1. LICENSE REQUIRED. No premises shall be used or permitted to be used, leased or hired as a shooting gallery or place to practice target shooting, wherein firearms shall be discharged without being duly licensed therefor.

2. AUTHORIZING AGENT. No corporation, firm, association or club shall be granted a license to conduct in any manner a shooting gallery or place to practice target shooting within the limits of the city except to an agent thereof first duly appointed by it, who is, at the time of filing an application, an officer, manager or member thereof, and who shall have vested in him or her by properly authorized and executed written delegation full authority and control of the premises described in the license and of the conduct of all business and acts therein in any way relating to firearms and the use thereof or the shooting gallery or target shooting and who shall, with respect to his or her qualification, be satisfactory to the chief of police and the common council. Such agent shall be personally responsible for compliance with all the terms and provisions of this section.

4. FEE. See ch. 81 for the regular required license fee.

105-40. Application for License.

2. TO BE FILED WITH CITY CLERK.

a. Application for a license for any specific premises sought to be used as a shooting gallery or place to practice target shooting shall be made on forms provided by the city clerk and accompanied by the entire license fee. Said application shall contain the following information:

→ 10/11/11
7/12/2006

47.05: Use of firearms, fireworks; hunting with bow and arrow and trapping; throwing of missiles; making of fires; deposit or breakage of tin cans, bottles and glassware; prohibitions.

(1) *Use of firearms and fireworks; hunting with bow and arrow; trapping.* No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description, nor shall any person engage in trapping within any park or parkway without a written permit of the department of parks, recreation and culture; nor shall any person hunt with bow and arrow within any park or parkway. No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description upon any premises owned or leased by Milwaukee County which is not part of the county parks and parkways. The word "gun" shall include airgun.

(2) *Times for the setting off of fireworks displays on county-owned parks and parkways.* No person shall cause or allow the setting off of fireworks on the county-owned parks, or on the parkways, after 12:00 midnight on any Friday or Saturday, or on any day that is, or precedes, a holiday, or unless prior approval is obtained from the county board. No fireworks shall be set off on any other day, after 10:00 p.m., unless prior approval is obtained from the county board.

(3) *Throwing of stones or missiles.* No person shall throw stones or missiles in or into any park or parkway.

(4) *Making of fires.* No person shall make or kindle a fire for any purpose except in places provided therefor, and then subject to such regulations as may be prescribed.

(5) *Deposit of tin cans, bottles and glassware forbidden except in waste container; removal of broken tin cans, bottles or glassware.*

(a) No person shall deposit any tin cans, bottles or other glassware after the same have been used in any place in a park or parkway, except in waste containers provided by the department of parks, recreation and culture, or except in containers carried by such person for the purpose of removing same from such park or parkway.

(b) Any person who breaks a bottle or other glassware in any park or parkway shall immediately pick up the broken pieces and remove same to a park waste container.



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Corporation Counsel

November 2, 2012

Daniel Kaemmerer
Community Services Specialist
Wisconsin Dept. of Natural Resources
2300 N. Dr. Martin Luther King Jr. Dr.
Milwaukee, WI 53212

Dear Mr. Kaemmerer:

This letter is in response to a request I received to provide you with information concerning Milwaukee County's ordinance regarding hunting and trapping on county park property. As I understand it, this request is based upon the fact that the River Revitalization Foundation intends to donate certain lands located in the city of Milwaukee, along the Milwaukee River and south of Riverside Park, to the county. When these lands are transferred, they will become part of the park system and subject to county and city ordinances.

Currently, Milwaukee County Ordinance (MCO) 47.05 controls hunting and trapping, among other things, on county park property. Specifically, MCO 47.05(1) provides, in part, the following:

No person shall carry, fire or discharge any gun, pistol or firearm . . . , nor shall any person engage in trapping within any park or parkway without a written permit of the department of parks, recreation and culture; nor shall any person hunt with bow and arrow within any park or parkway.

(Please see attached Exhibit A). In addition, the City of Milwaukee Code of Ordinances (CMCO) has similar rules regarding hunting and trapping and the discharge of firearms in parks and parkways located within its jurisdiction. City of Milwaukee ordinance 63.13 provides that "No person shall engage in trapping or hunting within any park or parkway without a written permit from the department." And CMCO 105.35 provides that "No person shall fire or discharge any gun, fowling piece, pistol, firearm, air rifle, air gun of any description, or any instrument which impels a missile or pellet by compressed air, spring or other means, within the limits of the city."

Therefore, both Milwaukee County's and the City of Milwaukee's ordinances prohibit hunting, trapping, the discharge of firearms, and use of bow and arrow within those parks and parkways under their jurisdiction.

