

MICHIGAN NATURAL RESOURCES TRUST FUND

I. Overview

A state abundant in natural resources, Michigan's 11,037 inland lakes, 3,200 miles of shoreline, 36,000 miles of rivers and streams, and heavily forested Upper Peninsula provide rich habitat for numerous plant and animal species.¹ The state is also the eighth most populated in the nation and has a population density more than twice the national average.² In order to support public land acquisition for the purpose of resource protection and outdoor recreation, the state legislature created the Michigan Natural Resources Trust Fund (MNRTF), the state's major open space funding program, in 1976 (originally titled the Michigan Land Trust Fund). In 1984, Michigan citizens voted to amend the state constitution so that proceeds could be used to acquire and develop land for public outdoor recreation. Amendments also required that extractive industry royalties and lease payments be deposited into the fund. Since then, Michigan voters have twice increased the amount that can be accumulated in the MNRTF.³ The MNRTF has helped protect hundreds of thousands of acres of land since its inception.⁴

The Michigan Natural Resources Trust Fund has statutory authority to provide grants for a broad range of purposes, including acquiring environmentally important lands and acquiring lands for recreational use.^{5,6} MNRTF has no plans to formally integrate the Michigan wildlife action plan (formerly known as the Comprehensive Wildlife Conservation Strategy) into their project selection methodology, but expects that some applicants will rely on the plan to support their grant applications.

II. Michigan Natural Resource Trust Fund

Michigan's State Constitution and Natural Resources and Environmental Protection Act authorize the MNRTF to provide for "the acquisition of land or rights in lands for recreational uses or protection of the land because of its environmental importance or its scenic beauty, [and]

¹ Everything Michigan, Michigan, *The Great Lake State*, at <http://www.everythingmichigan.net/miinf.htm> (last visited June 23, 2005).

² The Trust for Public Land, *Funding Profile: Michigan*, at http://www.tpl.org/tier3_cdl.cfm?content_item_id=11425&folder_id=706 (posted Mar. 2003).

³ Michigan Department of Natural Resources, *2004 Michigan Natural Resources Trust Fund Annual Report (Jan. 2005)*, available at <http://www.midnr.com/Publications/pdfs/InsideDNR/forms/grants/IC1906.pdf>.

⁴ Email from Jim Wood, Chief, Grants, Contracts and Customer Systems, Michigan Department of Natural Resources, to Ben Gerhardtstein, Research Associate, Environmental Law Institute (Sept. 20, 2005, 14:08:58 EST) (on file with author).

⁵ MICH. CONST. art. IX, § 35.

⁶ The MNRTF is not specifically authorized by statute to prioritize biodiversity conservation when reviewing land acquisition projects. Since biodiversity conservation is not currently a focus for the MNRTF, lands are acquired for this purpose on a limited basis. For instance, in the summaries of the 15 acquisition projects funded by the MNRTF in 2004, the importance of habitat or species conservation was mentioned in six. Michigan Natural Resources Trust Fund, *Board Recommendations*, at http://www.michigan.gov/documents/04_projects_116063_7.pdf (last visited July 20, 2005).

for the development of public recreation facilities...⁷ Under this authority, the five-member MNRTF Board of Trustees administers the program from within the Michigan Department of Natural Resources (MDNR).^{8,9} The board is supported by MDNR staff, including scientists.¹⁰

Program Funding

The MNRTF is funded by revenues from leases for the extraction of nonrenewable resources on state-owned land.^{11,12} The MDNR may expend the fund's interest and earnings, as well as one-third of the revenue received in a given year.¹³ The MNRTF has approximately \$20-25 million available for grants each year, although funding fluctuates depending on revenue, investment earnings, and interest accruing in the fund.¹⁴ During FY 2004, acquisition grants totaled \$26 million, while development grants totaled \$6.1 million.^{15,16} Since 1976, more than \$600 million in MNRTF appropriations have supported over 1,200 state and local acquisition and development projects.¹⁷

Land Acquisition Grants

MNRTF provides grants to state agencies and local government entities for land acquisition.¹⁸ However, any individual, group or organization may nominate land for MDNR acquisition.¹⁹ Local units of governments must provide at least 25 percent of the total project cost as a match and must have an MDNR-approved five-year local recreation plan prior to applying for an MNRTF grant.²⁰

⁷ MICH. CONST. art. IX, § 35; MICH. COMP. LAWS § 324.1903 (2005).

