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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Agriculture, Forestry, and Higher Education...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

- Bob Mather — WI Department of Natural Resources
- Richard Stadelman — WI Towns Association

Registrations For

- Bob Welch — Safari Club International, Wisconsin Chapters
- Mike Carlson — Gathering Waters Conservancy

Registrations Against

- Merline Becker — Wisconsin Woodland Owners Association
- Henry Schienebeck — Great Lakes Timber Professional Association
- Edwin Ela
- Loren Hanson — Wisconsin Woodland Owners Association
- Gunnar Bergersen — Lake States Lumber Association
- Nancy Bozek — Wisconsin Woodland Owners Association

Registrations for Information Only

- None.

February 23, 2012

EXECUTIVE SESSION HELD

Present: (7) Senators Schultz, Harsdorf, Kedzie, Moulton, Hansen, Shilling and King.
 Absent: (0) None.
 Excused: (0) None.

Moved by Senator Schultz, seconded by Senator Shilling that **Senate Amendment 1 to Senate Substitute Amendment 1** be recommended for adoption.

Ayes: (7) Senators Schultz, Harsdorf, Kedzie, Moulton, Hansen, Shilling and King.
 Noes: (0) None.

ADOPTION OF SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1 RECOMMENDED, Ayes 7, Noes 0

Moved by Senator Kedzie, seconded by Senator Schultz that **Senate Substitute Amendment 1** be recommended for adoption.

Ayes: (7) Senators Schultz, Harsdorf, Kedzie, Moulton, Hansen, Shilling and King.
 Noes: (0) None.

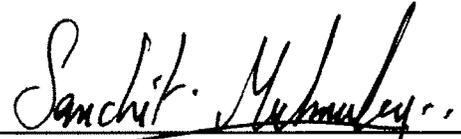
ADOPTION OF SENATE SUBSTITUTE AMENDMENT 1
RECOMMENDED, Ayes 7, Noes 0

Moved by Senator Schultz, seconded by Senator Kedzie that
Senate Bill 161 be recommended for passage as amended.

Ayes: (7) Senators Schultz, Harsdorf, Kedzie, Moulton,
Hansen, Shilling and King.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 0



Sanchit Mulmuley
Committee Clerk

Vote Record

Committee on Agriculture, Forestry, and Higher Education

Date: 2/23/12

Moved by: Schultz

Seconded by: Shilling

AB _____

SB 161

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

1 A/S Amdt 1 to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Sheila Harsdorf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Terry Moulton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dave Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jennifer Shilling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jessica King	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>0</u>	<u>0</u>	<u>0</u>

Motion Carried

Motion Failed

Vote Record
Committee on Agriculture, Forestry, and Higher Education

Date: 2/23/12

Moved by: Schultz Seconded by: Kedzie

AB _____ SB 161 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for: as amended
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Sheila Harsdorf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Terry Moulton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dave Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jennifer Shilling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jessica King	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>0</u>	<u>0</u>	<u>0</u>

Motion Carried Motion Failed





Wisconsin Woodland Owners Association, Inc.

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www.wisconsinwoodlands.org



August 22, 2011

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Position Statement on SB 161 Related to the Managed Forest Law

The Wisconsin Woodland Owners Association (WWOA) has adopted the following positions on Managed Forest Law legislation related to SB 161.

Forest Enterprise Areas

WWOA supports this provision which allows towns and counties to designate special forest enterprise areas and to receive state funding in return for this designation that can be used for activities in support of forestry.

Review of Sound Forestry Practices by Managed Forest Land Review Board

WWOA supports this provision that allows landowners to appeal site specific decisions made by the DNR on what comprises sound forestry practices.

Managed Forest Land Management Plans and Timber Harvests

WWOA supports this provision which requires the DNR to provide a 3 year or longer window in which to harvest timber if a timber harvest is required by the management plan.

Designation of Additional Managed Forest Land

WWOA supports allowing additional land to be added to existing MFL property. However, land added to existing property should be simply added to the property and taxed at rates associated with that property. Charging different rates makes administration more difficult and does not recognize the value of land enrolled under the MFL.

Leasing of Managed Forest Land

WWOA supports repeal of the prohibition on the leasing of land enrolled in the MFL.

Taxation of Managed Forest Land

WWOA opposes this provision. Taxation of land under MFL agreements should be based on use-value rates appropriate for the area. Land enrolled in the MFL closed category should be taxed at rates which do not increase taxes for landowners wishing to remove cattle from woodlands. Similarly tax rates should be set to encourage establishment of woodlands on marginal crop land. Currently woodlands are being pastured or converted to cropland to receive lower property taxes. See examples below.

Additional Changes Supported by the Wisconsin Woodland Owners Association which were not addressed by the Study Committee.

Contracts

Return MFL "agreements" to "contracts" to provide a landowner with assurances that the long-term agreement they sign up for is what will be required during the agreement period. If changes are necessary because of DNR or other legal requirements, the landowner should be given the opportunity to leave the program without penalty.

Yield Tax

Simply set yield tax at 5% of income received at time of harvest. This will allow for a more transparent process for landowners and will minimize unnecessary bureaucratic processes currently required of the DNR

Re-enrollments/Rollover

Change current enrollment requirements which do not differentiate between new land being proposed for entry with land already enrolled in the MFL but which is expiring. Simple updates to existing plans can be made to reflect new conditions and the costs associated with re-entry should be minimal.

Cost-Share Funding Priority

Priorities for funding through cost-share programs should be directed toward land enrolled or proposed to be enrolled in the MFL program.

Forest and Agricultural Land Property Tax Examples

Location	Cropland	Pastured Woodland	Ag Forest	Forest	Mill Rate	Land in Various Classes and MFL
Town of Ithaca Richland Co	\$5.42/ac	\$1.62/ac	\$24.08/ac	\$48.16/ac	\$22.28/\$1000	Ag = 13,000 ac Ag-Forest = 3000 ac Forest = 761 ac MFL = 3600 ac
Town of Lincoln Vilas Co	\$1.32/ac	\$0.40/ac	\$12.55/ac	\$25.10/ac	\$8.51/\$1000	Ag = 1100 ac Ag-Forest = 400 ac Forest = 6800 ac MFL = 1000 ac
Town of Winter Sawyer Co	\$1.99/ac	\$0.59/ac	\$10.42/ac	\$20.84/ac	\$12.10/\$1000	Ag = 3500 ac Ag-Forest = 1600 ac Forest = 21000 ac MFL = 3500 ac
Town of Spring Prairie Walworth Co	\$3.76/ac	\$1.14/ac	\$32.78/ac	\$65.56/ac	\$15.14/\$1000	Ag = 14,000 ac Ag-Forest = 800 ac Forest = 800 ac MFL = 200 ac

Town of Summit Langlade Co	\$2.47/ac	\$0.74/ac	\$12.85/ac	\$25.70/ac	\$14.78/\$1000	Ag = 9300 ac Ag-Forest = 2700 ac Forest = 3400 ac MFL = 8000 ac
Town of LaFollette Burnett Co	\$2.06/ac	\$0.62/ac	\$10.83/ac	\$21.66/ac	\$12.75/\$1000	Ag = 2900 ac Ag-Forest = 800 ac Forest = 5300 ac MFL = 2400 ac
Town of Eagle Point Chippewa Co	\$2.73/ac	\$0.83/ac	\$9.35/ac	\$18.70/ac	\$13.53/\$1000	Ag = 17,000 ac Ag-Forest = 3400 ac Forest = 11000 ac MFL = 950 ac
Town of Wyoming Iowa Co	\$4.29/ac	\$1.28/ac	\$24.57/ac	\$49.14/ac	\$17.56/\$1000	Ag = 7000 ac Ag-Forest = 2900 ac Forest = 4800 ac MFL = 6100 ac
Town of Mount Morris Waushara Co	\$2.63/ac	\$0.79/ac	\$24.50/ac	\$49.00/ac	\$15.17/\$1000	Ag = 3800 ac Ag-Forest = 1400 ac Forest = 5100 ac MFL = 3400 ac

Notes: Example calculations are based on 2009 Effective Tax Rates, 2009 Published Use Value Cropland and Pasture Values, and Ag Forest being assessed at 50% of the Equalized Fair Market Value Productive Forest Rates.

