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This section provides information on unique properties throughout the WIS 23 corridor and how Section 4(f) or Section 6(f) designation was determined. It also describes the measures used to avoid these resources and that all possible planning has been used to minimize and mitigate impacts. This discussion of Section 4(f) and 6(f) resources is different from the information presented in the 2010 FEIS in the following ways:

- The Section 4(f) and Section 6(f) information has been moved from the appendix of the 2010 FEIS into the formal document as Section 5. (Sections 5 and 6 in the 2010 FEIS have been renumbered Sections 6 and 7 in this **combined LS SFEIS and ROD (LS SFEIS/ROD)**.)
- Information regarding each Section 4(f) and Section 6(f) resource has been gathered from other portions of the EIS and presented in one location, Section 5, for easier reader access. This required relocating information that was previously described in Section 4.6 O, as well as other sections, of the 2010 FEIS.
- The format of the Section 4(f) *de minimis* impact finding forms has been updated to reflect the most recent FHWA practice.
- The status of several resources has changed. These changes include the following:
 - The Northern Unit of the Kettle Moraine State Forest was not considered a Section 4(f) property in the 2010 FEIS. It is now being considered a Section 4(f) property.
 - St Mary's Springs Academy was considered a Section 4(f) resource in the 2010 FEIS because the Preferred Alternative impacts the property, a historic resource eligible for the National Register of Historic Places (NRHP). Because of property owner modifications and structure removals on the property, the historic boundary was reduced. Because of this revision to the historic boundary, the WIS 23 Preferred Alternative will no longer adversely affect the property. The Preferred Alternative no longer has any use of the Section 4(f) property.
 - The Sippel archaeological site was considered a Section 4(f) impact in the 2010 FEIS. Also, a programmatic Section 4(f) evaluation was incorrectly used for the Sippel site since it was incorporated in an EIS, (<http://www.environment.fhwa.dot.gov/4f/4fmhist.asp>). The Sippel site is no longer considered to have a Section 4(f) impact. 23 CFR 774.13(b) states that disturbance of an archaeological site is excepted from requiring Section 4(f) approval when the resource has minimal value for preservation in place and the State Historic Preservation Officer (SHPO) does not object to this finding.

While this section addresses Section 4(f) and 6(f) properties, it also continues to provide information on the Sippel archaeological site and St. Mary's Springs Academy explains why WIS 23 no longer has Section 4(f) uses on these resources.

Maroon text signifies updates addressing changed conditions or analysis, clarifications, or additional information. Items that are considered revisions that target specifically identified issues in the January 19, 2012 Notice of Intent to prepare an LS EIS are shown in blue text.

Yellow highlight signifies updates from the LS SDEIS to this LS SFEIS/ROD.

For tables and figures, the title of the Table or Figure has been shown in maroon or blue to indicate whether it has been revised since the 2010 FEIS.

5.1 INTRODUCTION TO ENVIRONMENTAL PROTECTIONS

State and federal laws and rules have been enacted to protect and preserve resources. These protections influence the decision making process for transportation projects. The following paragraphs summarize regulations that protect and preserve resources within the NEPA process. The remainder of this section primarily focuses on Section 4(f) properties.

A. Section 4(f)

The United States transportation bill of 1966 included the Section 4(f) provision that required the FHWA and state departments of transportation to not use or acquire right of way from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historic sites unless:

- There is no feasible and prudent avoidance alternative to the use of land, and
- The action includes all possible planning to minimize harm to the property resulting from such use, or
- FHWA determines that the use of the property, including measures to minimize harm, will have a *de minimis* (insignificant) impact, as defined in 23 CFR 774.17, on the property.

Since 1966, this provision has been brought forth with subsequent highway transportation bills, acts, and codes. The United States Department of Transportation's (USDOT) Section 4(f) law is contained in 49 USC 303, 23 USC 138, and FHWA's regulations and final rule is contained in 23 CFR 774. Section 4(f) applies only to the actions of agencies within the US Department of Transportation, including FHWA. FHWA is responsible for Section 4(f) applicability determinations, evaluations, findings, and overall compliance for highway projects.

Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amended existing Section 4(f) legislation. It simplified the process and approval of projects that have only *de minimis* impacts on lands impacted by Section 4(f). Under the new provisions, once the US DOT determines that a transportation use of Section 4(f) property results in a *de minimis* impact, analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. The WIS 23 Preferred Alternative affects several Section 4(f) resources in which a Section 4(f) *de minimis* impact finding has been made.

B. Section 6(f)

Section 6(f) of the Land and Water Conservation Act requires that the conversion of lands or facilities acquired with Land and Water Conservation Fund monies [previously LAWCON, now Land and Water Conservation Fund (LWCF)] to uses associated with highway improvements be coordinated with the US Department of Interior. When properties with LWCF funding are needed for highway improvements, typically replacement land conversions are required. The National Park Service (NPS), US Department of Interior, is responsible for approval of Land and Water Conservation Fund monies and land conversion requests. The WIS 23 Preferred Alternative affects one Section 6(f) property.

C. Stewardship Funding

The state of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR), provides stewardship grants to local units of government and nonprofit conservation organizations to help fund the acquisition and recreational development of parklands throughout Wisconsin. Often lands purchased with stewardship funding have deed restrictions placed on them. These deed restrictions can require replacement lands, similar to Section 6(f) lands except coordination is with state agencies. As of January of 2013, the WIS 23 Preferred Alternative does not affect lands, resources, or facilities with known stewardship funding.

D. Wetlands

Wetlands in themselves are not a Section 4(f) or Section 6(f) property. However, in the identification of Section 4(f) impacts and screening of unique properties, there are three wetland mitigation banks potentially affected by the alternatives that were considered. Sometimes wetland mitigation banks have "covenants" associated with the underlying property, causing impacts to them to function similarly as a Section 6(f) or stewardship funding impact.

Section 404 of the Clean Water Act requires permit authorization from the United States Army Corps of Engineers (USACE) for the discharge of dredged or fill material into waters of the United States, including wetlands. A 404 Permit is required if the project area is located on public or private property, regardless of funding source and irrespective of the type of environmental action.

Discharge of fill material means the placement of any material into waters of the United States, including wetlands, for the purpose of converting an aquatic site to upland. These water bodies are defined for inland fresh waters as follows:

1. The traditional navigable waters of the United States, including adjacent wetlands.

2. All tributaries to interstate navigable waters of the United States, including adjacent wetlands.
3. Interstate waters and their tributaries, including adjacent wetlands.
4. Waters of the United States and waters isolated from the tributary system whose degradation and destruction could affect interstate commerce or other Waters of the U.S.

WisDOT uses the three-step process of avoid, minimize, and mitigate when a wetland mitigation site is developed to offset wetland impacts by highway projects. As mentioned, sometimes “covenants” are often developed that dictate management or restrict future uses of the lands being used for wetland mitigation purposes. There are three wetland mitigation sites along the WIS 23 corridor and the Preferred Alternative travels directly adjacent to two of them.

E. Section 106

There are numerous laws and regulations that address the preservation of cultural and historic resources. One that frequently affects highway projects is Section 106 of the National Historic Preservation Act of 1966. Section 106 requires federal agencies to take into account the effects of their actions on historic properties. Regulations governing the implementation of Section 106 are set forth in 36 CFR Part 800. Section 106 regulations define a process that has the following steps:

1. Invite consulting parties to participate in the process;
2. Identify any historic properties within the project’s area of potential effects (APE) that are listed in or eligible for the National Register of Historic Places;
3. Determine whether the project will have an adverse effect on any historic properties that are listed in or eligible for the National Register; and
4. Resolve any adverse effects on those resources, often through execution of a Memorandum of Agreement (MOA).

Normally these steps are completed sequentially yet the regulations provide flexibility to combine steps. Section 106 is addressed in Section 4.6 B-5 and -6 of this **LS SFEIS/ROD**. If there is an adverse impact to a Section 106 resource, it is also generally considered a Section 4(f) impact. There are several historic properties discussed in this Section 5.

5.2 LISTING OF UNIQUE RESOURCES

Table 5.2-1 lists 11 properties within the WIS 23 corridor that are unique and may have special protections. Four of these properties are Section 4(f) resources and 1 is considered a Section 6(f) property. Some Section 4(f) resources are coincident with other Section 4(f) resources. All listed properties are found at the same location for all the Build Alternatives.

Table 5.2-1 Unique Properties		
Property Name and Location	Description/Comments	Section 4(f) and 6(f) Treatment
Northern Unit of the Kettle Moraine State Forest <i>Near Greenbush, between County A and County S</i>	The northern unit contains approximately 30,000 acres of forestlands. Outdoor recreation is the primary use. Owned and administered by WDNR. Land and Water Conservation Funds (LCWF) were used for property purchase.	2010 FEIS did not consider the Kettle Moraine State Forest a Section 4(f) property. FHWA has since determined otherwise. A Section 4(f) <i>de minimis</i> impact finding is included in this LS SFEIS/ROD document. This effect finding combines the Northern Unit of the Kettle Moraine State Forest with the Ice Age Trail/Equestrian Trail because the resources are coincident. A Section 6(f) evaluation is included as Section 5.7 of this LS SFEIS/ROD .
Ice Age Trail <i>Within Kettle Moraine State Forest</i>	Designated National Scenic Trail and is Wisconsin’s only State Scenic Trail. The trail is administered by the NPS in cooperation with the WDNR and the Ice Age Park and Trail Foundation. The trail crosses WIS 23 near Julie Road within the Kettle Moraine State Forest Management Area.	2010 FEIS included a Section 4(f) <i>de minimis</i> impact finding. This LS SFEIS/ROD combines this finding with the Northern Unit of the Kettle Moraine State Forest because these resources are coincident. The Section 4(f) documentation is included in Section 5.3 of this LS SFEIS/ROD .

Table 5.2-1 Unique Properties		
Property Name and Location	Description/Comments	Section 4(f) and 6(f) Treatment
State Equestrian Trail <i>Adjacent to Ice Age Trail</i>	The bridle trail winds through the forest (39.5 miles). Owned and maintained by WDNR. The trail crosses WIS 23 near Julie Road within the Kettle Moraine State Forest Management Area.	2010 FEIS included this resource with the Ice Age Trail in the same Section 4(f) <i>de minimis</i> impact finding. This finding is also included in this LS SFEIS/ROD combined with the effect finding for the Northern Unit of the Kettle Moraine State Forest (see Section 5.3).
Old Plank Road Trail <i>Adjacent to WIS 23 in Sheboygan County</i>	This 17-mile trail on WisDOT-owned right of way is a maintained multiuse trail that accommodates bicyclists, runners, walkers, in-line skaters, horseback riders, moped users, Nordic skiers, and snowmobiles on 10 feet of asphalt and 8 feet of turf. The trail parallels WIS 23 from the City of Plymouth to the Town of Greenbush, linking with the Ice Plank Trail in the Kettle Moraine State Forest.	Not considered a Section 4(f) impact according to 23 CFR 774.13(f). This provides an exception for Section 4(f) as follows “(3) <i>Trails, paths, bikeways, and sidewalks that occupy a transportation facility right-of-way without limitation to any specific location within that right-of-way, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained</i> ”; Old Plank Road Trail continuity will be maintained.
Old Wade House State Park <i>Town of Greenbush</i>	Owned and operated by Wisconsin Department of Administration in cooperation with the Wisconsin Historical Society and WDNR. The park includes over 500 acres of land surrounding several historic structures on the NRHP. A section of the Old Plank Road Trail extension will pass through the north end of the property.	2010 FEIS included a Section 4(f) <i>de minimis</i> impact finding. This finding, with additional information, is included in Section 5.4 of this LS SFEIS/ROD document.
Wetland Enhancement and Mitigation lands on Old Wade House State Park <i>Town of Greenbush</i>	During the Robinson Hurling Dam restoration project, on the north end of the Old Wade House State Park lands, the State Historic Society constructed a wetland mitigation and enhancement site south of WIS 23. Coordination with state (SHS/WDNR) and federal agencies (USACE) has not identified covenants or permit conditions placed on existing mitigation lands.	The 2010 FEIS included a Section 4(f) <i>de minimis</i> impact finding for the Old Wade House State park. This finding is also included in this document. The Old Plank Road Trail extension will be designed to minimize encroachment into the wetlands and buffer in the vicinity of the wetland mitigation site. This resource is discussed in Section 5.4 of this LS SFEIS/ROD .
St. Mary's Springs Academy <i>City of Fond du Lac</i>	This is a privately owned Catholic high school with several potentially historic structures on the property that are eligible for the NRHP.	2010 FEIS included a Section 4(f) <i>de minimis</i> impact finding. Since there is no longer an adverse effect because of revisions in the historic boundary, there is no longer a Section 4(f) use of the property. St. Mary's Springs Academy is discussed in Section 5.5 of this LS SFEIS/ROD .
St. Mary's Springs Athletic Field <i>City of Fond du Lac</i>	This is a privately owned Catholic high school athletic field and is not used by the general public.	Not considered a Section 4(f) property according to 23 USC 138 because it is privately owned.
Sippel Archaeological Site 47 SB-394	Historic Euro-American homestead site that is about 0.3 acres in size and is eligible for the NRHP (the site will be impacted by the Preferred Build Alternative).	2010 FEIS incorrectly included a Programmatic Section 4(f) evaluation for this property. ¹ It now has been determined that it qualifies for an exception for Section 4(f) approval. 23 CFR 774.13(b) states that an archaeological site can be excepted from Section 4(f) approval when the resource has minimal value for preservation in place and the SHPO does not object to this finding. The Sippel Site is discussed in Section 5.6 of this LS SFEIS/ROD .

¹ The Programmatic evaluation for Federally Aided highway projects with minor involvements with historic sites can not be used in Environmental Impact Statements.

