



State of Wisconsin / DEPARTMENT OF NATURAL RESOURCES

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July 26, 2016

Matthew J. Morrow
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SUBJECT: Endangered Resources Review (ERR Log # 16-475)
Proposed Sparta WIS 27 & I-90 Business Park, Monroe County, WI (T17N R04W S26, T17N R04W S25)

Dear Matthew J. Morrow,

The Bureau of Natural Heritage Conservation has reviewed the proposed project described in the Endangered Resources (ER) Review Request received July 14, 2016. The complete ER Review for this proposed project is attached and follow-up actions are summarized below:

Required Actions: 0 species

Recommended Actions: 2 species

No Follow-Up Actions: 2 species

Additional Recommendations Specified: Yes

This ER Review may contain Natural Heritage Inventory data (<http://dnr.wi.gov/topic/NHI>), including specific locations of endangered resources, which are considered sensitive and are not subject to Wisconsin's Open Records Law. As a result, information contained in this ER Review may be shared only with individuals or agencies that require this information in order to carry out specific roles in the permitting, planning and implementation of the proposed project. **Specific locations of endangered resources may not be released or reproduced in any publicly disseminated documents.**

The attached ER Review is for informational purposes and only addresses endangered resources issues. **This ER Review does not constitute DNR authorization of the proposed project and does not exempt the project from securing necessary permits and approvals from the DNR and/or other permitting authorities.**

Please contact me at (608) 264-8968 or via email at anna.rossler@wi.gov if you have any questions about this ER Review.

Sincerely,

Anna Rossler
Endangered Resources Review Program

cc:

Endangered Resources Review for the Proposed Sparta WIS 27 & I-90 Business Park, Monroe County
(ER Log # 16-475)

Section A. Location and brief description of the proposed project

Based on information provided by in the ER Review Request form and attached materials, the proposed project consists of the following:

Location	Monroe County - T17N R04W S26, T17N R04W S25
Project Description	This project is the development of a business park including the development of 180 acres of land into commercial and industrial businesses and construction of City streets and utilities. It is anticipated that over 90% of the property will be disturbed.
Project Timing	1/2017-1/2020
Current Habitat	The project area includes a mix of agricultural (80 acres), open space/scrubland (45 acres), woodland (55 acres), and wetland (2+ acre) areas.
Impacts to Wetlands or Waterbodies	Wetlands in the low area in the north central portion of the property, possible wetlands in the low area on the west side of the property, mapped intermittent stream through the central portion of the property, wetlands off-site from the property, La Cross River north of the property. Storm water will leave the site on the north and west sides of the property after it is properly treated.
Property Type	Private, Public
Federal Nexus	Yes

It is best to request ER Reviews early in the project planning process. However, some important project details may not be known at that time. Details related to project location, design, and timing of disturbance are important for determining both the endangered resources that may be impacted by the project and any necessary follow-up actions. Please contact the ER Review Program whenever project plans change or new details become available to confirm if results of this ER Review are still valid.

Section B. Endangered resources recorded from within the project area and surrounding area

	Group	State Status	Federal Status
Karner Blue Federal High Potential Range	Other	NA	HPR
Prairie Fame-flower (<i>Phemeranthus rugospermus</i>)	Plant	SC	
Gophersnake (<i>Pituophis catenifer</i>)	Snake	SC/P	
Wood Turtle (<i>Glyptemys insculpta</i>)	Turtle~	THR	

For additional information on the rare species, high-quality natural communities, and other endangered resources listed above, please visit our Biodiversity (<http://dnr.wi.gov/topic/EndangeredResources/biodiversity.html>) page. For further definitions of state and federal statuses (END=Endangered, THR=Threatened, SC=Special Concern), please refer to the Natural Heritage Inventory (NHI) Working List (<http://dnr.wi.gov/topic/nhi/wlist.html>).

Section C. Follow-up actions

Actions that need to be taken to comply with state and/or federal endangered species laws: None

Actions recommended to help conserve Wisconsin's Endangered Resources:

• Prairie Fame-flower (*Phemeranthus rugospermus*) - Plant

State Status: SC

Impact Type	Impact possible
Recommended Measures	Exclusion Fencing, Surveys
Description of Recommended Measures	Prairie Fame-flower is found in open, sandy prairies, barrens and in moss on exposed bedrock outcrops, often where there is little competition from other forbs. Suitable habitat for the Prairie Fame-flower may be impacted by this project. Although not required because this plant is a species of special concern, we recommend that you avoid or minimize take of the Prairie Fame-flower. Avoidance and minimization efforts may include site surveys to confirm presence/absence of species and fencing off areas of occupied habitat. Survey results should be submitted to the Endangered Resources Review Program.

