

My Long and Rocky MFL Marriage

This could have been a love story. Instead, it is a story of decades of heartaches. Indeed, a story of abuse—abuse of power by two DNR foresters regarding two open MFL forties in Bayfield County.

Superior View Forty

The Superior View Forty was purchased in 1972 because it has a long view of the lake and a small grove of large red pine on the knoll in the center. I enrolled the land in the Forest Crop Law. DNR dictated a simple Management Plan—“cut the aspen.”

The first logger took the best aspen and left. The first DNR forester said I had to do a second harvest of the aspen which could only be possible if I also sold some of the red pine to entice a logger. I resisted for five years. When a neighbor sold his stumpage, the first forester told me that he would make arrangements for the logger to cut mine as well. I relented and let the DNR forester make all the arrangements as my agent.

That second harvest was tragic in every way. Because of very wet conditions that fall I gave the logger a 12 month extension. Instead, he went ahead with the harvest without notifying me as required by the logging contract. To deal with the very wet conditions the logger used the knoll to deck the wood between the remaining pine; he bulldozed trenches down the knoll to lower the grade so full-length trees could be winched up the steep hillside. Some of the oak and all of the birch were cut in violation of the contract. Deep ditches were bulldozed in a futile attempt to drain the perched water table behind the knoll. The access road to the pine knoll was left permanently unusable.

I proceeded with formal arbitration for damages as provided in the contract. The logger appointed a representative. I appointed a representative. The two representatives selected the third member of the arbitration panel. The logger appointed the just-retired DNR forester. In blatant disregard for conflict of interest, he agreed to represent the logger. Nevertheless, the other two panel members agreed with me on all the contract violations. However, beyond the value of the trees that should have not been cut, damages were hard to assess. I got \$1400 for the wood and \$1200 for damages. And three 600 mile trips to contour, divert water drainage, seed and mulch the trenches against more erosion.

The new DNR forester greeted me with these words: “You are not going to like to hear this, but you have to cut more aspen.” (The remaining aspen had been passed over by two loggers because of extremely poor quality and wide dispersion.) I had two options – both requiring a wildly impossible sale of stumpage. I could cut the aspen under my old Forest Crop Law contract. Or I could cut the aspen as an immediate mandatory practice under a new MFL contract. I would not agree to do the impossible. White pine seedlings were already developing in the understory of the dying aspen -- there was a good future for these sites without a third, impossible aspen harvest.

After a long stand-off with the second DNR forester, I contracted the DNR District Director who I knew professionally. He sent a letter of apology and a regional forester with excellent technical skills and excellent social skills. The regional forester understood immediately the futility of trying to sell the crap aspen. He suggested that the oaks could be thinned to release pole-sized pine. Doubling the volume of the sale with the oak might attract a buyer. I agreed on the spot—out in the field. The forty was converted to MFL with that provision in the Management Plan.

I hired the Bayfield County Forest Administrator to cruise and advertise the sale. He knew all the loggers and they all wanted to stay on his good side because he approved big logging contracts on county land. Still, he found no buyers.

The second DNR forester demanded that I keep trying to sell the stumpage or withdraw the property from MFL. I didn't want to waste more money on a consulting forester so I tried to find a buyer myself. Each effort to advertise and show the property took several years. For about a decade, I made trip after trip (600 miles at a time) to show the sale to potential loggers. The reaction was always the same: quality of wood is too poor, trees are too dispersed, and sale is too far from the road.

On July 14, 2004 I led a Living Forest Cooperative field trip to showcase my efforts to regenerate white pine after the first two harvests and share my frustrations about the third harvest. A logger in the crowd understood my impossible situation: the second DNR forester was going to force me to try to continue to sell the bad stumpage for another 15 years--until the end of the MFL "contract". The logger rescued me from the treadmill that the DNR forester had me on. The logger volunteered to cut the poor stumpage and did a good job.

Thompson Creek Forty

The Thompson Creek forty was purchased in 1973 because of spectacular topography along the creek, large pine and a mix of hardwoods dominated by aspen and white birch. It was enrolled in the Forest Crop Law. I applied for conversion to MFL prior to the first required harvest. I hired a consulting forester who prepared a detailed Management Plan to reduce the aspen component, increase the pine component, regenerated white birch (difficult), retard succession to maple, and protect/enhance minor species such as oak, balsam, and yellow birch. All harvesting was to be done selectively.