Table 5.2-1 Unique Properties		
Property Name and Location	Description/Comments	Section 4(f) and 6(f) Treatment
Taycheedah Creek Wetland Mitigation Site <i>Southwest corner of existing US 151 and WIS 23 interchange</i>	The site is a wetland mitigation bank site constructed by WisDOT to offset wetland losses incurred for the US 151 Fond du Lac bypass project. It contains three irregularly shaped wildlife ponds with 8:1 slopes and a maximum depth of 5 feet. The ponds account for approximately 1 acre of the parcel's overall use. Wet meadow seeding zones comprise approximately 11.3 acres and upland comprises about 2.5 acres. The site was a condition for the US 151 project's individual 404 permit.	No Section 4(f) impacts because: <ul style="list-style-type: none"> • Its primary purpose is wetland mitigation, not a refuge, and therefore it is not a Section 4(f) property according to 23 CFR 774.11 and FHWA's Section 4(f) Policy Paper Question 1A (July 20, 2012). • The No Corridor Preservation Alternative was selected for the US 151/WIS 23 interchange; therefore no impacts will occur.
Pit Road Wetland Mitigation and Enhancement Site <i>Town of Forest</i>	The 3.6-acre Wetland Mitigation Site north of WIS 23 at Pit Road was created to offset wetland losses from a previous WIS 23 project between Fond du Lac and Sheboygan in the late 1980s and early 1990s.	No Section 4(f) impacts because its primary purpose is wetland mitigation, not a refuge, and therefore it is not a Section 4(f) property according to 23 CFR 774.11 and FHWA's Section 4(f) Policy Paper Question 1A (July 20, 2012).

Table 5.2-1 Unique Properties

Figure 5.2-1 schematically illustrates the resources listed in Table 5.2-1 on a map.

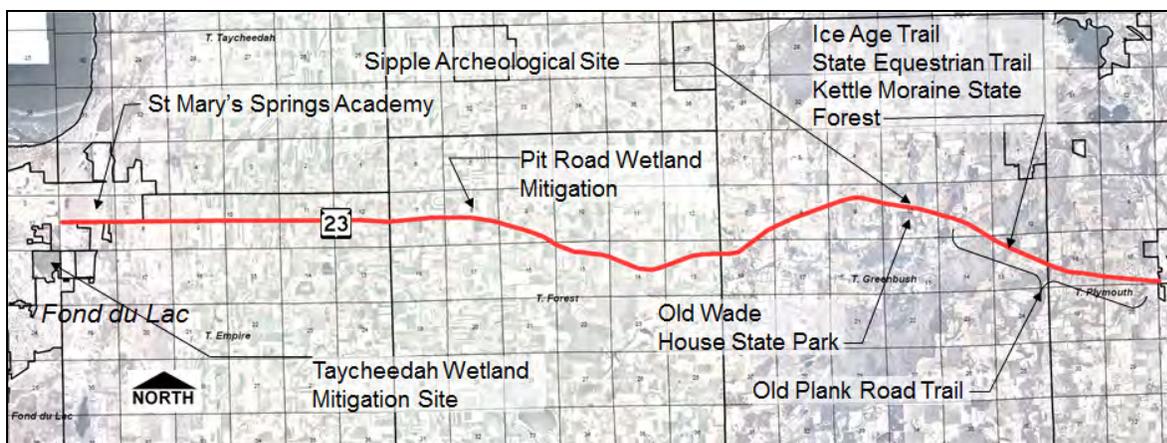


Figure 5.2-1 Unique Area Locations

Sections 5.3 to 5.7 of this **LS SFEIS/ROD** provide Section 4(f) *de minimis* impact findings or reasons why Section 4(f) approvals are not needed for:

- The Northern Unit of the Kettle Moraine State Forest, Ice Age Trail, and State Equestrian trail.
- The Old Wade House State Park and wetland mitigation site.
- St. Mary's Springs Academy
- The Sippel Archaeological site.

Other resources not discussed in Section 5 are reviewed in Section 4.6 B-8 of this **LS SFEIS/ROD**.

Wisconsin
Federal Highway AdministrationFinding of *De Minimis* Impact on Parks, Recreation Areas, and Wildlife and Waterfowl Refuges

5.3 NORTHERN UNIT KETTLE MORAINES STATE FOREST, ICE AGE TRAIL/STATE EQUESTRIAN TRAIL

A. Summary of Effect

WIS 23 crosses the Northern Unit of the Kettle Moraine State Forest in the town of Greenbush in Sheboygan County. At this location, the Ice Age Trail/State Equestrian trail, a Section 4(f) resource, crosses WIS 23. A Section 4(f) *de minimis* impact finding for the Ice Age Trail/State Equestrian Trail was incorporated in the 2010 Final Environmental Impact Statement (FEIS) for the WIS 23 corridor. A Section 4(f) evaluation or finding was not included in the 2010 FEIS for the state forest because at that time the forest was not viewed as a Section 4(f) property because of its multiple uses. The 2010 FEIS did include a Section 6(f) evaluation, including mitigation, for the state forest because Land and Water Conservation Fund monies were used within the forest. Section 5.7 of this document provides Section 6(f) documentation for this property.

Since the publication of the FEIS, the FHWA has determined the Kettle Moraine State Forest is a Section 4(f) property and this Section 4(f) *de minimis* impact finding addresses impacts to three resources that are coincident at this location, the Northern Unit of the Kettle Moraine State Forest, the Ice Age Trail, and the State Equestrian Trail.

WIS 23 crosses the Ice Age Trail and the State Equestrian Trail in the Town of Greenbush in Sheboygan County. The trails exist within the Northern Unit of the Kettle Moraine State forests and are coincident with that resource. A Section 4(f) *de minimis* impact finding for the Ice Age Trail/State Equestrian Trail was incorporated in the 2010 FEIS for the WIS 23 corridor.

B. Project Description and Effects

1. WIS 23 Project

The WIS 23 project will construct a 4-lane divided highway along the existing alignment from US 151 in Fond du Lac to County P in Plymouth. Generally, the existing roadbed will carry the eastbound lanes, and the westbound lanes will be constructed north of the existing roadway. The project spans 19.1 miles and is estimated to cost **about** \$130 million.

2. Northern Unit of the Kettle Moraine State Forest

The WIS 23 project will require the acquisition of 2.21 acres from 3 sections of the Kettle Moraine State Forest that border WIS 23. WIS 23 impacts to the state forest cannot be avoided because the state forest is on both sides of WIS 23. Any expansion to the roadway will increase the right of way width and would require land from the Kettle Moraine State Forest. Alternatives that fully avoid the State Forest require a substantial relocation of WIS 23 of 2 or more miles, and require the extension of the project beyond Plymouth. These impacts are so great that they are not **prudent**. Alternatives that do not involve expansion to 4 lanes do not satisfy the project Purpose and Need. To mitigate WIS 23 impacts to the Kettle Moraine State Forest, WisDOT has purchased 4.275 acres of land adjacent to the state forest west boundary and will transfer ownership to the state forest pending approval of this Section 4(f) *de minimis* impact finding. A portion of this land will be used for the rerouting of the Ice Age Trail/State Equestrian Trail and providing a grade-separated crossing for the trails under WIS 23.

3. Ice Age Trail/State Equestrian Trail

The Ice Age Trail is designated as a National Scenic Trail and is Wisconsin's only State Scenic Trail. The Ice Age Trail highlights the Ice Age landscape features while providing access to some of the state's natural areas. In the WIS 23 project area, the Ice Age Trail is located within the Northern Unit of the Kettle Moraine State Forest and crosses WIS 23 near Julie Road. The Ice

Age Trail is administered by the NPS with cooperation from the WDNR and the Ice Age Trail Alliance. Within the Kettle Moraine State Forest, the trail is maintained by the WDNR. The Ice Age Trail is shown on Figure 5.3-1.

The State Equestrian Trail is a bridle trail that travels the length of the Northern Unit of the Kettle Moraine State Forest. Horseback riders are able to access 12 campsites from the trail where equestrians are permitted to camp with their horses. In the WIS 23 project area, the Equestrian Trail travels along WIS 23 for approximately 1 mile and then joins the Ice Age Trail as the two trails cross WIS 23 concurrently. The State Equestrian Trail is identified on Figure 5.3-1.

To mitigate WIS 23 impacts to the Ice Age Trail/State Equestrian Trail, WisDOT will reroute the trail and construct a grade-separated underpass that will allow trail users to travel underneath WIS 23.

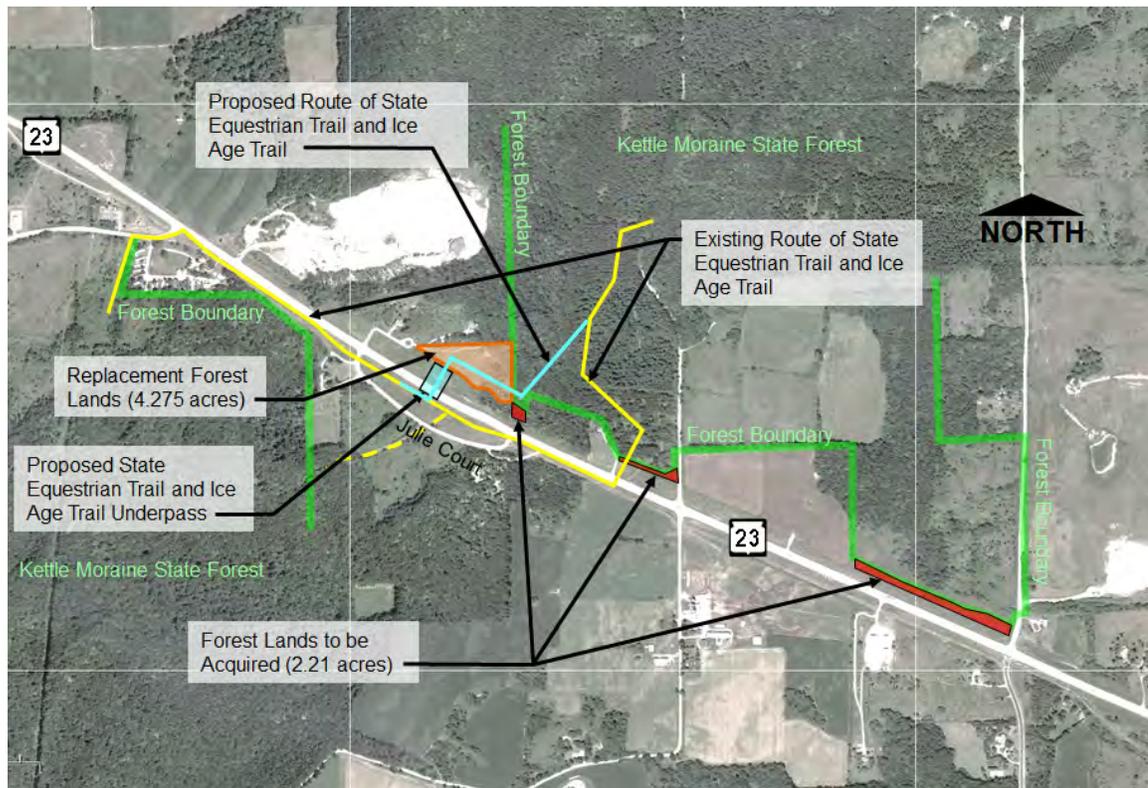


Figure 5.3-1 Kettle Moraine State Forest, Ice Age Trail, and State Equestrian Trail Section 4(f) Impacts

5.0 Section 4(f)

C. Activities, features, and attributes that qualify the Kettle Moraine State Forest and Ice Age Trail/State Equestrian Trail for protection under Section 4(f)

Section 4(f) requires consideration of the following types of properties in the development of transportation facilities:

- Parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public.
- Publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public to the extent that public access does not interfere with the primary purpose of the refuge.
- Historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public.

The following paragraphs describe how Section 4(f) applies to the Northern Unit of the Kettle Moraine State Forest, the Ice Age Trail, and the State Equestrian Trail.

1. Northern Unit of Kettle Moraine State Forest

The Northern Unit of the Kettle Moraine State Forest is a Section 4(f) property under the first two bullets. It covers almost 30,000 acres of forested and glacial landscapes. There are geologic landmarks throughout the forest including Dundee Mountain (a huge, conical hill called a kame) and Greenbush Kettle (a hole formed by the melting of buried ice chunks). The WDNR states the forest is known for its glacial features. The state forest has multiple uses including recreation, hunting, boating, wildlife management, and preservation. Figure 5.3-2 illustrates the extent of the state forest in relation to WIS 23. The figure also illustrates the many recreational activities that take place within the state forest, such as hiking, biking, boating, and horseback riding. In the vicinity of the WIS 23, the state forest is occupied by the Ice Age Trail/State Equestrian Trail. The Ice Age Trail is administered by the NPS with cooperation from the WDNR and the Ice Age Trail Alliance. Within the state forest, both the Ice Age Trail and State Equestrian Trail are maintained by the WDNR.

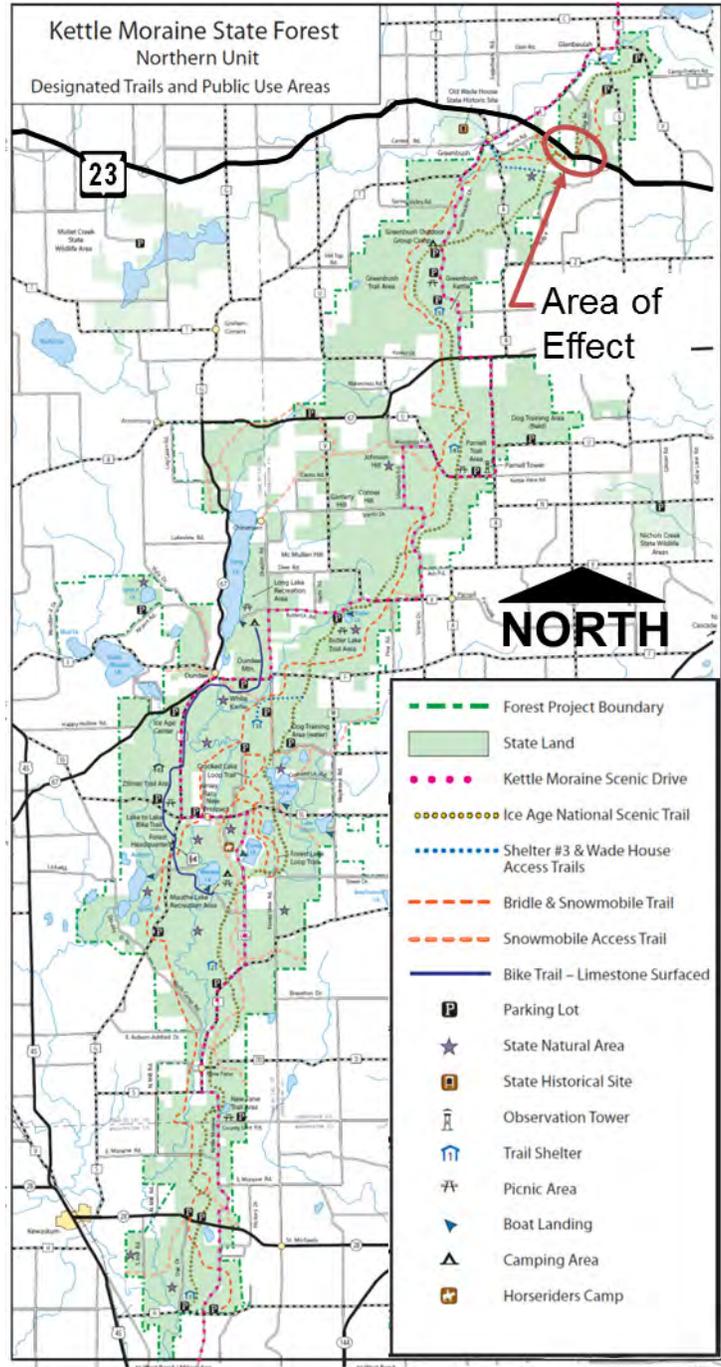


Figure 5.3-2 Northern Unit of the Kettle Moraine State Forest

5.0 Section 4(f)

The master plan for the Northern Unit of the Kettle Moraine State Forest was prepared in 1991. In its land use classifications, the area affected by the WIS 23 project is classified for extensive recreation. The classifications from the master plan are shown in Figure 5.3-3. Discussions with the Park Superintendent indicate the area needed for the WIS 23 project primarily serves as roadside buffer as well as a WIS 23 crossing location for the Ice Age Trail/State Equestrian Trail.