• Gophersnake (*Pituophis catenifer*) - Snake

State Status: SC/P

Impact Type	Impact possible
Recommended Measures	Time of year restriction, Surveys, Other
Description of Recommended Measures	<p>Gophersnakes prefer sand prairies, bluff prairies, oak savannas and pine and oak barrens. Overwintering can occur in sand prairies, where they often den singly by using mammal burrows or other structures to get below the frost line or they may den communally using deep rock fissures on southerly exposed bluff prairies. This species is active from late March through early October, breeds mid-April through May and lays its eggs in sand cavities they create or under large flat rocks in late June to early July. The eggs hatch in late August to early September.</p> <p>Gophersnakes may be present within the project area in areas of suitable habitat described here. As a species of Special Concern and a Protected Wild Animal, the gophersnake is legally protected from intentional killing. However, take that occurs as a result of normal project activities is not protected. If a Gophersnake is seen on site please stop work and contact our program on measures for removing from the site.</p>

Remember that although these actions are not required by state or federal endangered species laws, they may be required by other laws, permits, granting programs, or policies of this or another agency. Examples include the federal Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, State Natural Areas law, DNR Chapter 30 Wetland and Waterway permits, DNR Stormwater permits, and Forest Certification.

Additional Recommendations

The Wisconsin Natural Heritage Inventory (NHI Portal) database contains all current Northern Long-eared Bat roost sites and hibernacula in Wisconsin. The NHI Portal contains verified survey results from WI DNR, FWS, and private organizations. The NHI Portal was consulted for this project, and per U.S. Fish and Wildlife Service's 4(d) rule, it was determined that this project is more than 150 feet from a known maternity roost tree AND is more than 1/4 mile from a known hibernacula. Therefore, this project can proceed without federal restrictions.

No actions are required or recommended for the following endangered resources:

• Karner Blue Federal High Potential Range - Other

State Status: NA Federal Status: HPR

Impact Type	No impact or no/low broad ITP/A
Reason	Lack of Suitable Habitat within Project Boundary

Justification	The project is located within the Kerner Blue Butterfly (KBB) High Potential Range. A level 1 survey of the area was conducted and found no presence of lupine. Because lupine is not present on the site, no further action for the butterfly is necessary.
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• **Wood Turtle (*Glyptemys insculpta*) - Turtle~**

State Status: THR

Impact Type	No impact or no/low broad ITP/A
Reason	Lack of Suitable Habitat within Project Boundary
Justification	The wood turtle is known to be present near the project area. However, because the project is more than 300m away from a suitable overwintering waterway we do not anticipate the turtle will be present in the proposed project area.

Section D. Next Steps

1. Evaluate whether the **'Location and brief description of the proposed project'** is still accurate. All recommendations in this ER Review are based on the information supplied in the ER Review Request. If the proposed project has changed, please contact the ER Review Program to determine if the information in this ER Review is still valid.
2. Determine whether the project can incorporate and implement the **'Follow-up actions'** identified above:
 - 'Actions that need to be taken to comply with state and/or federal endangered species laws' represent the Department's best available guidance for complying with state and federal endangered species laws based on the project information that you provided and the endangered resources information and data available to us. If the proposed project has not changed from the description that you provided us and you are able to implement all of the 'Actions that need to be taken to comply with state and/or federal endangered species laws', your project should comply with state and federal endangered species laws. Please remember that if a violation occurs, the person responsible for the taking is the liable party. Generally this is the landowner or project proponent. For questions or concerns about individual responsibilities related to Wisconsin's Endangered Species Law, please contact the ER Review Program.
 - If the project is unable to incorporate and implement one or more of the 'Actions that need to be taken to comply with state and/or federal endangered species laws' identified above, the project may potentially violate one or more of these laws. Please contact the ER Review Program immediately to assist in identifying potential options that may allow the project to proceed in compliance with state and federal endangered species laws.
 - 'Actions recommended to help conserve Wisconsin's Endangered Resources' may be required by another law, a policy of this or another Department, agency or program; or as part of another permitting, approval or granting process. Please make sure to carefully read all permits and approvals for the project to determine whether these or other measures may be required. Even if these actions are not required by another program or entity for the proposed project to proceed, the Department strongly encourages the implementation of these conservation measures on a voluntary basis to help prevent future listings and protect Wisconsin's biodiversity for future generations.
3. If federally-protected species or habitats are involved and the project involves federal funds, technical assistance or authorization (e.g., permit) and there are likely to be any impacts (positive or negative) to them, consultation with USFWS will need to occur prior to the project being able to proceed. If no federal funding, assistance or authorization is involved with the project and there are likely to be adverse impacts to the species, contact the USFWS Twin Cities Ecological Services Field Office at 612-725-3548 (x2201) for further information and guidance.