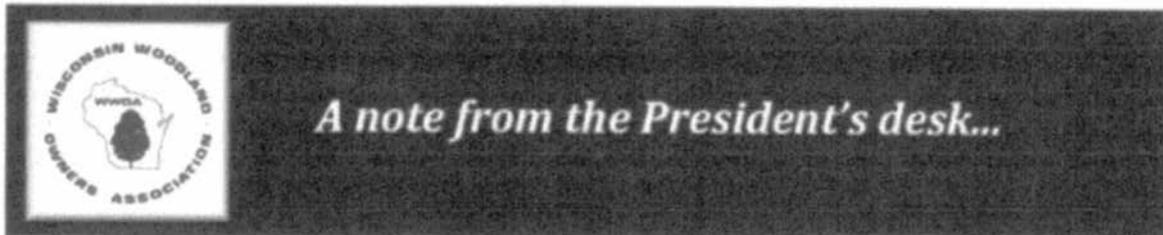


John DeBaun

From: Joe Arington [president@wisconsinwoodlands.org]
Sent: Thursday, February 02, 2012 10:15 AM
To: jdebaun@wi.rr.com
Subject: WWOA: Action Alert! SB161 Hearing Scheduled

Follow Up Flag: Follow up
Flag Status: Flagged

Having trouble viewing this email? [Click here](#)



ACTION ALERT

Senate Committee Hearing on Revising the Managed Forest Law

Thursday, February 9, 2012

1 PM

**Room 411 South
State Capitol, Madison**

Please attend and support WWOA

The first hearing on Senate Bill 161 to amend the Managed Forest Law (MFL) will be held next week. Testimony will be received by the Senate Agriculture, Forestry and Higher Education Committee, Chaired by Senator Dale Schultz.

WWOA, through the Board and Government Affairs Committee, has actively participated in this process. WWOA will offer testimony on needed changes to this bill. [See WWOA's position statement for more detail.](#)

If you agree changes are needed to the Managed Forest Law now is the time to let your feelings be known. Please consider attending this hearing and tell these committee members why you feel the law needs to be changed.

If you cannot attend the hearing, PLEASE CONTACT your own senator and tell them that woodland owners need changes to this bill that proposes to modify the Managed Forest Law.

For more information go to [Government Affairs page](#) on the WWOA website.

If you are interested in receiving regular updates from the Government Affairs Committee, reply to this message.

Sincerely,

Joe Arington
President, Wisconsin Woodland Owners Association

joe@aringtontreefarm.com
608-423-3713

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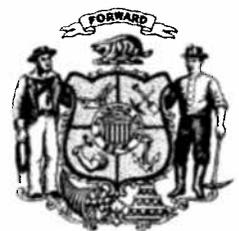
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Joe Arington · 2935 Evergreen Drive · Cambridge · WI · 53523



WISCONSIN STATE LEGISLATURE



MFL

Hearing

2/9/2012

My name is John Czerwonka. I own 140 ac in the Town of Franzen, Marathon Count. I am a retired Postmaster who does cash grain cropping and custom tree planting plus take care of my tree farm. 69 acres of my land is in MFL, which was put in during the 90s. I belong to the Wisconsin Woodland Owners Associa and the American Tree Farm system.

MFL is a good program with a few bad habits. Let me explain further.

First of all, the program is getting way too complex. Every time changes are made to the program, it seems to get more complex. What has started out as a two or three page management plan has now become 12 to 15 pages or more. Two or three pages of forestry and the rest wildlife, birds, wetlands, etc. If you practice sustainable forestry on your land, the rest will follow. I believe the program is called Managed Forest Law

Second when changes are made, it applies to everybody in MFL. It should only apply to the new people coming in not to the ones in the program. If you are going to make it apply to everybody, give me a chance to get out at no cost if I do not like the new rules.

Third change the distribution plan so that the townships get 80% of the closed sees, the counties do not need money to acquire more land for recreational use. This takes it off the tax roll and adds more taxes to the rest of us.

A better way to get more public access would be to have people who open their lands to recreational use to have more control over who uses it. Right now, if you leave your land open, you have no control over who uses it. Have the people who want to use it get permission from the landowner first.

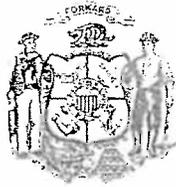
Fourth give the people who are reaping the land in MFL a break because they have already been in MFL for 25 years. Be it a break on the plan cost or a break in the taxes.

Fifth give the DNR forester more leeway it working with MFL landowners. Doing things by the book does not always work. Different problems need different solutions.

Lastly, get rid of the ban on leasing. Don't make me an outlaw because somebody give me a six pack to hunt on my land.

Thank you (2)





WISCONSIN STATE SENATE
DALE W. SCHULTZ

February 9, 2012

Testimony on SB 161

The Joint Legislative Council established the committee to review the MFL program to ensure the long-term management and sustainability of private forests and to increase participation in the program. To that end, the committee met four times, between August 2010 and January 2011. Additionally, a subcommittee on public access and a subcommittee on revenue and local planning each met twice to discuss those particular issues.

Before I get into details of Senate Bill 161, let me take a moment to thank the members of the Legislative Council Special Committee on Wisconsin's Managed Forest Land (MFL) Program, and the work they performed.

I'd also like to thank the public members of the committee for their service, and note that I especially valued the diverse perspectives they shared with the committee. These public participants represented a wide range of interests in the MFL program, ranging from small woodland owners to town and county governments, the paper, timber, and biomass industries, to the University of Wisconsin and conservation organizations. It was a distinct pleasure serving with them.

Now, moving on to SB 161 itself, which integrates numerous recommendations of the committee into a single piece of legislation, the bill addresses issues ranging from taxation and leasing of managed forest land to the creation of a managed forest land board of review. I will briefly highlight each of these aspects of the bill. Following my comments, Rachel Letzing and Scott Grosz, of the Legislative Council staff, will be available for any particular questions you may have about the contents of the bill.

First, with regard to the taxation of managed forest land, the committee reached the conclusion that certain high value properties receive excessively high tax benefits under the program. Accordingly, the bill would modify the taxation of new MFL enrollments to more clearly link the tax benefits of the MFL program to market value for these properties of above-average value. Taxation of existing MFL enrollments would continue under current law for the duration of those MFL agreements.

As an additional component of the committee's work on MFL taxation, the bill revises the distribution of certain revenues received from MFL land that is closed to public access. Also, note that the Substitute Amendment I have introduced addresses some technical errors related to

the committee's recommendations on the distribution of MFL revenues that arose in translating the committee's work to an LRB draft for introduction.

Second, the bill repeals the prohibition on leasing of managed forest land and instead specifically permits of the leasing of managed forest land, including leases that permit persons to engage in recreational activities such as hunting, fishing, and other activities.

Third, the bill removes a financial impediment to the designation of additional managed forest land by an owner of land currently enrolled in the program. Under the bill, the owner will be able to add certain parcels of contiguous land to his or her existing enrollment without triggering new, higher fees on the land already enrolled in the program. The newer, higher fees would apply only to the new addition, making it more likely that the owner will add new land to the program.

Fourth, the bill modifies the administration of the MFL program to allow groups of owners of smaller MFL enrollments to manage their property, collectively, in the same manner as is permitted for ownerships of MFL enrollments in excess of 1,000 acres. The bill also directs the DNR to allow all managed forest landowners a three-year period in which to harvest timber.

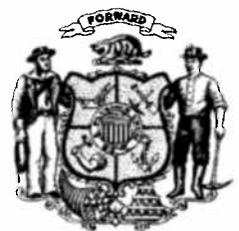
Fifth, Senate Bill 161 creates a Managed Forest Land Review Board, as well as an optional procedure by which MFL owners may, before this new Board, challenge DNR decisions regarding the practice of sound forestry. The creation of this board and the review of DNR decisions relating to sound forestry will enhance the MFL program by providing better opportunities for dispute resolution and by providing more consistency, statewide, in the application of sound forestry practices.

Finally, the Bill creates a Forest Enterprise Area program, modeled after the recent legislation authorizing agricultural enterprise areas. Created as a pilot program, forest enterprise areas would help offset the costs to local government that arise when property is enrolled in the MFL program. This support should provide better incentives for local efforts to keep large tracts of forest land intact.

Senate Amendment 1 to Senate Substitute Amendment 1 allows the owner of an MFL property to use up to 20 cords of firewood a year for personal use, to give to their neighbor (not just a next door neighbor), or for donation to a charity. If the wood is given to a neighbor or charity, it must represent a non-commercial transaction. i.e. It cannot be exchanged for any other goods or services.



WISCONSIN STATE LEGISLATURE





Plum Creek

Growing Value from Exceptional Resources

February 9, 2012

Senate Committee on Agriculture, Forestry and Higher Education
c/o Senator Dale Schultz
Committee Chairman
122 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senate Committee Members:

On behalf of Plum Creek, I would like to share a few comments for your consideration on Senate Bill 161.

I am the senior resource manager for Plum Creek in the Lake States region. Plum Creek currently owns approximately 195,000 acres of central and northern Wisconsin timberlands, which is registered under the Managed Forest Law (MFL) open program. We are very proud to be landowners here, and we value MFL as a crucial tool to ensure a supply of timber for Wisconsin's forest products industry. While that purpose is the original intent of MFL, we are also pleased that MFL provides land for public recreation. In fact, Plum Creek welcomes residents to hunt, fish, hike and otherwise enjoy our Wisconsin land.