If you have any further questions or comments, please do not hesitate to contact me.

Sincerely,



Paul D. Kuglitsch
Principal Assistant Corporation Counsel

Cc: James Keegan, Interim Director, Milw. Cnty. Parks Department
Tom Blotz, Project Specialist, Milw. Cnty. Parks Department

Exhibit A

47.05. - Use of firearms, fireworks; hunting with bow and arrow and trapping; throwing of missiles; making of fires; deposit or breakage of tin cans, bottles and glassware; prohibitions.

- (1) *Use of firearms and fireworks; hunting with bow and arrow; trapping.* No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description, nor shall any person engage in trapping within any park or parkway without a written permit of the department of parks, recreation and culture; nor shall any person hunt with bow and arrow within any park or parkway. No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description upon any premises owned or leased by Milwaukee County which is not part of the county parks and parkways. The word "gun" shall include airgun.
- (2) *Times for the setting off of fireworks displays on county-owned parks and parkways.* No person shall cause or allow the setting off of fireworks on the county-owned parks, or on the parkways, after 12:00 midnight on any Friday or Saturday, or on any day that is, or precedes, a holiday, or unless prior approval is obtained from the county board. No fireworks shall be set off on any other day, after 10:00 p.m., unless prior approval is obtained from the county board.
- (3) *Throwing of stones or missiles.* No person shall throw stones or missiles in or into any park or parkway.
- (4) *Making of fires.* No person shall make or kindle a fire for any purpose except in places provided therefor, and then subject to such regulations as may be prescribed.
- (5) *Deposit of tin cans, bottles and glassware forbidden except in waste container; removal of broken tin cans, bottles or glassware.*
 - (a) No person shall deposit any tin cans, bottles or other glassware after the same have been used in any place in a park or parkway, except in waste containers provided by the department of parks, recreation and culture, or except in containers carried by such person for the purpose of removing same from such park or parkway.
 - (b) Any person who breaks a bottle or other glassware in any park or parkway shall immediately pick up the broken pieces and remove same to a park waste container.

Appendix D

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: January 9, 2013

TO: Lavanc Hessler – CF/2

FROM: Dan Kaemmerer - SER

SUBJECT: NBOA News Release/Announcement Comment Period Closure and Approval

PROJECT NAME: River Revitalization Foundation, Milwaukee Rotary Centennial Arboretum

The Milwaukee Rotary Centennial Arboretum land acquisition Stewardship grant proposal was required to meet the public notice requirements in ch. NR 52.04. The public notice was posted on GovDelivery on December 12, 2012 and the fifteen day public review period ended on January 8, 2013.

The Department did not receive any comments concerning this proposal.

In conclusion, the Department has met the public notice requirements for Stewardship land acquisition grant proposals.

Daniel E. Kaemmerer
Signature of Contact Person

01/09/2013
Date

NBOA Public Notice Certification:

Mary Rose Teves
Mary Rose Teves, CF Bureau Director

January 17, 2013
Date



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Wisconsin Department of Natural Resources

Appendix E

River Revitalization Foundation seeks grant for acquisition of land

News Release Published: December 12, 2012 by the Central Office

Contact(s): Dan Kaemmerer, Community Services Specialist, (414) 263-8704

MILWAUKEE, Wis. – The River Revitalization Foundation has applied for a 50 percent matching grant from the Knowles-Nelson Stewardship Program to help buy 1.97 acres of land in the City of Milwaukee in Milwaukee County. The River Revitalization Foundation will provide match to the grant award.

The project involves acquiring two properties, each with about 160 feet of frontage along the Milwaukee River, and a donated 4.5 acre parcel with 328 feet of frontage along the Milwaukee River. The donated property and a 1.5-acre property will be developed as an urban outdoor arboretum featuring native tree species and will be transferred to Milwaukee County to manage as part of the Milwaukee County park system.

A public boat launch will be developed on the 0.47- acre parcel. The properties will be left in a natural state and will be open to the public for low impact recreational activities including fishing, hiking, cross-county skiing, snowshoeing, nature appreciation, and a non-motorized boat access. The project would prohibit hunting and trapping.

The Department of Natural Resources is proposing to make the determination that the prohibition of hunting and trapping is necessary to protect public safety. DNR examined the following factors in making this determination: adjacent public roads, residential and commercial properties; size and location of property; expectations of visitors; and city and county ordinances prohibiting the discharge of weapons and throwing or shooting projectiles.

DNR's initial assessment of allowed Nature Base Outdoor Activities (pdf) may be downloaded from the Stewardship Public Notice Website or you may request a hard copy by contacting the project contact listed below.