All the land needed for the WIS 23 project is located on the north side of WIS 23.

Figure 5.3-4 shows photographs of the areas of the Kettle Moraine State Forest impacted by the WIS 23 project.

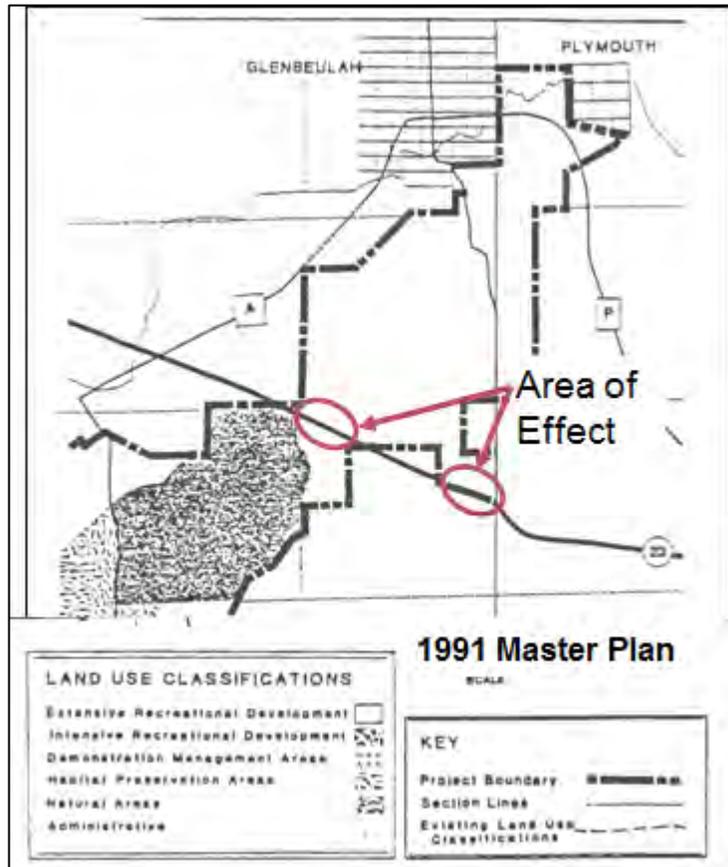


Figure 5.3-3 Northern Unit of Kettle Moraine State Forest Master Plan Land Use



Figure 5.3-4 Areas of Kettle Moraine State Forest Affected by WIS 23 Project

5.0 Section 4(f)

2. Ice Age Trail/State Equestrian Trail

The Ice Age Trail and State Equestrian Trail are Section 4(f) resources under the criteria of the first bullet, recreational areas of national, state, or local significance. The Ice Age Trail and the State Equestrian Trail in the WIS 23 corridor are located inside the Northern Unit of the Kettle Moraine State Forest. The Ice Age Trail is one of only eleven National Scenic Trails in the United States. The trail is used for walking, hiking, backpacking, snowshoeing, and cross-country skiing. Horseback riding is also permitted in the section directly adjacent to WIS 23. The State Equestrian Trail is located in the Kettle Moraine State Forest and provides the opportunity to camp. It includes 41 miles of trails open in late April through mid-November. The main trail winds the length of the forest for 33 miles. Figure 5.3-5 shows the portion of the Ice Age Trail/State Equestrian Trail that crosses WIS 23.



Figure 5.3-5 Ice Age Trail and State Equestrian Trail Photos

D. Transportation Use of Section 4(f) Resources

The WIS 23 project will expand the existing 2-lane roadway to a divided 4-lane expressway. In the vicinity of the Northern Unit of the Kettle Moraine State Forest, the existing 2-lane roadbed will carry the eastbound lanes. The westbound lanes will be constructed north of the existing roadbed. The land needed from the Kettle Moraine State Forest will be used to construct the two westbound lanes and the slopes and ditches associated with the westbound lanes. There are 2.21 acres of forest land needed for the WIS 23 project. The existing Ice Age Trail/State Equestrian Trail crossing is an at-grade crossing. The WIS 23 project will shift the trail west and provide a grade-separated (underpass) crossing of the WIS 23 roadway.

5.0 Section 4(f)

E. No Adverse Affect on Activities, Features, and Attributed of Section 4(f) Properties

The areas adjacent to WIS 23 are primarily used as roadside border as well as a crossing for the Ice Age Trail/State Equestrian Trail. Currently trail users must travel along the south side of WIS 23 until they reach an at-grade crossing of WIS 23 about 400 feet west of Ridge Road.

Three Section 4(f) resources (Northern Unit of Kettle Moraine State Forest, Ice Age Trail, State Equestrian Trail) and one Section 6(f) resource (Northern Unit of Kettle Moraine State Forest) are located together. The proposed mitigation measures support all three designations/properties. To mitigate the effects of the WIS 23 project, WisDOT has purchased a 4.275-acre triangle of land and will install a grade-separated trail crossing under WIS 23 near this triangle. The land ownership of the 4.275-acre triangle will be transferred to the WDNR/Kettle Moraine State Forest. The underpass and added forest land will provide a safer trail crossing of WIS 23 and provide more direct trail routing. Two slab-span bridges will provide the trail underpass and allow natural lighting to facilitate wildlife movements. Figure 5.3-6 illustrates the current and proposed trail rerouting of the Ice Age Trail/State Equestrian Trail. Discussions with the Park Superintendent indicate that these route changes are viewed as a benefit to park and trail users for improved route safety and directness. Figure 5.3-7 shows the location and acreage of the lands needed for the WIS 23 project as well as the replacement lands being proposed.

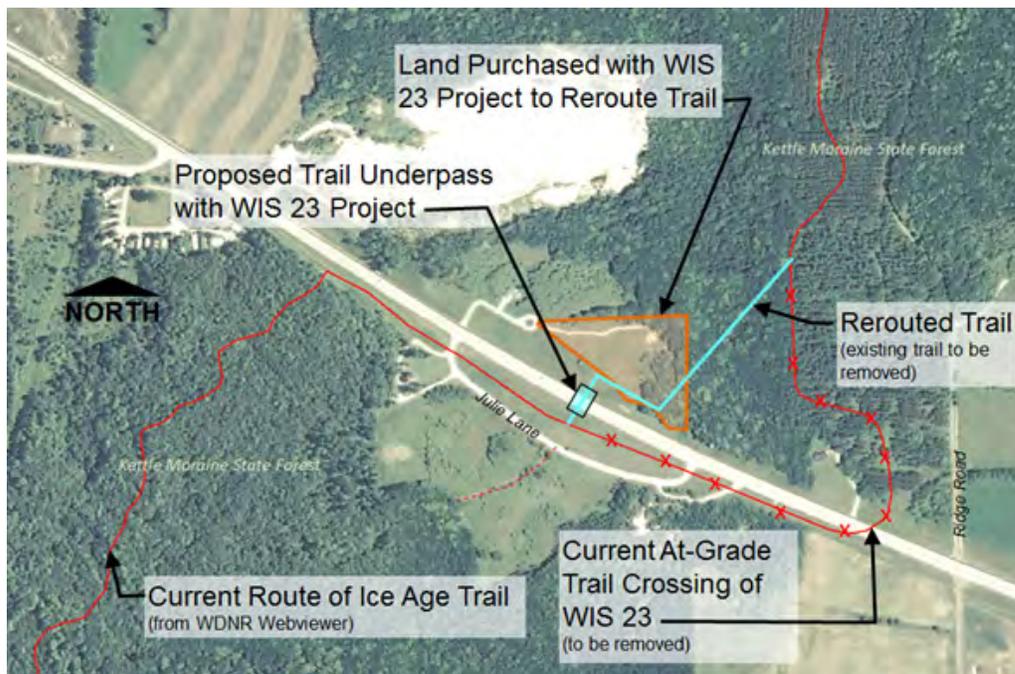


Figure 5.3-6 Ice Age Trail/State Equestrian Trail Enhancements

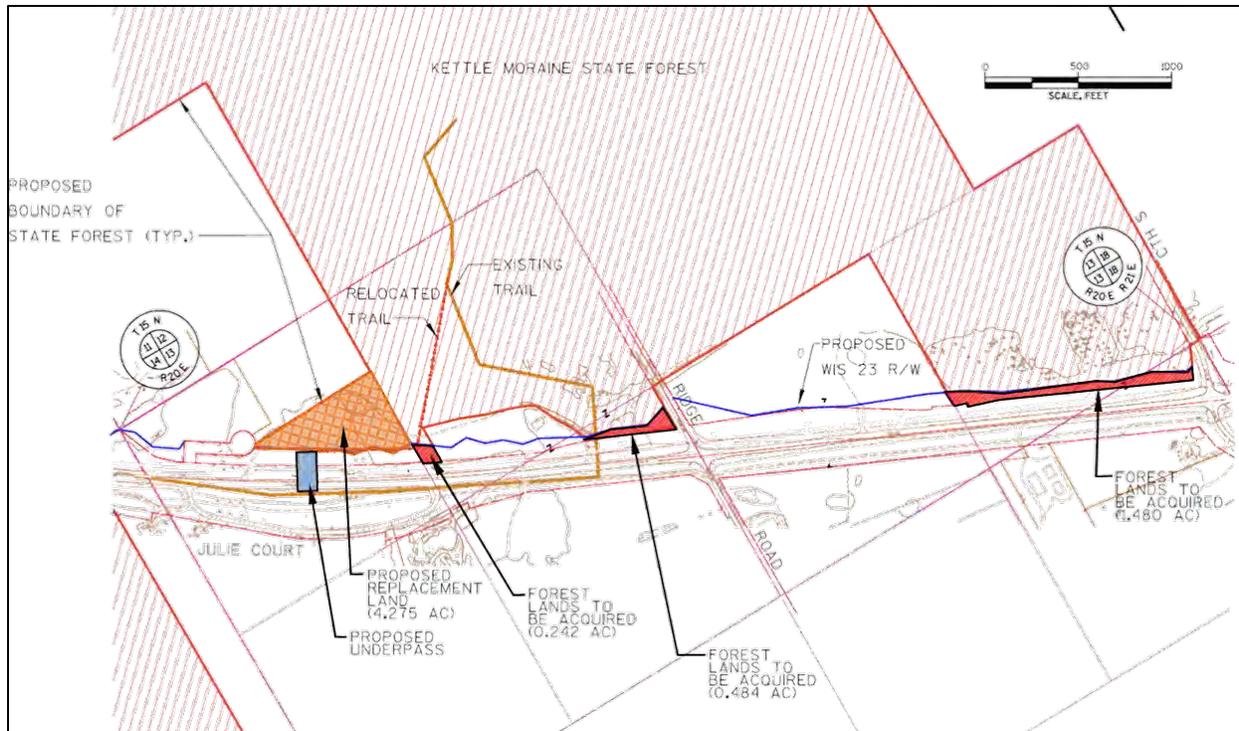
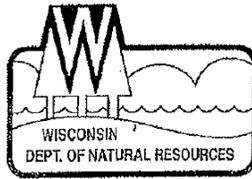


Figure 5.3-7 Right of Way Required and Replacement Land for Kettle Moraine State Forest

F. Managing Authority Agreement with Section 4(f) De Minimis Impact Finding

Mr. Jerry Leiterman, the Superintendent of the State Forest, was informed that FHWA is pursuing a Section 4(f) *de minimis* impact finding for the Ice Age Trail and the State Equestrian Trail. On December 17, 2007, Mr. Leiterman wrote that the project does not adversely affect the activities, features, and attributes of the trails in this area and that he agrees with the Section 4(f) *de minimis* impact finding. Figure 5.3-8 provides a copy of his written concurrence. In spring of 2013, Mr. Leiterman was also informed that FHWA is pursuing a Section 4(f) *de minimis* impact finding for the impacts to the Northern Unit of the Kettle Moraine State Forest. Mr. Leiterman wrote that he agrees that the project will not adversely affect the activities, features, or attributes of the Kettle Moraine State Forest. Figure 5.3-9 provides a copy of that written concurrence.

Mr. Thomas L. Gilbert was the NPS representative managing the Ice Age Trail through 2011. Mr. Gilbert was informed that FHWA is pursuing a Section 4(f) *de minimis* impact finding. On November 21, 2007, Mr. Gilbert wrote that the park service agrees with the Section 4(f) *de minimis* impact finding. Figure 5.3-10 provides a copy of his written concurrence.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
 Matthew J. Frank, Secretary
 Gloria L. McCutcheon, Regional Director

Kettle Moraine State Forest
 N1765 Highway G
 Campbellsport, Wisconsin 53010
 Telephone 262-626-2116
 FAX 262-626-2117

2007 DEC 19 A 9 38

WISCONSIN DOT 3

December 17, 2007

Mr. Robert J. Wagner
 WIS 23 Project Manager
 Department of Transportation
 Northeast Regional Office
 944 Vanderpeiren Way
 PO Box 28080
 Green Bay, WI 54324-00800

Dear Mr. Wagner:

This letter is in reference to the Wisconsin Department of Transportation (WIDOT) Highway 23 Project in Sheboygan County as it relates to the Wisconsin Department of Natural Resources (WDNR), Kettle Moraine State Forest – Northern Unit Equestrian Trail.

