Form 1100-001
(R 9/07)

NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 8.B.1

SUBJECT: Changes in private forest land ownership and management and their impact on wildlife management

FOR: MARCH **BOARD MEETING**

TO BE PRESENTED BY: Kathryn J. Nelson, Forest Tax Section Chief

SUMMARY:

A number of significant changes have occurred in the ownership and management of private forest land over the last decade. Further, recent changes in the Managed Forest Law to prohibit leasing and the ability for a landowner to receive consideration for recreational activities has generated a great deal of discussion about the underlying public interest in sustainably managed forest land and the impact of these changes on wildife habitat and hunting opportunities.

This presentation will outline private forestland ownership changes and patterns, explain the MFL program, discuss the balance between the private and public benefits from MFL, and assess the real or aniticipated effects of these changes on wildlife management and hunting opportunities.

RECOMMENDATION: This item is informational. No action is needed.

LIST OF ATTACHED MATERIALS:

No	☑	Fiscal Estimate Required	Yes	☐	Attached
No	☑	Environmental Assessment or Impact Statement Required	Yes	☐	Attached
No	☐	Background Memo	Yes	☑	Attached

APPROVED:

Robert J. Mather — 03/07/08
Bureau Director, Robert J. Mather — Date

Paul DeLong — 3/7/08
Administrator, Paul J. DeLong — Date

3/17/08
Secretary, Matt Frank — Date

cc: Laurie J. Ross - AD/5
Robert J. Mather - FR/4
Kathryn J. Nelson - FR/4

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: February 26, 2008

TO: Natural Resources Board Members

FROM: Matthew Frank, Secretary

SUBJECT: Changes in private forest ownership and management and their impact on wildlife management

A number of significant changes have occurred in the ownership and management of private forest land over the last decade. Further, recent changes in the Managed Forest Law (MFL) to prohibit leasing and the ability for a landowner to receive consideration for recreational activities has generated a great deal of discussion about the underlying public interest in sustainably managed forest land and the impact of these changes on wildlife habitat and hunting opportunities.

Private Forest Lands

Eleven million of Wisconsin's 16 million acres of forest land are privately owned. The vast majority of this land is owned by individuals and families, though corporate ownership still accounts for one million acres. This latter land base is, for the most part, composed of large blocks of land open to the public for recreation, including hunting and fishing. The ownership of these lands has changed dramatically since the mid-1990s, when the bulk was owned by forest products companies with operations in Wisconsin. Now the vast majority of this land is owned by Real Estate Investment Trusts (REITs) and Timber Investment Management Organizations (TIMOs), neither of which do value-added processing of trees harvested from these lands. As a result of the dramatic increase in the value of the underlying land, economic pressures have been mounting to sell productive timberland in small parcels for development.

The number of family forest owners continues to increase, resulting in a continued decline in forest parcel size. In the last ten years, the average private forest parcel declined from 37 acres to under 29 acres. As a result, there are a growing number of forest parcels that are too small to be effectively managed for many of the public benefits we derive from forests. Further, recreational access to private lands declines as the size of ownership declines. Therefore, an increasing percentage of forest parcels are closed to public recreation.

The majority of timber harvested in Wisconsin comes from family forest lands. The manner in which the harvesting is conducted has a direct bearing on quality of the resulting wildlife habitat on that land. This is one of the important public benefits derived from forest land and, as a result, the State has a long history of providing incentives for sustainable forest management.

MFL

MFL is the single most important program to promote the long term public benefits of sustainable forestry on privately owned lands. MFL, which was enacted in 1986, is the successor program to two other forest tax programs, the oldest dating back to 1927. Under MFL, landowners receive reduced and deferred property taxes in exchange for practicing sustainable forestry for 25 or 50 years.

Does having land in MFL provide significant public benefits?

There is no question that MFL helps keep forest in forest, providing a wide array of benefits to the people

Printed on Recycled Paper

of Wisconsin. These benefits include a steady supply of forest products that fuel one of Wisconsin's largest industries, clean water and air, habitat for a diversity of wildlife both common and rare, carbon sequestration, raw material for home-grown renewable energy, the scenic beauty that attracts tourists from near and far, and the settings in which a multitude of outdoor recreation activities occur.

The public benefits from a program that encourages land use decisions that maintain our forest land and facilitates the provision of this array of benefits are critical. The challenge is to balance the private incentive necessary for private landowners to make a long-term commitment to providing these public benefits, with assuring the public a positive return on their investment in these lands. The recent legislative change to MFL prohibiting leasing has raised this question regarding the balance between the private and public benefits.

How many participate in the MFL program?

There are approximately 42,000 Orders of Entry under the law and that equates to approximately 32,000 different landowners since many landowner have more than one entry. This law covers approximately 2,324,000 acres of family forest land and an additional 614,000 acres of industrial forest land. All family forest participants have a detailed forest stewardship plan for their lands and are subject to penalties for unauthorized cutting of timber. A yield tax must be paid at the time a timber harvest is conducted. The money is collected by the department and returned to the local municipalities to help offset the reduced property tax revenue they receive. Land is entered in the MFL for either a 25- or 50-year period.

What public access is allowed on MFL lands?

The MFL program is designed to allow each landowner the right to close up to 160 acres per municipality of land to public recreation (only 80 acres can be closed to public recreation if the lands were entered in 2004 or earlier). The remaining MFL lands were meant to be kept open to the public for recreational activities. The owner of land entered as open MFL land must permit public access for hunting, fishing, cross-country skiing, sightseeing, and hiking, although the owner may prohibit use of the land with motor vehicles. Nearly 1.2 million acres or approximately 40 percent of the enrolled land is open to the public.