Public written comments on the proposed acquisition can be mailed to Julie Sauer, Administrator, Division of Customer and Employee Services, care of Dan Kaemmerer, Community Services Specialist, Wisconsin Department of Natural Resources – Southeast Region, 2300 N. Dr. Martin Luther King Jr. Drive, Milwaukee, WI, 53212 or sent by email to Dan.Kaemmerer@Wisconsin.Gov. If you have questions about this project, Dan Kaemmerer can be reached by phone at (414) 263-8704. Written comments will be accepted through Jan. 8, 2013. In accordance with s. NR 52.04 (2) (b), Wis. Adm. Code, objections about the prohibited activities on this property must show the proposed prohibition to be inconsistent with s. 23.0916 (2) (b), Stats., and s. NR 52.05, Wis. Adm. Code.

To receive e-mail notices of Stewardship Grant project news releases, please subscribe by putting a check mark by DNR Stewardship News under the News & Announcements heading.

The Official Internet site for the Wisconsin Department of Natural Resources

101 S. Webster Street . PO Box 7921 . Madison, Wisconsin 53707-7921 . 608.266.2621

Appendix F

470-1

DEPARTMENT OF NATURAL RESOURCES

NR 52.03

Chapter NR 52

STEWARDSHIP LAND ACCESS

NR 52.01 Purpose and applicability.
NR 52.02 Definitions.
NR 52.03 General provisions.

NR 52.04 Public notice.
NR 52.05 Natural resources board determinations.

NR 52.01 Purpose and applicability. (1) Pursuant to s. 23.0916, Stats., lands acquired in whole or in part with funding from the stewardship program are open for public hunting, trapping, hiking, fishing and cross country skiing unless public access is prohibited pursuant to this chapter. Decisions to prohibit public access for these activities will be reviewed by the department using professional judgment and will be based on sound science, legitimate safety issues, factual data and relevant information. A restriction of a nature based outdoor activity may be considered a prohibition if the restriction prevents a major or a significant amount of the nature based activity from occurring.

(2) The purpose of this chapter is to implement s. 23.0916, Stats., which directs the department to establish standards and criteria for prohibiting public access for hunting, fishing, trapping, hiking and cross-country skiing, defined as nature based outdoor activities under s. 23.0916 (1) (b), Stats. This chapter applies to land acquired in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats. The rules in this chapter are intended to maximize the number of compatible users and uses, to the extent practical, on lands subject to s. 23.0916, Stats.

(3) Pursuant to s. 23.0916 (5) (a), Stats., the natural resources board has determined that ss. NR 1.61 and 51.07 (3) (c) govern public access on all other lands funded in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats., that are not referred to in sub. (1) or (2).

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.02 Definitions. In this chapter

(1) "Accommodate usership patterns" means to consider the factors found in s. NR 52.05 (1) (c) when making a determination to prohibit an NBOA.

(2) "Department" means the Wisconsin department of natural resources

(3) "Department land" means land acquired by the department in fee title, or with an easement on former managed forest land on or after October 27, 2007, with stewardship program funds under s. 23.0917, Stats.

(4) "Former managed forest land" has the meaning given in s. 23.0916 (1) (a), Stats.

(5) "Hunting" means shooting, shooting at, taking, catching or killing any wild animal, other than by trapping, or pursuing for the purpose of shooting, shooting at, taking, catching or killing any wild animal.

(6) "Natural values" has the meaning given in s. 23.27 (1) (f), Stats.

(7) "NBOA" means the nature based public outdoor activity of hunting, fishing, trapping, hiking or cross-country skiing as described in s. 23.0916 (1) (b), Stats.

(8) "Non-department land" means land acquired in fee title, or with an easement on former managed forest land on or after October 27, 2007, by a non-profit conservation organization or local unit of government with the assistance of a stewardship program grant under s. 23.0917, Stats.

(9) "Primary purpose" means the recreational or conservation purpose for which the property is being acquired as guided by ss. 23.09 (2), (20) (am), 23.0915, and 23.0917, Stats., by s. NR 51.05, and by state, regional or local plans that support the project.

(10) "Prohibit access for an NBOA" means not to allow the activity in its entirety, or to restrict the activity so that a major or significant amount of the activity is not allowed.

Note: A temporary restriction of an NBOA for department approved land management practices is not considered a prohibition of an NBOA.

(11) "Stewardship program" means the Knowles-Nelson Stewardship Program authorized under ss. 23.0915 and 23.0917, Stats.

