CHAIRPERSON
Jim Krolczyk
VICE-CHAIRPERSON
Ken Hilliard

Duane Anderson
Ervin Kowalski
Glenn Lottie
Carl Rutske
Richard Schmidt

Manistee County Board of Commissioners

Manistee County Courthouse • 415 Third Street • Manistee, Michigan 49660

CLERK
Marilyn Kliber
(231) 723-3331
CONTROLLER/ADMINISTRATOR
Thomas Kaminski
(231) 398-3500

DRAFT

POLICY COMMITTEE

Friday, December 2, 2011
9:30 A.M.

Manistee County Courthouse & Government Center
Board of Commissioners Meeting Room

REPORT

Members Present: Carl Rutske, Chairperson; and Duane Anderson

Members Absent: Ken Hilliard

Others Present: Thomas Kaminski, County Controller/Administrator; and Rachel Nelson, Administrative Secretary

The meeting was called to order at 9:55 A.M.

ITEMS REQUIRING BOARD ACTION

None.

ITEMS NOT REQUIRING BOARD ACTION

There was brief discussion on the Rules of Order and Procedure of the Manistee County Board of Commissioners, specifically regarding Commissioners participating in County Board meetings by telephone. It was decided to table the issue until the next meeting, when hopefully, all three members of the Committee would be present.

Mr. Kaminski stated that he had requested an opinion from Jim Thompson of the Forest Service regarding the resolution being proposed by the Lake States Lumber Association, Inc., regarding timber harvesting in the Huron-Manistee National Forest (APPENDIX A). He has not received a response and will contact Mr. Thompson again. He will also request an opinion from MichiTree on the proposed resolution.

Mr. Kaminski requested opinions from Rob Carson, County Planner, and Jerry Peterson, Manager of the Road Commission, on the resolution passed by Wexford County supporting a Statutory Exemption for Stormwater Runoff from Logging Roads (APPENDIX B). Mr. Carson and Mr. Peterson do not recommend passing the resolution at this time.

DRAFT

Mr. Kaminski stated that since the Policy Committee often has a short agenda, the Commissioners may want to combine the Policy and Personnel Committees. The Policy Committee could be renamed as the Housing Review Committee, and only meet when the Housing Administrator felt it was necessary. This will be discussed at the Organizational Meeting in January, along with meeting dates and times.

The meeting adjourned at 10:15 A.M.

_____
Carl Rutske, Chairperson

_____
Duane Anderson, Commissioner

(ABSENT)
Ken Hilliard, Commissioner

[rn h:\reports\policy 120211]

APPENDIX A

RECEIVED
OCT 06 2011

October 4, 2011

Lake States Lumber Association, Inc.
3071 Voyager Drive, Suite E
Green Bay, WI 54311
920.884.0409 www.lsla.com

Michigan Office
318 West Ottawa St.
Lansing, MI 48933

Manistee County Board of Commissioners
County Courthouse
415 Third Street
Manistee, Michigan 49660

Dear Board of Commissioners:

It is no secret that our economy is faltering and unemployment levels remain way too high. This especially rings true in many rural areas of Michigan. You also know how difficult it is to provide county services and fund local schools with declining tax revenue due to the slow economy.

Recently, Forest County Wisconsin, a place where the economy is severely and negatively impacted by the lack of timber harvests on federal forest land, passed a resolution asking for action by the federal government and help from state elected officials.

We thought this was such a good idea we drafted the attached sample resolution tailored for the Ottawa and Hiawatha Federal Forests. We would invite you to amend it anyway you see fit with the important thing being you send a strong message. Also, attached are a set of address labels to those we believe should receive a copy of your final resolution.

As an industry we are increasingly frustrated in the lack of opportunities for jobs and the economy to grow when a huge renewable resource sits idly nearby that can help. But, when it is not being managed properly, no jobs and economy can be created. With growing unemployment and fiscal challenges facing everyone, we think now it is time to take action, and we believe local governments that feel the negative economic impact the most are critical to hear from.

As you consider this resolution, we would also ask you to pass it on to township governments, your local chamber of commerce or anyone else that you believe is willing to help.

Yes, the federal government owns the land, but it is your citizens, community and state being negatively affected by the federal government's lack of management, and we would greatly value your help to correct the problem.

Again, I hope you will consider passing a resolution and sending it to the attached list.

