

SECTION 5
SECTION 4(f) AND 6(f)

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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. This discussion of Section 4(f) and 6(f) resources is different from the information presented in the 2014 LS SFEIS.

- The Taycheedah Creek Wetland Mitigation Site, located in the southwest corner of the existing US 151 and WIS 23 interchange, is not discussed in this document. It was previously determined that Section 4(f) did not apply to this property because the US 151 and WIS 23 interchange is no longer included in the alternatives being considered. This determination has not changed. Discussion about the site is incorporated by reference (2014 LS SFEIS).
- At the St. Mary's Springs Academy site, the 2014 LS SFEIS noted there was no longer considered to be a Section 4(f) use of the property. That status has not changed. All of the build alternatives are the same in the vicinity of the property. The site is briefly summarized in factor sheet 4.7 B-6 and the full discussion is incorporated by reference (2014 LS SFEIS).
- The 2014 LS SFEIS included a Section 4(f) *de minimis* finding for the Old Wade House State Park. The property is no longer a state park, it is now called the Wade House Historic Site. This document provides the documentation for this site for a Section 4(f) *de minimis* finding. In addition, recent property title information suggests Land and Water Conservation Fund (LWCF) funds may have been used for the site. The applicability of Section 6(f) to portions of the site near WIS 23 are being investigated. See Section 5.4.
- Table 5.2-1 Unique Properties in this section was changed to remove the Taycheedah Wetland Mitigation Site because it is no longer in the project limits and add discussion of the Kettle Moraine Scenic Drive, Rustic Road R63 (County S), and snowmobile and ATV trails throughout the study corridor. None of the added unique resources are Section 4(f) or 6(f) properties; the additions were made based on comments provided at the 2017 indirect and cumulative effects workshop and following the 2017 public involvement meeting.

This section also provides information on the Sippel archaeological site to explain how it qualifies for an exception for Section 4(f) approval.

5.1 INTRODUCTION

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 USDOT, including FHWA. FHWA is responsible for Section 4(f) applicability determinations, evaluations, findings, and overall compliance for highway projects.

The WIS 23 alternatives affect several Section 4(f) properties in which Section 4(f) *de minimis* findings are being 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)] for 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, and Wisconsin Department of Natural Resources (WDNR), are responsible for approval of LWCF monies and land conversion requests. The WIS 23 alternatives affect at least one and possibly two Section 6(f) properties.

C. 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 two 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.

D. 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 is addressed in Section 4.6 B-5 and -6 of this LS SEIS. If a property has been identified as historic through the Section 106 consultation process, then the property is protected under Section 4(f). There are several historic properties noted in this section.

5.2 LISTING OF UNIQUE RESOURCES

Table 5.2-1 lists 14 resources or properties¹ within the WIS 23 corridor that are unique and may have special protections. Four of these properties have a Section 4(f) use. Some Section 4(f) resources are coincident with other Section 4(f) resources. Coordination with WDNR resulted in identification of one, possibly two, properties considered Section 6(f) properties.

¹ Changes to the chart from the 2014 LS SFEIS include removal of the Taycheedah Wetland Mitigation Site because it is no longer in the project limits, and the addition of four resources based on comments made at the 2017 Indirect and Cumulative Effects Workshop and following the 2017 public involvement meeting.

Table 5.2-1 Unique Resources

Resource/ Property Name and Location	Description/Comments	Section 4(f) and 6(f) Applicability
Northern Unit of the Kettle Moraine State Forest (KMSF-NU) <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. LCWF was used for property purchase.	A Section 4(f) <i>de minimis</i> impact finding is included in Section 5.3. This effect finding combines the KMSF-NU with the IAT/Equestrian Trail because the resources are coincident. A Section 6(f) evaluation is included as Section 5.6.
Ice Age Trail (IAT) <i>Within KMSF-NU</i>	Designated a 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 KMSF-NU Management Area.	A Section 4(f) <i>de minimis</i> impact finding is included in Section 5.3. This effect finding combines the IAT with the KMSF-NU and the State Equestrian Trail because the resources are coincident.
State Equestrian Trail <i>Adjacent to IAT</i>	The bridle trail winds through the forest (39.5 miles). It is owned and maintained by WDNR. The trail crosses WIS 23 near Julie Road within the KMSF-NU Management Area.	A Section 4(f) <i>de minimis</i> impact finding is included in Section 5.3. This effect finding combines the State Equestrian Trail with the KMSF-NU and the IAT because the resources are coincident.
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 IAT in the KMSF-NU.	Not considered a Section 4(f) resource according 23 CFR 774.13(f) which provides an exception for Section 4(f) as follows: "(3) 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," Old Plank Road Trail continuity will be maintained.
Wade House Historic Site <i>Town of Greenbush</i>	The former Old Wade House State Park property discussed in the 2014 LS SFEIS is no longer a state park. It is now owned by the WHS and is now called Wade House Historic Site. The property includes over 500 acres of land surrounding several historic structures on the NRHP. The nearest historic structure is 1/4 mile south of WIS 23. A section of the Old Plank Road Trail extension will pass through the north end of the property. A new visitor center/carriage museum adjacent to WIS 23 opened in 2013.	A finding of <i>de minimis</i> impact on parks, recreation areas, and wildlife and waterfowl refuges and a finding of <i>de minimis</i> impact on historic property is included in Section 5.4. The applicability of Section 6(f) to portions of the site near WIS 23 is being investigated.
Wetland Enhancement and Mitigation lands on Wade House property <i>Town of Greenbush</i>	During the Robinson Hurling Dam restoration project, on the north end of the former Old Wade House State Park (no longer a park), the WHS constructed a wetland mitigation and enhancement site south of WIS 23. Coordination with state (WHS/WDNR) and federal agencies (USACE) has not identified covenants or permit conditions placed on existing mitigation lands.	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). A discussion of the unique property is provided in this factor sheet.
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.	Because of revisions in the historic boundary prior to the 2014 LS SFEIS, there is no longer a Section 4(f) use of the property. The property is noted but has no stipulations in the amended MOA signed by SHPO on March 19, 2013. WisDOT committed to move a statue for the owners in a letter dated May 31, 2013 and included in Section 5 of the 2014 LS SFEIS.

Table 5.2-1 Unique Resources

Resource/ Property Name and Location	Description/Comments	Section 4(f) and 6(f) Applicability
St. Mary's Springs Athletic Field City of Fond du Lac	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 Sippel Site is discussed in Section 5.5. 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) status when the resource has minimal value for preservation in place and the SHPO does not object to this finding.
Pit Road Wetland Mitigation and Enhancement Site Town of Forest	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).
Kettle Moraine Scenic Drive	The Kettle Moraine Scenic Drive extends 115 miles from Elkhart Lake in Sheboygan County to Whitewater Lake in southeastern Walworth County. This scenic route generally follows county and local roads and is on County A where it crosses WIS 23 in the town of Greenbush.	The route is not considered a Section 4(f) property because the scenic route designation is not intended to create a park or recreation area within the meaning of Section 4(f) according to FHWA's Section 4(f) Policy Paper, Question 22 (July 20, 2012).
Rustic Road R63 (County S)	This Rustic Road extends 2.4 miles on County S from WIS 23 north to the town of Glenbeulah.	The road is not considered a Section 4(f) property because the Rustic Road designation is not intended to create a park or recreation area within the meaning of Section 4(f). FHWA's Section 4(f) Policy Paper Question 22 (July 20, 2012).
Snowmobile Trails	There are several snowmobile trails along the WIS 23 project corridor with 2 mapped trail crossings in Fond du Lac County and 2 mapped crossings in Sheboygan County. Snowmobilers use both county and state trails and private snowmobile club trails on private land. Snowmobiling is allowed on the Old Plank Road Trail.	<p>The snowmobile trails are not considered a Section 4(f) resource according to 23 CFR 774.13(f) which provides an exception for Section 4(f) as follows: "(3) 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." The continuity of the trails will be maintained.</p> <p>In addition, Section 4(f) does not apply to trails on privately owned lands unless there is a public easement allowing the public to use the trail and the easement can be interpreted as public ownership for Section 4(f) purposes. FHWA's Section 4(f) Policy Paper Question 15D (July 20, 2012).</p>
ATV Trails	There are no known mapped ATV trails along the project corridor. A local ATV club identified a winter-only ATV/snowmobile trail crossing of WIS 23 just west of Triple T Road. The club also indicated Hillview Road is an ATV road route, with ATV crossing of WIS 23 on Hillview Road. Both of these crossings are in the town of Forest.	<p>The ATV trails are not considered a Section 4(f) resource according to 23 CFR 774.13(f) which provides an exception for Section 4(f) as follows: "(3) 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." The continuity of the trails will be maintained.</p> <p>In addition, Section 4(f) does not apply to trails on privately owned lands unless there is a public easement allowing the public to use the trail and the easement can be interpreted as public ownership for Section 4(f) purposes. FHWA's Section 4(f) Policy Paper Question 15D (July 20, 2012).</p>

Figure 5.2-1 schematically illustrates locations of the resources listed in Table 5.2-1. Figure 5.2-2 illustrates the various snowmobile and ATV trails in more detail.