With that in mind, SB161 is an important matter to us. First, I applaud the Managed Forest Law Legislative Council Study Committee for reviewing the law and suggesting changes. Our company was pleased the Legislative Council Study was proceeding and sought involvement. While we did eventually have a representative invited to sit on that Committee, it was a late invitation and unfortunately only one meeting remained.

Likewise, we were disappointed that a major, original intent of the Study – Silviculture Guidelines and how they are used in MFL and enacted without legislative input – was not considered despite the request from the then-Chair of the Assembly Committee on Forestry.

This matter continues to be important as MFL improvements are considered. For example, it is critical for the state to ensure that MFL Silviculture Guidelines take into account economics as a factor, just as they consider biological factors. The forest products industry is the second largest industry in the state, and to most effectively meet its needs and support its jobs, landowners need the ability to maximize their lands' economic potential while ensuring forest sustainability and environmental protection. The key is balance, and as long as both economics and biology are considered, the best management decisions can and will be made.

In addition to what was not addressed through the Study, I want to provide comments on the current SB161 and why we do not believe it is the best way to achieve improvements to MFL.

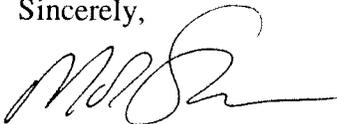
First, we agree that there could be great benefit from a Managed Forest Land Review Board that would provide an expedited process to review and potentially resolve disputes between landowners and the DNR prior to proceeding with a contested case. However, if that measure were to proceed, we strongly urge that a large landowner representative be a member of that committee. Large landowners represent much of the forest acreage in the state and in MFL, and having that element of the industry represented is crucial for any such review board.

Additionally, we are concerned that SB161 allows the state to establish an allowable harvest level on forestland if the ownership exceeds 1,000 acres. While there is a provision in SB161 that exempts owners that are independently certified by a third party, like Plum Creek is certified by the Sustainable Forestry Initiative (SFI), we still disagree with this change. Large landowners must have flexibility in harvest management plans to meet the needs of customers, meet their individual landowner goals, adjust for severe weather events like those of 2011, address forest health concerns and consider other market forces, such as contractor availability and changes in harvesting and hauling costs. Also, calculating the annual allowable cut is a complicated and time consuming process, and would result in a significant increase in the state's cost for administering MFL. We do not believe setting an allowable harvest level is the right direction for change.

As for taxation under MFL, we do believe some changes are needed. Specifically, we believe the multiple formulas to determine severance taxes under the MFL Open Program can and should be simplified. The process is complicated and if it can be simplified without affecting the amount of taxes paid, we believe it would benefit all parties involved, increase transparency and understanding, and reduce the likelihood of errors by all sides.

Thank you for the opportunity to share these comments and for your consideration. While we oppose SB161, we do believe MFL enhancements are needed, and we would welcome the opportunity to be involved in further review. In fact, perhaps the Governor's Council on Forestry, on which I serve, would further individually consider these changes to MFL, gather additional input and find common solutions toward improving MFL.

Sincerely,

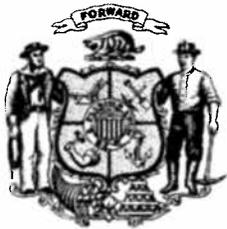


Mark Sherman
Senior Resource Manager
Plum Creek – Lake States

cc: Senator Sheila Harsdorf, Vice Chair
Senator Neal Kedzie
Senator Terry Moulton
Senator Dave Hansen
Senator Jennifer Shilling
Senator Jessica King



WISCONSIN STATE LEGISLATURE



**Testimony on Senate Bill 161
Senate Committee on Agriculture, Forestry and Higher Education**

**Wisconsin Woodland Owners Association
February 9, 2012**

Mr. Chairman and Committee Members:

The Wisconsin Woodland Owners Association (WWOA) is a statewide organization that represents the interests of the private woodland owners, woodland owners who manage 59% of Wisconsin's forest land and, importantly, provide 67% of the raw material needed to support Wisconsin's forest industry.

We were pleased that a Legislative Council Study Committee was appointed in 2010 to take a look at much needed changes to the Managed Forest Law and that a hearing has been scheduled today.

THE MANAGED FOREST LAW (MFL) HAS BEEN A GOOD PROGRAM

WWOA has long been a proponent of the MFL. A good majority of our members have woodland enrolled in the program. Tree farmers have strongly embraced the program since its inception over 25 years ago. They've found it to be a way that allows them to sustainably grow trees and keep land in forest. In exchange for agreeing to keep their land as a productive forest, for the next 25 years or more, they are provided a differential tax rate that recognizes that growing a crop of trees requires a long term commitment. These tree farmers also agree, in return, to follow a management plan that commits them to provide wood for our forest products industry and maintain their woods in a sustainable fashion.

Evidence of how successful this program has been can be found in the fact that Wisconsin now has the largest group of certified wood producers in North America. With that certification, awarded in 2008, we are also now well positioned to help meet the growing demand from the industry for products that are certified and come from sustainable and well managed forests.

In addition to these long term benefits, it's important to recognize that during the recent recession, wood coming off of MFL lands was a major factor in helping to keep our forest products industry alive. While overall lumber production has recently declined by 50%, saw timber coming from managed forest law lands have declined by only 12%, and cordwood by only 1%.

WWOA POSITIONS ON THIS BILL

First, we want to acknowledge the work done by many fine people over the past 2 years. Much good dialogue occurred and progress was made. Unfortunately WWOA must state its opposition to the bill in its current form. Some elements we support, some we do not, and some changes we feel are needed were not included in this bill.

Elements of the Bill WWOA Supports

Committee members have been provided copies of WWOA's Position Statement so we won't go into these very extensively. Briefly,

- We support the idea of establishing forest enterprise zones. However, we still wonder why tree farming has not already been recognized as an agricultural product and integrated into existing programs setting up similar zones. This bill takes a step in the right direction.
- We support the idea that additional land should be allowed to be added to lands currently in the program, although we'd like to see this language simplified so that that added land would not have to be taxed and tracked separately.
- We support the proposed language that would offer landowners a bit more flexibility in when they must harvest timber.
- We support the need to have an appeal process put in place that would allow tree farmers an opportunity to contest a determination by a DNR forester regarding the need for certain management practices, if that problem cannot be solved administratively.
- We support the repeal of the leasing ban law passed in 2007.

What WWOA Does Not Support

We do not support the bill's language that raises taxes, or rather acreage shares, on new land being enrolled into the MFL.

Understanding why we are opposed to the current language requires a bit more explanation.

First, let's go back to why the MFL has been such a successful program. When making a decision to first enroll, tree farmers did not commit their land to the MFL because they wanted to tie it up for 25 years or more. They did not enroll it because they wanted to follow a prescribed management plan or be required to follow specific management practices. They did not enroll their land because they liked the idea of having to pay a 5% or more tax on the sale

of their product. The reason they initially enrolled is simple. It provided them the needed property tax rate that could allow them to grow a long term crop.

On maintaining sustainable forest lands in Wisconsin, this bill takes a big step backwards. For the MFL to remain an attractive option to allow tree farmers to grow long term crops, understanding the property tax system as it stands today is important.

Ten years after the MFL was put into statute, the legislature, in 1995, recognized that farmers who grew corn, beans and raised animals, could not continue to keep their land in agriculture under the property tax system in place at that time. The law was changed and property taxes are now based upon what is called the use value of the land. In the year 2000, this law was fully implemented and it dramatically reduced taxes paid by many landowners. However, the Department of Revenue's Administrative Rule on this, TAX 18, did not include the growing of trees for saw logs or pulp as an agricultural use. The only major exceptions to that definition are forest land that is devoted to the growing of Christmas trees or for the production of maple syrup.

Then in 2004, the law was again changed. This change reduced, by 50%, the tax rate on open lands such as wetlands, prairies and other fallow land. In addition, this law changed, by 50%, the taxes paid on forest land, but only if this woodland met certain criteria and was associated with lands meeting the Department of Revenue's definition of what comprised agricultural land. Under the current tax system productive forest land not associated with cropland or pasture remains being assessed at 100% of full fair market value.

There's something else important to note on these changes. Unlike lands in the MFL, these more recent property tax changes required the landowner to do nothing else. Landowners, who receive the agricultural forest tax rates do not have to follow prescribed management plans, agree to 25 year commitments, pay yield taxes on crops they sell, or allow public access. Additionally they do not have any special restrictions placed on them for selling or developing their land.

Today, what our state tree farmers are requesting of you is a program that once again provides a tax system that encourages trees to be planted and which allows tree farmers the certainty they need to keep productive, well managed, forest lands as part of our landscape.

To understand this, let's use one example to identify the problem tree farmers are facing today. We've provided the committee with 20 other example towns but for now, let's take a look at the situation for land located in the Town of Dodgeville, Iowa County. For those who are not familiar with this beautiful area, it is a place in our state that provides high quality hardwoods, trees used both as saw logs and veneer. Importantly, forests in the driftless area also provide good wildlife habitat and they provide the replenishment of groundwater needed to support the quality trout stream fishery found in this region of the state.