Thank you for your consideration

Sincerely,

David Sebastian

Dave Sebastian
President

P.S. If you would like an electronic copy of the sample resolution, please e-mail: everett.erm@earthlink.net

A-2

Resolution by the _____ County Michigan Board of Commissioners

WHEREAS, _____ **County** recognizes the importance of the lands contained within the 929,000 acres of the Huron-Manistee National Forest as an exceptional natural resource capable of producing a sustainable supply of timber products on an annual basis which provides economic, social and environmental benefits to county residents, and

WHEREAS, these lands are owned by the federal government under the assumption and obligation that the natural resources would be properly managed and utilized as a base for the local and regional economies, and

WHEREAS, the United States Forest Service has failed to address the negative impacts of unemployment, loss of tax base, school funding and the deterioration of the overall local and the regional economies created by the Forest Service's refusal to manage the forest land as a productive, sustainable timber resource, and

WHEREAS, the United States Forest Service has failed to manage the National Forests as a sustainable resource that greatly contributes to the wood, papermaking, packaging, furniture and building material industries throughout Michigan. This has forced these industries to secure raw material from outside the U.S. and has also caused numerous businesses to close and lay off workers or to relocate outside of Michigan, and

WHEREAS, the United States Forest service has failed to manage the Huron-Manistee National Forest by allowing more timber to be lost to mortality than is harvested. The average annual timber mortality on the Huron-Manistee during the past five years is 84.5 million board feet, and

WHEREAS, Since 1986, when the first Land and Resource Management Plan (Forest Plan) was adopted on the Huron-Manistee National Forest, the U.S Forest Service has never sold the Allowable Sale Quantity of timber in the Forest Plan, and

WHEREAS, last year the Huron-Manistee National Forest harvested less than half of the timber required to maintain forest health. For example, the Huron-Manistee National Forest 2006 Forest Plan authorizes an average annual Allowable Sale Quantity of 91 million board feet, yet it is only selling an average of 47 million board feet per year or approximately 52% of the Allowable Sale Quantity. Since 1999, the Forest Plans on the Huron-Manistee National Forest authorized harvest of a total of more than 1.022 billion board feet. But only 504 million board feet of timber has been sold or approximately 49% of the Allowable Sale Quantity. This translates into reduced revenue, jobs and economy to local communities from direct Forest Service payments and a significant reduction in raw materials that are needed to sustain the local forest industry.

WHEREAS, for every one million board feet of timber that is sold, enough raw materials are provided to sustain 11 direct jobs and also help support other indirect jobs. In 2010, the Huron-Manistee National Forest fell short of the annual ASQ by more than 45 million board feet, which equates to a loss of 495 jobs, and

A-3

WHEREAS, Michigan has lost both paper mills and saw mills, a large number of logging contractors and trucking firms, there are other factors that play into the loss of these businesses, however declining harvest opportunities on the National Forest lands is the number one and primary reason for the loss of many of these employers, and

WHEREAS, THERFORE, BE IT RESOLVED, _____ COUNTY BOARD OF COMMISSIONERS, recognizes that the Huron-Manistee National Forest is an exceptional natural resource that have the capacity to provide timber, recreational and environmental benefits for everyone provided that the lands are properly managed as a sustainable, renewable timber resource, and are managed with consideration to the local communities which rely on the economy generated, and

BE IT FURTHER RESOLVED, that the severe reduction in timber harvesting are well below the documented sustainable levels within the Huron-Manistee National Forest and it is the U.S. Forest Service's obligation to change this trend and we ask our Michigan elected officials both on the State and Federal levels to fix this problem that is creating economic hardships for our county, and

BE IT FURTHER RESOLVED, the Huron-Manistee National Forest must be managed at the Allowable Sale Quantity level as identified in the Land and Resource Management Plan and to manage the backlog of unsold and un-harvested timber accruing since implementation of the Plan, and

BE IT FURTHER RESOLVED, _____ County Board of Commissioners requests a written response from both Secretary Vilsack and the Chief of the U.S. Forest Service regarding detailed reasons why these lands are not being managed in accordance with the provisions of the Huron-Manistee National Forest Land and Resource Management Plan.

BE IT FUTHER RESOLVED, copies of this Resolution sent to the following:

Tom Vilsack, Secretary, U.S. Department of Agriculture
Tom Tidwell, Chief, U.S. Forest Service
U.S. Senator Carl Levin
U.S. Senator Debbie Stabenow
Congressman Dan Benishek
Congressman Dave Camp
Congressman Bill Huizenga
Governor Rick Snyder
State Senator Tom Casperson
State Senator Howard Walker
State Senator John Moolenaar
State Senator Darwin Booher
State Representative Jon Bumstead
State Representative Phil Potvin
State Representative Bruce Rendon
State Representative Wayne Schmidt
State Representative Greg McMaster
State Representative Peter Pettalia
State Representative Frank Foster
Rodney Stokes, Director, MDNR
Keith Creagh, Director MDARD
Michigan Association of Counties
Lake States Lumber Association

APPENDIX B

Minutes of a regular meeting of the Wexford County Board of Commissioners, held at the Wexford County Courthouse, 437 E. Division St., Cadillac, Michigan on the nineteenth day of October 2011, at 6:00 p.m.