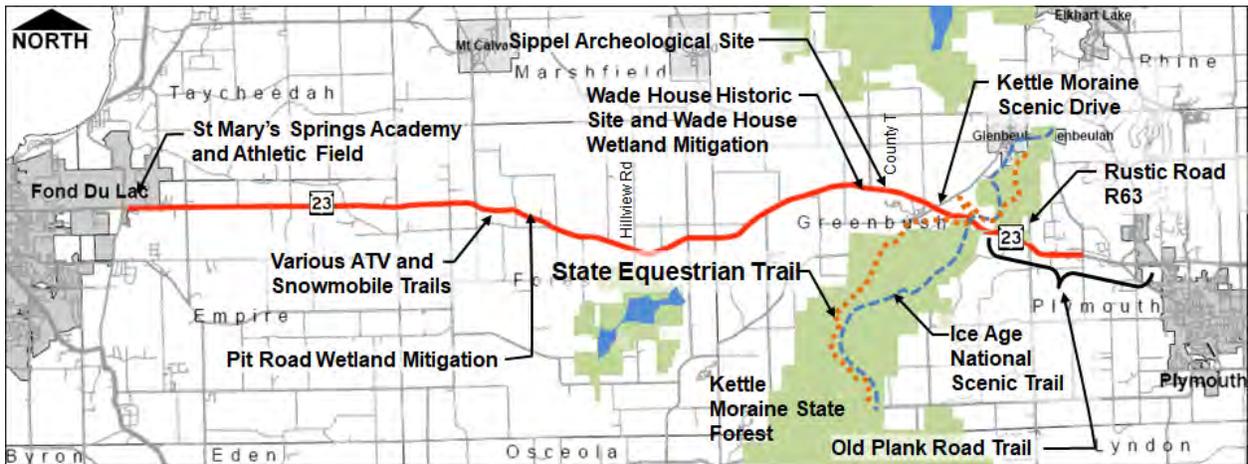


Figure 5.2-1 Unique Area Locations

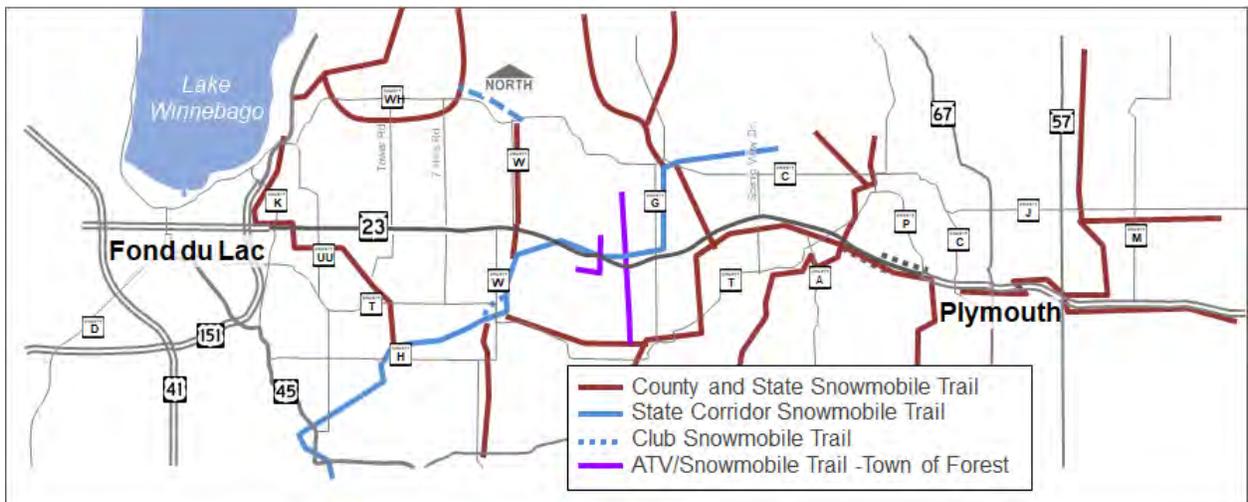


Figure 5.2-2 Snowmobile and ATV Trail Locations

Sections 5.3, 5.4, and 5.5 provide Section 4(f) *de minimis* impact findings or reasons why Section 4(f) approvals are not needed for:

- The KMSF-NU, IAT, and State Equestrian trail.
- Wade House Historic Site.
- The Sippel Archeological site.

Other resources not discussed in Section 5 are reviewed in Section 4.7 B-6 and 4.7 B-8.

Section 5.3 has been updated to incorporate the three build alternatives under consideration.

Wisconsin

Federal Highway Administration

Finding of *De Minimis* Impact on Parks, Recreation Areas, and Wildlife and Waterfowl Refuges

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

A. Summary of Effect

WIS 23 crosses the Northern Unit of the Kettle Moraine State Forest (KMSF-NU) in the town of Greenbush in Sheboygan County. At this location, the Ice Age Trail (IAT)/State Equestrian trail, a Section 4(f) resource, crosses WIS 23. A Section 4(f) *de minimis* impact finding for the IAT/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 5.6 of this document provides Section 6(f) documentation for this property.

Since the publication of the 2010 FEIS, the FHWA determined the KMSF-NU 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 KMSF-NU and the IAT/State Equestrian Trail.

Based on the Section 4(f) and 6(f) determinations from the previous 2014 LS SFEIS, the land needed for the 4-lane On-alignment alternative was purchased from WDNR in 2014. WisDOT transferred replacement lands to the WDNR in 2016.

B. Project Description and Effects

1. WIS 23 Project

A No-Build Alternative and three build alternatives are considered in this document. Corridor preservation is an option associated with each of the build alternatives that preserves right of way for possible future transportation improvements and designates WIS 23 as an expressway. Corridor preservation would require affected property owners to coordinate with WisDOT before making any improvements on their property within the corridor preservation limits. Additional environmental documentation would be completed prior to the construction of improvements associated with the corridor preservation. The alternatives in the vicinity of the KMSF-NU, IAT/State Equestrian Trail are described as follows:

No-Build Alternative—This alternative consists of routine maintenance activities on the existing roadway.

Passing Lane Alternative—This alternative reconstructs the existing 2-lane facility and adds two passing lanes in the eastbound direction and two passing lanes in the westbound direction. Two suboptions exist for this alternative. One does not install left-turn lanes on WIS 23 at higher volume intersections. The other installs left-turn lanes at several intersections. No right of way is required from the KMSF-NU.

Corridor Preservation associated with the Passing Lane Alternative—Corridor preservation would preserve the right of way needed to convert WIS 23 to a 4-lane facility as well as construct grade separations and interchanges. The corridor preservation area through the KMSF-NU would be

north of the existing roadbed for the added westbound lanes. Land was acquired based on the decision in the 2014 LS SFEIS. In the 2014 LS SFEIS, the land acquired was identified as Section 4(f) and Section 6(f) applicable lands. A Section 4(f) *de minimis* finding was made and mitigation for the associated acquisition impact has already been completed.

Hybrid Alternative—This alternative expands WIS 23 to a 4-lane expressway on the existing WIS 23 alignment from County K to just beyond County G. East of County G, WIS 23 is reconstructed as a 2-lane highway and adds one passing lane in the eastbound direction and one passing lane in the westbound direction. In the area of the KMSF-NU, the Hybrid Alternative is identical to the Passing Lane Alternative.

Corridor Preservation associated with the Hybrid Alternative—This Corridor Preservation is identical to the Corridor Preservation associated with the Passing Lane Alternative in the area of the KMSF-NU.

4-lane On-alignment Alternative—This alternative creates a 4-lane divided highway along the existing alignment from US 151 in Fond du Lac to County P in Plymouth. In the area of the KMSF-NU, the existing roadbed will carry the eastbound lanes, and the westbound lanes will be constructed north of the existing roadway. The additional right of way needed from the KMSF-NU would be north of the existing roadbed for the added westbound lanes. Land was acquired based on the decision in the 2014 LS SFEIS. In the 2014 LS SFEIS, the land acquired was identified as Section 4(f) and Section 6(f) applicable lands. A Section 4(f) *de minimis* finding was made and mitigation for the associated acquisition impact has already been completed.

Corridor Preservation associated with the 4-lane On-alignment Alternative - There is no impact in the area of the KMSF-NU since the 4-lane alternative has no preservation areas proposed in this area.

2. Northern Unit of the Kettle Moraine State Forest

The 4-lane On-alignment Alternative would require 2.21 acres from 3 sections of the KMSF-NU 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. While Passing Lane and Hybrid Alternatives do not have a Section 4(f) use of the property, corridor preservation associated with Passing Lane and Hybrid Alternatives would preserve the same acreage needed for the 4-lane On-alignment Alternative. Alternatives that fully avoid the KMSF-NU require a substantial relocation of WIS 23 for two or more miles and the extension of the project beyond Plymouth. These impacts are so great that they are not prudent.

WisDOT acquired the 2.21 acres from 3 sections of the KMSF-NU right of way after the 2014 LS SFEIS in August 11, 2014.

To mitigate these WIS 23 impacts to the KMSF-NU, WisDOT purchased 4.275 acres of land adjacent to the state forest west boundary. WisDOT transferred ownership to WDNR on February 18, 2016 to satisfy conditions associated with the Section 4(f) *de minimis impact finding and Section 6(f) conversion requirements* in the 2014 LS SFEIS. A portion of this land would be used for the rerouting of the IAT/State Equestrian Trail and providing a grade-separated crossing for the trails under WIS 23.

3. IAT/State Equestrian Trail

The IAT is designated as a National Scenic Trail and is Wisconsin's only State Scenic Trail. The IAT highlights the Ice Age landscape features while providing access to some of the state's natural areas. In the WIS 23 project area, the IAT is located within the KMSF-NU and crosses WIS 23 near Julie Lane. The IAT is administered by the NPS with cooperation from the WDNR

and the IAT Alliance. Within the KMSF-NU, the trail is maintained by the WDNR. The IAT is shown on Figure 5.3-1.

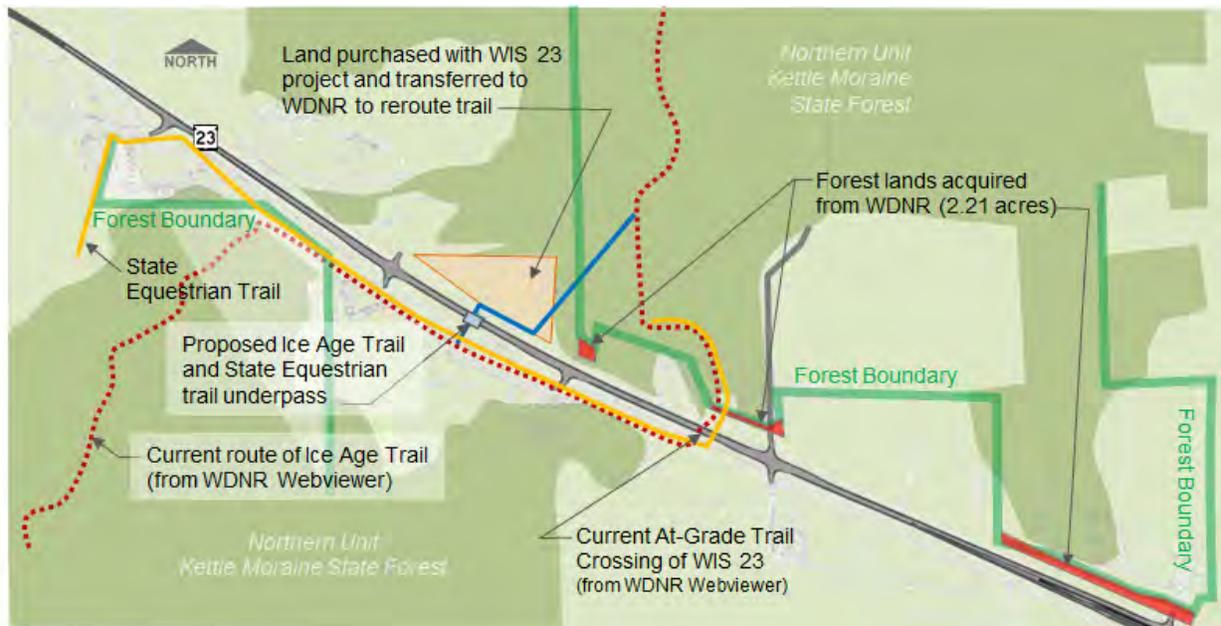


Figure 5.3-1 Passing Lane and Hybrid Alternatives - Section 4(f) Effects, Existing and Proposed Routes of IAT/State Equestrian Trail

The State Equestrian Trail is a bridle trail that travels the length of the KMSF-NU. 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 one mile and then joins the IAT 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 KMSF-NU and the IAT/State Equestrian Trail, WisDOT has purchased right of way and will construct a grade-separated underpass that will allow trail users to travel underneath WIS 23 and WDNR will reroute the trail north of the new crossing. A grade-separated underpass will be provided for any build alternative selected. A total of 2.21 acres of Section 4(f) land has been purchased following issuance of the 2014 LS SFEIS/ROD, prior to it being vacated. See Figure 5.3-1 for Section 4(f) Impacts for Passing Lane and Hybrid Alternatives and Figure 5.3-2 for Section 4(f) Impacts for 4-lane On-alignment and Corridor Preservation associated with build Alternatives. Figure 5.3-3 illustrates the proposed IAT underpass.