Here's some example data.

Town of Dodgeville, Iowa County Wisconsin

Land Type	Current Taxes	Proposed MFL Rate
Pastured Woodland	\$1.45/acre	--
Crop Land (average)	\$3.23/acre	--
Agricultural Forest	\$36.16/acre	--
Productive Forest	\$72.33/acre	--
MFL land post 2004	\$8.37/acre	--
New MFL enrollments as proposed by SB161	--	\$18.00/acre

While looking at these numbers let's ask a few questions.

If you owned land in this town, would you ever decide to plant trees on marginal cropland knowing your taxes would increase by almost 50 times, going from \$1.45/acre up to \$72.33/acre? Alternatively, would you consider planting trees because you could then enroll in the MFL, tie your land up for 25 years and then have to pay \$18.00/acre?

Let's ask one more question. Would you consider clearing your woodland or putting cows back into the woods? Many people are now doing that despite the fact it's not a good idea.

The bottom line is that this bill takes a step backwards at solving the problem. Legislation designed to improve the MFL must start by providing tree farmers with a property tax rate that's comparable to that being paid by farmers growing shorter term crops or pasturing livestock. As noted by the Wisconsin Farm Bureau, the current statewide average use value based tax of about \$3.50/acre more than covers the cost of the police, fire, and road services they require. Similarly, a study by the National Woodland Owners Association has shown that cost/benefit ratios for private woodlands rarely justify tax rates of more than \$3/acre.

WWOA asks that a tax rate comparable to that currently applied to other agricultural uses be established to protect existing woodland and to encourage more forest land to be enrolled into the MFL.

Finally, on this topic, we're sure you will hear about the fiscal implications, more land being taken off the tax roll, etc. The bottom line is changing the tax rate for new entries into the program will have a minimal effect, even if it is at a pasture use value rate. If land coming out of MFL is re-enrolled then there will essentially be no change from the present. And if new land is added, it will occur gradually over time. Finally, as the committee can see by looking at the other examples provided, the total acres of land in MFL is small in comparison to the 9 million

acres of agricultural land currently receiving a tax rate more in line with that needed to support the local services required for open, undeveloped land.

Other Changes WWOA Recommended That Are Not Addressed By This Bill

Contracts

Since 1985 there have been 17 statutory changes to the law, and many more administrative rules changes to NR 46 and others. As a result, the MFL has become, like many other programs that have been in existence for a long time, very complicated. It is now to the point where it is difficult, if not impossible, to explain all its nuances to a landowner considering enrolling in the program. It's also become very demanding of administrative time by the state and local government staff required to manage it. SB 161 does not help with this problem. Rather than simplifying the rules, it makes them even more complicated.

Of these 17 law changes over the past 25 years, many have been quite beneficial. Other changes, including tax rate changes, were normally applied to new entries only. And as mentioned earlier, a very positive change was the one that led to all MFL lands being certified. When this law was changed, tree farmers were correctly given an option to participate or decline. The vast majority of MFL landowners agreed this was a good opportunity and they now are currently participating in this certification program.

But unfortunately, in 2008, every MFL landowner received a letter telling them the law had been changed. The letter went on to say that they were no longer allowed to lease their land, or receive compensation of any kind, for allowing others to use their farm for various recreational purposes. Landowners were told they could no longer even ask their guests for help doing such things as maintaining trails or to help fix the fences needed to keep their neighbor's cows out of the woods. This time, the law change applied to everyone, even those who had earlier entries into the MFL where the word contract was still being used. Then, to add fuel to the fire, they were told they did not have an option to withdraw their lands, unless of course they wanted to pay huge penalties to do so. This current system is broken and needs to be fixed. Landowners are no longer trusting that what they think they've agreed to will be what they actually will be required to do. Despite the fact both WWOA and the Council on Forestry testified that we need to return these agreements into real contracts, this recommendation was not addressed by the study committee and the current bill is silent on this.

Yield Taxes

First, consider that we believe yield taxes should become a thing of the past. They are no longer relevant given the changed property tax landscape we now have. Back in 1985 when land enrolled in the MFL actually received a significant tax break, yield taxes were relevant.

Now they are not. Other agricultural commodities grown on land that is no longer taxed at full fair market value do not pay yield taxes. Sale of timber should not be specially taxed either.

In previous testimony on SB126, we discussed with you the problem associated with catastrophic losses. We recommended that, in the interim, yield taxes be based on the actual price a tree farmer received for the product sold. The current law requires yield taxes be based on stumpage rates. Stumpage rates are simply book values calculated to represent the average sales value of timber sold in various regions of the state. Unfortunately this has led to problems and tree farmers cannot understand why they often have to pay 10%, sometimes more, based on what they actually received from their sale. The problem is that the stumpage numbers often do not reflect sales of wood from private woodland owners, often being calculated more from sales of timber from larger blocks of land that received higher prices. Some have argued that use of stumpage rates will keep people from cheating. Today all loggers are required to provide the IRS with 1099 forms showing the sale. If people are going to cheat they'll find a way. What we don't need is having precious state forester time being spent on a lot of paperwork that's set up to solve a non-existent problem. Better they spend their time doing something more productive.

Perhaps stumpage rate based yield taxes work for the industrial forestlands. They do not work well for the vast majority of private woodland owners. Again this issue was not addressed by the study committee and the bill is silent on this topic.

Rollovers

WVOA recommends that landowners whose "agreements" are now expiring after 25 years, be allowed to more easily re-enroll their land into the MFL. These lands already have management plans associated with them which could be updated to meet new requirements. Currently these landowners are required, just like everyone else, to hire a private consultant to develop new plans. Prior to 2004 DNR foresters were allowed to write most MFL plans. Now these plans must be done by an outside professional. We've been told DNR field foresters no longer have the time to do that, not surprising perhaps, given the amount of paperwork they're required to do to administer the current program.

Summary

Once again, thank you for this opportunity to testify.

It's unfortunate that WVOA cannot support this bill -- as it is currently written. HOWEVER, we very much want to see critical changes made to the program and very much want dialog to continue on this topic. Wisconsin cannot afford losing neither its forested landscape nor the forest products industry it supports.

Thank you.

Town of Fairchild, Eau Claire Co.

Agricultural – 4,747 acres; \$794,000	(\$3.07/acre)
Undeveloped – 1,525 acres; \$819,350	(\$9.86/acre)
Ag Forest – 1721 acres; \$1,636,500	(\$17.45/acre)
Forest – 3,438 acres; \$6,619,500	(\$35.33/acre)
MFL – 2,185 acres	
Mill Rate: 0.01835 (\$18.35/\$1000)	
TOTAL VALUATION: \$25,347,744	

Town of Warren, Waushara Co.

Agricultural – 7,945 acres; \$1,216,908	(\$2.56/acre)
Undeveloped – 6,458 acres; \$4,033,283	(\$10.45/acre)
Ag Forest – 1,482 acres, \$1,905,494	(\$21.51/acre)
Forest - 2,319 acres; \$5,838,693	(\$42.12/acre)
MFL = 1,294 acres	
Mill Rate: 0.01637 (\$16.73/\$1000)	
TOTAL VALUATION: \$46,489,109	

Town of Johnson, Marathon Co.

Agricultural – 13,955 acres; \$2,822,600	(\$3.69/acre)
Undeveloped – 2,968 acres; \$1,533,900	(\$9.44/acre)
Ag Forest – 3,072 acres; \$3,057,000	(\$18.17/acre)
Forest - 434 acres; \$795,900	(\$33.48/acre)
MFL = 1,023 acres	
Mill Rate: 0.01826 (\$18.26/\$1000)	
TOTAL VALUATION: \$51,399,900	

Town of Bristol, Dane County

Agricultural – 16,401 acres; \$4,708,300	(\$4.71/acre)
Undeveloped – 1,542 acres; \$1,761,800	(\$18.72/acre)
Ag Forest - 369 acres, \$732,000	(\$32.51/acre)
Forest - 48 acres; \$222,600	(\$76.01/acre)
MFL - 0 acres	
Mill Rate: 0.01639 (\$16.39/\$1000)	
TOTAL VALUATION: \$391,255,300	

Town of Garfield, Jackson Co

Agricultural – 7,342 acres; \$706,100	(\$1.89/acre)
Undeveloped – 1,564 acres; \$764,350	(\$9.61/acre)
Ag Forest – 4,746 acres, \$3,461,500	(\$14.35/acre)
Forest - 4,140; \$5,959,800	(\$28.32/acre)
MFL - 3,308 acres	

Mill Rate: 0.01967 (\$19.67/\$1000)
TOTAL VALUATION: \$37,541,190

Guidance Provided to Woodland Owners to Ensure Their Land is Properly Classified

Property taxes for next year are based on how land was classified on January 1. It is important that your lands are properly classified to avoid over payment of taxes. Although "Productive Forest" land is taxed at full fair market value, land meeting the definition of "Undeveloped" or "Agricultural Forest" is taxed at 50% of fair market value.

