

RESOLUTION NO.: 6—2024-25

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 The Outagamie County Parks Department is requesting approval of an Access Agreement
2 made by and between the State of Wisconsin Department of Natural Resources (DNR) and
3 Tony J. Farley and Stacey L. Farley for permission to cross the former railroad corridor of
4 Wisconsin Central Ltd., known today as the “Newton Blackmour State Trail” (Trail) on
5 Outagamie County Wisconsin Tax Parcel Number 190056500 in the Town of Seymour in
6 order to access farm lands owned by relatives.
7

8 NOW THEREFORE, the undersigned members of the Property, Airport, Recreation and
9 Economic Development Committee recommend adoption of the following resolution.

10 BE IT RESOLVED, that the Outagamie County Board of Supervisors does hereby and herewith
11 approve an Access Agreement made by and between the State of Wisconsin Department of Natural
12 Resources and Tony J. Farley and Stacey L. Farley for permission to cross the former railroad corridor of
13 Wisconsin Central, Ltd., known today as the “Newton Blackmour State Trail” on Outagamie County
14 Wisconsin Tax Parcel Number 190056500 in the Town of Seymour; said land is described and shown on
15 the attached Access Agreement and Exhibit A Map, which by reference are made a part hereof, and

16 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy of
17 this resolution to the Outagamie County Parks Director.

18 Dated this ____ day of May 2024
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Respectfully submitted,

PROPERTY, AIRPORT, RECREATION &
ECONOMIC DEVELOPMENT COMMITTEE

Dean Culbertson

Lee W. Hammen

Ronald Klemp

Yvonne Monfils

Jayson Winterfeldt

Duly and officially adopted by the County Board on: _____

Signed: _____
Board Chairperson

County Clerk

Approved: _____

Vetoed: _____

Signed: _____
County Executive

Document Number State of Wisconsin Department of Natural Resources Box 7921 Madison, WI 53707-7921	Document Title ACCESS AGREEMENT (Cooperative Trail-Over 5 Years) Section 23.09(10), Wis. Stats. Form 2200-117b Rev. 05/2021
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THIS ACCESS AGREEMENT (“Agreement”) is made by and between the State of Wisconsin Department of Natural Resources (“Owner”) and Tony J. Farley, and Stacey L. Farley, collectively (“Permittee”).

RECITALS

WHEREAS, the Owner is the successor in title to the former railroad corridor of Wisconsin Central Ltd., known today as the “Newton Blackmour State Trail” (“Trail”);

WHEREAS, the portion of the Trail to which this Agreement pertains is located in the NW ¼ of the SW ¼ of Section 31, Township 24 North, Range 18 East, Town of Seymour, Outagamie County, Wisconsin; this portion is further described below and referred to in this Agreement as the “Premises”;

WHEREAS, the Owner has contracted the trail management and operations for the Trail to Outagamie County (“Trail Manager”) through an Easement;

WHEREAS, the Permittee presently owns certain real property adjacent to the Premises;

WHEREAS, the Permittee seeks permission from the Owner to cross the Premises in order to access farm lands owned by relatives on Outagamie County Wisconsin Tax Parcel Number 190056500; and

WHEREAS, the Owner is willing to grant Permittee permission to cross the Premises for the period of time and for the purpose(s) set forth below.

Recording Area Return: Department of Natural Resources Bureau of Facilities and Lands – LF/6 P.O. Box 7921 Madison, WI 53707-7921 Attn: Closing Officer (LU-7291)
Parcel Identification Number (PIN) #: Owner: N/A Permittee: 190056604

AGREEMENT

NOW, THEREFORE, for good and valuable consideration of the sum of \$500.00 this non-exclusive Agreement is subject to the following mutual terms and conditions:

1. **Recitals.** The Owner and the Permittee confirm and agree that the recitals set forth above are true and correct and incorporate the same herein for all purposes.
2. **Permittee.** The term “Permittee” shall be construed and apply to any of the Permittee’s family, guests, tenants, licensees, members, invitees, or agents.
3. **Parties.** The terms Owner and Permittee when used herein shall mean either singular or plural and the Owner and Permittee are collectively referred to herein as “Parties.”
4. **Purpose.** The Owner hereby grants to the Permittee non-exclusive permission for ingress and egress over

and across the Trail; using a portion of the Trail (the Premises) which more particularly described as:

A 30-foot-wide right-of-way centered upon an existing road, to provide access to the Permittee across the Premises which is further described as;

Commencing at the Southwest corner of the NW ¼ of the SW ¼ of said Section 31; Thence S 89°15'35" E approximately 117.71 feet to the North Line of the Railroad Right-of-Way; Thence N 52°43'06" E along the North Line of the Railroad Right-of-Way approximately 670.35 feet to the Point of Beginning; Thence S 2°04'39" E approximately 123.90 feet to the South Line of the Railroad Right-of-Way and the Point of Termination.

