Council on Forestry Meeting
Holiday Inn Hotel & Convention Center, Stevens Point
April 22, 2013

Council Members Present: Troy Brown, Rep. Fred Clark, Matt Dallman, Paul DeLong, Tom Hittle, Jim Hoppe, Jim Kerkman, Rep. Jeff Mursau, Kim Quast, Mark Rickenbach, Jane Severt (Council Vice-Chair), Henry Schienebeck (Council Chair), Paul Strong, Sen. Tom Tiffany, Virgil Waugh, and Richard Wedepohl
Council Members Absent: Bruce Allison and Randy Champeau
Guests Present: Terrisa Mulder, Bob Mather, Kathy Nelson, Allison Hellman, Nancy Bozek, Sara Bredesen, Gary Halpin, Gerry Mich, E.G. Nadeau, Rick Stadelman, and Greg Rebman

Meeting Minutes

Chair Schienebeck called the meeting to order at 9:16 am with introductions of Council members and guests in addition to a formal introduction and welcome to Tom Hittle, new member to Council on Forestry.

Presentation – Tom Hittle

The goal of the presentation is to provide a summary of the potential modifications considered in the MFL committee process including an analysis of the current situation, the proposed modifications, and related consequences. It is to inform the Council and serve as a baseline guide for any forthcoming efforts to modify the Managed Forest Law.

Outcomes:

- Review scope of MFL committee and criteria results
- Discuss committee issues
- Review Issues/proposed modifications

The scope of this effort includes identifying and assessing potential modifications to the Managed Forest Law (MFL). The intent is to generate a set of modifications that can be introduced through legislative procedures to ultimately amend the Managed Forest Law. The alterations, as determined through the procedure described below, are meant to focus on efforts to modernize and streamline the program, and maintain overall program viability. More specifically, any modifications should ideally accomplish the following criteria:

1. Reduce DNR administration cost, conflict, and/or law complexity
2. Maintain public, non-MFL stakeholder, understanding and support
3. Maintain municipality and local government support
4. Support the core MFL purpose of sound forest management and commercial timber production (as ref. Wis. Stat. 77.80)
5. Encourage continued program enrollment and discourage non re-enrollment
6. Address concerns of MFL forest land owner stakeholder groups
7. Address concerns of industry stakeholder groups

Modifications addressing Forest Landowner interest and support

- Adjustments made to withdrawal fees and allowance for small acreage withdrawals
- Modifications to minimize the risk of forced withdrawal due to forest productivity standards
- The allowance for additions to existing neighboring MFL entries
- Altering the MFL renewal procedures to make it easier to re-enroll
- Reinstatement of leasing (for small landowners)
- Removal of the limit on acreage for closed lands
- Minimized individual harvest approval process (for large landowners)

Modifications addressing Public and Local Government interests

- The requirement that open lands are truly open and accessible and those large ownerships remain open to public for recreational use.
- The eliminations of provisions to allow structures on new MFL land
- Streamlined collection process for yield and withdrawal taxes which should connect tax monies with Government more directly, and quicker, and allow collection of processing fees.
- Modifications to withdrawal procedures and MFL minimum acreage eligibility which may place more lands on the regular tax role.

The Council discussed the fact that dialogue is encouraged, however, major changes need to be carefully addressed as changes may throw off the balance needed for the entire proposal.

Removed Items

Council had a discussion regarding the 5 items that the MFL Committee suggested be removed from communication at this time (exhibit 2, page 57 of the report)

Decision Item(s):

- Council agrees to remove the five items suggested by the MFL Committee from communication at this time. Jim Kerkman made a motion to approve the removal which was seconded by Virgil Waugh. All council members approved with no opposition.
- Paul DeLong abstained from this vote as well as all others on specific Legislative proposals as the Department does not take position on Legislation.

Items to Move Forward

There were four issues listed under the Administration group that the MFL Committee deemed to be all reasonable and generally without concern to advance. (pages 34-35 of the report)

Decision Item(s):

- Council agrees with the Committee's proposal to advance all four items.
- Motion by Sen. Tom Tiffany and seconded by Rep. Fred Clark that the requirement for DNR to report annually to legislature be replaced with language requiring the DNR to report to the Council on Forestry annually the number of withdrawals. All Council members approved with no opposition.

- Motion made by James Kerkman to adopt the motion as amended and seconded by Paul Strong. All Council members approved with no opposition.

Proposed Revisions

- **Reduce/restructure withdrawal taxes and fees (page 7 of report)**
  - Modify the current withdrawal tax formula to reduce the amount due on lands if voluntarily or involuntarily withdrawn.
  - Establish a maximum number of years to be used in the withdrawal tax formula.