Unfortunately assessors are not able to get out and field-inspect every parcel of land, often having to utilize air photos to make determinations of how land should be classified and taxed. Quite often lands that are poorly drained and support mainly marsh and lowland brush species can appear to be growing trees from an air photo. As a result they are miss-classified as "Productive Forest" when they more accurately meet the definition of "Undeveloped". Your tax bill will not normally show how your land is classified so you will need to ask your assessor or local official to get this more detailed information.

If your woodland is in the managed forest law and subject to a separate tax calculation does it still matter? Yes. If the land is ever withdrawn from the MFL penalties will be based upon how the land was classified. If your woods meet the definition of agricultural forest or if your 20% unproductive land was classified as productive forest, you would end up with a significantly higher penalty than if it was properly classified.

Definition of "Undeveloped" Land.

Undeveloped land is defined by statute to include bog, marsh, lowland brush, uncultivated land zoned as shoreland under Section 59.692, Wis. Stats. and shown as a wetland on a final map under Section 23.32, Wis. Stats. or other non-productive lands not elsewhere classified. This class includes areas commonly called marshes, swamps, thickets, bogs, or wet meadows; areas with soils of the type identified on soil maps as mineral soils that are "somewhat poorly drained," "poorly drained," or "very poorly drained," or "water," and areas where aquatic or semi-aquatic vegetation is dominant. This class also includes fallow tillable land (assuming agricultural use is the land's highest and best use), road right of way, ponds, depleted gravel pits, and land that, because of soil or site conditions, is not producing or capable of producing commercial forest products. Undeveloped land is assessed at 50% of its full value. After determining the full value of qualifying undeveloped land in accordance with Section 70.32(1), Wis. Stats., state case law, and professionally accepted appraisal practices, the value is reduced by 50% under section 70.32(4), Wis. Stats.

Definition of "Agricultural Forest" Land.

Effective for the 2005 assessment year, 2003 Wisconsin Act 230 amended the statutory definition of "agricultural forest." Section 70.32(2)(c)1d, Wis. Stats. now defines "agricultural forest" as land that is producing or is capable of producing commercial forest products, if the land satisfies any of the following conditions:

Addendum to Testimony

EXAMPLES OF HOW OPEN LAND TAXES COMPARE IN SAMPLE TOWNS

Property tax laws have shifted a disproportionate amount of the tax burden to forest lands in Wisconsin. According to the Wisconsin Farm Bureau, the current average use value based tax of about \$3.50/acre on farmland covers more than the cost of the police, fire, and road services they require. This compares to the statewide average \$34/acre tax paid on productive forest lands. The following tables are intended to provide general information on how property taxes on woodland compare to other lands. Unlike land in agricultural, agricultural forest, and undeveloped classifications that receive preferential taxation, productive forest lands are taxed at full fair market value.

Under state law, acreage and valuation of all taxable land in each town must be placed into one of eight different classes and then be reported to the Wisconsin Department of Revenue (DOR). The following tables provide information on four of these classes, classes that are often referred to as "open" land. Total valuation of property in a town provides a perspective on how the value of "open lands" affects an overall tax base. The total valuation of the town includes values associated with other classes, e.g. residential, commercial, and manufacturing. Acres of forest land enrolled in MFL are shown in the tables for informational purposes. They are not included in DOR statistics since they are not subject to a direct property tax assessment. Note: These examples are approximate since they are based upon 2011 assessment data and 2010 effective tax rates and do not account for differences in assessment ratios.

Town of Dodgeville, Iowa Co.

Agricultural – 34,928 acres; \$5,710,700	(\$3.23/acre)
Undeveloped - 1567 acres; \$590,500	(\$7.45/acre)
Ag Forest - 3927 acres; \$7,470,700	(\$37.59/acre)
Forest – 2176 acres; \$8,172,400	(\$72.33/acre)
MFL - 5820 acres	
Mill Rate: 0.01976 (\$19.76/\$1000)	
TOTAL TOWN VALUATION \$198,579,000	

Town of Two Creeks, Manitowoc Co.

Agricultural - 6,275 acres; \$1,523,800	(\$1.82/acre)
Undeveloped - 561 acres; \$476,600	(\$6.38/acre)
Ag Forest - 173 acres, \$347,500	(\$15.09/acre)
Forest - 116 acres; \$411,100	(\$26.62/acre)
MFL - 379 acres	
Mill Rate: 0.0751 (\$7.51/\$1000)	
TOTAL TOWN VALUATION \$46,366,700	

Town of Decatur, Green Co.

Agricultural - 16,273 acres; \$3,708,400	(\$3.95/acre)
Undeveloped - 1,384 acres; \$221,600	(\$2.77/acre)
Ag Forest - 743 acres; \$561,100	(\$13.09/acre)
Forest - 336 acres; \$504,800	(\$26.05/acre)
MFL – 490 acres	
Mill Rate: 0.01734 (\$17.34/\$1000)	

TOTAL TOWN VALUATION \$130,956,440

Town of Bradley, Lincoln Co.

Agricultural – 1,229 acres; \$138,800	(\$1.95/acre)
Undeveloped – 5,508 acres; \$2,163,900	(\$5.88/acre)
Ag Forest - 19 acres, \$17,400	(\$13.71/acre)
Forest - 12,794 acres; \$23,288,100	(\$27.25/acre)
MFL - 5,785 acres	
Mill Rate: 0.01497 (\$14.97/\$1000)	
TOTAL TOWN VALUATION: \$448,135,400	

Town of Watertown, Jefferson County

Agricultural – 15,494 acres; \$3,950,000	(\$3.75/acre)
Undeveloped – 3093 acres; \$2,070,000	(\$9.85/acre)
Ag Forest – 1266 acres; \$1,311,400	(\$15.25/acre)
Forest – 514 acres; \$987,400	(\$28.28/acre)
MFL – 290 acres	
Mill Rate: 0.01472 (\$14.72/\$1000)	
TOTAL VALUATION: \$ 203,724,700	

Town of Spring Brook, Dunn Co.

Agricultural – 26,566 acres; \$4,231,600	(\$3.55/acre)
Undeveloped – 2,162 acres; \$992,600	(\$10.24/acre)
Ag Forest – 3,260 acres; \$4,281,500	(\$29.29/acre)
Forest – 1,333 acres; \$3,087,200	(\$46.82/acre)
MFL – 1583 acres	
Mill Rate: 0.02023 (\$20.23/\$1000)	
TOTAL VALUATION: \$110,818,900	

Town of Grover, Taylor Co.

Agricultural – 1,333 acres; \$193,800	(\$2.78/acre)
Undeveloped – 307 acres; \$138,900	(\$8.66/acre)
Ag Forest – 1,222 acres; \$1,025,000	(\$16.05/acre)
Forest – 6,336 acres; \$10,269,000	(\$31.04/acre)
MFL – 1870 acres	
Mill Rate: 0.01913 (\$19.13/\$1000)	
TOTAL VALUATION: \$31,552,900	

Town of Yorkville, Racine Co.

Agricultural – 14,032 acres; \$3,265,400	(\$4.13/acre)
Undeveloped – 1,186 acres; \$775,700	(\$11.60/acre)
Ag Forest – 0 acres	
Forest – 436 acres; \$1,857,100	(\$75.52/acre)
MFL – 22 acres	
Mill Rate: 0.01773 (\$17.73/\$1000)	
TOTAL VALUATION: 473,768,750	

a) The forest land is contiguous to a parcel that has been classified in whole as agricultural land. The forest land and the contiguous agricultural parcel must have the same owner. Contiguous includes separated only by a road.

b) The forest land is located on a parcel that contains agricultural land for the January 1, 2004 assessment, and on January 1 of the current assessment year.

c) The forest land is located on a parcel where at least 50 percent of the acreage was converted to agricultural land for the January 1, 2005, assessment year or thereafter.

"Agricultural forest" land is assessed at 50% of its full value. After determining the full value of qualifying "agricultural forest" land in accordance with Section 70.32(1), Wis. Stats., state case law, and professionally accepted appraisal practices, the value is reduced by 50% under Section 70.32(4), Wis. Stats.

Definition of Productive Forest Land as found in Wisconsin Statutes

70.32 (2)(c) 2. *"Productive forest land" means land that is producing or is capable of producing commercial forest products and is not otherwise classified under this subsection.*

Additional Information

The agricultural data provided in the example tables is an average of grade 1, 2, and 3 cropland and pasture values. To find a more detailed breakdown of these calculated use values look under Agricultural Assessment on the Reports page.