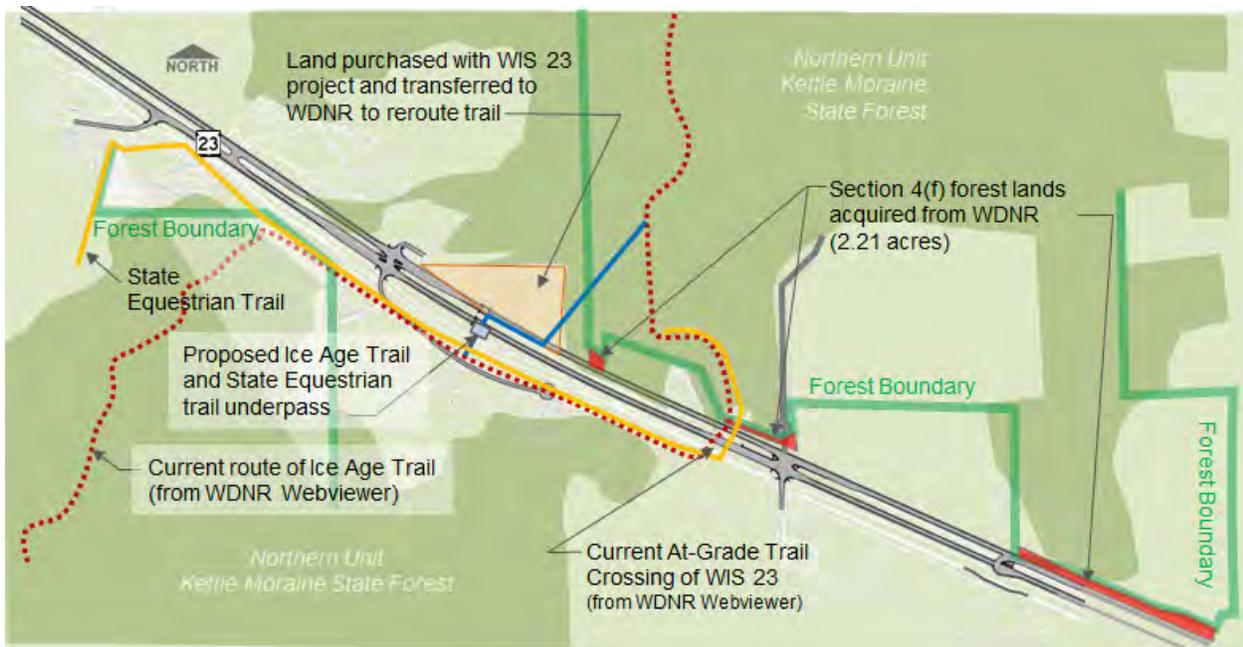


Figure 5.3-2 4-lane On-alignment Alternative and Corridor Preservation associated with build Alternatives - Section 4(f) Effects, Existing and Proposed Routes of IAT/State Equestrian Trail

C. Activities, features, and attributes that qualify the Kettle Moraine State Forest and IAT/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.

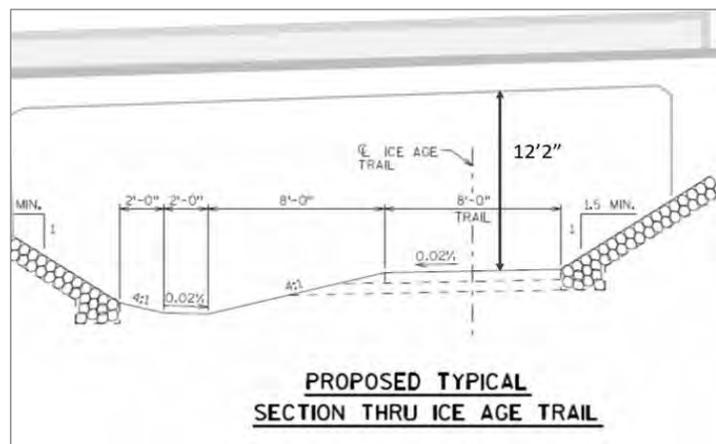


Figure 5.3-3 IAT Grade Separation

The following paragraphs describe how Section 4(f) applies to the KMSF-NU, the IAT, and the State Equestrian Trail.

1. Northern Unit of Kettle Moraine State Forest

The KMSF-NU 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 5.3-4 illustrates the extent of the state forest. 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 IAT/State Equestrian Trail. The IAT is administered by the National Park Service (NPS) with cooperation from the WDNR and the IAT Alliance. Within the state forest, both the IAT and State Equestrian Trail are maintained by the WDNR.

The master plan for the KMSF-NU 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 5.3-5. Discussions with the Park Superintendent, at the time of coordination, indicate the area needed for the WIS 23 project primarily serves as roadside buffer as well as a WIS 23 crossing location for the IAT/State Equestrian Trail.

All the land needed for the 4-lane On Alignment and Corridor Preservation for Passing Lane and Hybrid Alternatives is located on the north side of WIS 23.

Figure 5.3-6 shows photographs of the areas of the KMSF-NU impacted by the WIS 23 project.

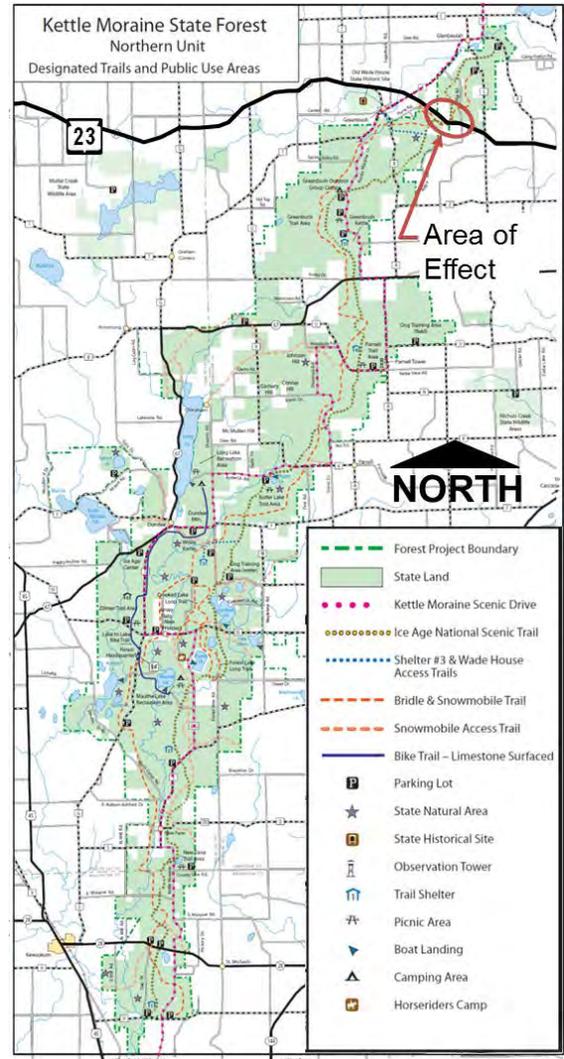


Figure 5.3-4 KMSF-NU

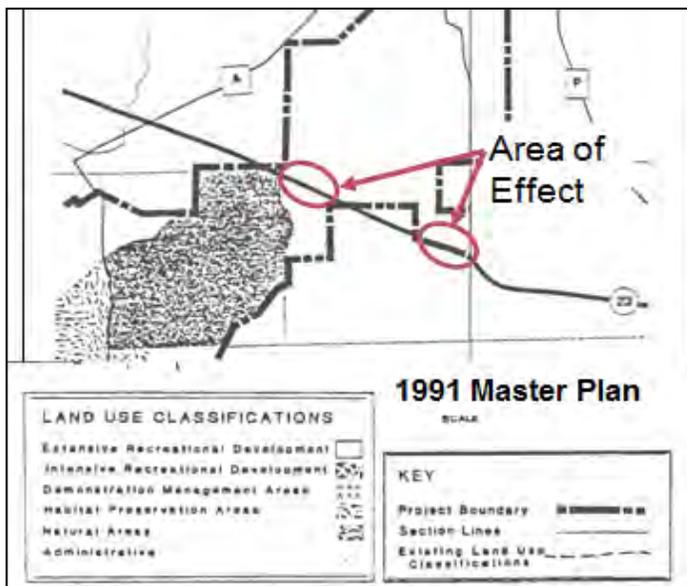


Figure 5.3-5 KMSF-NU Master Plan Land Use Classifications

2. IAT/State Equestrian Trail

The IAT 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 IAT and the State Equestrian Trail in the WIS 23 corridor are located inside the KMSF-NU. The IAT 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 KMSF-NU 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 5.3-7 shows the portion of the IAT/State Equestrian Trail that crosses WIS 23.