When large landowners split their properties into different ownerships (80 or 160 acre ownerships) to close the maximum amount of lands to public recreation, they are violating the intent and spirit of the law, which was to provide some lands to be open for recreation. Yet, breaking up lands into different ownerships and closing them to public recreation is legal under the MFL program for the simple reason that closing this loophole would also prevent legitimate land transfers among family members.

How did the Legislature respond to more lands being entered as closed to public access?

The legislature, as part of the 2007-2009 state budget took action to remove the incentive for landowners to subdivide their properties in order to close more land by eliminating leasing under the law. Their motivation seems to have been trying to keep as much land, particularly large blocks of forest, open for public hunting.

The recent change to prohibit receiving compensation for recreational activities was made retroactive to all landowners under the MFL program. Had the legislature applied the leasing prohibition only to new entries, all existing lands (including the more than 10,000 acres closed by one industrial owner in 2006) would still be able to work around the closed acreage restrictions in order to lease the land for income from exclusive hunting access. It is the clear violation of the intent of the law to only be able to close 80 or 160 acres per township that the legislature appears to have been trying to address. Given the difficulty in closing that loophole, the legislature attacked the incentive for large landowners to work around the

restriction. In doing so, however, landowners who only close land within the acreage limits were also affected.

It is important to note that even with the prohibition on leasing, landowners with closed MFL land can still control who has access to their lands. This right was not taken away from private landowners. The change in law states that landowners no longer are allowed to receive compensation in the form of cash, goods and services for recreational activities while under the MFL program. The type of recreational activity is not restricted; it is the receiving of compensation that is prohibited.

How can the legislature change a "contract" between a landowner and the state?
The MFL program is not a contract, but an order of designation that allows the local assessor and municipality to classify lands as Managed Forest Law on the tax rolls. Landowners are permitted to receive this special tax classification if they agree to follow sound forestry practices, and have 10 or more acres of wood lands that are at least 80% productive for growing merchantable timber products. This tax status is a long term agreement that runs with the land.

MFL has been modified 10 times since its inception in 1985. Most of the changes related to entry of new lands and did not affect landowners already in the program. There were two changes that affected existing MFL landowners. One change was the prohibition of leasing and the other change outlined how many improvements people could make to their cabins and buildings before they would be considered secondary homes. Changes are made to MFL to clarify rights of the private landowner and expectations of the public, who must ultimately support the MFL program if we are to have this program available for landowners to enter in the future.

The department is concerned that changes to the law affecting landowners currently in the program is likely to dissuade some owners from entering land in the program for fear that other conditions will change sometime during the length of the designation. This concern is heightened by the magnitude of the withdrawal taxes to leave the program before the end of the 25 or 50 year term. This issue highlights part of the challenge associated with balancing the public and private benefits under the program.

How does the MFL impact wildlife?
The sustainably managed forest lands enrolled in MFL provide significant habitat for a host of game and non-game species. These lands also provide numerous opportunities for both landowners and the general public to interact with wildlife. These lands provide a wide array of species and habitats for both the hunter and non-hunter alike. The vast majority of MFL lands are hunted whether they are open or closed to public access. The primary difference is the number of hunters and the types of hunting that occur on them. The Department has always promoted lands to be open to the public for hunting and general recreation. The Department, however, is not in favor of having an MFL program that requires all landowners to leave their lands open to public recreation because it will likely discourage additional participation in the MFL program. This may result in fewer open acres and fewer lands managed sustainably for the range of public benefits derived from well managed forests, including quality wildlife habitat.

Beyond MFL
The department has both developed and used tools in addition to MFL in an effort to keep more land open to the public for hunting and other forms of outdoor recreation. For example, the Stewardship program that was recently reauthorized for another 10 years has been used effectively to increase the amount of land open to the public for hunting, as well as to ensure that access to private land currently open is

maintained in perpetuity. In addition to acquiring land in fee to open it to the public, the department is increasingly using conservation easements to acquire rights including, but not limited to, access for hunting. This enables land to remain in private ownership and management while stretching further the limited funding available to acquire the benefits of land most desired by the public.

In the last several years, the department has acquired forest conservation easements on more than 100,000 acres of land, ensuring that these large blocks of working forest lands continue to contribute to the local and state economies, as well as provide opportunities for public hunting and other recreation.

In the FY'07-09 budget, the Governor proposed and the legislature approved a new program to use proceeds from the increased fees paid by landowners to close their lands to the public under MFL for the purpose of acquiring public access for recreation on other private lands. The legislature authorized $1 million in FY'09 to begin the program. This new program demonstrates the efforts being made to keep MFL attractive to both the private landowner and the general public by creating an additional link between MFL and public access for recreation.

Looking ahead

The pressures to further subdivide private forest land are likely to increase. As a result, the State must consider how to most effectively meet the desired public access for hunting on private forest lands. MFL, land acquisition, working forest conservation easements, and the newly created public access grant program are all valuable tools to address public access.

MFL also plays a valuable role in assuring the land is sustainably managed to provide a range of public benefits, including quality wildlife habitat. It is important that we focus not only on public access, but also the long-term management of the land itself. Maintaining an attractive MFL program is a key tool to maintaining both large blocks of working forest land and keeping smaller family-owned forests managed sustainably over the long-term.