To learn more about how land is classified and assessed, the Wisconsin Department of Revenue has several excellent publications. These publications can be found by going to the Department of Revenue's home page and looking for Publications under Quick Links. Property Tax publications are found under the Government heading. Publications which may be of particular interest include the Agricultural Assessment Guide and Guide for Property Owners. For those really wanting detail on how property is assessed, land values determined, and the process assessors must follow, the entire Wisconsin Property Assessment Manual is also available on this site.

Links

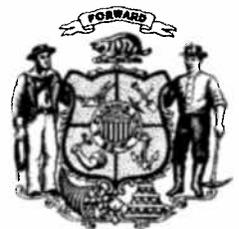
DOR's Home Page: <http://www.revenue.wi.gov/>

Reports: <http://www.revenue.wi.gov/report/index.html>

Property Tax Publications: <http://www.revenue.wi.gov/html/govpub.html#property>



WISCONSIN STATE LEGISLATURE





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STATE REPRESENTATIVE ♦ 42ND ASSEMBLY DISTRICT

Testimony in Support of Senate Bill 161:
Legislative Study Committee Review of the
Managed Forest Land Program

Wisconsin has over 16 million acres of productive forestland - over 46% of our state. The forest products industry is Wisconsin's second largest industry and creates \$22 billion in gross revenues for Wisconsin wood based businesses. This industry employs 65,694 workers with an annual payroll of over \$3.1 billion. The paper and forest products industry is the leading employer in 28 counties, and is in the top three employing sectors in 42 of Wisconsin's counties.

Wisconsin has a long tradition of supporting private forest ownership and management. In 1927 the Forest Crop Law reduced property taxes for forest owners of over 40 acres, and in 1954 the Woodland Tax Law was created, reducing taxes for smaller ownerships. In 1985 both of those programs were transformed into today's Managed Forest Law program, or MFL.

Wisconsin has one of the finest private forestry programs in the nation. Our Managed Forest Law is the centerpiece of that program and is the envy of other states. Today there are 3.19 million acres of private forestland and 47,252 enrollments in MFL – in other words the owners of nearly one-third (1/3) of Wisconsin's total private forest ownership have chosen to participate in this program.

The fundamental bargain of Managed Forest Law is that in return for a significant reduction in property taxes, forest owners make a commitment to maintain and manage their forests using sound forestry practices.

The MFL balances the public's interest in a strong forest products industry and access to recreational land with other public benefits of forests including clean water, clean air, wildlife, and productive forests for the future, together with the objectives and needs of private forest owners. In addition to a significant tax benefit, MFL enrollees also benefit from technical support from WDNR forestry staff,

who together with private consulting foresters, assist owners in management activities involving timber harvesting, forest health, wildlife, water quality, threatened and endangered species, historic and archeological assets, and recreation. Most owners in the MFL now qualify to receive third party certification of sustainable forestry which is an asset to both the owners and forest products businesses that rely on raw materials from MFL lands.

Although the MFL has been modified with legislation at least 17 times since 1985, there has been growing support in recent years for a study committee process to take a careful look at the future of this critical program. In 2009 groups such as the Wisconsin Woodland Owners, the Wisconsin Towns Association, Plum Creek Timber, The Nature Conservancy and the Wisconsin Council on Forestry along with many others within the forestry community have requested this study committee.

The Legislative Council Committee on Review of the Managed Forest Land Program began meeting in August of 2010 with the charge of ensuring long-term management and sustainability of Wisconsin's private forest lands and increasing program participation. In addition to the legislators – Senator Schultz, Senator Holperin, and Senator Kedzie – the committee included representation from town government, county government, the Wisconsin Woodland Owners Association, the pulp and paper industry, Plum Creek – Wisconsin's largest private landowner, environmental groups, and the UW system.

SB-161 is the compilation of seven individual proposals that were vetted and approved by the 18-member study committee.

While it does not include every proposal or possible improvement, SB-161 is a balanced consensus-based set of proposals that received broad support in our committee. SB-161 helps establish a strong foundation for MFL to remain as successful as it has been, by balancing the interests of forest owners, town and county government, the forest products industry, general property taxpayers, and the public – all of whom are direct stakeholders in the Managed Forest Law.

In particular this bill includes a number of provisions that benefit private landowner enrollees, and which have been directly requested by woodland owners. The provisions of SB-161 that directly benefit woodland owners include:

- Repealing the current prohibition on recreational leasing on MFL lands;
- Creating an MFL board of review to allow enrollees dissatisfied with the department's determination of sound forestry practices to receive an independent opinion and review;
- Simplifying the procedure for enrolling additional acres to existing enrollments without requiring program withdrawal and re-enrollment;
- Allowing groups of owners of managed forest land to enroll with simplified requirements for management plans, in the same manner as currently permitted for large ownerships.

Finally, SB-161 makes two significant changes to the structure and distribution of MFL fees for enrollments that are closed to the public.

Under current law, MFL enrollees pay 25% of the average statewide tax rate of forestland in Wisconsin. In effect, that "average" tax treatment means that when compared to general taxation, owners in high property value areas receive a proportionally higher discount – in some cases as much as a 95% reduction from their normal taxes. Under SB-161, the acreage fee paid by MFL enrollees who close their land to the public will be set at either the current statewide average or 25% of their local tax rate for forest land, whichever is higher. Under any scenario, even in the highest value communities in Wisconsin, MFL enrollees will still receive a 75% discount on their property taxes. By comparison, ag-forest taxation, if it is available, provides a 50% discount from local taxes. Even with this change, the MFL remains what it was intended to be - a great deal for forest owners.

SB-161 also makes important changes to the distribution of fees received under the program. Under current law, closed acreage fees paid by MFL enrollees, which total about \$3 million per year, are collected by the department. Those fees are intended to provide additional hunting and fishing opportunities for the public, however they have never been expended for that purpose. SB-161 redirects 80% of closed acreage fees back to town and county governments, providing both additional unrestricted revenue, and giving counties the responsibility to either acquire hunting and recreational rights or enhance existing public properties using closed acreage fee funds.

It is also important to note that the changes in fee structure and distribution, and other MFL program changes described above, were supported by a strong majority of committee members, including those members representing the interests of woodland owners.

The MFL program has been a success story in Wisconsin that balances the interests of forest owners and the public. The provisions in SB-161 will help the MFL to remain a success story in the years ahead.





NEW HOPESTEAD FARM

934 River Road N

Amherst Junction, Wisconsin 54407

My name is Lowell Klessig. I operate a farm near Amherst junction and manage woodland in three counties. The Town of New Hope Family Forest Alliance in Portage County provides forestry education events for 20-80 landowners 4-5 times a year. I have been president for the past 10 years.

I have been involved with forestry personally and professionally for 42 years. Professionally I taught in the College of Natural Resources at UW-Stevens Point. At the same time I worked statewide as a University of Wisconsin Extension specialist. I have written or co-authored several publications on forest management.

In my personal life, I bought 80 acres in Ashland County while still in graduate school, added 80 acres in Bayfield County with my first year of work paychecks, and after marriage my wife and I bought a farm with 80 acres of woods in Portage County where we raised a family and beef cattle. If I were not here, I would be salvaging storm-damaged timber. As of yesterday, I had pulled out 193 logs this winter. I have been a member of WWOA forever and currently serve on WWOA's MFL committee.

The Bayfield County forties are enrolled in MFL. MFL is a good program and is a benefit to most participants in most counties. In some counties, many landowners are not happy with the administration of the program. I have been among the most unlucky.

I followed the Legislative Council Study Committee closely. I respect the process and have served on a Study Committee myself. The product of the MFL Study Committee-Senate Bill 161 is worthy of passage. After further analysis some parts of the SB 161 deserve reconsideration, amendment or omission. I came today to support a small, but strategically important, amendment.

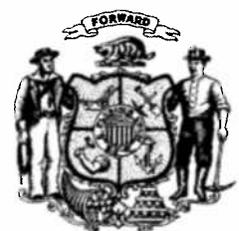
SB 161 creates a new and accessible appeals procedure for landowners who disagree with decisions by the local DNR forester. However, the new process does not apply to the most important decision by DNR. Under the current version of SB 161, the DNR forester will still have absolute veto power when a landowner applies for entry into MFL with a Management Plan drafted his consulting forester.

The point of entry into MFL is the best place for discussion and compromise—the best time to get everyone on the same page—the best way to avoid future appeals. Unless the appeals window is broadened, some DNR foresters will continue to abuse their absolute power to reject professionally prepared Management Plans.

The bill, as now written, does not give MFL applicants access to the new MFL Review Board. It can with the addition of just a few words. It should.



WISCONSIN STATE LEGISLATURE





2011 Senate Bill 161

Senate Committee on Agriculture, Forestry, and Higher Education

Department of Natural Resources Testimony
Robert Mather
Bureau of Forest Management
Division of Forestry

Mr. Chairman and Committee Members:

Good afternoon. My name is Bob Mather and I am the Director of the Bureau of Forest Management within the DNR's Division of Forestry. I appreciate this opportunity to appear before you to be able to provide information from the agency's perspective relating to Senate Bill 161.