Figure 5.3-6 Areas of Kettle Moraine State Forest Affected by WIS 23 Project

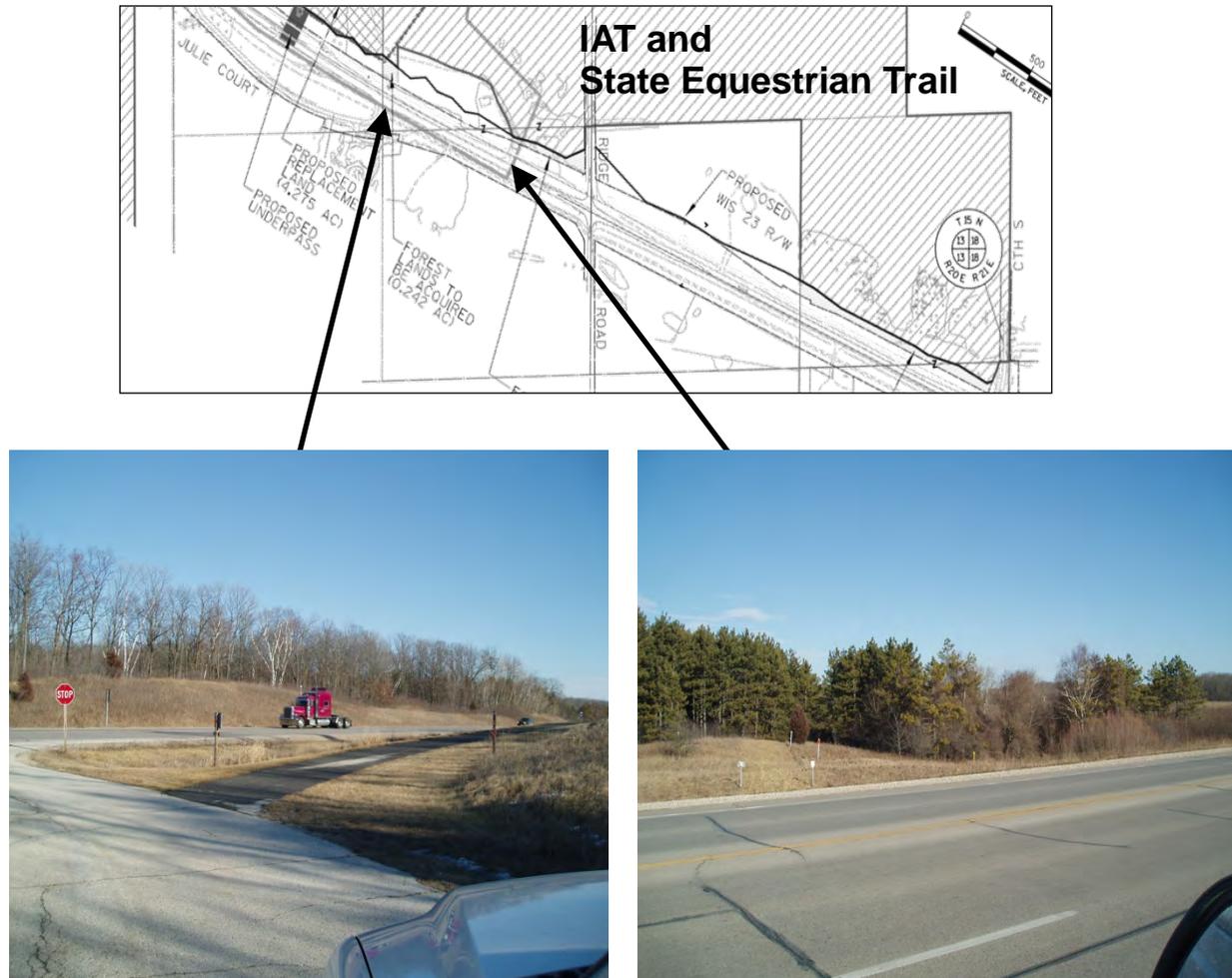


Figure 5.3-7 IAT and State Equestrian Trail Photos

D. Transportation Use of Section 4(f) Resources

If the 4-lane On-alignment Alternative or Corridor Preservation associated with the Passing Lane Alternative or Hybrid Alternative are selected, the WIS 23 project would expand or preserve land needed to convert the existing 2-lane roadway to a divided 4-lane expressway. For these alternatives in the vicinity of the KMSF-NU, 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 KMSF-NU 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 and WisDOT has purchased this right of way based on the decision in the 2014 LS SFEIS. The existing IAT/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. If the Passing Lane or Hybrid Alternatives are selected, the right of way already purchased would not be required but could be part of the Corridor Preservation associated with the Passing Lane and Hybrid Alternatives. The grade separated (underpass) crossing of the WIS 23 roadway, a condition of the purchase, previous *de minimis* impact finding, and Section 6(f) agreement, would be provided with any alternative.

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

The areas adjacent to WIS 23 are primarily used as roadside border as well as a crossing for the IAT/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 (KMSF-NU, IAT, State Equestrian Trail) and one Section 6(f) resource (KMSF-NU) are located together. The proposed mitigation measures support all three designations/properties. To mitigate the effects of the WIS 23 project, WisDOT purchased a 4.275-acre triangle of land and transferred it to WDNR February 18, 2016. WisDOT will install a grade-separated trail crossing under WIS 23 near this triangle when improvements to WIS 23 are constructed. The underpass and added forest land will provide a safer trail crossing of WIS 23 and provide more direct trail routing. Twin single span bridges could provide the trail underpass and allow natural lighting to facilitate wildlife movements. Discussions with the Park Superintendent indicated that these route changes are viewed as a benefit to park and trail users for improved route safety and directness. Figure 5.3-8 shows the location and acreage of the land needed (and already purchased) for the 4-lane On-alignment Alternative as well as the replacement lands that were acquired and transferred to the WDNR.

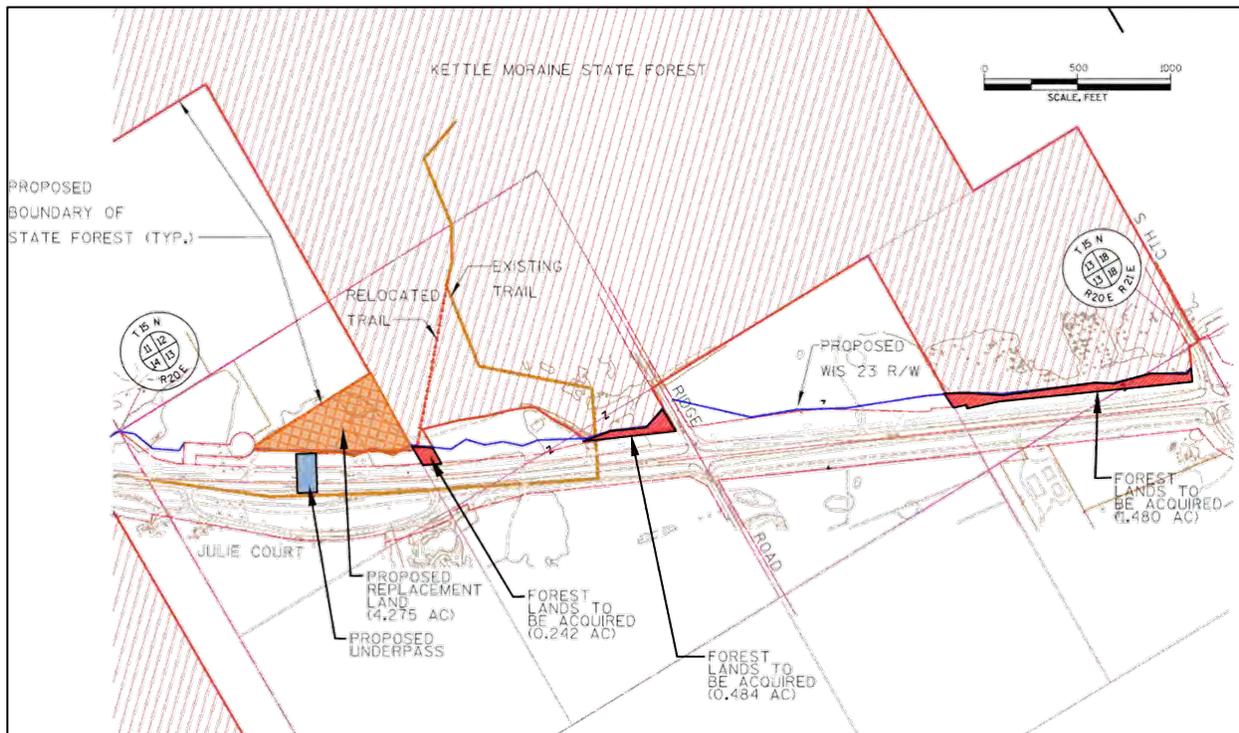
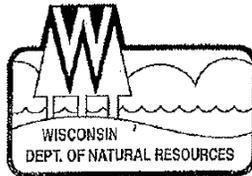


Figure 5.3-8 Right of Way Purchased and Replacement Land Transferred for Kettle Moraine State Forest

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

Mr. Jerry Leiterman, the Superintendent of the KMSF-NU at the time of coordination, was informed that FHWA is pursuing a Section 4(f) *de minimis* impact finding for the IAT 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 5.3-9 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 KMSF-NU. Mr. Leiterman wrote that he agrees that the project will not adversely affect the activities, features, or attributes of the KMSF-NU. Figure 5.3-10 provides a copy of that written concurrence.

Mr. Thomas L. Gilbert was the NPS representative managing the IAT through 2011. Mr. Gilbert was informed that FHWA is pursuing a Section 4(f) *de minimis* impact finding. On November 21, 2007, Mr. Gilbert agreed with the Section 4(f) *de minimis* impact finding. Figure 5.3-11 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 LIST 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,


 Jeremy 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 5.3-9 Letter from WDNR State Forest Superintendent for IAT/State Equestrian Trail

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

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



2013 JUN 5 PM 1 44
WISDOT-NE PERMIT

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 5.3-10 Letter from WDNR State Forest Superintendent for Northern Unit of Kettle Moraine State Forest