In the WIS 23 Project Area, the State Forest Equestrian Trail crosses WIS 23 near Julie Road. Currently, both the Ice Age National Scenic Trail and the State Forest Equestrian Trail cross WIS 23 via an at-grade crossing. The proposed WIS 23 improvements will include modification of the trail alignments and a new slab-span bridge and underpass will be constructed to allow trail users to safely cross below the highway. The grade separation crossing and trail modifications will enhance the constructive use and safety of both trails.

The trails will be located within WIDOT right-of-way along the north and south sides of WIS 23 and through the crossing, for a distance of about 2,000 feet. As agreed to by the cooperating agencies, WIDOT, WDNR and National Park Service, the State Forest Equestrian Trail will cross below WIS 23, with a specifically designed bridge with a minimum width and height of twelve feet with a natural bottom. The underpass will be shared by both hikers and horseback riders.

With the construction of the proposed WIS 23 improvements, avoiding impacts to the State Forest Equestrian Trail is not feasible, but we do not think the proposed WIS 23 expansion will have an adverse effect on the activities, features or attributes of the trail system. Consequently, we concur with your conclusions and the de minimis impact finding.

Thank you for your cooperation in this matter. Do not hesitate to contact me if you have further questions in this matter.

Sincerely,


 Jerry Leitman
 Superintendent

Cc James Morrissey, Lands Services Team Leader, SER, WDNR
 Greg Pilarski, Parks and Forests Manager, SER, WDNR

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 wisconsin.gov



Figure 5.3-8 Letter from WDNR State Forest Superintendent for Ice Age Trail/State Equestrian Trail

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Kettle Moraine State Forest - Northern Unit
N 1765 CTH G
Campbellsport WI 54010

2013 JUN 5 PM 1 44
WISDOT-NE PERMIT

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



May 31, 2013

Robert J. Wagner
WisDOT Northeast Region
944 Vanderperren Way
Green Bay, WI 54304

Re: WIS 23 Project LD. 1440-13/15-00

Dear Mr. Wagner:

This letter is in reference to the Wisconsin Department of Transportation (WisDOT) Highway 23 Project in the Sheboygan County as it relates to the Wisconsin Department of Natural Resources, Kettle Moraine State Forest - Northern Unit.

The WisDOT's proposed WIS 23 Highway Project will require 2.21 acres of state forest land to be acquired for highway use. To mitigate this impact, Wis DOT will transfer 4.275 acres of land to the Kettle Moraine State Forest - Northern Unit. In addition, WisDOT will provide a common, grade-separation trail crossing for the Ice Age National Scenic Trail and the state forest equestrian trail.

With the construction of the proposed WIS 23 improvements, avoiding impacts to the state forest is not feasible. However, we do believe the mitigation plan proposed by WisDOT is acceptable. In addition, we agree on the following:

- (1) Agree with the mitigation measures being proposed, and
- (2) Agree that with these mitigation measures, the WIS 23 project will not adversely affect the activities, features, or attributes of the Kettle Moraine State Forest - Northern Unit qualifying it for protection under Section 4(f).

Thank you for your cooperation in this matter. Do not hesitate to contact me if you have further questions.

Sincerely,


Jerry Leiterman
Superintendent

Cc: Jason Quast, Assistant Forest Superintendent
Paul Sandgren, Acting SER Parks and Forests Manager, WI DNR
James Jackley, SER Land Agent, WIDNR
Jim Morrissey, SD Real Estate Supervisor, WIDNR

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Figure 5.3-9 Letter from WDNR State Forest Superintendent for Northern Unit of Kettle Moraine State Forest

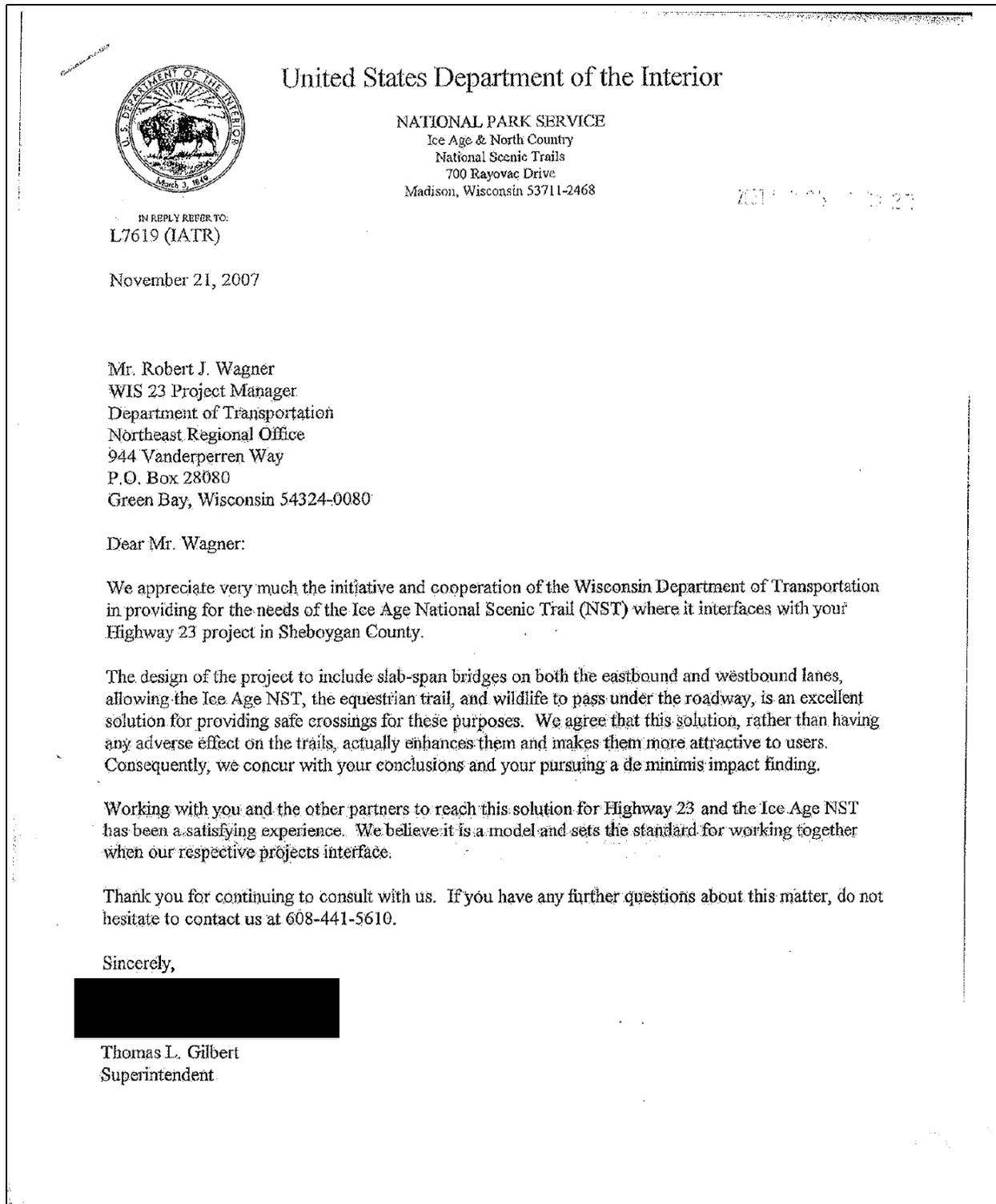


Figure 5.3-10 Letter from NPS Trail Superintendent for Ice Age Trail/State Equestrian Trail

G. Public Opportunity to Review and Comment on Effects

The public was provided the opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource. This opportunity was provided at the public hearing for the Supplemental Draft Environmental Impact Statement held on February 24, 2010, at the UW Fond du Lac campus in Fond du Lac, Wisconsin. Only one public comment was received regarding the trail and forest mitigation and it was in support of the grade-separated crossing of WIS 23. An additional opportunity was provided at a public involvement meeting held on April 29, 2013, at the UW Fond du Lac campus in Fond du Lac, Wisconsin. There were no public comments received regarding impacts to the Ice Age Trail, State Equestrian Trail, and Northern Unit of the Kettle Moraine State Forest. In a letter following the public meeting, the Village of Glenbeulah suggested that the funding used for the IAT grade separation would be better used providing an interchange at County A.

The following are summaries of correspondence and other contacts with interested parties related to the Section 4(f) and 6(f) property. Copies of meeting minutes and correspondence are available from the WisDOT Northeast Region upon request.

1. On March 5 and March 6, 2002, WisDOT held 2 public informational meetings. No comments were received about the Kettle Moraine State Forest.
2. On August 28, 2002, WDNR sent an initial environmental review letter. This letter mentions the Kettle Moraine State Forest, the Ice Age Trail, and the State Equestrian Trail.
3. On February 12 and February 17, 2003, WisDOT held 2 public informational meetings. No comments related to the Kettle Moraine State Forest.
4. On November 6, 2003, the NPS requested consultation on all future documents and environmental review process. The NPS requests that future development provide for safer crossings than currently exist for the Ice Age Trail.
5. On December 19, 2003, WisDOT had a meeting with FHWA, NPS, and USFWS. FHWA will require a grade separation if a 4-lane facility is built. The USFWS would like accommodations for wildlife crossing and FHWA agreed. NPS stated the Kettle Moraine State Forest has dual designations as a forest and a scientific reserve. It was a concern that the entire state forest is designated 6(f) and how this will affect the project.
6. On January 15, 2004, Plymouth Trail Riders sent a letter stating their interest in the Ice Age Trail and the State Equestrian Trail crossing. They recommend a tunnel for the trail crossing.
7. On January 28, 2004, WisDOT met with the WDNR, NPS, USFWS and other groups to discuss the Ice Age Trail. Conclusions from the meeting include the following:
 - There will be a grade separation underneath WIS 23.
 - Both trails will share crossing.
 - Width of the crossing will be a minimum of 12 feet with a natural bottom.
 - Crossing will be within the Julie Road connection.
 - The median for WIS 23 will be 60 feet wide.
 - WisDOT will mitigate land as necessary for the Kettle Moraine State Forest.
8. On February 6, 2004, WisDOT had a meeting to review the Ice Age Trail with agencies and Fond du Lac County. Based on comments, WisDOT determined that a grade separation will occur with the trails underneath WIS 23. The width of the crossing will be a minimum of 12 feet and it will have a natural bottom. The crossing location will be within the Julie Road connections with WIS 23. The median of the 4-lane highway will be 60 feet wide. WisDOT will mitigate land as necessary for State Forest property.

9. In March 2004, WisDOT held a public informational meeting. A few comments related to the trail crossings were received stating concern about the trail crossing WIS 23.
10. On March 11, 2004, WDNR sent a review of the Draft Purpose and Need Statement. Within the letter WDNR discussed the Northern Unit of the Kettle Moraine State Forest. The conceptual plan meets WDNR's objectives for the Ice Age Trail, the State Equestrian Trail, and for wildlife travel.
11. On March 31, 2004, The USFWS sent a letter reviewing the Ice Age Trail, the State Equestrian Trail, and a wildlife crossing. The agency agrees with the grade-separated crossing and requests to be involved in final design.
12. On January 5, 2005, WisDOT held a public hearing for the DEIS. No comments were received about the Kettle Moraine State Forest.
13. On February 7, 2006, WDNR sent a final concurrence letter in accordance with the NEPA/404 process. The WDNR concurs with Alternative 1; however, the concurrence does not indicate that the project must be built or that a permit will be issued.
14. On March 13, 2006, WisDOT held an agency update meeting and an Ice Age Trail crossing discussion. The Ice Age Trail runs through the Northern Kettle Moraine State Forest. The slab span bridge vs. the box culvert options were reviewed.
15. On April 17, 2006, the Plymouth Trail Riders sent a letter to the WisDOT. The letter stated that their preferred alternative for the State Equestrian Trail in the Kettle Moraine State Forest was the slab span construction.
16. On May 17, 2006, WDNR sent a letter to WisDOT reviewing the Ice Age Trail, and State Equestrian Trail in the Kettle Moraine State Forest. Impacts to the State Equestrian Trail in the Kettle Moraine State Forest were reviewed with the Northern Kettle Moraine Chapter and the Northern Kettle Moraine Horse Trail Association. This letter recommended the second alternative, which was the underpass for the concurrent trails. This would remove hikers and horseback riders from the highway's visual and noise impacts.
17. On July 20, 2006, WisDOT held two public informational meetings. No comments were received about the Kettle Moraine State Forest.
18. On September 29, 2006, WisDOT held a status meeting. This meeting reviewed the Kettle Moraine State Forest. It was determined that the property is a Section 6(f) property with WDNR jurisdiction.
19. On September 19, 2007, WisDOT held a meeting with the WDNR for the Kettle Moraine State Forest. The meeting discussed the conversion process and possible mitigation properties.
20. On June 10, 2008, the WDNR and the WisDOT drafted a commitment to replace lands that will be acquired from the Kettle Moraine State Forest. The commitment was signed by the WDNR on June 13, 2008, and signed by WisDOT on June 30, 2008.
21. On February 24, 2010, WisDOT held a public hearing for the SDEIS. Many comments related to keeping the road on existing alignment to minimize impacts to natural resources, farms, homes, and businesses. No specific comments were received on the Kettle Moraine State Forest.
22. On March 2, 2010, WisDOT held an agency meeting. One topic of the meeting was the Northern Unit Kettle Moraine State Forest. The crossing, the replacement land, and what agency coordination has occurred were reviewed.
23. On June 3, 2011, the NPS approved the Northern Unit Kettle Moraine Felling Acquisition. They agreed to converting 2.21 acres of land and adding 4.275 acres of replacement land.

5.0 Section 4(f)

24. On April 29, 2013, a public informational meeting was held and the public was provided an opportunity to comment on the effects to the Ice Age Trail, State Equestrian Trail, and impacts to the Northern Unit of the Kettle Moraine State Forest.

25. On August 28, 2013, a public hearing was held and the public was provided an opportunity to comment on record regarding the effects to the Ice Age Trail, State Equestrian Trail, and impacts to the Northern Unit of the Kettle Moraine State Forest. Some comments were received favoring the proposed grade separation for the Ice Age Trail.