⁸ MICH. COMP. LAWS § 324.1903 (2005).

⁹ Board members include the Director of the MDNR or a member of the Michigan Natural Resources Commission, and four Governor-appointed Michigan residents. Michigan Department of Natural Resources, *Meet the Board*, at http://www.michigan.gov/dnr/1,1607,7-153-10366_16791-39501--,00.html (© 2001-2005).

¹⁰ Telephone Interview with Jim Wood, Chief, Grants, Contracts, and Customer Systems, Michigan Department of Natural Resources (Mar. 17, 2005).

¹¹ MICH. COMP. LAWS § 324.1902 (2005).

¹² Currently, the maximum amount allowed to accumulate in the trust fund is \$500 million. Michigan Department of Natural Resources, *supra* note 3.

¹³ MICH. COMP. LAWS § 324.1903 (2005).

¹⁴ Michigan Department of Natural Resources, *MNRTF Grant Overview*, at http://www.michigan.gov/dnr/1,1607,7-153-10366_11864-29094--,00.html (© 2001-2005).

¹⁵ During Fiscal Year 2003, acquisition grants totaled \$18 million while development grants totaled \$5.6 million. Michigan Department of Natural Resources, Grants, Contracts and Customer Systems, *2003 Michigan Natural Resources Trust Fund Annual Report* (Mar. 3, 2004).

¹⁶ The board is authorized to spend up to 25 percent of available MNRTF revenues each year for development projects, but exceptional acquisition opportunities during recent years have prompted the board to spend only 20 percent on development projects. Michigan Department of Natural Resources, *supra* note 3.

¹⁷ Michigan Department of Natural Resources, *About the MNRTF*, at http://www.michigan.gov/dnr/0,1607,7-153-10366_11864-36732--,00.html (last visited July 15, 2005).

¹⁸ Michigan Department of Natural Resources, *supra* note 3.

¹⁹ Michigan Department of Natural Resources, Grants, Contracts and Customer Systems, *Michigan Natural Resources Trust Fund Nomination for Land Acquisition*, (Jan. 14, 2003), available at <http://www.midnr.com/Publications/pdfs/InsideDNR/forms/grants/PR1909.pdf>.

²⁰ Michigan Department of Natural Resources, *supra* note 14.

Land Protection Strategy

MNRTF grant recipients protect land through fee simple acquisition or permanent easements.²¹ MDNR staff review proposals using point-based scoring criteria established by the MNRTF Board of Trustees.²² Criteria have remained relatively consistent over time, but have been reviewed and updated periodically under special board initiative. Project review may also include a site visit by MDNR staff. A ranked list of eligible projects is submitted to the MNRTF Board annually; the board makes final grant recommendations and submits a list of recommended projects to the Governor, which are forwarded to the Michigan Legislature for approval and appropriation.²³

MNRTF program goals, as identified by the Board of Trustees, include: resource protection, water access, community recreation, urban recreation, and economic development. Several of the project selection criteria relate to biodiversity considerations, e.g. the protection and/or use of significant natural resources; use of inland water resources; hunting, fishing, and other wildlife-related opportunities; and the special initiative of the board. MNRTF focuses on protecting “forests, fish and wildlife and their habitats, wetlands, sand dunes, flood plains, and natural and wilderness areas.”²⁴ Proposals can also receive points if they involve endangered or threatened species or features identified as “significant” by the Michigan Natural Features Inventory (MNFI).²⁵ Projects can also receive points for providing “quality hunting, fishing, or other wildlife-related opportunities, such as wildlife viewing or habitat protection.”²⁶ In addition, one of the five 2005 special initiatives by the Board is the “acquisition of land that connects or provides a buffer area to land with critical wildlife habitat or ecological values that are already in permanent protection.”²⁷