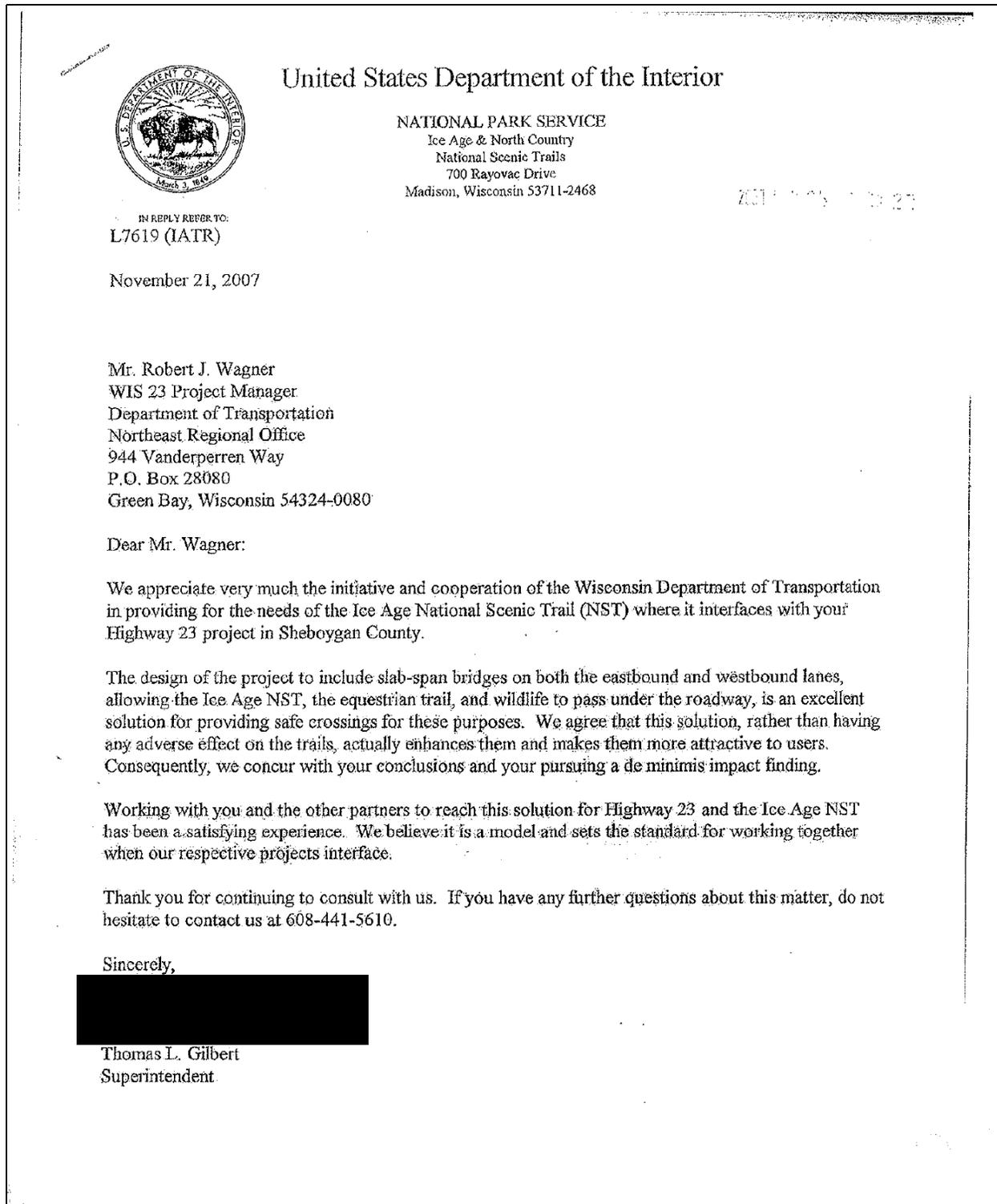


Figure 5.3-11 Letter from NPS Trail Superintendent for IAT/State Equestrian Trail

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. Additional opportunities were provided at public involvement meetings held on April 29, 2013 and October 12, 2017, at the UW Fond du Lac campus in Fond du Lac, Wisconsin. There were no public comments received regarding impacts to the IAT, State Equestrian Trail, and KMSF-NU. In a letter following the 2013 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.

1. On March 5 and March 6, 2002, WisDOT held two public informational meetings. No comments were received about the KMSF-NU.
2. On August 28, 2002, WDNR sent an initial environmental review letter. This letter mentions the KMSF-NU, the IAT, and the State Equestrian Trail.
3. On February 12 and February 17, 2003, WisDOT held two public informational meetings. No comments related to the KMSF-NU.
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 IAT.
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 KMSF-NU 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 IAT 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 IAT. 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 KMSF-NU.
8. On February 6, 2004, WisDOT had a meeting to review the IAT 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 involvement 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 KMSF-NU. The conceptual plan meets WDNR's objectives for the IAT, the State Equestrian Trail, and for wildlife travel.
11. On March 31, 2004, The USFWS sent a letter reviewing the IAT, 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 KMSF-NU.
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 IAT crossing discussion. The IAT runs through the KMSF-NU. The slab span bridge versus 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 KMSF-NU was the slab span construction.
16. On May 17, 2006, WDNR sent a letter to WisDOT reviewing the IAT, and State Equestrian Trail in the KMSF-NU. Impacts to the State Equestrian Trail in the KMSF-NU 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 involvement meetings. No comments were received about the KMSF-NU.
18. On September 29, 2006, WisDOT held a status meeting. This meeting reviewed the KMSF-NU. 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 KMSF-NU. 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 KMSF-NU. 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 KMSF-NU.

22. On March 2, 2010, WisDOT held an agency meeting. One topic of the meeting was the KMSF-NU. 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.
24. On April 29, 2013, a public involvement meeting was held and the public was provided an opportunity to comment on the effects to the IAT, State Equestrian Trail, and impacts to the KMSF-NU.
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 IAT, State Equestrian Trail, and impacts to the KMSF-NU. Some comments were received favoring the proposed grade separation for the IAT.
26. On September 15, 2017, the NPS maintained their expectation that a grade separated crossing of the IAT, State Equestrian Trail would be constructed with any build alternative.
27. On October 12, 2017, a public involvement meeting was held and the public was provided an opportunity to comment on the effects to the IAT, State Equestrian Trail, and impacts to the KMSF-NU.

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 IAT, the State Equestrian Trail, and the KMSF-NU for protection under Section 4(f).
 - b. The transportation use of the Section 4(f) property.
 - c. How the transportation use by any of the build alternatives under consideration 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 KMSF-NU at the time of coordination, 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 IAT 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.

The 2010 FEIS and 2014 LS SFEIS included a Section 4(f) *de minimis* finding for the Old Wade House State Park based on a right of way impact to approximately 6 acres of park land for the Old Plank Road Trail extension. The 2014 LS SFEIS *de minimis* impact finding stated the project would have no adverse effect on the property’s activities, features, and attributes that qualify the property for Section 4(f) protection. The *de minimis* impact finding further indicated that it would not have any adverse effect to properties on the NRHP within the park boundary. The property is no longer designated as a state park and is now called the Wade House Historic Site. This document updates the Section 4(f) *de minimis* based on the updated right of way impact of 4 acres to the property, its use as a recreation area, and additional build alternatives considered. Recently obtained property title information suggests Land and Water Conservation Fund (LWCF) monies may have been used for portions of the site. The applicability of Section 6(f) to portions of the site near WIS 23 is being investigated.

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 WADE HOUSE HISTORIC SITE AND WETLAND MITIGATION SITE

A. Summary of Effect

The Wade House Historic Site is located in the east portion of the corridor near Plymouth and just west of the KMSF-NU. Located on the south side of WIS 23, the site is run by the Wisconsin Historical Society (WHS) and is an educational, living history portrayal of a restored stagecoach inn built around 1850. The Wade House Historic Site contains three structures listed on the National Register of Historic Places (NRHP). WIS 23 impacts are distant from the historic boundaries associated with the three properties on the NRHP (1/4 mile from the nearest building). The property includes over 500 acres of land. The Mullet River runs roughly parallel to WIS 23 through the property, approximately 800-1000 feet south of the highway. The Wade House Historic Site is a Section 4(f) resource and a potential Section 6(f) resource, which is being investigated further. A visitor center and carriage museum located approximately 150 feet from WIS 23 was opened in 2013. See Figure 5.4-1.



Figure 5.4-1 Wade House Historic Site

Prior to 2014, the Wade House Historic Site was designated as Old Wade House State Park, but the designation as a state park was removed by Wisconsin Department of Natural Resources (WDNR) in the period 2014-2016 and the property name was changed to Wade House Historic Site. 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 and 2014 LS SFEIS for the WIS 23 corridor. FHWA has maintained its determination that the Wade House Historic Site 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 2014 LS SFEIS with updates on additional build alternatives considered in this document.

B. Section 4(f) and Section 6(f) Applicability

The Wade House Historic Site has had a varied history with both WDNR and WHS. Table 5.4-1 lists pertinent events in the property's history.

Table 5.4-1 Wade House Events

Date	Action
1950s	Wade house restored by Kohler Foundation and transferred to state of Wisconsin to be operated as a state park.
1960	Robinson-Herring sawmill and 97 acres of property were purchased and assembled into the state park.
1/27/71	WDNR purchases land adjacent to WIS 23. WDNR also receives Land and Water Conservation funding in 1971. It is unclear what the funding was used for.
7/23/1996	WDNR transfers property to WHS. It remains listed as a state park. WHS actively manages the site as a living museum.
11/2004	WisDOT releases DEIS. Document says Old Wade House State Park is a Section 4(f) property, but no impact will occur to it.
12/2009	WisDOT releases SDEIS and FEIS, and alternative refinements (Old Plank Road Trail extension) impact Old Wade House State Park. FEIS incorporates <i>de minimis</i> impact finding based on its designation as a state park. October 17, 2006 letter from WHS director, acting as manager of the property, states impacts are <i>de minimis</i> and improvements are mutually beneficial. (See Figure 5.4-4)
6/2010	
12/2/2011	WisDOT purchases lands needed from Old Wade House State Park from WHS.
2013	Old Wade House State Park opens visitor center and carriage museum adjacent to WIS 23.
7/2013	WisDOT releases LS SDEIS and LS SFEIS. Documents include a <i>de minimis</i> finding for Old Wade House State Park to fulfill requirements. Section 4(f) status and <i>de minimis</i> finding are based on its designation as a state park and the October 17, 2006 letter from WHS acting as manager of the property.
3/2014	
2014-2016	Old Wade House State Park is removed from state park listing. Name changed to Wade House Historical Site.

C. Project Description and Effects

A No-Build Alternative and three build alternatives are considered in this document. Corridor preservation is an option associated with each of the build alternatives that preserves right of way for possible future transportation improvements and designates WIS 23 as an expressway. Corridor preservation would require affected property owners to coordinate with WisDOT before making any improvements on their property within the corridor preservation limits. Additional environmental documentation would be completed prior to the construction of improvements associated with the corridor preservation. The alternatives in the vicinity of the Wade House Historic Site are described as follows:

No-Build Alternative—This alternative consists of routine maintenance activities on the existing roadway.

Passing Lane Alternative—This alternative reconstructs the existing 2-lane facility and adds two passing lanes in the eastbound direction and two passing lanes in the westbound direction at various locations along the corridor. None of the passing lane locations are in the vicinity of the Wade House Historic Site. The Passing Lane Alternative would extend the Old Plank Road Trail, a multi-use path, along the south side of the existing roadway along the Wade House Historic Site. The right of way for the Old Plank Road Trail in the vicinity of the Wade House Historic Site was acquired based on the decision in the 2014 LS SFEIS.

Corridor Preservation associated with the Passing Lane Alternative—This consists of preserving the right of way needed to convert WIS 23 to a 4-lane facility and designates WIS 23 as an expressway. The preserved right of way would be on both sides of the existing roadbed. On the north side, it would be used for future westbound lanes. On the south side, the Old Plank Road Trail would need to be relocated because of the RCUT design in this area. The land on both sides of WIS 23 was acquired based on the decision in the 2014 LS SFEIS. Only the approximately 4 acres of right of way on the south side of the existing roadbed was acquired from the Wade House Historic Site.

Figure 5.4-2 shows the Passing Lane and Hybrid Alternatives at the Wade House Historic Site. The area in orange represents land that would be needed to construct the Passing Lane and Hybrid Alternatives. The area in pink represents land that would be included in corridor preservation for the two alternatives.