This road is also known as "farm crossing" and is hereinafter referred to as the "Access Road." The approximate location of the Access Road is depicted on **Exhibit "A"**, which is attached hereto and made a part hereof.

5. **Term.** This Agreement shall be in effect for a Fifteen (15) year period, commencing April 1, 2024 and ending March 31, 2039. If the Permittee desires an extension of the Agreement, it may request the same at least 90 days prior to the expiration of this Agreement. The Owner may choose to extend the Agreement if the Permittee has complied with all of the terms and conditions of this Agreement and if the total Agreement term will not exceed 15 years.
6. **Termination.** The Owner may terminate this Agreement by giving thirty (30) day written notice to the Permittee if the Owner determines that further use of the Premises by the Permittee will interfere with present or future management objectives of the Owner, or if the Permittee breaches any terms or conditions contained in this Agreement.
7. **Access Road.** The Owner reserves the right to require and permit alternative access across the Trail if the location of the Access Road interferes with Owner's or the Owner's Trail Manager's use and management of the Premises. The Owner and the Owner's Trail Manager also reserve the right to temporarily close the Access Road to vehicle access in times when the Owner's Trail Manager deems road conditions are too poor to allow vehicular travel.
8. **Non-Transferable.** It is understood and agreed that this Agreement is permissive only, i.e., personal to the named Permittee, nontransferable and subject to revocation by the Owner. Neither this Agreement nor any permission under this Agreement may be assigned except as set forth herein. The terms and conditions contained herein shall not be construed to confer any rights on the Permittee other than those of a permit and do not run with the title to Permittee's real estate. This Agreement does not transfer to, nor can it be used to provide access to any subdivisions, lots or parcels created off the Permittee's present ownership. Any purported assignment of this Agreement shall constitute a material breach of this Agreement and the Agreement shall be automatically considered null and void.
9. **Allowed Vehicle Use.** The Permittee shall have the right to use the Access Road only by non-motorized means and by motorized vehicles licensed for use on public highways. The use of ATVs, UTVs, and/or off-road-motorcycles shall not be allowed on the Access Road unless a separate agreement is made between the parties hereto, or unless otherwise permitted by the Owner. The Access Road shall not be used for parking.

10. **Maintenance of Access Road.**
 - A. The Permittee shall maintain the Access Road in a safe and usable condition at all times such that the Permittee shall cause no obstruction to free and uninhibited use of the Access Road or the Trail by the general public. The Permittee understands that the Trail is open for use to all members of the general public without regard to race, creed, marital status, color, sex, national origin, age, handicap, ancestry, sexual orientation, arrest record or conviction record.
 - B. Any and all desired new construction or improvements to be performed on the Access Road by the Permittee shall only be done with prior written approval of the Owner.
 - C. The Permittee agrees to repair or reimburse the Owner for any damage to the Access Road or the Trail that is caused by the Permittee's or the Permittee's guests, invitees, agents, or contractors' use of or maintenance of the Access Road. Permittee shall promptly repair and restore the damaged area in a timely, workmanlike manner consistent with the original condition of the Access Road /Trail at the time when this Agreement was first executed.
 - D. The Owner shall have no obligation to improve, repair or maintain the Access Road, other than to repair damage caused by the Owner or its agents.
11. **Vegetative Management.** No cutting or trimming of trees shall be done without the prior written approval of the Owner, except that dead and downed trees that obstruct passage on the Access Road may be removed without such written approval. Any trees removed from the Access Road remain the property of the Owner. All trees having commercial value, including firewood, shall be cut in standard lengths and piled at the side of the road for use or disposal by the Owner. All stumps, slash, waste materials and other debris resulting from construction or maintenance, if any, of the Access Road shall be disposed of by the Permittee as directed by the Owner.
19. **NR 45 Enforcement.** The Owner retains management, supervision and control over the Premises for the purpose of enforcing pertinent state laws needed to protect the Premises, its natural resources or the general public, including Chapter NR 45, Wis. Admin. Code, which governs the conduct of visitors to state lands.
12. **Signage.** No gates, signs (other than fire numbers) or other articles of the Permittee will be allowed on Premises without the written consent of the Owner.
13. **Reservations.** The Owner reserves the right to permit other access on the Access Road, including utility easements in, under or through the Access Road consistent with the rights granted herein.
14. **Violations.** In the event the terms and conditions of this Agreement are found to have been violated, the Owner at its discretion may give written notice to the Permittee of the violation(s) and may identify the ways in which the Permittee can rectify the violations.