H. Section 4(f) De Minimis Impact Finding

The preceding documentation presented the following:

1. a. A description of the activities, features, and attributes that qualify the Ice Age Trail, the State Equestrian Trail, and the Northern Unit of the Kettle Moraine State Forest for protection under Section 4(f).
- b. The transportation use of the Section 4(f) property.
- c. How the transportation use does not adversely affect the activities, features, and attributes previously described. In making this determination, consideration was given to impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project.
2. Mr. Jerry Leiterman, the Superintendent of the Northern Unit of the Kettle Moraine State Forest and manager of the trails inside the forest, has been informed that FHWA may make a Section 4(f) *de minimis* impact finding under Section 4(f) and may use Mr. Leiterman's written concurrence that the project does not adversely affect the activities, features, and attributes previously described, that qualify the property for protection under Section 4(f) in making that finding.
3. Mr. Thomas L. Gilbert, of the NPS and manager of the Ice Age Trail until 2011, was informed that FHWA may make a Section 4(f) *de minimis* impact finding and may use Mr. Gilbert's written concurrence that the project does not adversely affect the previously described activities, features, and attributes that qualify the property for protection under Section 4(f) in making that finding.
4. The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource.

A signature on **this LS SFEIS/ROD** will indicate that this Section 4(f) *de minimis* impact finding has been approved by FHWA.

Wisconsin
Federal Highway Administration
Finding of *De Minimis* Impact on Parks, Recreation Areas, and Wildlife and Waterfowl Refuges
Finding of *De Minimis* Impact on Historic Property

5.4 OLD WADE HOUSE STATE PARK AND WETLAND MITIGATION SITE

A. Summary of Effect

WIS 23 travels north of the Old Wade House State Park and Wetland Mitigation Site in the town of Greenbush in Sheboygan County. The park includes over 500 acres of land surrounding several historic structures on the NRHP. Three properties within the Old Wade House State Park are on the NRHP. The park highlights a historic stage coach stop surrounded by period attractions. While a state park, it is managed by the State Historical Society as a living museum. WIS 23 impacts are distant from the historic boundary associated with the three properties on the NRHP (1/4 mile from the nearest building). The area affected by WIS 23 is screened from the property and primarily serves as open space and wetland restoration area. For this project, a Parks, Recreation Areas, Wildlife, and Waterfowl Refuges Section 4(f) *de minimis* impact finding with components from the Historic Property Section 4(f) *de minimis* impact finding is used. A Section 4(f) *de minimis* impact finding was incorporated in the 2010 FEIS for the WIS 23 corridor. Since the publication of the 2010 FEIS, FHWA has maintained its determination that the Old Wade House State Park and Wetland Mitigation Site is still a Section 4(f) resource with a Section 4(f) *de minimis* impact finding. The information provided below is consistent with what was presented in the 2010 FEIS but put in an updated format.

B. Project Description and Effects

The WIS 23 project will construct a 4-lane divided highway along the existing alignment from US 151 in Fond du Lac to County P in Plymouth. Generally, the existing roadbed will carry the eastbound lanes, and the westbound lanes will be constructed north of the existing roadway. The project will include an extension of the Old Plank Road Trail, a paved multipurpose trail that will extend from Sheboygan to Fond du Lac. The full WIS 23 project spans 19.1 miles and is estimated to cost **about** \$130 million.

The footprint of the Preferred Build Alternative at the Old Wade House can be seen in Figure 5.4-1. In this location, the additional lanes are placed north of the existing WIS 23 roadbed and will not affect the park. The Old Plank Road Trail extension is being placed south of the existing WIS 23 lanes and will require the purchase of new right of way from the park. About 6 acres of land will be required from the Park.

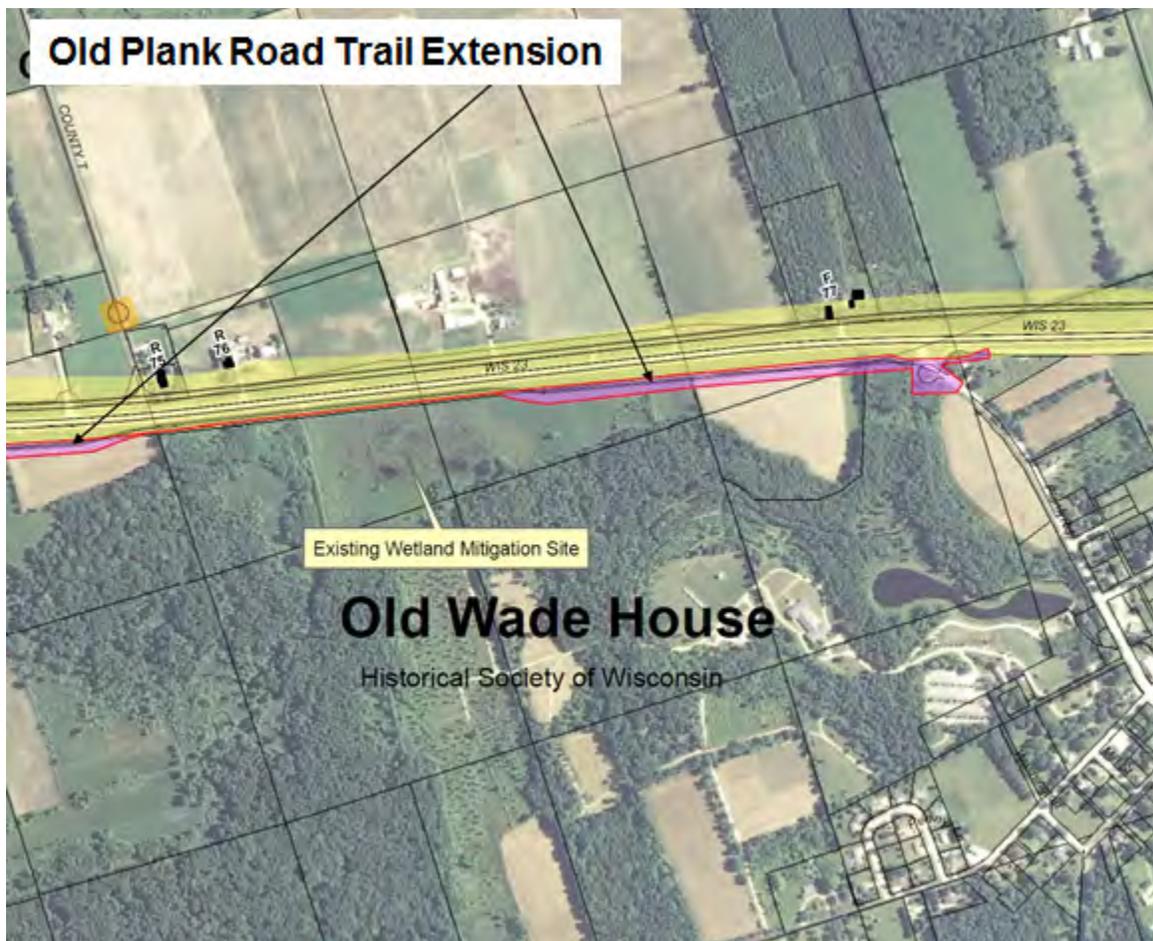


Figure 5.4-1 Old Wade House

C. Activities, features, and Attributes that Qualify the Old Wade House State Park for Protection Under Section 4(f)

Section 4(f) requires consideration of the following types of resources in the development of transportation facilities:

- Parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public.
- Publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public to the extent that public access does not interfere with the primary purpose of the refuge.
- Historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public.

The Old Wade House is a park that includes three properties that are on the NRHP. It operates as a historical museum managed by the Wisconsin Historical Society. It qualifies as a Section 4(f) resource under the first bullet and has resources within the park that apply to the third bullet. Under the first bullet, the whole property is a park that is open to the public and used for historical interpretation. Under the third bullet, there are three properties on the NRHP on the south side of the park, opposite WIS 23. These resources include the following:

- The Sylvanus Wade House was listed on the National Register of Historic Places in 1971 and on the State Register of Historic Places in 1989.
- The Robinson-Herrling Sawmill was listed on the National Register of Historic Places in 1984 and on the State Register of Historic Places in 1989.
- The Charles Robinson House was listed on the National Register of Historic Places in 1984 and on the State Register of Historic Places in 1989.

Carriage Museum is also located in the park and has a large collection of carriages and wagons. The museum focuses on the history of horse-drawn transportation in the state. As previously mentioned, the park also has the reconstructed Herrling sawmill, which is a working water-powered mill listed on the NRHP.

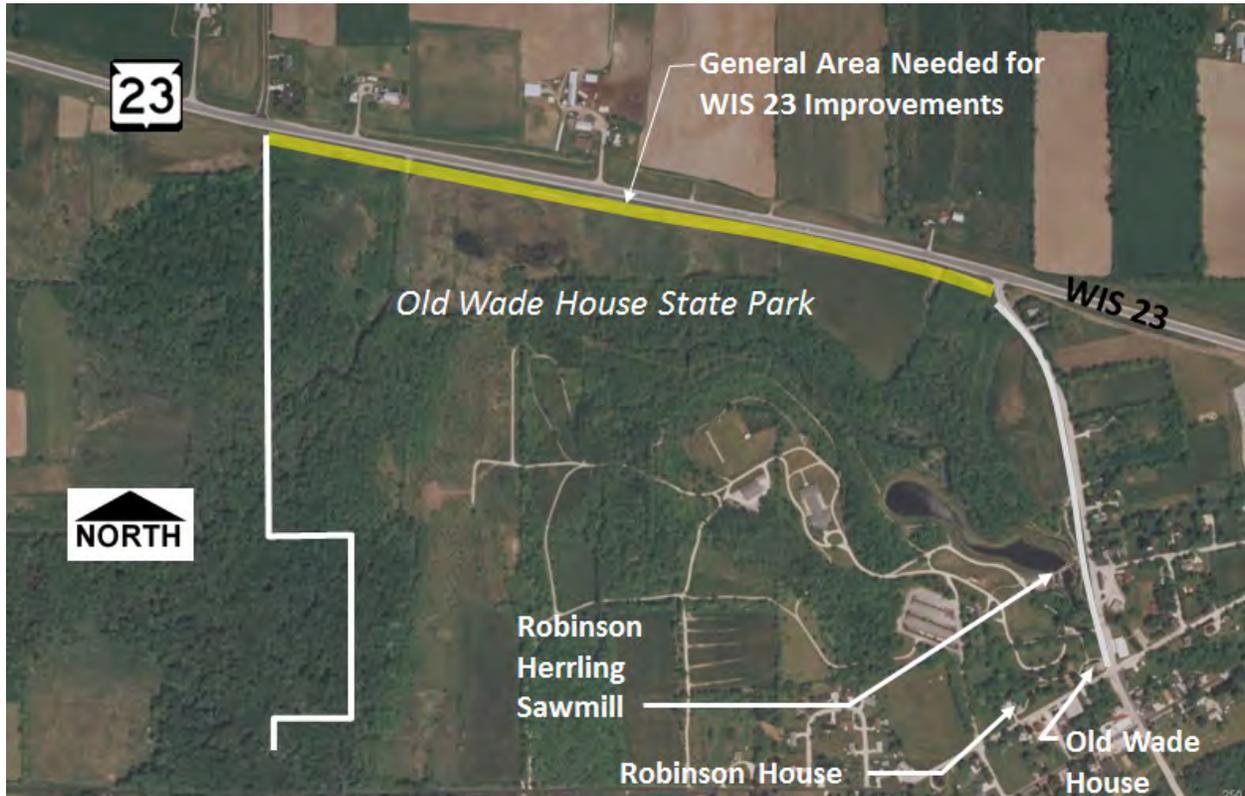


Figure 5.4-3 Old Wade House State Park

The Old Wade House Wetland Enhancement and Mitigation Site (Figure 5.4-4) was created during the Herrling Sawmill and Dam restoration project in the late 1990s. The USACE issued a permit, 1996-04005, allowing for wetland mitigation and enhancement south of WIS 23. As part of the WIS 23 Preferred Build Alternative, the Old Plank Road Trail extension will be placed south of WIS 23 near wetlands adjacent to the Old Wade House Wetland Mitigation site. The Old Wade House managers are aware of this impact. In 2012 the Old Wade House constructed a Visitors Center north of the main building area near the future Old Plank Road Trail. No impacts are anticipated for to the Old Wade House Visitor Center and park managers view the trail as a benefit. Coordination with the State Historical Society, WDNR, and USACE has not identified covenants or permit conditions placed on existing wetland mitigation lands. WisDOT will continue to coordinate with WDNR and USACE.

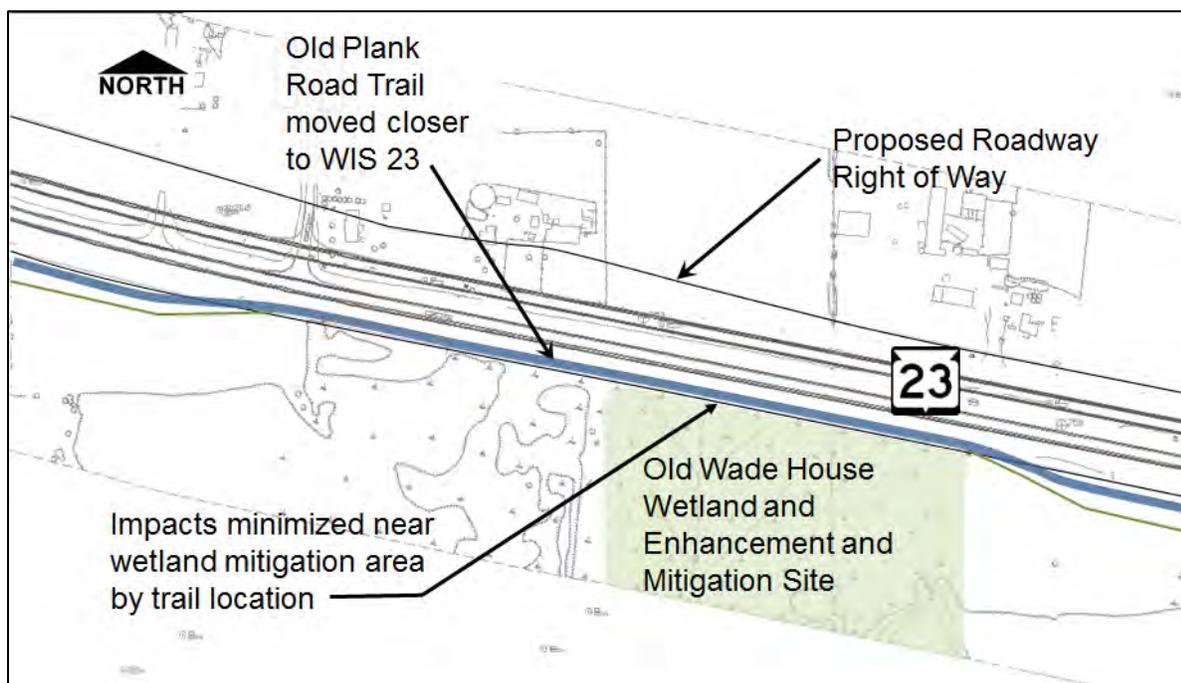


Figure 5.4-4 Old Wade House Wetland Enhancement and Mitigation Site

D. Transportation Use of the Section 4(f) Property

The WIS 23 project will expand the existing 2-lane roadway to a divided 4-lane expressway. In the vicinity of the Old Wade House, the existing 2-lane roadbed will carry the eastbound lanes, and the westbound lanes will be constructed north of the existing roadbed. From the Old Wade House State Park, approximately 6 acres will be acquired for the proposed extension of the Old Plank Road Trail. The trail improvements will be constructed with WIS 23 improvements. WisDOT plans to handle impacts similar to other wetlands within the corridor including avoidance, minimization, and mitigation. The trail improvements will enhance the use of both the trail and the State Park. The trail will be distant from the historic resources on the property.