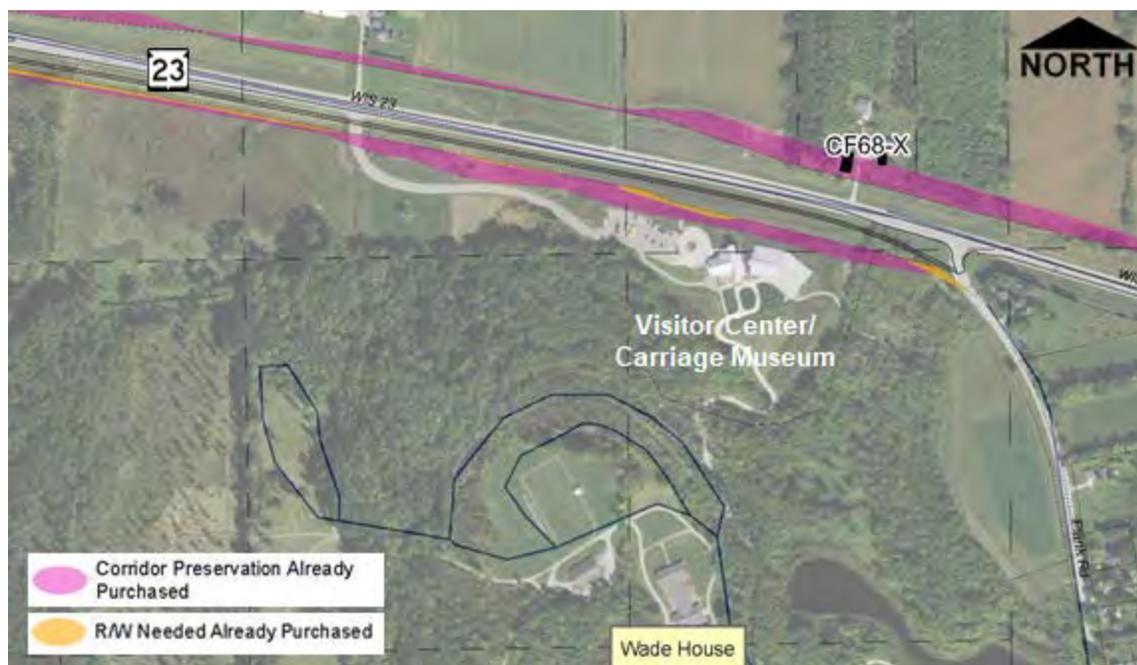


Figure 5.4-2 Passing Lane and Hybrid Alternatives at Wade House Historic Site

Hybrid Alternative—This alternative expands WIS 23 to a 4-lane expressway on the existing WIS 23 alignment from County K to just beyond County G. East of County G, WIS 23 is reconstructed as a 2-lane highway and adds one passing lane in the eastbound direction and one passing lane in the westbound direction. In the area of the Wade House Historic Site, the Hybrid Alternative is identical to the Passing Lane Alternative.

Corridor Preservation associated with the Hybrid Alternative—This is identical to the Corridor Preservation associated with the Passing Lane Alternative in the area of the Wade House Historic Site.

4-lane On-alignment Alternative—This alternative would construct a 4-lane divided highway along the existing alignment from US 151 in Fond du Lac to County P in Plymouth. In the area of the Wade House Historic Site, the existing roadbed will carry the eastbound lanes, and the westbound lanes would be constructed north of the existing roadway. Travelers from the east on WIS 23 would need to make a U-turn to access the property. This alternative would also extend the Old Plank Road Trail, a multi-use path, along the south side of the existing roadway along the Wade House Historic Site and would require about 4 acres of right of way from the property.

Corridor Preservation associated with the 4-lane On-alignment Alternative - There is no impact to the Wade House Historic Site since the 4-lane alternative has no corridor preservation proposed in this area. See Figure 5.4-3 showing the 4-lane On-alignment Alternative at the Wade House Historic Site. The area in orange represents the land needed for the 4-lane On-alignment Alternative. The land on both sides of WIS 23 was acquired based on the decision in the 2014 LS SFEIS. Only the approximately 4 acres of right of way on the south side of the existing roadbed was acquired from the Wade House Historic Site.



Figure 5.4-3 4-lane On-alignment Alternative at Wade House Historic Site

D. Activities, Features, and Attributes that Qualify the Wade House Historic Site 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 Wade House Historic Site, although no longer designated as a state park, is publicly owned and the property is open to the public. Recreational activities are available throughout the property. A new visitor center and carriage museum located just south of WIS 23 opened in 2013. The property offers horse-drawn transportation and wooded walking trails to connect the new facility to the site's historic core. It qualifies as a Section 4(f) resource under the first bullet because the land can be used for recreational purposes, is publicly owned and open to the public. Wade House Historic Site operates as a historical museum managed by the Wisconsin Historical Society. It qualifies as a Section 4(f) resource under the third bullet because there are three properties on the NRHP on the south side of the property, 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.

The two homes were originally directly on WIS 23 until the 1980s when WIS 23 was rerouted north of Greenbush. Figure 5.4-4 shows the location of these historic resources compared to the current location of WIS 23.

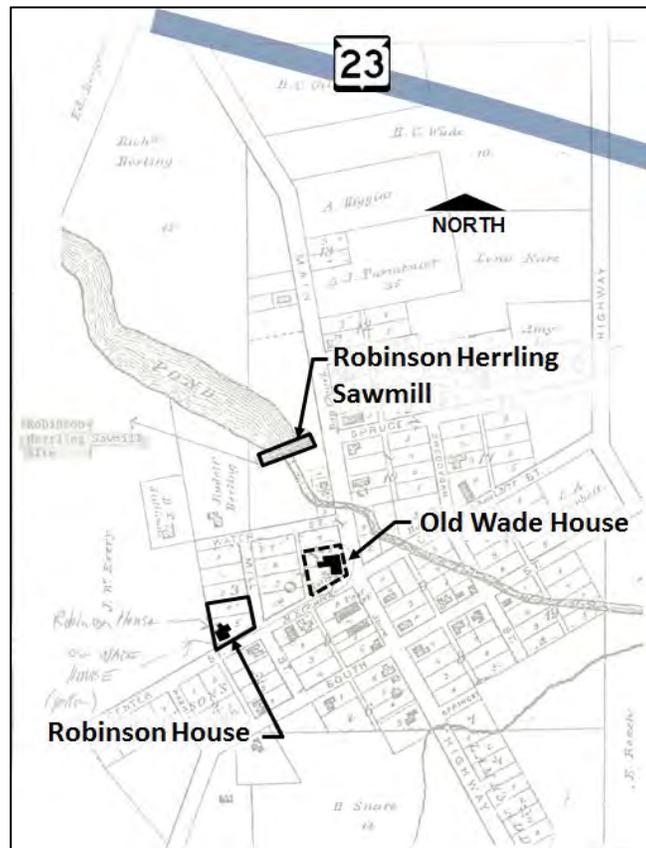


Figure 5.4-4 Wade House Historic Site Buildings on NRHP

WIS 23 impacts are distant from the historic properties associated with the historic site (1/4 mile from the nearest building). The area affected by WIS 23 is screened from the historic properties and primarily serves as open space.

The Wade House Historic Site (Figure 5.4-1) provides an educational, living history of Wisconsin settlement with opportunities for recreational uses such as extensive walking trails and horse-drawn carriage rides. Open spaces and wooded areas are also available for recreation. The Wade House was an early stagecoach inn and was restored by the Kohler Foundation of Kohler, Wisconsin. It was built by Silvanus Wade between 1847 and 1851. The halfway house became an important stagecoach stop on the plank road between Sheboygan and Fond du Lac. Meetings for the discussion of Civil War issues and early railroad construction were held in the inn. The Wesley Jung 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.

The Wade House Historic Site Wetland Enhancement and Mitigation Site (Figure 5.4-5) 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 build alternatives, the Old Plank Road Trail extension will be placed south of WIS 23 near wetlands adjacent to the Wade House Historic Site Wetland Mitigation site. The Wade House Historic Site managers are aware of this. In 2012 the Wade House Historic Site constructed a Visitors Center/Carriage Museum north of the main building area near the future Old Plank Road Trail. No impacts are anticipated to the 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.

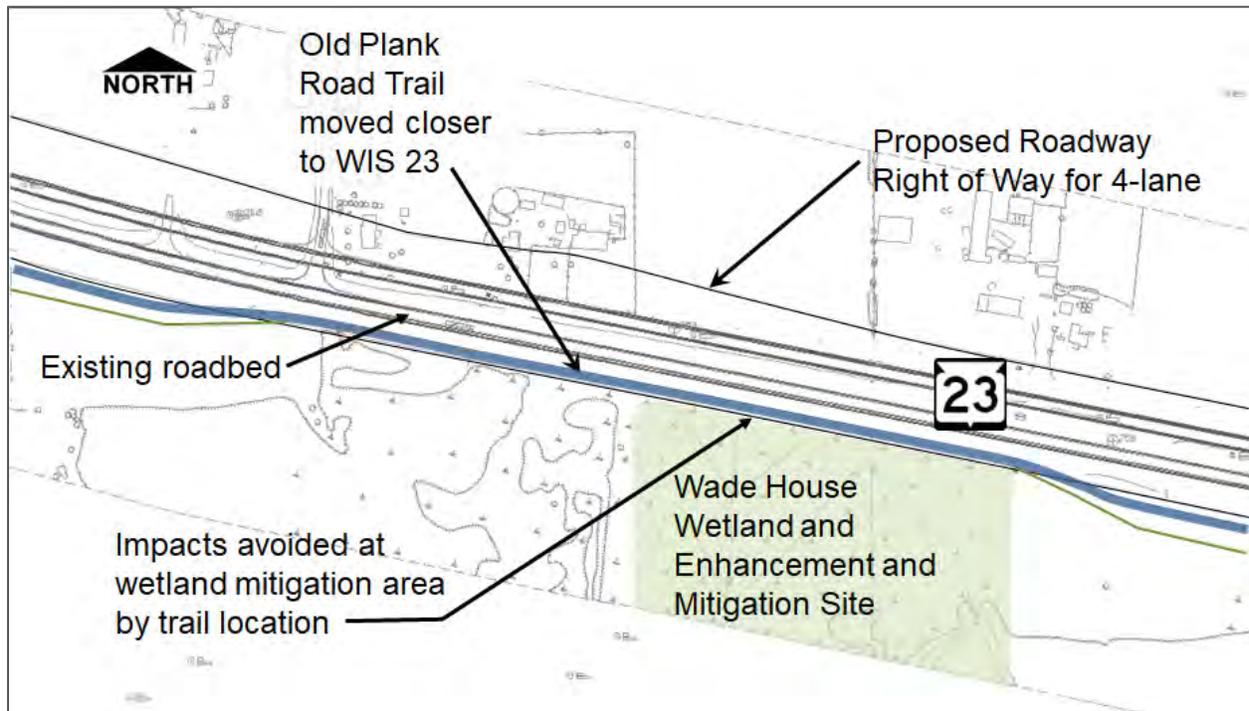


Figure 5.4-5 Wade House Historic Site Wetland Enhancement and Mitigation Site

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

If a build alternative is selected, the WIS 23 project would either reconstruct the existing 2-lane roadway or expand it to a divided 4-lane expressway. In the vicinity of the Wade House Historic Site, any expansion would be constructed north of the existing roadbed. From the Wade House Historic Site, approximately 4 acres that is currently open for recreational use is required for the proposed extension of the Old Plank Road Trail. The trail improvements would be constructed with WIS 23 improvements. The trail improvements would enhance the use of both the trail and the Wade House Historic Site. The trail will be distant from the historic resources on the property.