Prompted by MNRTF scoring criteria, applicants seeking funding to protect natural resources provide biological information regarding their proposed project.²⁸ The type of information provided by applicants varies depending on the intended uses of the site, the natural resource features of the site, and the resources available to the applicant.²⁹ Applicants gather this information from a variety of places, including consultants, the MNFI, MDNR, and the Michigan Department of Environmental Quality.³⁰

Protection in Perpetuity

MNRTF Board policies state that properties acquired with MNRTF assistance “shall not be wholly or partially converted to other than outdoor recreation use” without approval from the

²¹ Michigan Department of Natural Resources, Grants, Contracts and Customer Systems, *Recreation Grants Application Guidelines 2005 (Jan. 4, 2005)*, available at <http://www.midnr.com/Publications/pdfs/InsideDNR/forms/grants/ic1905bk.pdf>.

²² Michigan Department of Natural Resources, *supra* note 14.

²³ Michigan Department of Natural Resources, *supra* note 21.

²⁴ *Id.*, at 34.

²⁵ The MNFI collects, analyzes, and communicates “information about rare and declining plants and animals, and the array of natural communities and ecosystems native to Michigan.” Michigan State University Extension, *Michigan Natural Features Inventory*, at <http://web4.msue.msu.edu/mnfi/> (last visited July 19, 2005).

²⁶ Michigan Department of Natural Resources, *supra* note 21, at 30.

²⁷ *Id.*, at 31.

²⁸ Wood, *supra* note 10.

²⁹ Wood, *supra* note 4.

³⁰ Wood, *supra* note 10.

MDNR and MNRTF Board. Furthermore, the MDNR and MNRTF Board must approve the implementation of mitigation measures for any conversion.³¹ Conversions are rare and normally involve only a portion of a project site.³²

MNRTF does not provide funding for management, monitoring, or stewardship of protected land.³³ However, the board assesses each applicant's stewardship within the existing parks and recreation system and may deny funding to an applicant with poor stewardship history.³⁴

III. State Wildlife Action Plan

Michigan's Department of Natural Resources coordinated the development of the Michigan wildlife action plan (formerly known as the Comprehensive Wildlife Conservation Strategy) in conjunction with state, federal, and tribal agencies, local governments, conservation organizations, universities, and private landowners. The plan provides Michigan's conservation partners with a common strategic framework for wildlife conservation. Michigan's wildlife action plan uses an ecological, habitat-based framework for conservation and wildlife management, recommending actions that will improve habitat conditions and the population status of species with the greatest conservation need without compromising the status of common species.³⁵

MNRTF officials do not anticipate formally integrating the plan into their proposal evaluation process, but do expect that future grant applicants will reference the plan to support their proposed projects.³⁶

IV. Summary

Michigan statutes provide MNRTF with broad authority to provide grants for recreational uses or to protect lands that are environmentally important.³⁷ The fund is not specifically authorized to prioritize lands for biodiversity conservation. However, MNRTF project selection criteria reflect some focus on wildlife conservation.³⁸ Future grant applicants may be rewarded for utilizing Michigan's wildlife action plan, although MNRTF does not anticipate formally integrating the plan into their proposal evaluation process.

³¹ Michigan Department of Natural Resources, Grants, Contracts and Customer Systems, *Michigan Natural Resources Trust Fund Board Policies and Procedures (Feb.2, 2003)*, available at http://www.michigan.gov/documents/mnrtfboardpolicies_69741_7.pdf.

³² Wood, *supra* note 4.

³³ Wood, *supra* note 10.

³⁴ Michigan Department of Natural Resources, *supra* note 31.

³⁵ Michigan Department of Natural Resources, *Michigan's Wildlife Conservation Strategy*, at <http://www.michigan.gov/wildlifeconservationstrategy> (last visited July 19, 2005).

³⁶ Wood, *supra* note 4.

³⁷ MICH. CONST. art. IX, § 35; MICH. COMP. LAWS § 324.1903 (2005).

³⁸ Michigan Department of Natural Resources, *supra* note 21.