E. No Adverse Affect on Activities, Features, and Attributed of Section 4(f) Properties

The Old Plank Road Trail extension provides another access mode to the state park. Representatives of the Wisconsin Historical Society as managers of the park view the trail as an enhancement and support its construction. The historic boundaries for the three properties on the NRHP are distant from the proposed WIS 23 improvement. Because of this, there is no adverse effect to properties on the NRHP. Measures to minimize or mitigate harm to the Old Wade House State Park and Wetland Enhancement and Mitigation site will include the following:

- WisDOT will provide restoration and landscaping of disturbed areas.
- WisDOT will provide access to the Old Plank Road Trail through the park.
- WisDOT will decrease the distance from WIS 23 to the trail to minimize impacts to the Old Wade House Wetland Enhancement and Mitigation site.
- WisDOT will provide improvements to the remaining Section 4(f) site equal to the fair market value of the lands acquired.

F. Managing Authority Agreement with Section 4(f) *De Minimis* Impact Finding

The Wisconsin Historical Society as managers of the park was notified of FHWA's intent to use its written concurrence of the appropriate determination for possible use in making a *de minimis* impact finding. Concurrence with a Section 4(f) *de minimis* impact finding was obtained from the Wisconsin Historical Society in a letter stating that the project does not adversely affect the activities, features, and attributes of the Old Wade State Park or Wetland Enhancement and Mitigation Site. Figure 5.3-5 provides a copy of this written concurrence.

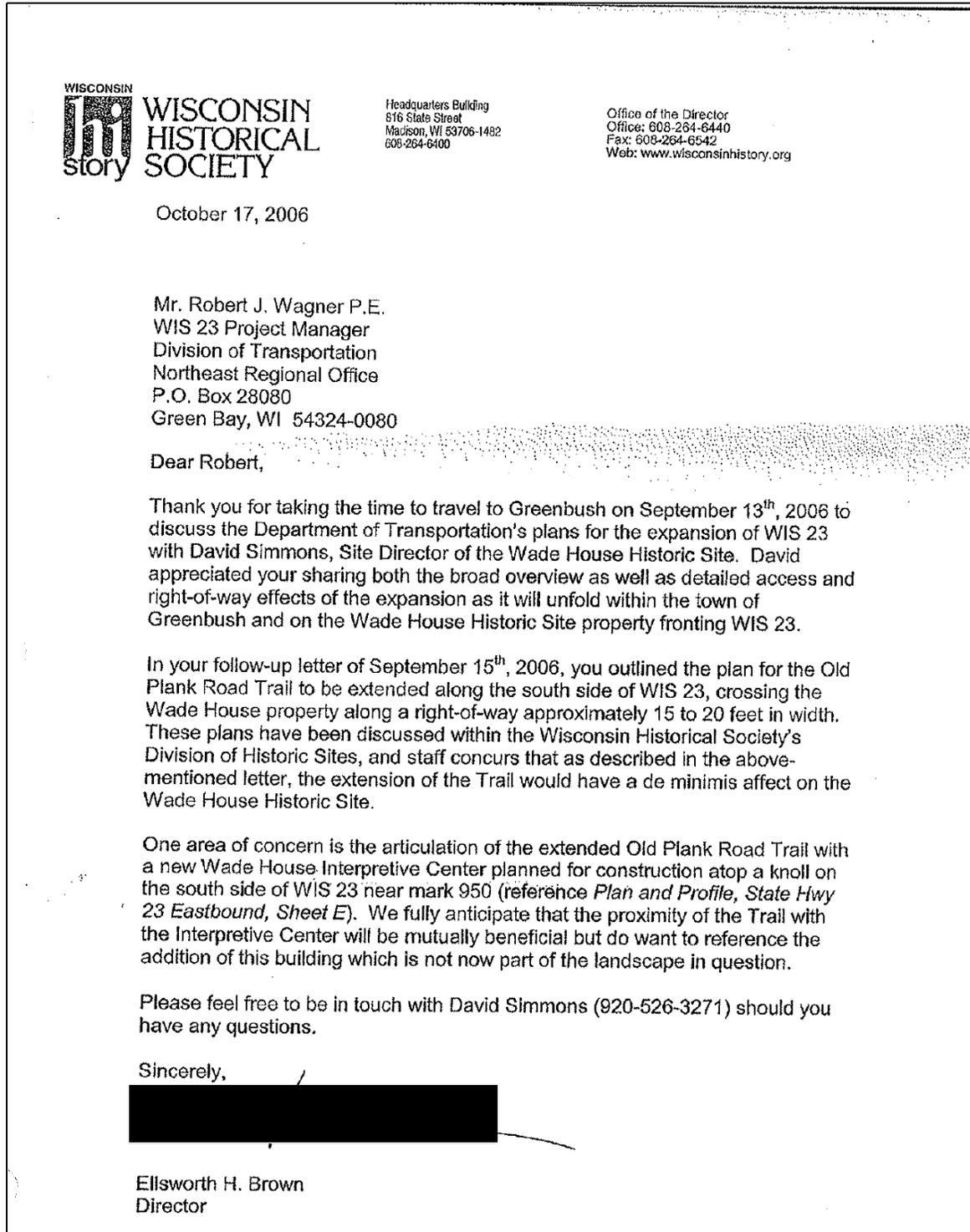


Figure 5.4-5 Letter from State Historical Society

Subsequent follow-up correspondence with the Wisconsin Historical Society provides information regarding covenants associated with the wetland mitigation site on the property. This correspondence is shown in Figure 5.4-6. As a result of these comments, the Old Plank Road Trail was aligned closer to WIS 23 to avoid and minimize impacts to the wetland mitigation area to the extent possible.

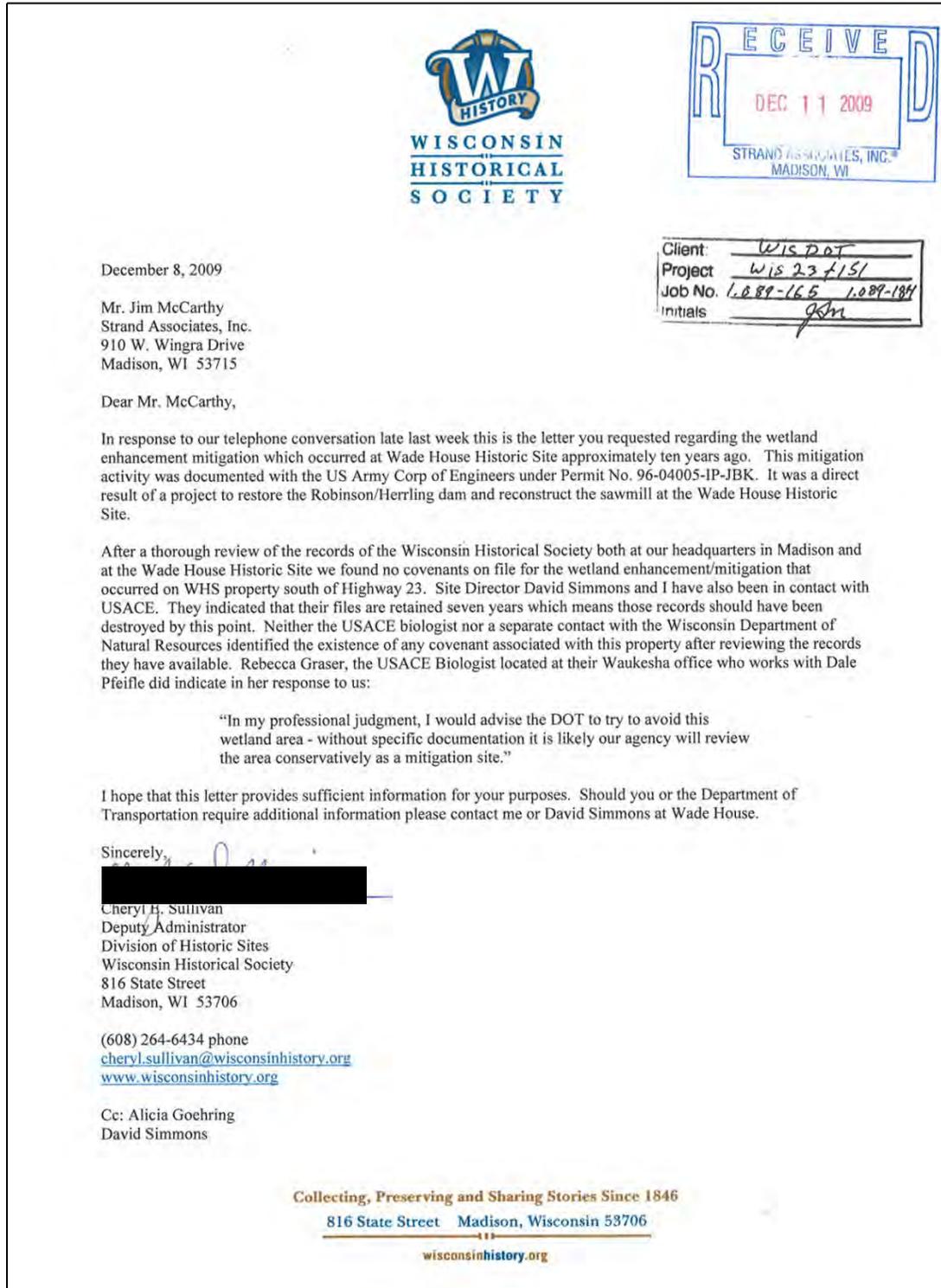


Figure 5.4-6 Letter from State Historical Society

The SHPO has signed a Memorandum of Agreement (MOA) for the project and the associated Area of Potential Effect. Since WIS 23 improvements are distant from the historic boundaries of three properties listed on the NRHP, there are no properties affected from WIS 23 improvements.

G. Public Opportunity to Review and Comment on Effects

The public was provided the opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) property. This opportunity was provided at the public hearing for the SDEIS held on February 24, 2010, at the UW Fond du Lac campus in Fond du Lac, Wisconsin. Provided below are summaries of correspondence and other contacts with interested parties related to the Section 4(f) property. Copies of meeting minutes and correspondence are available from WisDOT Northeast Region.

1. On March 5 and March 6, 2002, WisDOT held 2 public informational meetings. No comments were received about the Old Wade House State Park.
2. On August 28, 2002, WDNR sent a initial environmental review letter. This letter mentions the Old Wade mitigation site.
3. On February 12 and February 17, 2003, WisDOT held 2 public informational meetings. No comments were received about the Old Wade House State Park .
4. In March 2004, WisDOT held a public informational meeting. No comments were received about the Old Wade House State Park .
5. On January 5, 2005, WisDOT held a public hearing for the DEIS. No comments were received about the Old Wade House State Park .
6. On February 7, 2006, WDNR sent a final concurrence letter in accordance with the NEPA/404 process. The WDNR concurred with Alternative 1; however, the concurrence did not indicate that the project must be built or that a permit will be issued.
7. On July 20, 2006, WisDOT held 2 public informational meetings. No comments were received about the Old Wade House State Park .
8. On September 15, 2006, WisDOT sent a letter to the Wade House Site Director. The letter asks for concurrence that the trail will have a Section 4(f) *de minimis* impact.
9. On October 17, 2006, the Wisconsin Historical Society sent a letter to WisDOT agreeing with the Section 4(f) *de minimis* impact on the Wade House Historic Site.
10. On December 8, 2009, the Wisconsin Historical Society sent a letter to the WisDOT with information on the wetland mitigation site. There were no covenants associated with the property; however, the site would most likely be reviewed conservatively as a mitigation site.
11. On February 24, 2010, WisDOT held a public hearing for the SDEIS. Many comments were related to keeping the road on existing alignment to minimize impacts to natural resources, farms, homes, and businesses. No specific comments were received on the Old Wade House State Park .
24. On April 29, 2013, a public informational meeting was held and the public was provided an opportunity to comment on the effects to the Old Wade House State Park.
25. On August 28, 2013, a public hearing was held and the public was provided an opportunity to comment on record regarding the effects to the Old Wade House State Park. Some comments were received regarding entering the park with the proposed J-turns.

H. Section 4(f) *De Minimis* Impact Finding

The preceding documentation presented the following:

1. a. A description of the activities, features, and attributes that qualify the Old Wade House State Park State Park for protection under Section 4(f).

- b. The transportation use of the Section 4(f) property.
 - c. How the transportation use does not adversely affect the previously described activities, features, above. In making this determination, consideration was given to impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project.
2. The Wisconsin Historical Society, as manager of the property, has been informed that FHWA may make a Section 4(f) *de minimis* impact finding and may use its written concurrence that the project does not adversely affect the previously described activities, features, and attributes that qualify the property for protection under Section 4(f) in making that finding. The Wisconsin Historical Society has provided that concurrence in a letter dated October 17, 2006.
 3. The Wisconsin Historical Society, acting as the SHPO, was consulted in establishing the Area of Potential Effect for the project.
 4. The Wisconsin Historical Society, acting as the SHPO, has signed a MOA for the project, which does not indicate any adverse effect to properties on the NRHP that are within the boundaries of the Old Wade House State Park.
 5. The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource.