F. No Adverse Effect on Activities, Features, and Attributes of Section 4(f) Properties

Representatives of the Wisconsin Historical Society, as managers of the Wade House Historic Site, view the trail as an enhancement and support its construction. There are no adverse effects on the recreational activities available to the public or features of the property. The Old Plank Road Trail extension provides another access mode to the property which is a positive attribute. The historic boundaries for the three properties on the NRHP are distant from a WIS 23 improvement. Because of this, there is no adverse effect to properties on the NRHP. Measures to minimize or mitigate harm to the Wade House Historic Site and avoid impacts to the 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 property.
- WisDOT will decrease the distance from WIS 23 to the trail to avoid impacts to the Wade House Wetland Enhancement and Mitigation site.
- WisDOT has provided access to the property off of WIS 23.

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

The Wisconsin Historical Society, as managers of the Wade House Historic Site, 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 Wade House Historic Site or Wetland Enhancement and Mitigation Site. Figure 5.3-6 provides a copy of this written concurrence.

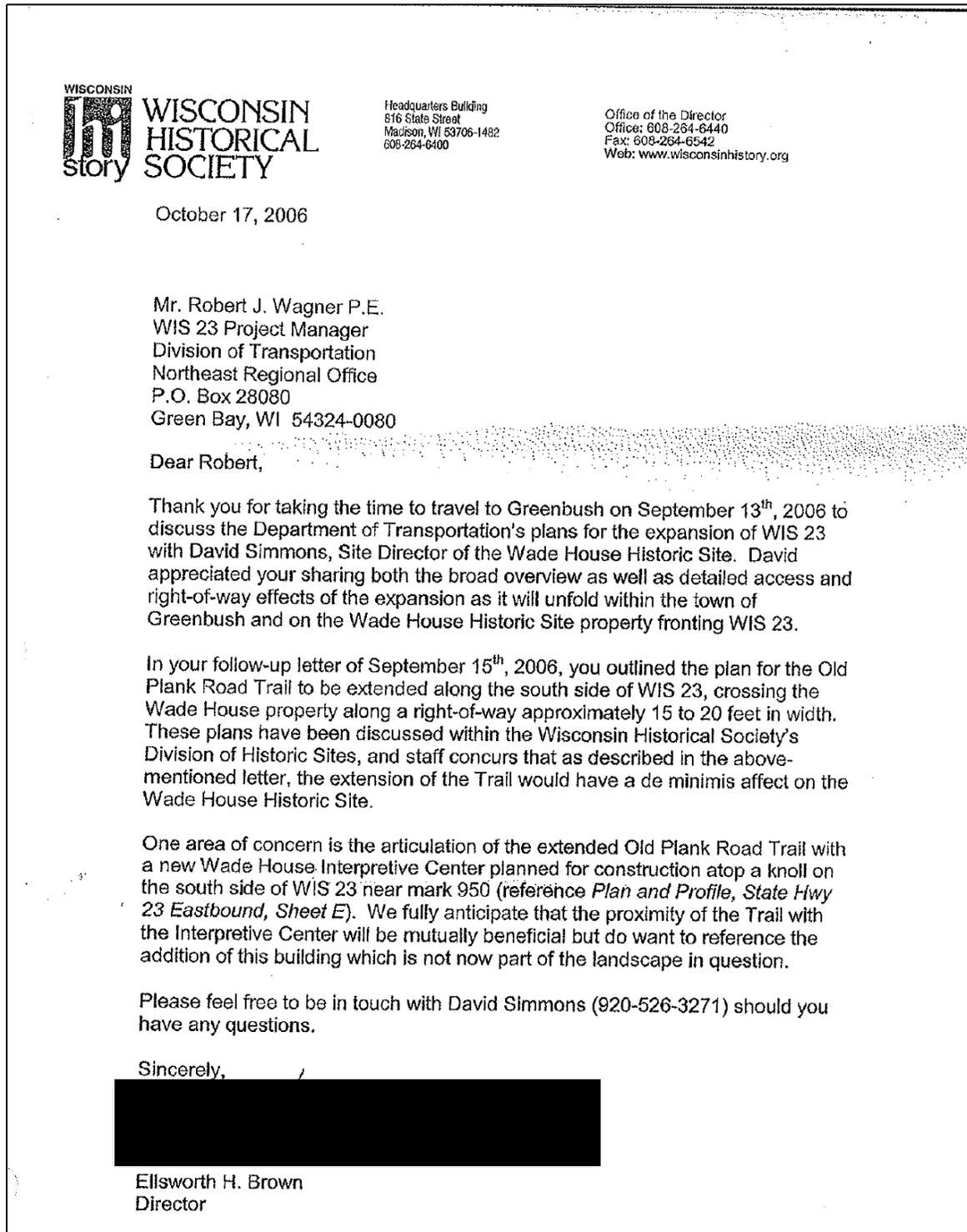


Figure 5.4-6 Letter from State Historical Society

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 5.4-7. 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.

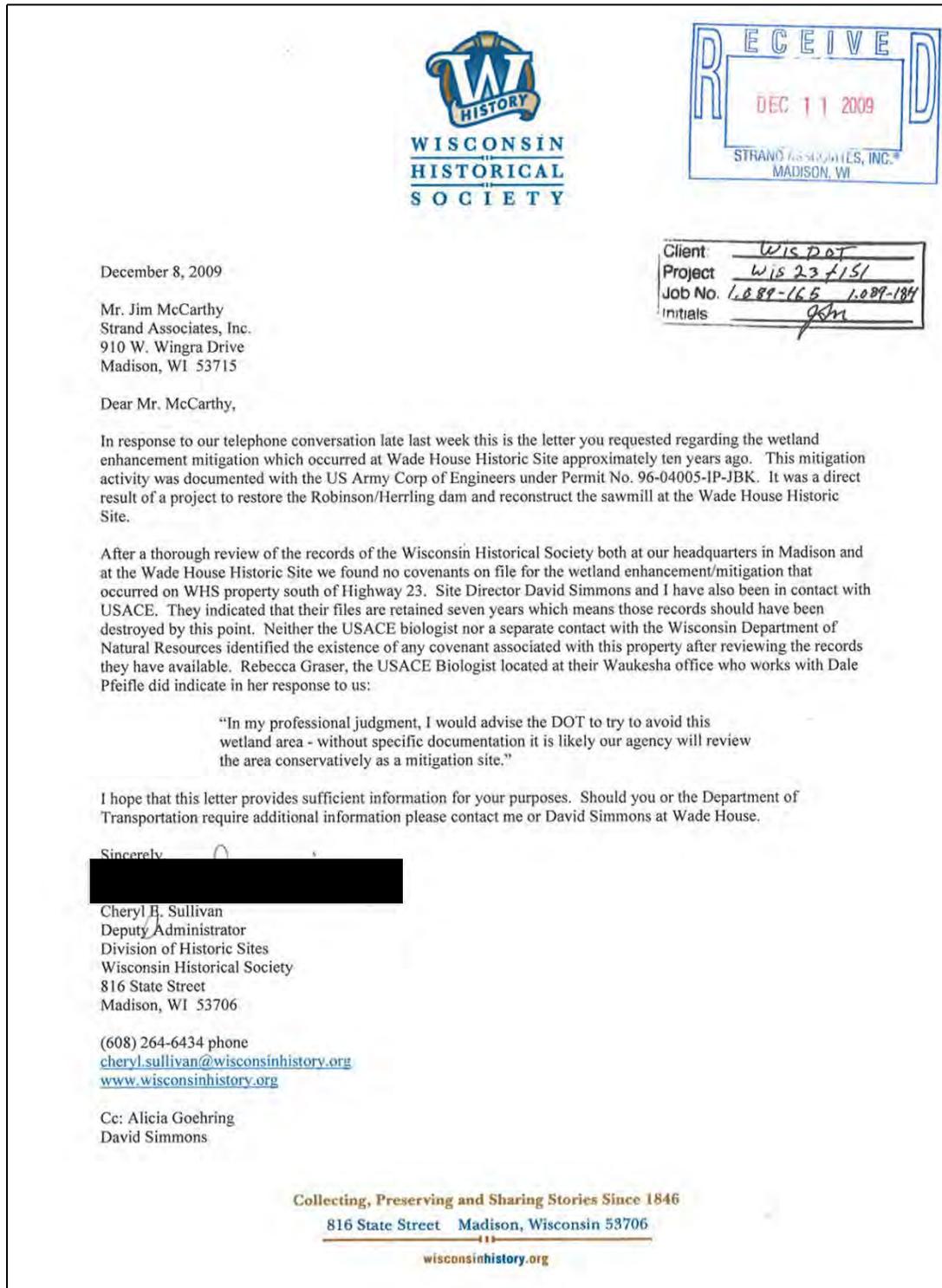


Figure 5.4-7 Letter from State Historical Society

The SHPO has participated in Section 106 consultation and signed a Memorandum of Agreement (MOA) for the project and the associated Area of Potential Effect which does not indicate any adverse effect to properties on the NRHP that are within the boundaries of the Wade House Historic Site.

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 and most recently on October 12, 2017 at a public involvement meeting at the same location. 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 an 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 Wade House Historic Site.
4. In March 2004, WisDOT held a public informational meeting. No comments were received about the Wade House Historic Site.
5. On January 5, 2005, WisDOT held a public hearing for the DEIS. No comments were received about the Wade House Historic Site.
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 Wade House Historic Site.
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 Wade House Historic Site.
12. On April 29, 2013, a public informational meeting was held and the public was provided an opportunity to comment on the effects to the Wade House Historic Site.
13. 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 Wade House Historic Site. Some comments were received regarding entering the park with the proposed RCUTs with the 4-lane On-alignment Alternative.
14. On October 12, 2017, a public involvement meeting was held and the public was provided an opportunity to comment on the effects to the Wade House Historic Site. No comments were received about the Wade House Historic Site.

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 Wade House Historic Site 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, and attributes. 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 Wade House Historic Site (referenced in the MOA as 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.

The Data Recovery Plan for the Sippel Archaeological Site has been completed. Changes describe how current alternatives under consideration impact the site.

5.5 SIPPEL SITE

A. Background

The Sippel Site is a homestead of approximately 0.3 acres that will be impacted by the Passing Lane, Hybrid and 4-lane On-Alignment Alternatives. Initial archaeological investigations have been completed, a Data Recovery Plan was prepared (April 2007), and WisDOT has completed consultation with interested parties. Data recovery occurred between September 29 and October 24, 2014. A January 2018 archaeological studies status assessment for WIS 23 indicated the field investigations associated with the data recovery efforts at the Sippel Site have been completed and the results are currently under review by the State Historic Preservation Office.