15. **AREMA Compliance.** The Premises may be encumbered by federal or state railroad interest and subject to future restoration and reconstruction of the right-of-way for rail purposes consistent with Section 208 of the National Trails System Act Amendment of 1983, Publ. L. No. 98-11 (16 U.S.C. 1247(d)) or Wis. Stat. § 85.09, including possible termination of this Agreement, and subject to reservations, exceptions and leases, agreements and permits authorized by the former railroad company or the Grantor prior to the execution of this Agreement. Grantor shall provide written notice of the necessity for the reestablishment of railroad, which may result in the termination of this Agreement upon the discretion of the railroad. Grantee shall: (1) not materially change the grade or topography of the Trail or the Premises; (2) not construct and install or remove any permanent improvement which violates American Railway Engineering and Maintenance-of-Way Association (“AREMA”), or its successors’ published practices and procedures or would make such reestablishment of railroad impracticable; and (3) not allow the installation of any facility, above or below grade that does not conform to AREMA’s standards or clearances for railroad.
16. **Indemnification.** The Permittee agrees to protect, indemnify, and save harmless the Owner, its agents and employees, from and against any and all claims, demands, suits, liability, costs and expense, by reason of loss or damage to any property (state or other) or bodily injury to or death of any person whatsoever, that may arise directly or indirectly
 - a. from the Permittee’s maintenance, repair or use of the Access Road;
 - b. out of the Permittee’s exercise of any and all permissions allowed by this Agreement; and/or
 - c. out of the Permittee’s failure to exercise of any and all rights, duties and responsibilities granted by this Agreement.
17. **Entire Agreement.** This Agreement sets forth the entire understanding of the Owner and the Permittee and may not be modified or amended except by a written document executed and acknowledged by the Owner and the Permittee.
18. **Invalidity.** If any provision or specific application of this Agreement is found to be invalid by a court of competent jurisdiction, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
19. **Enforcement.** It is intended that this Agreement shall be construed as being an adequate and legally enforceable agreement. Owner may enforce this Agreement through proceedings at law or in equity, either to restrain or prevent the violation or to obtain any other relief.
20. **Headings.** The headings of clauses contained in this Agreement are used for convenience and ease of reference only and do not limit the scope or intent of the clause.
21. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
22. **Additional Conditions.** Additional Terms and Conditions specifically pertinent to this Agreement will be valid if enumerated below:
 - A. This Agreement does not grant authority to enter upon lands north of the Newton Blackmour State Trail. Permittee must have permission from landowner(s) for Outagamie County Wisconsin Tax Parcel Number 190056500 to enter said property.

END OF TERMS AND CONDITIONS

IN WITNESS WHEREOF, the Owner has caused this Agreement to be executed on its behalf this _____ day of _____, 20__.

State of Wisconsin
Department of Natural Resources
For the Secretary

By _____ (SEAL)
Terry H. Bay
Bureau Director - Facilities and Lands

State of Wisconsin)
) ss.
Dane County)

Personally came before me this ____ day of _____, 20__, the above named Terry H. Bay, Bureau Director for Facilities and Lands, State of Wisconsin Department of Natural Resources, to me known to be the person who executed the foregoing instrument and acknowledged that he executed and delivered the same as for the act and deed of said Department of Natural Resources.