A signature on **this LS SFEIS/ROD** will indicate that this Section 4(f) *de minimis* impact finding has been approved by FHWA.

5.5 ST. MARY'S SPRINGS ACADEMY

The St. Mary's Springs Academy is located in the northeast quadrant of the County K/WIS 23 intersection in Fond du Lac County. The 2010 FEIS for the project included a Section 4(f) *de minimis* impact finding for the historic site. Changes to the property's historic resources have led to a revision of the historic boundary, leading to a no adverse effect finding for the WIS 23 project. There is no longer a Section 4(f) use of the St. Mary's Springs Academy and a Section 4(f) *de minimis* impact finding is no longer necessary.

A. Background

Based on a 2002 survey, the St. Mary's site was determined to be eligible for the NRHP under Criterion A (religious property with architectural importance) and Criterion C (a birthplace or grave of a historical figure is eligible if the person is of outstanding importance). The 2010 FEIS identified an adverse effect on the St. Mary's Springs Academy and a Determination Of Eligibility, Section 106 Finding of Effect, and a Memorandum of Agreement (MOA) were prepared. The MOA was signed by St. Mary's Springs Academy, SHPO, FHWA, and WisDOT and was provided in the 2010 FEIS.

Changes in contributing resources have since resulted in a revision of the historic site boundary. In 2005, St. Mary's Springs removed two of the contributing resources to the site. Upon reexamination of the surviving resources in 2012, the project historian concluded that the demolition of Boyle Hall removed the historic resource that gave other lesser resources their historic significance. Thus these other lands (the designed landscape) that were once associated with the Academy complex are now considered to be extraneous to the potentially eligible resources which are extant. A new Determination of Eligibility was submitted to SHPO and approved on December 6, 2012. The revised St. Mary's Springs Academy historic boundary encloses just that portion of land belonging to the high school that has historically been associated with the Academy's Main Building and two associated objects and one associated structure. These objects (statues) and structure (balustrade bridge) are located immediately adjacent to the Main Building. Table 5.5-1 summarizes the changes in the St. Mary's Springs Academy from 2002 to 2012.

Table 5.5-1 Changes in Contributing Factors to St. Mary's Springs Academy.

Resource Type	Contributing Resources 2002	Resources Extant in 2005	Contributing Resources 2012
Buildings	Boyle Hall Main Building First Powerhouse Building Second Powerhouse Building	Main Building First Powerhouse Building	Main Building
Site	Designed Landscape		
Structure	Bridge	Bridge	Bridge
Objects	Lourdes Grotto Guardian Angle and Child Statue Our Lady of Lourdes Statue Our Lady of Fatima Statue	Lourdes Grotto Guardian Angle and Child Statue Our Lady of Lourdes Statue Our Lady of Fatima Statue	Our Lady of Lourdes Statue Our Lady of Fatima Statue
Non-contributing Resources	Garage Building (modern) Building with Water Pumping Equipment Circular Plan Reservoir St Mary's Springs Academy Sign St Mary's Springs High School Sign	Building with Water Pumping Equipment Circular Plan Reservoir St Mary's Springs Academy Sign St Mary's Springs High School Sign	Not applicable

In 2011 St. Mary's Springs Academy requested modifications to the County K roadway alignment that moved the roadway farther from the school site and the alignment was revised as requested. The revision in the location of the historic boundary resulted in the WIS 23 project not adversely impacting the new historic boundary. On December 6, 2012, SHPO concurred with the revised Determination of Eligibility form with the revised historic boundary. Figure 5.5-1 illustrates the revised County K alignment, the revised historic boundary for St. Mary's Springs Academy, and the area of right of way that needs to be purchased from St. Mary's Springs Academy. Figure 5.5-2 provides recent correspondence from WisDOT to SHPO revising the project's MOA and removing the provisions for St. Mary's Springs Academy from it. SHPO signed the revised MOA on March 19, 2013. The revised MOA is in Appendix D of this **LS SFEIS/ROD**.

WisDOT further committed to relocating the Guardian Angel with Child Statue for the academy in a letter dated May 31, 2013.

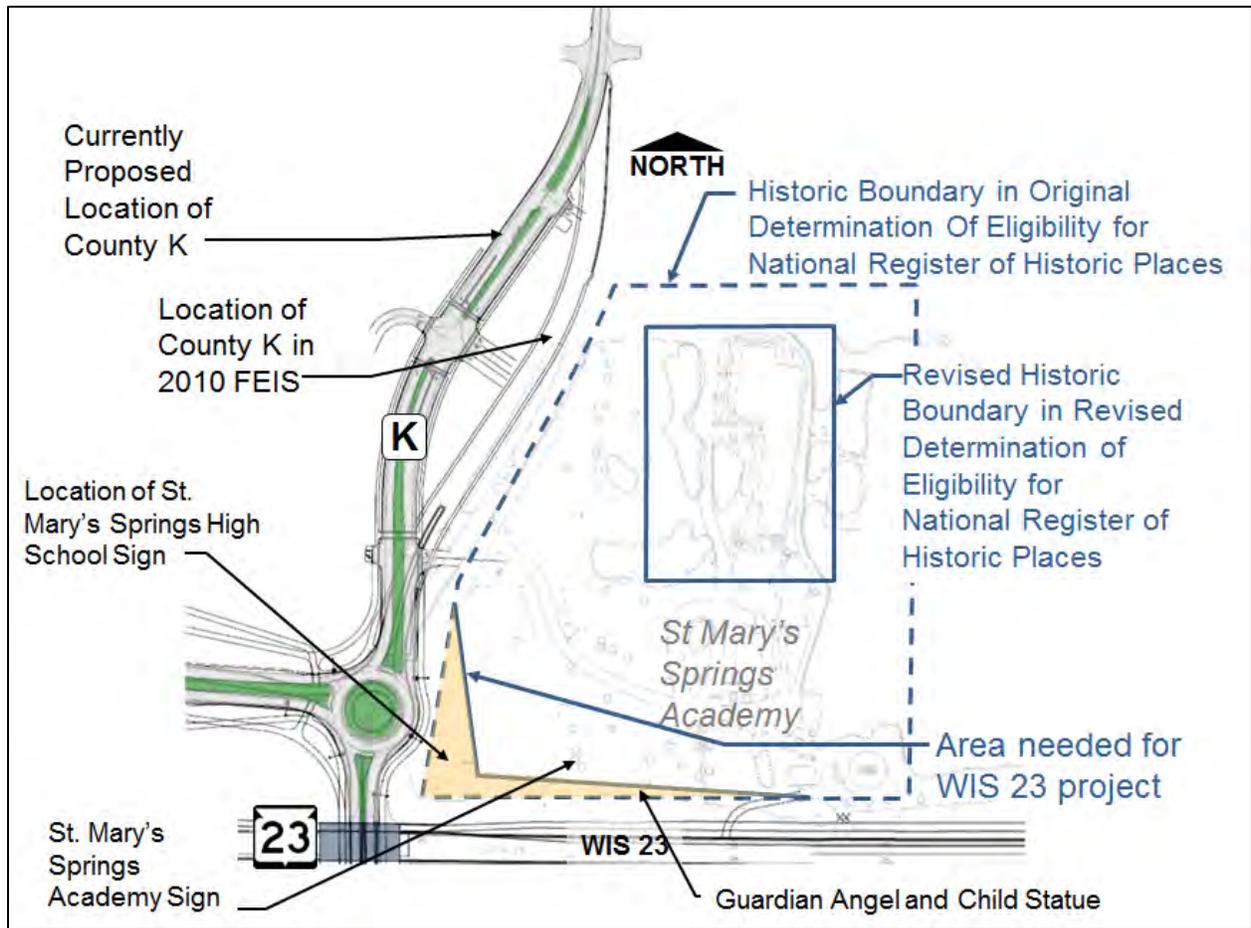


Figure 5.5-1 St. Mary's Springs Academy Historic Boundary



Wisconsin Department of Transportation

www.dot.wisconsin.gov

Scott Walker
Governor

Mark Gottlieb, P.E.
Secretary

Division of Transportation
System Development
4802 Sheboygan Ave, Rm 451
P O Box 7965
Madison, WI 53707-7965
Phone: 608-266-0099
Fax: 608-264-6667
E-Mail: bees.cr@dot.wi.gov

January 7, 2013

Ms. Kimberly Cook
State Historic Preservation Office
Wisconsin Historical Society
816 State Street
Madison, WI 53706-1488

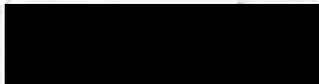
RE: WisDOT ID#: 1440-13/15-00 WHS #06-0864
STH 23
Fond du Lac and Sheboygan Counties
Memorandum of Agreement Amendment #1

On December 6, 2012, your office concurred with the revised Determination of Eligibility (DOE) for the St. Mary's Springs Academy. The revised DOE took into account ongoing building demolition (razing) actions by the property owner, thus resulting in a change to the St. Mary's Springs Academy boundary.

Due to the revised historic boundaries defined in the DOE, project actions will no longer have an adverse effect to the St. Mary's Springs Academy historic property. As a result, the original Section 106 Memorandum of Agreement (MOA) has been amended to remove stipulation language related to the St. Mary's Springs Academy.

WisDOT asks that your office sign MOA Amendment #1 and return your signature to my attention. Please feel free to contact me if you have any questions regarding this amendment.

Sincerely,



Jim Becker
Archaeology Program Manager

Enclosures

cc: Ian Chidister, FHWA
Brian Revello – Northeast Region CO Files

Figure 5.5-2 WisDOT Correspondence to SHPO

5.6 SIPPEL ARCHAEOLOGICAL SITE

The 2010 FEIS incorrectly included a programmatic Section 4(f) evaluation for the Sippel Archaeological site that is eligible for inclusion in the NRHP.² FHWA has since determined the Sippel site qualifies for an exception for Section 4(f) approval, based on 23 CFR 774.13(b) which states that an archaeological site qualifies for an exception to Section 4(f) approval when the resource has minimal value for preservation in place and the SHPO does not object to this finding.

A. Background

The Sippel Archaeological Site is a homestead of approximately 0.3 acres that will be impacted by the Preferred Build Alternative (4-lane expansion) construction. Initial archaeological investigations have been completed, a Data Recovery Plan was prepared (April 2007), and WisDOT has completed consultation with interested parties. The Sippel site is located on a rolling ground moraine landscape midway between Lake Michigan and the southern end of Lake Winnebago. The Sippel site is a nineteenth century homestead that extends 185 feet by 70 feet. The artifact assemblage contains a large quantity of construction hardware, domestic, personal, and food-related debris. Approximately 1,000 items were collected. The Sippel site represents a mid-nineteenth century Yankee homestead/farm occupied between 1848 and 1875 by one or two Yankee immigrant families from New England.

Impact to the site is unavoidable. The construction of the additional set of lanes will require full use of the site. At this location it is not possible to alter the alignment to avoid impacts without creating additional relocations on the south side of WIS 23. Figure 5.6-1 illustrates the location of the site with respect to the proposed WIS 23 improvement.

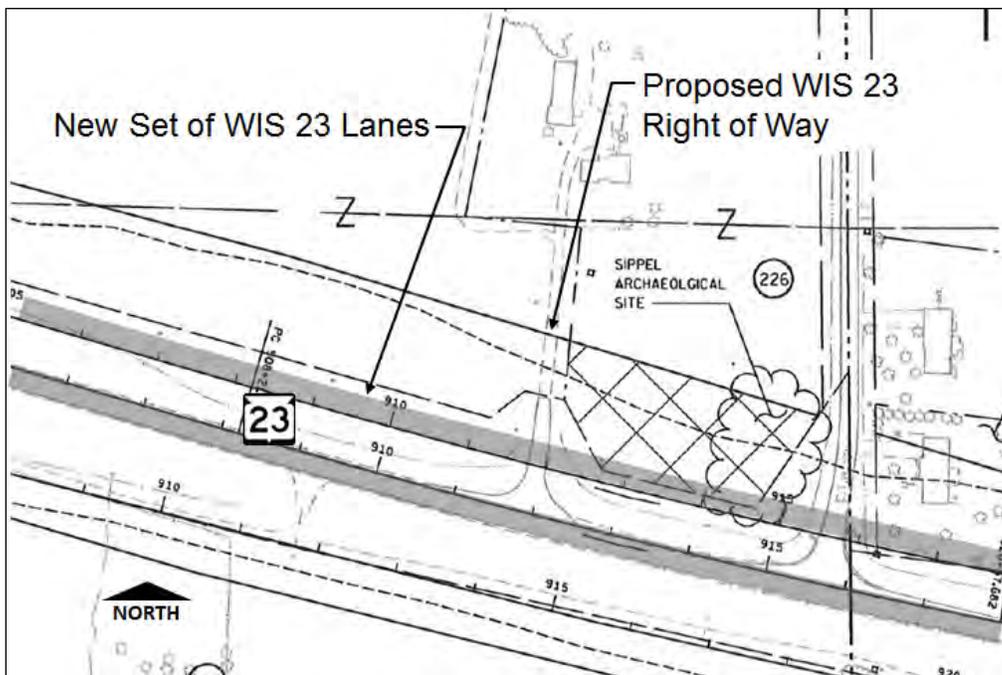


Figure 5.6-1 Sippel Archaeological Site Impact

B. Measures to Minimize Harm

A Data Recovery Plan (April 2007) was prepared and a commitment to Phase III data recovery has been made. The MOA that included provisions for the Sippel Site was included in the 2010 FEIS. A revised MOA has been prepared and is included in Appendix D of this **LS SFEIS/ROD**.

The following bullets list the provisions and commitments in the revised MOA that pertain to known archaeological sites.