(12) "Unique animal or plant community" means a natural community composed of different plant and animal species, along with their associated geological and archaeological features, that exist together in a specific area, time and habitat. A unique animal or plant community is one identified as endangered, threatened, rare or ecologically sensitive. A unique plant or animal community may also be critical species habitat or an ecological reference area. The sources for identifying unique animal and plant communities include reports or databases, such as the natural heritage inventory, wildlife action plan, regional planning commission reports or other publications routinely referenced by conservation biologists. Individual game species shall not be considered as unique animal species for purposes of this chapter.

Note: References for, or copies of such databases, publications and reports may be viewed or obtained at the Department of Natural Resources, Bureau of Endangered Resources, 101 S. Webster Street, PO Box 7921, Madison, WI 53707-7921.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.03 General provisions. (1) DEPARTMENT LAND. (a) All department land transactions are subject to s. NR 1.41.

(b) The department shall incorporate an evaluation of the requirements of s. 23.0916 (3), Stats., in master plans under ch. NR 44, feasibility studies and other planning documents that include land acquisition as an implementation strategy. This paragraph applies to new plans as well as any plan updates that may be undertaken for existing department projects that are subject to s. 23.0916 (3), Stats.

(2) NON-DEPARTMENT LAND. In addition to the requirements of ch. NR 51, stewardship program grant applications to acquire non-department lands subject to s. 23.0916 (2), Stats., shall include all of the following:

(a) A description of the public uses proposed for the property being acquired and a checklist indicating which of the specific NBOAs shall be permitted on the property. The checklist shall be in a format determined by the department and shall include at a minimum:

1. An indication as to whether a specific NBOA shall be allowed on the property.

2. For hunting, the checklist shall include information for allowing waterfowl, small game, turkey and big game hunting and shall include gun and archery hunting.

3. For trapping, the checklist shall include information for allowing water trapping and upland trapping.

4. For fishing, the checklist shall include information for permitting shore fishing and boat fishing.

5. For hiking, the checklist shall include information for allowing trail hiking and hiking off-trail.

6. For cross-country skiing, the checklist shall include information for allowing groomed trail skiing and off-trail skiing.

(b) An explanation of the primary purpose for the acquisition. The primary purpose for the acquisition shall be based on s. 23.09 (2), (20) (am), 23.0915, or 23.0917, Stats., and s. NR 51.05 and on state, regional or local plans that support the acquisition. The application shall include the name of the plan being used and a description of the formal or informal public input received.

(c) A description of the NBOAs to be prohibited on the property and the reason for the prohibition. The reason for the prohibition shall be consistent with s. NR 52.05 and the applicant shall address in the application the specific factors in s. NR 52.05 that apply.

(3) DETERMINATIONS MADE IN ACCORDANCE WITH s. 23.0916, STATS., AND s. NR 52.05. (a) When a determination has been made in accordance with s. 23.0916, Stats., and s. NR 52.05 to prohibit one or more NBOAs on department land the feasibility study and master plan for the project where the NBOA will be prohibited shall be amended to describe the prohibited activity and a rule change may be initiated to enforce it.

(b) The stewardship grant contracts executed between the department and sponsor under s. NR 51.07 that are subject to s. 23.0916, Stats., and this chapter, shall describe any determination to prohibit one or more NBOAs and require the sponsor to contact the department if any of the factors identified in s. NR 52.05 changes such that a prohibition may be necessary, or is no longer necessary. The department shall evaluate those changes to determine the applicability to this chapter.

(4) Public use of lands purchased in whole or in part with funding from the stewardship program under s. 23.0917, Stats., shall be subject to all applicable federal, state and local laws; including but not limited to the public trust doctrine.

(5) Contributions of separate property used as sponsor match under subch. I of ch. NR 51, are not subject to this chapter.

(6) An organization with an identified policy prohibiting or restricting one or more NBOAs must comply with the provisions of this chapter regardless of the organization's policies.

History: CR 09-0771 cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.04 Public notice. (1) In addition to the public notice requirements of ch. NR 150, the department shall provide individual notification over the internet to any person requesting to receive a notice of any proposal to prohibit an NBOA on department or non-department land subject to s. 23.0916 (2) or (3), Stats. Any public notice regarding a proposal to prohibit an NBOA shall include all of the following:

(a) The name, address and phone number of the department's contact person for the project.

(b) The checklist described in s. NR 52.03 (2) (a).

(c) A summary of the NBOAs to be prohibited and the factors that were considered under s. NR 52.05.

(d) The department's initial assessment of the proposal to prohibit the NBOA pursuant to s. 23.0916 (2) (b) or (3) (b), Stats. The department's assessment shall include an evaluation of s. NR 52.05 (1) (a) to (c) and shall involve the department's resource management professionals at the local, regional and statewide level.