The Sippel site was 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. 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 for any of the alternatives. 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 5.5-1 illustrates the location of the site with respect to the Passing Lane, Hybrid, and 4-lane On-Alignment Alternatives. The 4-lane On-alignment Alternative would affect much of the site. The Passing Lane and Hybrid Alternatives would affect less of the site, however Corridor Preservation associated with the Passing Lane, Hybrid and 4-lane On-alignment Alternatives would encompass the same area affected by the 4-lane On-alignment Alternative.

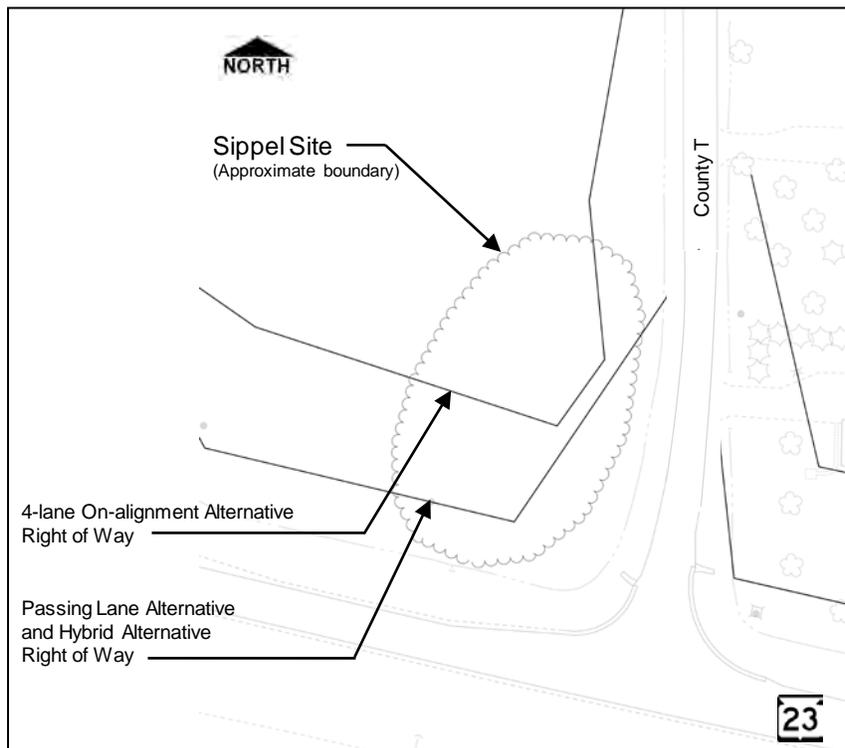


Figure 5.5-1 Sippel Site Impacts

B. 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 5.5-2 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 5.5-2 Email Correspondence to SHPO Regarding Sippel Site

Section 5.6 is renumbered from the former Section 5.7 in the 2014 LS SFEIS. Other than land transfers there are no other substantive changes from the 2014 LS SFEIS.

5.6 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 (KMSF-NU) 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 KMSF-NU is shown in Figure 5.6-1.

The KMSF-NU had approximately 2.21 acres of land acquired for highway right of way. These 2.21 acres were acquired in three sections along the north side of WIS 23. As part of the Section 6(f) conversion request, WisDOT purchased a 4.275-acre triangle of replacement land and transferred it to the state forest (WDNR) on February 18, 2016. The land will be used to install a grade-separated trail crossing under WIS 23 to offset effects to the IAT 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. The replacement land that was transferred to the KMSF-NU is shown in Figure 5.6-2.

In the 2014 LS SFEIS FHWA determined that it is a Section 4(f) property and the Section 4(f) *de minimis* effect finding is included in Section 5.3.

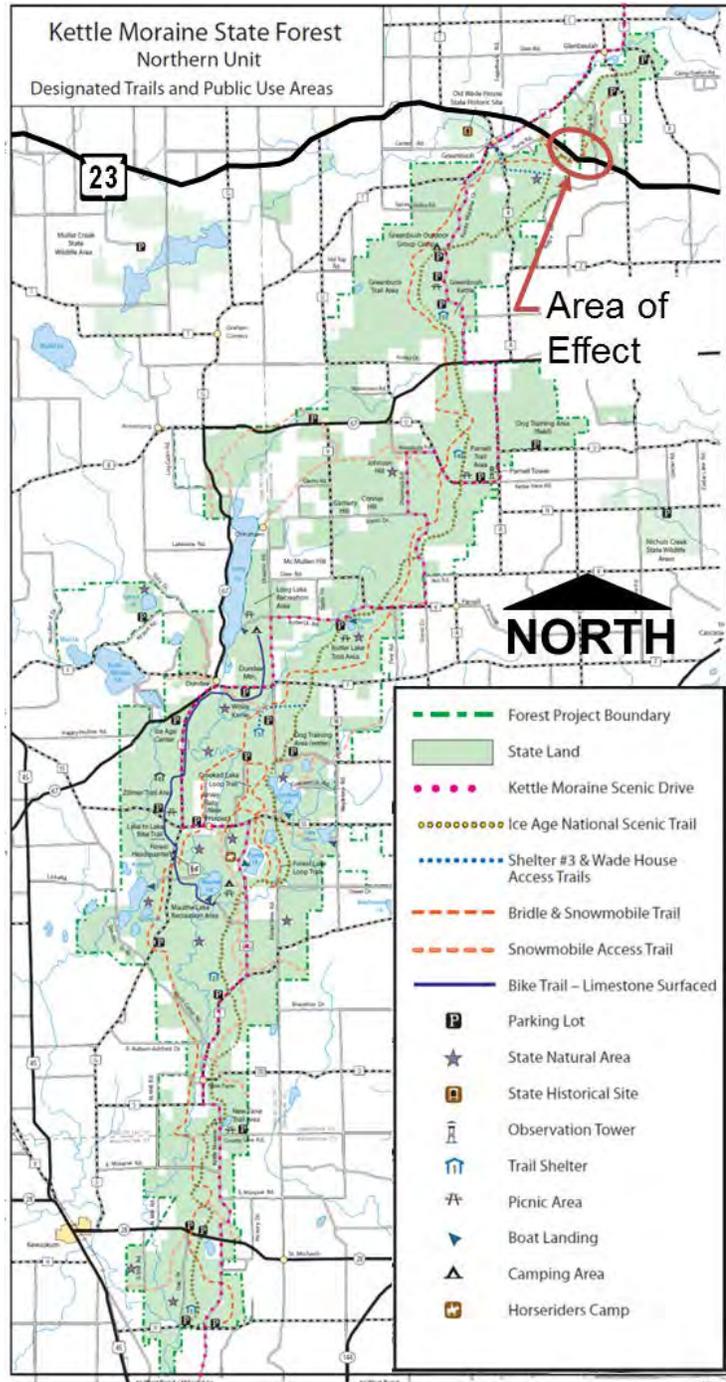


Figure 5.6-1 Northern Unit of Kettle Moraine State Forest

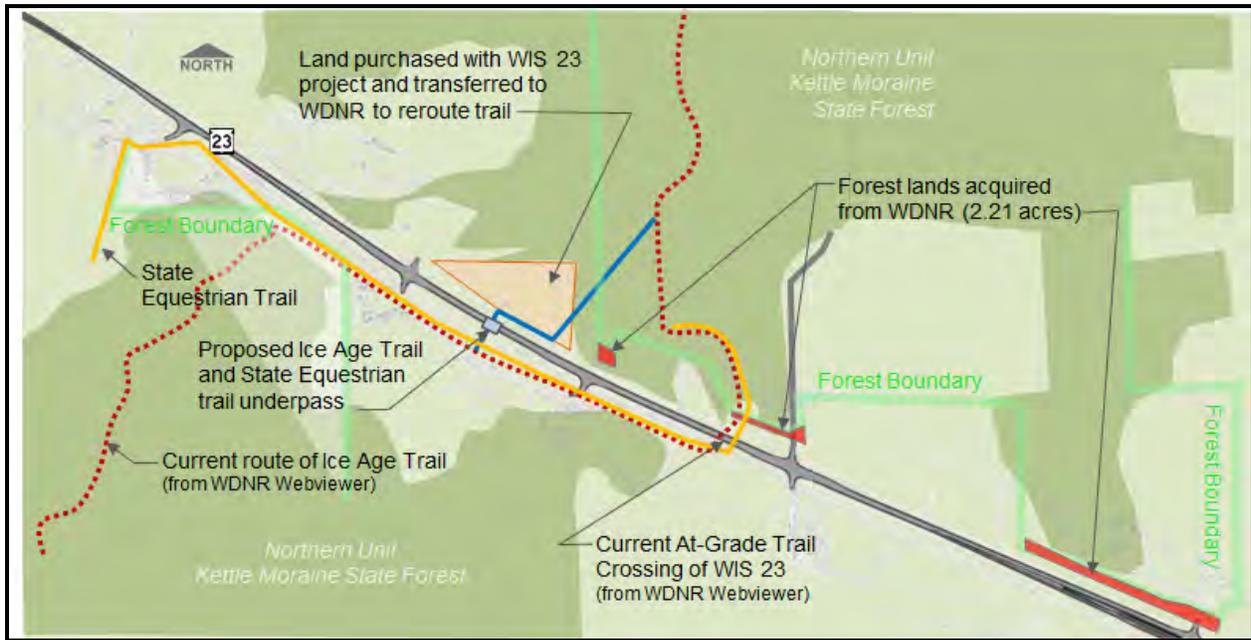


Figure 5.6-2 WIS 23 Land Transfers Associated with Northern Unit of Kettle Moraine State Forest

Figure 5.6-3 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 5.6-4 shows the amendment to the project agreement for conversion of Section 6(f) properties.

The KMSF-NU had approximately 2.21 acres of land acquired for highway right of way. These 2.21 acres were 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 transferred it to the state forest (WDNR) on February 18, 2016. The replacement land will be used to install a grade-separated trail crossing under WIS 23 to offset effects to the IAT and the State Equestrian Trail. The underpass and land for a rerouted trail will provide a safer trail crossing of WIS 23 and more direct trail routing.



Figure 5.6-3 US Department of Interior Letter

JUN 13 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)

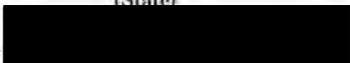
THIS AMENDMENT To Project Agreement No. 55-00708 is hereby made and agreed upon by the United States of America, acting through the Director of the National Park Service and by the State of Wisconsin pursuant to the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964).

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  Wisconsin
(Signature) (State)
LAND & WATER CONSERVATION
FUND PROJECT OFFICER
By 
(Signature)
National Park Service Lavane J. Hessler
United States Department of the Interior (Name)
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.

PSD-8800X Burden 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 5.6-4 Amendment to Project Agreement