Decision Item(s):

  - Kim Quast made a motion to change the reasonable maximum number of years to be used to calculate withdrawal tax from 5-10 years to maximum of ten years. James Kerkman seconds the motion. In favor - 7, opposed - 7. Motion fails due to tie vote.
  - Troy Brown makes a motion to keep the recommendation made by the MFL Committee the way it is and move forward to the Legislature. Motion was seconded by Richard Wedepohl. This was passed unanimously.
  - Council members discussed the interrelationship among all the provisions and agreed to hold off voting on individual items until Tom and his committee could explain the entire package.

Action Item(s):

  - The Council identified an item that was inadvertently dropped during the committee deliberations -- allowing splits along any lines as long as both parcels remain eligible. The committee will add this issue back in for Council discussion at the next meeting.

- **Allow Counties to generate and collect financial transaction for MFL yield and withdrawal taxes (page 9 of the report).**
  - Currently the Department is responsible for this.

- **Eliminate the 5% yield tax comparison requirement for determining withdrawal taxes (page 11 of the report)**
  - Eliminate the comparison of the 5% yield tax with the assessed value calculation.
  - Eliminate the need for a court ordered estimate if landowners disagree with the 5% yield tax calculation when determining withdrawal taxes.
  - Use the withdrawal calculation modification proposal as previously described.

- **Allow small acreage withdrawals without full description withdrawal (page 12 of the report)**
  - Allow landowners to withdraw small acreage to be used for building site or land sale without impacting remaining MFL lands eligibility provided remainder meets the minimum acreage eligibility.
  - Limit the number of times a small acreage can be withdrawn during an order people to a maximum of 2 withdrawals for lands under a 25 year MFL order and 4 withdrawals for lands under a 50 year MFL order.

- Landowner would pay normal withdrawal tax, as proposed in the *"Reduce/restructure withdrawal taxes and fees"* modification but only on acres removed.
- Allowed withdrawals would be in whole withdrawal acres and limited in size to 1.0 or 5.0 acres and meet minimum zoning requirements.

- **Allow lands to remain in MFL, or allow exempt withdrawal if natural events cause lands to no longer meet productivity requirements. (page 14 of the report)**
  - Establish the ability for lands to exceed the non-productive level for a designed amount of time to provide for restoration of forest productivity levels, and/or allow exempt withdrawal is reason for the lands exceeding non-productivity levels is due to natural event.
  - At the end of enrollment period any lands not meeting productivity requirements would not be allowed to be re-enrolled.
  - Administrative code could identify when MFL lands would be required to be brought back into compliance with MFL eligibility requirements.

Decision Item(s):

- This was flagged as needing additional Council discussion

- **Increase minimum acreage entry size allowed (page 17 of the report)**
  - Suggested changing the minimum size requirements for new MFL entry or parcel size to 15-acres, and maintain the 10-acre minimum continued eligibility requirement.

- **Allow additions to existing MFL entries regardless of entry year (page 18 of the report)**
  - Eliminate the reference to the 2005 change in MFL program when the change in tax calculation formula became effective.
  - Eliminate the requirements that after April 28, 2004 lands that meet eligibility requirements must be enrolled as new entries. Any additions to an existing entry would expire the same year as the original order. Eliminate the withdrawal and re-designation application process.
  - Acreage added to an existing MFL entry is taxed at the same rate as the initial acreage and treated the same for withdrawal fee calculations.
  - Additions must be contiguous.

- **Eliminate lands with improvements with assessed values (page 19 of the report)**
  - Change statutory provisions to eliminate entry of lands with improvements.
  - Eliminate references to the building requirements. Will need to keep provision for those MFL entries that are already enrolled and will be grandfathered up to a specific date identified in the statute.
  - Include wording on the property tax rolls to show lands with improvements are not allowed after the effective date of the MFL statute. Similar wording would be added to statutory provisions for withdrawal of lands for failure to pay personal property taxes.
  - Set whole acre exclusion area surrounding any buildings.

- **Shift the contents of s. NR 46.18 (4), Wis. Adm. Code (large owners), to the managed forest land subchapter of Ch. 77, Stats (page 21 of the report)**
  - Copy the wording for large ownership requirements from NR 46, Wis. Admin. Code and place it in Ch. 77, Wis. Stats. While the proposed change has little effect on large or small landowners, moving the NR 46 working into statutes allowed for the statute to reflect different requirements for large landowners.
  - This will allow MFL statutes to address concerns and issues related to large land ownership.

- **Allow for electronic signature/approval by DNR and the landowner on revised management plan documents for existing participants (page 24 of the report)**
  - Allow landowners and the department to obtain landowner approval and acknowledgment of a revised management plan by electronic means using email or other electronic formats.

Action Item(s):

  - The Council identified an item that was inadvertently dropped during the committee deliberations -- allowing splits along any lines as long as both parcels remain eligible. The committee will add this issue back in for Council discussion at the next meeting.