Senate Bill 161 is historic in that the recommendations in the bill were developed by a consortium of private and public interests to provide additional incentives for private landowners to enroll in the Managed Forest Law (MFL) program and additional return on investment for the public to support it.

MFL is the most important private forest lands incentive program in Wisconsin. The law provides significant benefits to the landowners who participate, the forest products industry and our citizens. The benefits range from deferred property taxes while timber is growing, wood products for our industries, clean water, wildlife habitat and public recreational opportunities. The department would be challenged with implementation of some of the proposed recommendations. I will provide the Committee our insights, comments and suggestions for bill amendments that you may wish to consider.

CREATION OF FOREST ENTERPRISE AREAS

SB 161 creates Forest Enterprise Areas similar to the Agricultural Enterprise Zones. This is a unique approach in forestry to encourage the management of large areas of private forest lands. DNR would be required to pay \$1.00 to towns and \$0.50 to counties for each MFL acre enrolled under a Forest Enterprise Area. If all of the 200,000 acres is enrolled in MFL a total of \$300,000 would need to come from the Forestry Account annually once the program is fully implemented. The Department will need to develop the administrative infrastructure in order to comply with this proposal.

REVIEW OF SOUND FORESTRY PRACTICES BY MANAGED FOREST LAND REVIEW BOARD

The DNR understands the frustration expressed by some MFL participants regarding their perceived lack of an ability to appeal decisions regarding sound forest management developed by the local Department forester. The DNR welcomes the opportunity to better explain our recommendations with other forestry professionals and landowners. Forest management recommendations given to MFL participants are published in the Department's Silviculture Handbook and represent the most common peer reviewed forest management parameters published by forestry researchers, including universities, state and federal governments, private institutions and non-governmental organizations.

The parameters outlined within the Silviculture Handbook document the range of acceptable land management options in order to maintain forest health, provide forest products to the market and successfully regenerate forests. Foresters choose from a suite of options that are best suited for the timber type, specific site conditions, and that best meet the landowner's goals.

Currently, landowners who disagree with the forest management recommendations of the local DNR forester have a multiple (at least three) step appeal process available to them. All harvest recommendations may be appealed to the local DNR forester's supervisor. If the landowner is not satisfied with the results of that first appeal, they may continue to appeal up the supervisory chain (Area/Region Leader) until they reach the Chief State Forester.

If, at this point, the landowner and the Department cannot reach agreement, the DNR forester sends a recommendation to the Forest Tax Program in Madison that the land be withdrawn from MFL. The DNR forester submits an enforcement case file documenting the failure to practice sound forestry by the landowner and the Forest Tax Program then determines if there is sufficient evidence to proceed with withdrawal.

If a withdrawal order is issued by the Department, the landowner has the right to a contested case hearing or judicial review. These hearings are more formal than the previous review and include an administrative law judge or circuit court judge.

SB161 provides an avenue for landowners who disagree with the Division of Forestry's forest management recommendations to appear before a 7 member board. DNR believes that up to 10% of all landowners may appeal decisions through the review board. This is based on anecdotal percentages of people who normally question harvesting recommendations. Landowners may choose not to work through the DNR forester's supervisory chain of command and appeal the decision directly through the board. The actual number of appeals is hard to predict, but if the 10% number is correct there could be an average of 375 cases per year. This projected number is much higher than those that currently are withdrawn from the law because being withdrawn from the law is the very last option used by the Department and only when all other avenues of resolution have been exhausted.

There are a few concerns DNR has about the review board as described in the bill:

1. Finding people willing to serve on the board for a 3 year term may be difficult. DNR estimates that if 375 cases are heard each year this would amount to hearings needing to be held one week per month for 12 months if 7 cases are heard per day. Board members would need to give up 12 weeks, or 3 months, of each year serving in a voluntary capacity to hear cases. In similar Certified Plan Writer (CPW) de-certification hearings held by DNR it has been difficult to get private cooperating foresters who are CPWs to serve on this board for one day time increments.
2. Continuity in decisions may be difficult if the review board membership changes rapidly, assuming that people are unwilling or unable to serve their 3 year terms.
3. Landowners may use the review board in an effort to challenge other statutory decisions regarding the MFL program, thus causing the review board to hear cases that appear to be about sound forestry practices, but end up being about other program and statutory issues.

DNR foresters provide a range of acceptable sound forestry practice alternatives that can meet the landowner's goals and assure sound forestry is practiced on private lands. With over 47,000 MFL entries, DNR expects that there will be some landowners that will disagree with management practices and is proud that annually we find a workable solution to meet the vast majority of landowner goals and implement sound forestry on almost all program participants' land. SB161 will allow for more landowners to go directly to the review board without first working through the established process of working with local DNR foresters and supervisory staff.

Very few MFL participants are removed (withdrawn) from the law for failing to practice sound forestry. In 2011, only one MFL withdrawal initiated by the Department was due to a failure to practice sound forestry. The Department is very open to the concept of having other forestry peers review our recommendations to landowners to ensure that all landowners are being offered the management options which best meet their objectives.

MANAGED FOREST LAND MANAGEMENT PLAN AND TIMBER HARVESTS

SB161 moves the requirements for large landowner management plans from administrative code to statute and requires the calculation of an annual allowable harvest. SB161 also creates an opportunity for landowners to form a management group and develop one management plan that would cover a number of ownerships, thus reducing costs of individual management plan preparation. Lastly, SB161 creates a minimum 3 year window in which timber harvesting can be done.

The department has no concerns over the provisions listed under land management plans for large landowners. The requirement for an annual allowable harvest for large landowners will help facilitate the updating of management plans by large landowners. This requirement will also provide additional support for DNR foresters to audit large landowner management plans. The Department periodically examines the management plans of the large landowners to assure their compliance with sound forestry principals.

The provision to create group management plans will likely be utilized primarily by larger landowners who have subdivided their lands in order to not exceed the 160 closed acreage limitation. The ability of these landowners to form groups and develop one management plan may provide another incentive for the continued subdividing of land in order to close lands to public access.

The three year timber harvest window is consistent with actual current practice since once the timber sale is established landowners normally have a least three years to complete the harvest.

DESIGNATION OF ADDITIONAL MANAGED FOREST LAND

SB161 allows lands to be added to MFL entries from 1987 through 2004 without requiring the original acreage to be withdrawn and re-enrolled at current, generally higher, tax rates. SB161 requires that only the added acreage will be taxed at the current tax rate.

Annually, about five people add an average of 10 acres each for a total of 52 acres of new lands to older MFL entries, for <0.5 % percent of all MFL applications. It appears that in 2011 this percentage was actually lower. The department suggests that the number of people who may benefit from this provision is low enough to consider eliminating the requirement that the added lands be taxed at the new tax rates. Maintaining the single rate would eliminate the need for local municipalities to create different parcels to track the added lands differently and help landowners to understand the amount of taxes that they'll be paying on MFL lands.

LEASING OF MANAGED FOREST LAND

SB161 would repeal the January 1, 2008 prohibition on leasing of MFL lands and clearly grant landowners the right to lease lands for any purpose, as long as it is consistent with sound forestry practices. SB161 also appears to grant the right for landowners to lease lands open to public recreation. Any lands designated as open must still provide access to the public for hunting, fishing, hiking, sight-seeing and cross-country skiing. The DNR has an interest in land being open for public recreation and an interest in MFL being attractive to landowners so they consider enrolling. The ability to lease MFL lands may also provide a further incentive to landowners to close additional lands to the public.

TAXATION OF MANAGED FOREST LAND

SB161 provides for many changes to the way MFL lands are taxed in order to allow local municipalities to receive the maximum amount of tax revenue and to provide enough incentive for landowners to enroll in the MFL program. There are several issues I wish to highlight regarding the new ways in which lands are taxed.

1. SB161 increases the complexity in describing tax rates to landowners and local municipalities.

DNR had been trying for the past few years to simplify an already complex program. The different tax rates and formulas established to date are easy enough to explain to landowners since they are based on the year of entry. The tax rates change every 5 years after recalculation by the Department of Revenue (DOR) and they apply evenly to all landowners.

SB161 would allow the higher of two taxation options to be used to calculate taxes for lands closed to public access. Lands open to public access are taxed using the 2005 tax rate formula. Lands closed to public access would require more involvement by the town assessor and the local municipality to determine the MFL tax rate. The tax rate could change annually if the assessor and local municipality chose to change the rate annually. We understand the rationale for more closely linking the closed tax rate with the tax rate in higher value municipalities however DNR foresters and Certified Plan Writers would no longer be able to advise landowners of the amount of their tax savings after passage of SB161.

A comparison of the different tax rates are shown below.