PRESENT: Jerry Bulock, Pam Dahlstrom, Gideon Mitchell, Alan Devereaux, Gary Taylor, Terry Oliver, Da. O'Riley, and Leslie D. Housler;
ABSENT: Thomas Akers

The following preamble and resolution were offered by Commissioner Taylor and supported by Commissioner O'Riley.

RESOLUTION NO. 11-23
RESOLUTION SUPPORTING A STATUTORY EXEMPTION FOR STORMWATER RUNOFF FROM LOGGING ROADS

WHEREAS, on August 17, 2010 the United States Court of Appeals for the Ninth Circuit held that a National Pollution Discharge Elimination System (NPDES) permit is required for stormwater runoff from logging roads; and

WHEREAS, the Clean Water Act (CWA) requires a National Pollution Discharge Elimination System (NPDES) permit for the discharge of any pollutant to any navigable water (AKA "water of the U.S.") from any point source. Since 1973, rules promulgated by the Environmental Protection Agency ("EPA") have distinguished between point source and non-point source pollution in the CWA. Non-point source pollution, which is not defined in the CWA, includes any source of water pollution not characterized as a point source discharge; and

WHEREAS, included in the CWA rules is the so-called Silvicultural Rule found at 40 C.F.R. § 122.27(b)(1), which has remained substantially in its current form since 1976. The Silvicultural Rule specifically defines timber "harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff" to be "non point source silvicultural activities," and thus, excluded from NPDES permitting requirements; and

WHEREAS, the Ninth Circuit disagreed with the Silvicultural Rule, holding that stormwater runoff that is collected and channeled in a system of ditches and culverts before being discharged into streams and rivers constitutes a point source, and that EPA lacks authority to promulgate a rule to the contrary. The Ninth Circuit stated that Congress has a history of providing specific statutory exemptions for certain categories of discharges. The court went on to say that federal courts have invalidated EPA regulations that provided similar regulatory exemptions; and

WHEREAS, the Court's decision has potentially sweeping implications. If broadly read, this opinion would require NPDES permits for every road in the country that is served by ditches or culverts that eventually discharge to natural surface waters and that is not already regulated by the CWA; and

WHEREAS, the court's opinion also leaves many critical questions unanswered. Even if the opinion were limited to logging roads, what constitutes a logging road? Contrary to the court's assumptions of fact, many forest roads, including the roads at issue in this case, are not dedicated just to logging. They are used for a variety of purposes, both public and private, beyond just logging. If this is the case, who is responsible for obtaining these required permits? The court did not address whether the permit obligation rests with the owner of the roads or every entity that transports logs on the roads, or even those using the roads to access the forest for recreation. This Adopted Policy is consistent with current NACo policy that states that stormwater from all roads, gutters and ditches should not be considered a "water of the U.S." under the CWA; and

WHEREAS, if rural county owned roads, such as logging or forest roads, require federal NPDES permits, this will be an unfunded mandate and preemption on county governments.

BE IT RESOLVED, the Wexford County Board of Commissioners supports legislation that enacts into law the Silvicultural Rule.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to Governor Snyder, Representative Huizenga, Senators Levin and Stabenow, Senator Booher and Representative Potvin, and also to the boards of County Commissioners of the other counties of the state, who we urge to join us in supporting legislation that enacts into law the Silvicultural Rule.

A ROLL CALL VOTE WAS TAKEN AS FOLLOWS

AYES: Oliver, Bulock, Dahlstrom, Mitchell, Devereaux, O'Riley, and Housler;
NAYS: None

RESOLUTION DECLARED ADOPTED.

Leslie D. Housler
Leslie Housler, Chairman, Wexford County Board of Commissioners

Elaine L. Richardson
Elaine L. Richardson, County Clerk

STATE OF MICHIGAN)
)ss.
COUNTY OF WEXFORD)

I hereby certify that the forgoing is a true and complete copy of the Resolution 11-23 adopted by the County Board of Commissioners of Wexford County at a regular meeting held on October 19, 2011, and I further certify that public notice of such meeting was given as provided by law.

Elaine L. Richardson
Elaine L. Richardson, County Clerk