- **Eliminate the application referral process (page 26 of the report)**
  - Eliminate the need to develop and manage a referral list.
  - Eliminate the collection of a management plan fee.
  - Eliminate the need to determine when services from a CPW are not available.
  - Eliminate the contracting of MFL applications by the Department.
  - Elimination of the referral systems would mean that DNR Foresters would not develop any new MFL applications or charge landowners for MFL applications that it develops. DNR would continue to collect fees charges by CPW's as a way to determine cost-share rates for plan development under the Wisconsin Forest Landowner Grant Program (WFLGP)

- **Revise the current application process for renewal of MFL lands (page 28 of the report)**
  - Renewals would eliminate the need for landowners to develop new management plans, and ultimately the review of those plans by DNR staff. DNR would only deny a renewal if:
    - The lands fail to meet eligibility requirements
    - The landowner has failed to comply with the management plan that is in effect on the date that the application for renewal was files
    - There are delinquent taxes on the land
    - Ownership and entry acreage has not changed
    - All forested acreage must have an inspection/update date in WisFIRS within the last 5 years and be updates to reflect any recently completed management.

Action Items(s)

- Discussion revealed that allowing plan updates rather than a new plan would necessitate that any mandatory practices will have to be identified for the entire length of the new order period.

- **Allow lands to remain in MFL, or allow exempt withdrawal if splits in ownership cause lands to no longer meet productivity requirements (page 15 of the report)**
  - Eliminate the provisions that require transferred lands must meet the 80/20 productivity eligibility requirements, or modify, to allow exempt withdrawal.
  - Eliminate the provisions that require remaining MFL lands after a transfer must meet the 80/20 productivity eligibility requirement, or modify to allow exempt withdrawal.
  - At the end of the enrollment period any lands not meeting productivity requirements would not be allowed to re-enroll.
  - Administrative code could identify when MFL lands would be required to be brought back into compliance with MFL eligibility requirements.

- **Require modified management plans for DNR designated large ownerships to include the establishment of an allowable harvest calculation (page 23 of the report)**
  - Questions were raised about the exemptions for certified lands, especially lands with a conservation easement. It was also noted that the requirement that harvest level be equal on an annual basis (as opposed to only a number of years) is neither admissible or practical.

- **Reduce DNR oversight intensity in on-the-ground-management for certified large owners (page 33 of the report)**
  - The intent of this modification is to clarify recognition that DNR designated large landowners with professional forest management staff and that are third party certified are not required to have each and every harvest approved via the current cutting notice process. As presented it is contingent on establishing a credible audit procedure to assure that management occurring on MFL lands meets the program intent of sound forest management as defined in Wis. Stat. 77.80. This provision would need statutory authority.
  - Contingent on establishing a credible audit procedure.

- **Allow landowners to close lands regardless of acreage (page of 29 the report)**
  - Eliminate the closed acreage limitation. The provision to remove the closed acreage limitation would allow landowners the ability to close lands to public recreation without having to create LLC's, trusts, other non-natural entities, or combinations of natural persons.

Decision Item(s):

- Council feels this one should be retroactive, not prospective. Council discussed that this will cause concerns by recreational interests, including hunting groups.

- **Require landowners to identify legal access to lands open to the public or deny the ability to enroll (or keep) MFL lands as open. Require all large owner lands to be open for public recreation (page 31 of the report)**
  - Create a provision to require a landowner to identify legal access to lands open to public recreation or deny them the ability to enroll or maintain lands as "open". This would apply to any land-locked MFL legal description. MFL ownerships categorized by the DNR as large landowners would not be allowed to have lands enrolled under the "closed" category and would also not be required to identify access to interior parcels.

- **Repeal prohibition on recreational leasing except for large owners (page 32 of the report)**
  - Permit leasing including other agreements for consideration that permit persons to engage in a recreational activity. This provision would reverse the 2008 legislation, allowing small landowners the ability to lease lands again. This reinstatement would exclude DNR designated large ownerships where leasing would not be allowed consistent with the previous revision requiring large block ownerships to be open only.

Action Item(s):

- Council members to review the current proposal and send all questions/ideas/suggestions to Tom Hittle no later than May 3, 2013. Tom will package and resend to Council members for review before the May 14th meeting where it will again be discussed.
- The Council discussed changing the 5%/25% to be based on actual taxes for the jurisdiction versus statewide average. It was suggested that the committee discussed this but found compelling reasons not to do it.
- 4The Council discussed the need a "fiscal note" re impact of 5 vs. 10 year withdrawal penalty. It was suggested that this might not be something the Council has to decide but could be deferred to the legislative process.
- Closed land rate: The Council had a robust discussion about the appropriate rate for closed lands. Diverse views are represented on the Council and it was suggested that this might be an issue the Council forwards to the legislature to decide without an explicit Council recommendation.

Meeting adjourned @ 3:05 pm

Respectfully submitted by Terrisa Mulder, Wisconsin Department of Natural Resources