	1987-2004	2005-Passage of SB161	After Passage of SB161	
Lands Open to Public Access	67¢ per acre	\$1.67 per acre	\$1.67 per acre	
Lands Closed to Public Access	\$1.57 per acre	\$8.34 per acre	Higher of the following:	
			\$8.34 per acre	25% of average forest land assessed value within the taxation district.

Figure 1: MFL tax rates that would be in existence after passage of SB 161.

2. Average assessed values on all productive forest land within each taxation district will need to be calculated annually.

Department of Revenue will need to calculate the average assessed value for productive forest land for each taxation district so that assessors and municipalities can determine which of the two tax rates are to be used for closed MFL lands after passage of SB161. Currently, this work is done once every 5 years for the entire state.

The average assessed values for forest lands in the taxation district will be needed by assessors and local municipalities to determine whether individual MFL landowners will pay taxes based on the statewide average rates or rates based on 25% of the taxation district. Consideration might be given to changing these rates on the same five year schedule as the current rates.

DISTRIBUTION OF MONEYS RECEIVED BY DNR

1. The redistribution of money will result in additional money for property tax relief for the local municipality.

Under current law the local municipalities normally keep 80% of the acreage share taxes that landowners pay while enrolled in the MFL program. The acreage share tax replaces the regular property tax when land is enrolled in MFL as open to public access. The remaining 20% of the acreage share tax is remitted to the county. Landowners who choose to close lands to public access pay an additional closed acreage fee. The entire amount of the closed acreage fee is remitted to the county, who then remits the entire fee to the State's Forestry Account, for allocation by the Legislature.

After passage of SB 161, local municipalities will continue to keep 80% of the acreage share taxes and as well as 32% of the closed acreage fees. The additional money kept by the local municipality will help cover the operating costs of the municipality.

The fiscal impact of this change is estimated to be about \$6 million annually. The fiscal condition of the Forestry Account is of concern, and its ability to absorb this increase at this time is in question. In fact, the Division of Forestry is currently lapsing funding in an effort to improve the account condition for the FY 13-15 biennium.

2. Municipal Treasurer must remit payment of 20% of the closed acreage fee to DNR.

DNR currently bills each county a specific dollar value for collection of the closed acreage fee. The bill reflects the acreage of land enrolled in the MFL program based on the closed acreage fee established for closed lands enrolled in 2004 and earlier, and for closed lands enrolled in 2005 and later.

DNR will be unable to issue a bill to the municipal treasurer to remit the closed acreage fee since the closed acreage fee value will not be known for MFL lands entered after passage of SB 161. It will be incumbent on the local municipality to provide documentation of the closed acreage fee value.

3. Local municipalities will need to track the acreage share tax and closed acreage fees for all MFL entries for a minimum period of 50 years, and have a more extensive role in calculating withdrawal taxes when lands are withdrawn from the MFL program prior to the end of the 25 or 50 year enrollment period.

Currently, when lands are withdrawn from the MFL program, the Department of Revenue (DOR) requests the assessed value and net town tax rate from the local municipality. These values are multiplied by the number of years the lands were enrolled in MFL. DNR later subtracts the acreage share tax and yield taxes paid from the DOR calculated dollar value. The net value becomes the landowner's withdrawal tax. DNR also adds a \$300 processing fee for each withdrawal order.

The DNR will no longer be able to calculate the amount of money to reduce a landowner's withdrawal tax since DNR will not know whether the average statewide tax is used for an individual landowner or 25% of the assessed value in the taxation district. Because of this, each municipality will likely need to keep records for up to a 50 year period and provide documentation as to the amount of tax collected for the acreage share tax after passage of SB 161. This record keeping system is similar to that used for the Forest Crop Law (FCL) program today.

DOR will likely take the lead in working with the local municipalities to develop the proper tracking system for any MFL lands that are entered and withdrawn after passage of SB 161, however DNR continues to hear comments from local municipal clerks about how much easier MFL has been to administer compared to FCL since the annual recording of taxes paid was no longer necessary.

On behalf of the DNR, I want to thank the Legislative Study Committee for their work on assessing how to improve the MFL. The MFL is a critical incentive in our ability to practice sound forestry on private lands and bring forest products from private lands to market, thus positively impacting the State's economy. Thank you for the opportunity to testify on SB 161. I am happy to answer any questions that you may have.



Wisconsin Wildlife Federation

Testimony of the WWF in Support of Substitute Amendment 1 to Senate Bill 161

Chairman Schultz and Members of the Senate Agriculture and Forestry Committee, thank you for the opportunity to testify for the Wisconsin Wildlife Federation in support of Substitute Amendment 1 to Senate Bill 161. The Federation is comprised of over 170 hunting, fishing, trapping and forestry-related groups located throughout the state.

The Federation is a strong supporter of the Managed Forest Law program. The program provides the opportunity for sustainable and scientifically based forest management which provides major benefits that our members greatly appreciate. These include timber and pulp to support Wisconsin's forestry-related industries and the jobs they create, watershed protection, habitat for fish and wildlife and the opportunity for public access of hunting and fishing and other designated outdoor activities.

The testimony of the Federation will focus on the use of "closed acreage" fees for the purpose of public access for recreational purposes.

One of the Constitutional justifications for the unique property tax structure for lands entered under the Managed Forest program is that the public interest would be served by requiring that there be public access for certain recreational purposes for the lands entered in the program. Over time the Legislature has determined that up to 160 acres of land entered in the program by a single owner in a township could be closed to public recreational use if the landowner would pay a "closed acreage" fee five times the fee paid by a MFL owner who kept land open to public recreational use. However, to-date, not a single dollar of "closed acreage" fees has been spent on public recreational access.

This is of great concern to sportsmen and women in the state. Based on 2009 data, there are 3,039,474 MFL acres in the state, of those acres only 1,155,963 acres are publicly open to hunting, fishing and other recreational pursuits. The greatest percentage of MFL lands, 1,883,510 acres, that is, over 62% of MFL lands are closed to public hunting and fishing. This clearly breaks the commitment to sportsmen and women in this state that these lands, receiving substantial public tax benefits, would be open to hunting, fishing and other recreational opportunities

The Wildlife Federation strongly support the provision of the bill that sends a substantial amount of the differential between the closed acreage and open acreage fee back to the county to use for to acquire by purchase, lease, easement, or other agreement land that will be open to the public for hunting fishing and certain other recreational activities. The Federation also recognizes that certain

counties already have a substantial acreage of land open to public hunting and fishing because of the presence of federal, state, county and MFL lands. In those situations where the county already has 40% of such lands open to the public, the Federation supports the provision which allows the county to elect to expend some or all of the amount of money on activities to improve resource management, including forest growth, forest health, fish habitat, wildlife habitat, and watershed protection.

Chairman Schultz, Members of the Committee, thank you very much for the opportunity to testify before you today on behalf of the Wisconsin Wildlife Federation. Please support this bill.

Submitted by:
George Meyer
Executive Director
Wisconsin Wildlife Federation





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Quinnesec, MI

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Wausaukee, WI

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Senate Committee on Agriculture & Forestry

Sen. Dale Schultz- Chair

Testimony in opposition to Senate Bill 161
Henry Schienebeck, Executive Director of the GLTPA

Mr. Chairman and Committee Members

The Great Lakes Timber Professionals Association (GLTPA) would like to offer the following comments on SB 161. GLTPA is a non-profit organization representing nearly 1,000 members ranging from loggers to mills, to manufacturers, landowners and sports persons.

For several years the Managed Forest Law (MFL) has been an effective tool helping to provide resources for Wisconsin's forest products industry as well as incentives to landowners for a return on investment and recreational opportunities for sportsmen on lands other than state or federal. In recent years however MFL has become less of a tool because of increased regulations having a negative effect on the laws usefulness.

While we agree changes need to be made, GLTPA is opposed to SB161 as presented. SB161 addresses some issues within the MFL program but does not supply the mechanisms to enhance the program for continued support for forestry or recreation. For instance, Agriculture and Silviculture provide valuable resources for the state's economy yet there seems to be a lack of equality in benefits for landowners between the two. SB 161 is also suggesting large incentives but where will the money coming from? With all the issues connected to MFL, we would pose the question as to whether or not the MFL program is the right tool for today's needs or is there a system that better balances Wisconsin's industrial, social and ecological needs.

It is GLTPA's opinion that SB 161 falls short of correcting issues within the MFL program. We would suggest that it may be beneficial for the Governor's Council on Forestry to review the MFL program before any further action is taken to make changes. With its current membership the council is well positioned with representation from most stakeholder groups. I am quite certain the council would also seek input from other groups such as the Wisconsin towns association and local governments who are not represented directly on the council.

In the past MFL has been a very important program for the success of forest management and associated industries in Wisconsin. While the needs for a program such as MFL remain the same, there may be better, less cumbersome ways to achieve goals that are fair and equitable to all.

Thank you for the opportunity to share our thoughts.