Katherine Shubak
Notary Public, State of Wisconsin
My Commission (expires)(is) _____

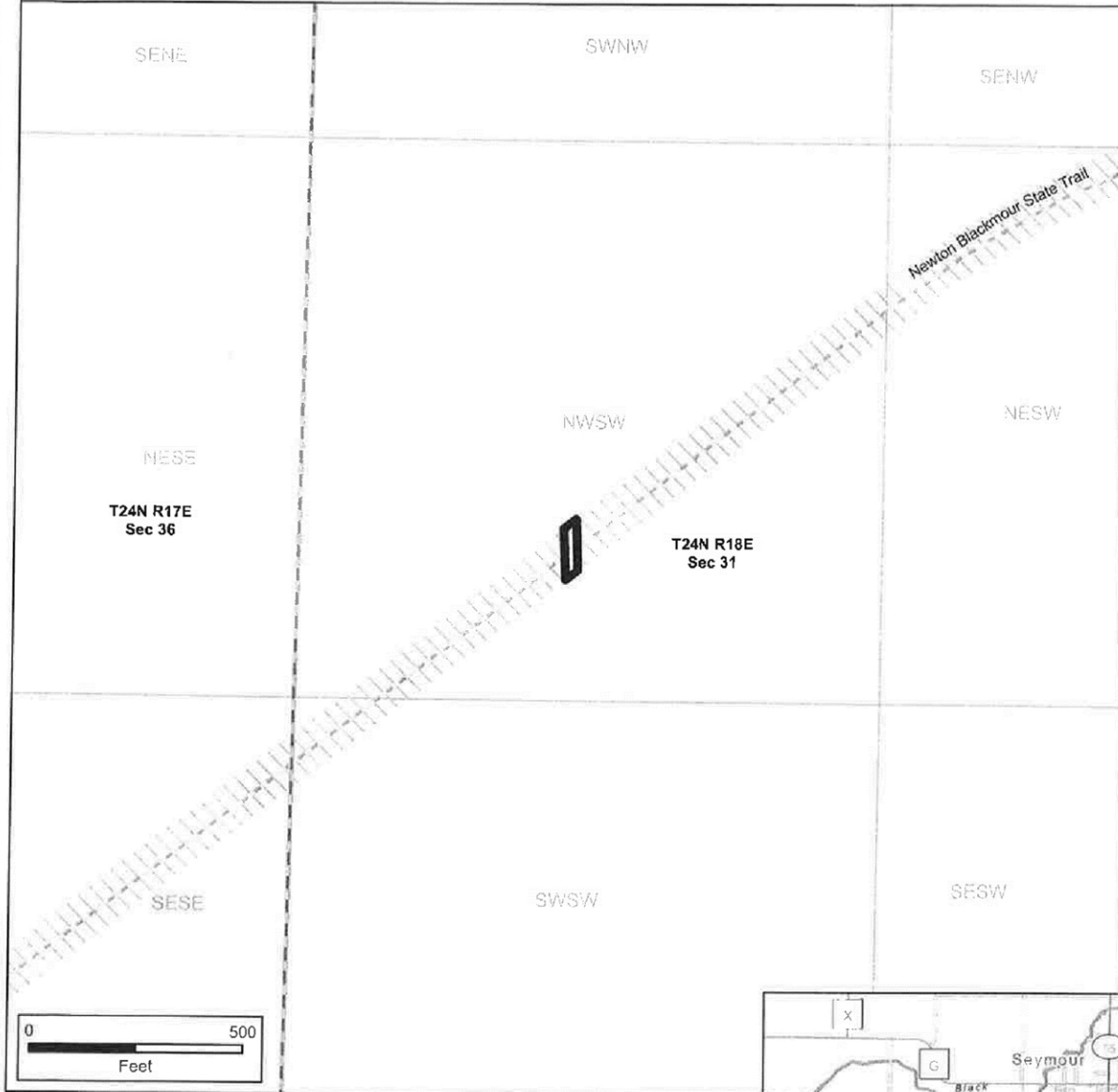
Exhibit “A”

Map of Access Road.

Exhibit A Map

T24N, R18E, Sec. 31, Town of Seymour, Outagamie County

The data shown in this exhibit has been obtained from various sources and is of varying, age, reliability and resolution. This exhibit is for illustrative purposes only. No warranty, expressed, or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this exhibit. In the event of any conflicts between the Access Permit to which this exhibit is attached and this exhibit, the agreement shall control.



- Section Boundary
- QQ Section Boundary
- DNR Fee Title
- Subject Area
- State Recreation Trail