² The Programmatic evaluation for Federally Aided highway projects with minor involvements with historic sites can not be used in Environmental Impact Statements. <http://www.environment.fhwa.dot.gov/4f/4fmhist.asp> accessed on January 2013

- The WisDOT will implement the project data recovery plan titled: The Sippel (47SB394) site: A Mid-Nineteenth Century Yankee Homestead in the Town of Greenbush, Sheboygan County.
- The WisDOT Project Engineer (PE) or Project Manager (PM) shall notify all parties of this MOA in writing ten working days prior to the start of construction and monitoring.
- At preconstruction meetings, the WisDOT PE/PM shall ensure the stipulations contained in the MOA are reviewed with and understood by the responsible party(ies). Responsible parties also include subcontractors.
- WisDOT will ensure that all construction contracts contain provisions describing potential delays to the contractor, in the event of a discovery of archaeological materials or human remains during construction. This will include language to stop construction in the area of the discovery to permit implementation of mitigation measures. These provisions shall include the opportunity for consulting tribes to perform tribal ceremonial activities.
- The WisDOT on-site PE/PM will immediately notify WisDOT Bureau of Technical Services, who will notify all signatories of the MOA of any discoveries encountered during construction.
- All archaeological research undertaken for this project will meet the Wisconsin Archaeological Survey Guide for Public Archaeology in Wisconsin, as revised (dated 2012).
- WisDOT shall ensure a qualified archaeologist conducts archaeological surveys for all proposed borrow sites, batch plants, waste sites and staging areas to be used for this undertaking. Upon completion of these efforts, the archaeologists will submit a summary report of the results.
 - Non-tribal land:
 - If potentially significant archaeological materials unrelated to a human burial are discovered, the on-site WisDOT PE/PM in consultation with WisDOT BEES shall ensure Section 106 procedures pursuant to 36 CFR 800 will be followed or another area will be obtained.
 - If human remains are discovered, all activities will cease, and the on-site WisDOT PE/PM will ensure compliance with Wisconsin Statute 157.70.
 - Tribal Land: Prior to any proposal request, for any activity on tribal land, consultation with appropriate THPO or Tribal Representative is required.

C. Section 4(f) Applicability

The Sippel Archaeological Site qualifies for an exception from Section 4(f) approval requirements according to CFR 774.13(b). The archaeological site is eligible for the NRHP, and the FHWA concludes that the archaeological resource is important because of what can be learned by data recovery and has minimal value for preservation in place. Figure 5.6-2 shows communication from FHWA to SHPO regarding the application of CFR 774.13(b) to the Sippel Site.

From: Bacher-Gresock, Bethaney (FHWA)
Sent: Friday, June 28, 2013 3:15 PM
To: Draeger, Jim R - WHS (Jim.Draeger@wisconsinhistory.org)
Cc: Bacher-Gresock, Bethaney (FHWA); Becker, James - DOT (James.Becker@dot.wi.gov); Wagner, Robert - DOT (Northeast Region) (Robert.Wagner@dot.wi.gov); VanPrice, Kathie - DOT (Kathie.VanPrice@dot.wi.gov); Banker, Sherman J - WHS (Sherman.Banker@wisconsinhistory.org); Cook, Kimberly A - WHS (Kimberly.Cook@wisconsinhistory.org)

Subject: INFORMATION - WisDOT Project ID 1440-15/15-00 Wis 23 - FHWA finding regarding Section 4(f) applicability of the Sippel archeological site (47SB394)

Mr. Jim Draeger, Wisconsin State Historic Preservation Officer:

The purpose of this email is to inform the Wisconsin State Historic Preservation Office (hereinafter SHPO) of the Federal Highway Administration – Wisconsin Division Office's (hereinafter FHWA-WI) finding that the Sippel archeological site (47SB394), eligible for the National Register, meets regulatory criteria excepting it from Section 4(f) approval per 23 CFR 774.13(b).

23 CFR 774.13 Exceptions

The Administration has identified various exceptions to the requirement for Section 4(f) approval. These exceptions include, but are not limited to:

...

(b) Archeological sites that are on or eligible for the National Register when:

(1) The Administration concludes that the archeological resource is important chiefly because of what can be learned by the data recovery and has minimal value for preservation in place.

This exception applies both to situations where data recovery is undertaken and where the Administration decides, with agreement of the official(s) with jurisdiction, not to recover the resource; and

(2) The official(s) with jurisdiction over the Section 4(f) resource, have been consulted and have not objected to the Administration finding in paragraph (b)(1) of this section.

This finding does not subsume the FHWA-WI's legal requirement or responsibility to comply with Section 106 of the National Historic Preservation Act or the implementing regulations at 36 CFR 800. All commitments, including the data recovery plan, identified in the attached Amended Memorandum of Agreement (MOA) Between the Federal Highway Administration and the Wisconsin State Historic Preservation Office Regarding Construction on STH 23 CTH K to CTH P (WisDOT Project ID 1440-13/15-00, WHS #06-0864/FD/SB) Fond du Lac and Sheboygan Counties, Wisconsin (signed by your office March 19, 2013) remain in full effect.

Unless the SHPO objects, the FHWA-WI interprets the SHPO's signed agreement with the MOA reflection of consultation and lack of objection to this Section 4(f) exception. Please do not hesitate to contact me if there are any questions regarding the Sippel site finding of exception to Section 4(f) approval.

Bethaney Bacher-Gresock

Major Projects - Environmental Lead
FHWA - Wisconsin Division Office
City Center West
525 Junction Road, Suite 8000
Madison WI 53717

Figure 5.6-2 Email Correspondence to SHPO Regarding Sippel Archaeological Site

5.7 Northern Unit of the Kettle Moraine State Forest Section 6(f) Conversion

A. Description of Resource and Applicability of Section 6(f)

The Northern Unit of the Kettle Moraine State Forest covers nearly 30,000 acres of forested and glacial landscapes. There are geologic landmarks throughout the forest including Dundee Mountain (a huge, conical hill called a kame) and Greenbush Kettle (a hole formed by the melting of buried ice chunks). The WDNR states the forest is known for its glacial features. The state forest has multiple uses including recreation, hunting, boating, wildlife management, and preservation. The forest includes about 133 miles of trails. LWCF funds were used for the purchase on multiple occasions for land acquisition for the forest. The Kettle Moraine State Forest is shown in Figure 5.7-1.

The Northern Unit of the Kettle Moraine State Forest will have approximately 2.21 acres of land acquired for highway right of way. These 2.21 acres are being acquired in three sections along the north side of WIS 23. As part of the Section 6(f) conversion request, WisDOT has purchased a 4.275-acre triangle of replacement land and will transfer the land ownership of the triangle to the state forest (WDNR). The land will be used to install a grade-separated trail crossing under WIS 23 to offset effects to the Ice Age Trail and the State Equestrian Trail. The underpass and added forestland will provide a safer trail crossing of WIS 23 and provide more direct trail routing. Coordination with the WDNR and the NPS has been completed except for the actual transfer of ownership. The state forestland that will be acquired with the Preferred Build Alternative and the replacement land being transferred to the Northern Unit of the Kettle Moraine State Forest is shown in Figure 5.7-2.

The 2010 FEIS did not list this as a Section 4(f) property. FHWA has since determined that it is a Section 4(f) property and the Section 4(f) *de minimis* effect finding is included in Section 5.3.

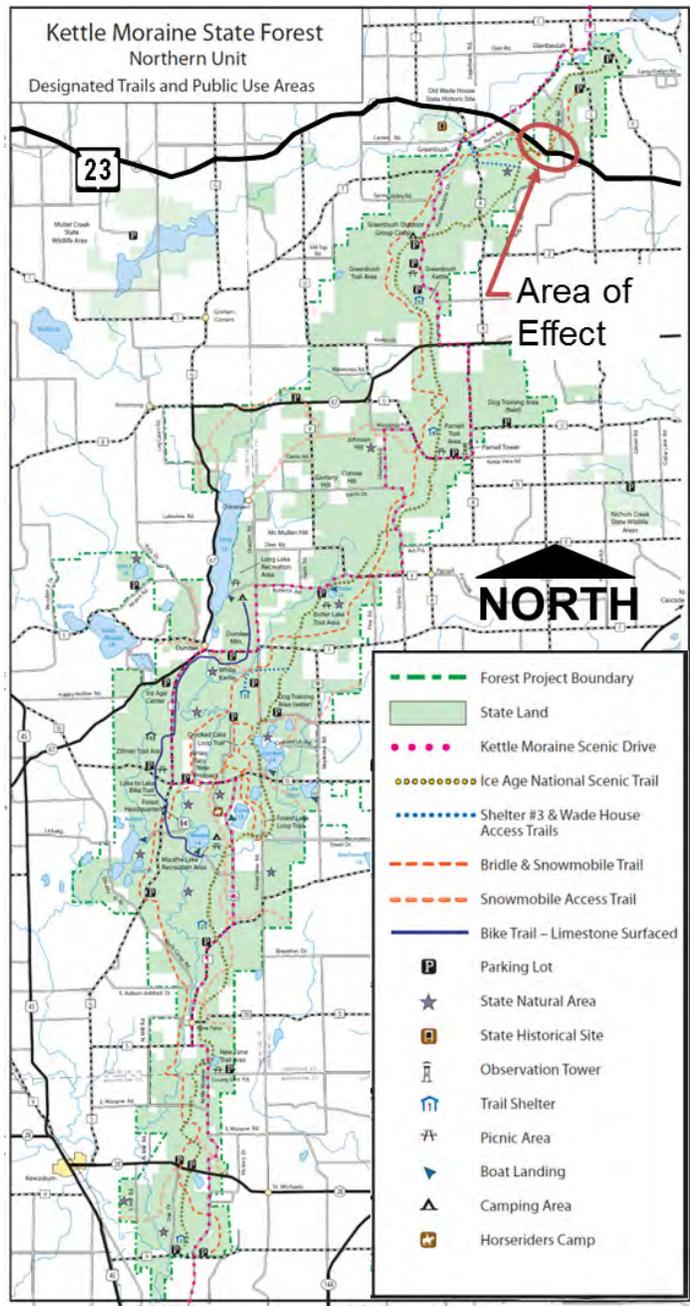


Figure 5.7-1 Northern Unit of Kettle Moraine State Forest

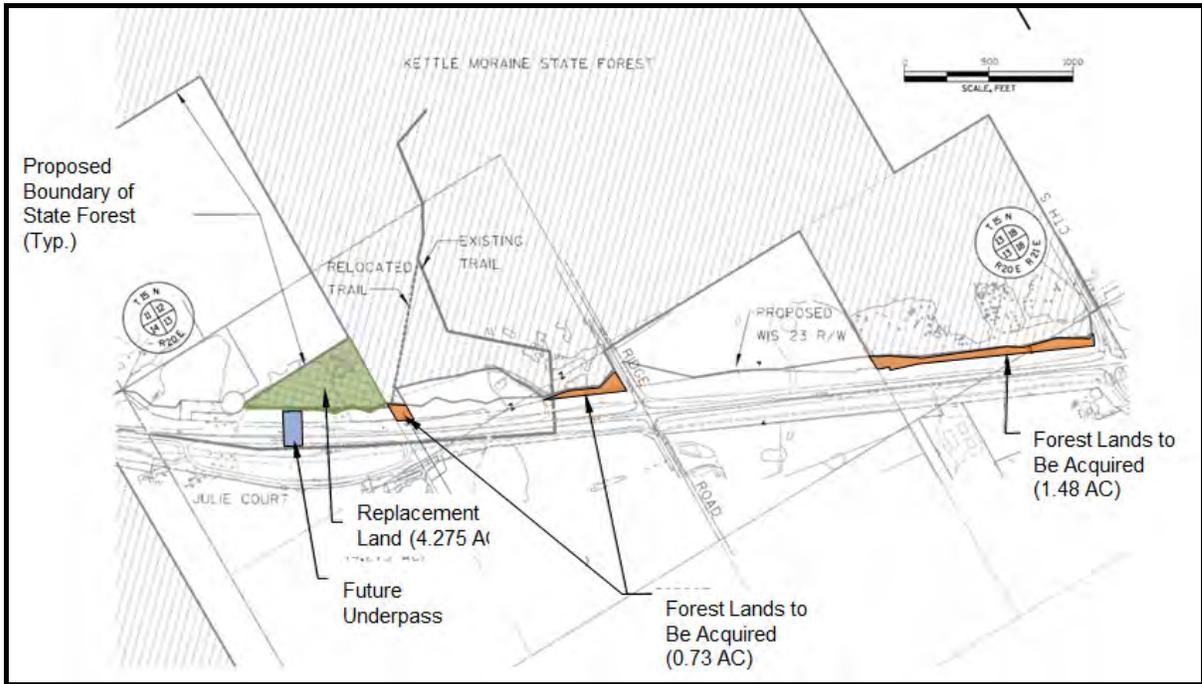


Figure 5.7-2 WIS 23 Impacts to Northern Unit of Kettle Moraine State Forest

Figure 5.7-3 shows a letter from the United States Department of Interior approving an amendment to the state forest boundary, which includes conversion of state forestlands to highway right of way and transfer of replacement lands to state forest. Figure 5.7-4 shows the amendment to the project agreement for conversion of Section 6(f) properties.



Figure 5.7-3 US Department of Interior Letter

JUN 3 2011

UNITED STATES STATE Wisconsin
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE Project Amendment No. 1

AMENDMENT TO PROJECT AGREEMENT
(OMB No. 1074-0033, October 31, 2013)

THIS AMENDMENT To Project Agreement No. 55-00708 is hereby made and agreed upon by the United States of America, acting through the Director of the National Park Service and by the State of Wisconsin pursuant to the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964).

The State and the United States, in mutual consideration of the promises made herein and in the agreement of which this is an amendment, do promise as follows:

That the above mentioned agreement is amended by adding the following:

The 6(f)(3) boundary is amended by deleting 2.2 acres from the original park boundary and adding 4.275 acres to the park boundary for Kettle Moraine State Forest - Northern Unit.

In all other respects the agreement of which this is an amendment, and the plans and specifications relevant thereto, shall remain in full force and effect. In witness thereof the parties hereto have executed this amendment as of the date entered below.

THE UNITED STATES OF AMERICA STATE
By [Redacted Signature] Wisconsin
(Signature) (State)
LAND & WATER CONSERVATION
FUND PROJECT OFFICER
(Title) By [Redacted Signature]
(Lavane J. Hessler)
National Park Service (Name)
United States Department of the Interior
Date June 3, 2011 ASLO
(Title)

Estimated Burden Statement: The public reporting burden for this collection of information is estimated to average 3 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form should be sent to the National Park Service, State and Local Assistance Programs Division, 1849 C Street NW, Washington, DC 20240.

Paperwork Reduction Act Statement: This form is necessary to provide data input into an NPS project database which provides timely data on projects funded over the life of the program. Such data is used to monitor project progress and to analyze program trends. A Federal Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Any comments on the burden estimate or other aspects of this collection of information may be addressed to the National Park Service, State and Local Assistance Programs Division, 1849 C Street NW, Washington, DC 20240.

NPS 10-902A (July 1981)

Figure 5.7-4 Amendment to Project Agreement

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