Section E. Standard Information to help you better understand this ER Review

Endangered Resources (ER) Reviews are conducted according to the protocols in the guidance document Conducting

How endangered resources searches are conducted for the proposed project area: An endangered resources search is performed as part of all ER Reviews. A search consists of querying the Wisconsin Natural Heritage Inventory (NHI) database for endangered resources records for the proposed project area. The project area evaluated consists of both the specific project site and a buffer area surrounding the site. A 1 mile buffer is considered for terrestrial and wetland species, and a 2 mile buffer for aquatic species. Endangered resources records from the buffer area are considered because most lands and waters in the state, especially private lands, have not been surveyed. Considering records from the entire project area (also sometimes referred to as the search area) provides the best picture of species and communities that may be present on your specific site if suitable habitat for those species or communities is present.

Categories of endangered resources considered in ER Reviews and protections for each: Endangered resources records from the NHI database fall into one of the following categories:

- Federally-protected species include those federally listed as Endangered or Threatened and Designated Critical Habitats. Federally-protected animals are protected on all lands; federally-protected plants are protected only on federal lands and in the course of projects that include federal funding (see Federal Endangered Species Act of 1973 as amended).
- Animals (vertebrate and invertebrate) listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on all lands and waters of the state (s. 29.604, Wis. Stats.).
- Plants listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on public lands and on land that the person does not own or lease, except in the course of forestry, agriculture, utility, or bulk sampling actions (s. 29.604, Wis. Stats.).
- Special Concern species, high-quality examples of natural communities (sometimes called High Conservation Value areas), and natural features (e.g., caves and animal aggregation sites) are also included in the NHI database. These endangered resources are not legally protected by state or federal endangered species laws. However, other laws, policies (e.g., related to Forest Certification), or granting/permitting processes may require or strongly encourage protection of these resources. The main purpose of the Special Concern classification is to focus attention on species about which some problem of abundance or distribution is suspected before they become endangered or threatened.
- State Natural Areas (SNAs) are also included in the NHI database. SNAs protect outstanding examples of Wisconsin's native landscape of natural communities, significant geological formations, and archeological sites. Endangered species are often found within SNAs. SNAs are protected by law from any use that is inconsistent with or injurious to their natural values (s. 23.28, Wis. Stats.).

Please remember the following:

1. This ER Review is provided as information to comply with state and federal endangered species laws. By following the protocols and methodologies described above, the best information currently available about endangered resources that may be present in the proposed project area has been provided. However, the NHI database is not all inclusive; systematic surveys of most public lands have not been conducted, and the majority of private lands have not been surveyed. As a result, NHI data for the project area may be incomplete. Occurrences of endangered resources are only in the NHI database if the site has been previously surveyed for that species or group during the appropriate season, and an observation was reported to and entered into the NHI database. As such, absence of a record in the NHI database for a specific area should not be used to infer that no endangered resources are present in that area. Similarly, the presence of one species does not imply that surveys have been conducted for other species. Evaluations of the possible presence of rare species on the project site should always be based on whether suitable habitat exists on site for that species.
2. This ER Review provides an assessment of endangered resources that may be impacted by the project and measures that can be taken to avoid negatively impacting those resources based on the information that has been provided to ER Review Program at this time. Incomplete information, changes in the project, or subsequent survey results may affect our assessment and indicate the need for additional or different measures to avoid impacts to endangered resources.
3. This ER Review does not exempt the project from actions that may be required by Department permits or approvals for the project.