

Possible Modification to MFL Open/Closed Access

Since many landowners have learned they could divide their properties into multiple combinations of ownerships to maximize the amount of lands entered into MFL as closed to public access, it may be difficult to achieve the original intent of the MFL program or to make it acceptable to the legislature or the public. Two strategies would need to be packaged as one in order for this to succeed, knowing that both strategies will be controversial from both a private landowner participation standpoint and a public support standpoint.

Scenario A - Limit the closed acreage to natural persons, regardless of multiple ownerships. Any landowner who reaches 160 acres of closed land per municipality will cause other landowners who are on the deed(s) to keep their lands open, even if that other person's 160 acres of closed lands have not been reached. Implementation of this would require the collection of a unique personal identifier, such as a social security number.

This scenario would prevent people from gerrymandering their deeds so that a landowner's entire property could not be kept closed to public access through dividing ownership rights between husband, wife, and husband and wife, and any other combination of people, sons, daughters, friends, partners, etc. One person who is on one deed and who has maximized his or her closed acreage would prevent someone else from closing their lands by virtue of association with that person.

Since the original intent of the MFL program was not to differentiate between natural and non-natural ownerships, the original intent of the law cannot be fully attained. This scenario does help to prevent the dividing of property to take advantage of the property tax reduction and not allowing the public the right to recreate on the land.

Scenario B – Change the law to state that non-natural ownerships cannot close land to public recreation. Any lands that do not list the name of an individual would be required to keep the lands open to public recreation.

The scenario would prevent all partnerships, trusts, LLCs, corporations, etc. from entering their lands under a closed MFL status. This scenario would not return MFL to its original intent. MFL did not differentiate between natural and non-natural ownerships when it was created back in 1986. The scenario would close the loophole that landowners have found to develop any number of limited liability corporations and/or trusts for the purpose of entering lands under the MFL program to take advantage of the tax reduction and to keep the land closed to public recreation.

This modification may sell with the legislature and the non-MFL public because it would close a very high profile loophole, yet it would be controversial in that many MFL landowners who have created legitimate LLCs or trusts would not have the option to close their lands to public access.

Places where the statute could be amended to implement the combination of Scenario A and B would be:

s. 77.81 Definitions. Two new definitions would need to be added: 1) "natural person," and 2) non-natural person or ownership.

s. 77.82 (1) *Eligibility Requirements*. Somewhere in this section wording would be needed to indicate that only natural persons could close land to public access. All non-natural ownerships are required to have lands open to public access.

s. 77.82 (2) *Petition*. Somewhere in this section wording would be needed to indicate that a landowner must have proof that they have legal access to their lands. Wording can also be stated that landowners must be able to provide access for any lands that they are entering as open to public access.

s. 77.83 (2) *Open Area, Restrictions*. Somewhere in this section wording would be needed to indicate that natural persons may close lands to public access while non-natural ownerships must keep lands open to public access.

DNR will want to include these items in Administrative Code after passage of statutory language:

- NR 46.15 Definitions. Natural persons and non-natural owners would need to be defined.
- NR 46.20. Public access. Wording would be included here to state that natural persons are limited to 160 acres based on any one owner. Non-natural ownerships would not be allowed to enter lands into MFL as closed.

Again, this modification would be controversial because it will cause landowners to provide some unique identifying number such as a social security number. Legitimate LLCs and trusts would be forced to keep their lands open to public recreation. It may also cause non-profit organizations to keep lands open to public recreation, since they would not be considered a natural person.