(2) (a) Public comments concerning the proposal to prohibit an NBOA shall be submitted in writing to the department. The comment period shall be 15 business days beginning on the day immediately following the day the department sends out the notice electronically.

(b) Objections must show the proposed prohibition of an NBOA to be inconsistent with s. 23.0916 (2) (b) or (3) (b), Stats., and s. NR 52.05.

(c) If an objection is received during the 15 business day comment period the department shall have up to 15 additional business days following the close of the comment period to evaluate the public comment, including any objections. The department shall contact anyone that submitted an objection under par. (a) and the person that requested the stewardship program funding to notify them that the objection was received and to gain more information about the proposal to prohibit an NBOA.

(d) The department shall create a written summary of its determination on the proposal to prohibit one or more NBOAs at the conclusion of the public comment and evaluation periods in pars. (c) and (d). The department's written determination shall be based on s. 23.0916 (2) (b) or (3) (b), Stats., and s. NR 52.05 and the department shall provide the written summary to anyone that submitted an objection in accordance with par. (a), and to the person that requested the stewardship program funding.

(e) The department shall submit to the natural resources board for each regularly scheduled meeting a report that summarizes determinations made under par. (d). The report shall contain the information made available to the public under s. NR 52.04 (1), public comments, including any objections, gathered under s. NR 52.04 (2), and the department's written determination made under par. (d). The department shall deliver the report to the natural resource board and make the information available to the public over the internet at least five working days preceding the next regularly scheduled meeting of the board. The natural resources board shall allow public participation to receive public testimony regarding the department's determinations and vote whether to ratify prohibitions on non-department land that appear on the monthly report.

History: CR 09-0771 cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.05 Natural resources board determinations.

(1) In accordance with s. 23.0916, Stats., the natural resources board has determined that it is necessary to prohibit one or more NBOAs on department or non-department land for one or more of the following reasons listed below. In accordance with s. 15.05 (1) (b), Stats., the department shall make administrative determinations for each individual proposal to prohibit an NBOA, under the direction of the board, utilizing the process established in ss. NR 52.03 and 52.04, and based on the following reasons and factors.

(a) To protect public safety. One or more of the factors to consider when evaluating a proposal to prohibit an NBOA to protect public safety include:

1. The primary purpose for the project.

2. Laws and ordinances that may impact one or more NBOAs on the property.

Note: NBOAs may be affected by local laws or ordinances and may change as local laws or ordinances change.

3. User conflicts that may create public safety issues and impact one or more NBOAs on the property.

4. The physical characteristics of the property including size, shape, groundcover, topography or proximity to inhabited buildings that create public safety issues and influence NBOAs on the property.

5. A proposal to prohibit one or more NBOAs on a parcel 5 acres or smaller, located within the boundaries of cities and villages, shall be determined to be necessary in order to protect public safety and shall not be subject to s. NR 52.04 unless:

a. The parcel is adjacent to a parcel where the NBOAs to be prohibited already exist or;

b. The parcel is adjacent to a public waterway.

(b) To protect a unique animal or plant community. One or more of the factors to consider when evaluating a proposal to pro-

hibit an NBOA to protect a unique animal or plant community include:

1. The primary purpose for the project.
2. The necessity to prohibit an NBOA to protect and enhance the biological diversity, composition and ecological functions of natural communities exhibiting relatively little human disturbance or that have the capacity to be easily restored to such conditions.
3. The potential for an NBOA to impact the natural values of the site, according to s. 23.28 (3), Stats.
4. The potential for an NBOA to accelerate or increase over time and cause damage to the natural values of a site.
5. The potential for an NBOA to increase the risk of poaching rare plant or animal species, or the removal or destruction of rare geological or archeological features.

(c) To accommodate usership patterns. One or more of the factors to consider when evaluating the necessity to prohibit an NBOA to accommodate usership patterns include:

1. The primary purpose for the project.
2. User incompatibility and how this incompatibility may lead to the primary purpose of the project being significantly altered or curtailed.
3. The complexity, feasibility, practicality and cost effectiveness of separating activities by time and space or any other manner that might mitigate user incompatibility and or reduce the need for enforcement.
4. The size, shape and location of the property as well as surrounding land uses, including the use of public lands immediately adjacent to the property which may or may not have been funded with stewardship funds. The use of adjacent lands shall not be used as the sole factor in making a determination to prohibit an NBOA to accommodate usership patterns.
5. The mix of NBOAs at the location of the property that, to the extent practicable, will provide a quality experience for all compatible users and uses.

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