The same second DNR forester rejected the elaborate and creative plan. She simply wanted the pines thinned and hardwoods clear-cut. I again asked the District Director to intervene and the same regional forester approved my management plan noting that it was unconventional but appropriate for someone with my intense interest in forest management.

I had marked most of the aspen, the poorer quality red pine, and red maple seed trees for harvesting. The Bayfield County Forest Administrator managed the sale as my agent. The logger did an excellent job – including suspending logging when the soils got too wet. The second DNR forester approved the completion of the first Thompson Creek harvest. It was fun to have had an active role in a harvest that went so well..

The Thompson Creek experience turned negative again in 2009 when I got an order from the second forester to schedule a second harvest. The DNR approved Management Plan had been very carefully worded by the consulting forester. The second harvest was voluntary under the Management Plan—only an evaluation of the advisability of a second harvest was mandatory.

My new consulting forester (the other two consulting foresters were no longer in the area) conducted the evaluation. We agreed that we no longer needed the aspen that had left after the first harvest to provide enough basal area (shade) to reduce aspen suckering. We no longer needed most of the old white birch to provide shade and seed for the areas we had scrapped down to the bare soil (scarification). We expected about half of the white birch that would be cut to generate stump sprouts which might survive with assistance against a smaller deer herd in 2009. Pine regeneration was doing well with the 500+ caps I was putting on seedlings to protect the leader each winter from deer browsing. I planned to give the pine room for growth by marking (for cutting) those red maple (>50%) that were competing with pine for space and sunlight. Pink ribbons were tied on hundreds of small white birch, yellow birch, red oak, white spruce (planted at the suggestion of the second forester because deer don't browse them), and even young aspen (in open pockets where they desired). The ribbons were designed to catch the eye of the logger so he could avoid damaging the seedlings that had regenerated since the first harvest.

The consulting forester did a cruise to calculate the volume of the trees to be cut. The logger, who had rescued me at Superior View forty, agreed to do the second harvest at Thompson Creek in October when he could better avoid damaging young trees because the leaves were down the pink ribbons would be more visible and snow had not yet covered them.

I asked the second DNR forester for a cutting permit in Stand 2. She said she also wanted the small number of aspen among the pole pine in Stand 1 removed. I agreed. Since she is notorious among MFL landowners for her insistence on harvesting, I expected her to be elated that I was volunteering to harvest and would harvest both Stand 1 and Stand 2.

I expected to get a timely cutting permit. Instead, I was simply jerked around for months. She questioned whether I was meeting the criterion of 80% productive forestland because of a power line on the west boundary and the steep ravines that ran down to the creek. Nothing had changed since the forty was entered into MFL or the completion of the first harvest which she had approved. Because of marginally wet conditions the logger left some of the marked trees in the ravines. I had marked more trees for harvest in the ravines for the second harvest than had been harvested in the first harvest. So what was the problem????

Then the converse concern was raised. She warned me about violating the Bayfield County Shoreland Zoning Ordinance by cutting too many trees in the ravines if the ravines were navigable streams (navigability is determined by DNR). So I "un-marked" the trees in the ravines. I still don't know what I was expected to do. Apparently, that was the objective – keep me guessing.

Regarding the west side of Stand 2, the second DNR forester ordered the following:

*"Leaving the pine, any oak, as well as those few birch that are marked is fine, however, **all the maple, other hardwood and balsam needs to be cut** in addition to the already designated aspen, un-ribboned white birch and marked maple. **Cut everything over 3 inches.**" (7/7/2009)*

In contrast, the Management Plan states that:

"Landowner objectives for Management of the Enrolled Lands: Enhance the diversity of age classes, structured height, and tree species to benefit wildlife....

***Retain all pine, red oak, yellow birch and balsam fir in this stand."* (DNR Order 04-203-1996)**

Regarding the east side of Stand 2, the orders were even more extreme:

“all the maple should be cut as well as all un-merchantable stems as part of the sale (cut everything over 2 inches here.” (7/17/2009)

Diameter cuts are never mentioned or even suggested in the Management Plan. Throughout the Thompson Creek Management Plan, single tree and group tree selective harvesting is implied. On page 6 the selective harvest method for Stand 2 is explicitly stated:

*“Successive operation in this stand should continue to emphasize: 1) Release and regeneration of pine and white birch, 2) maintenance of species and structural diversity, and 3) reduction of the aspen/red maple component using a combination of **single tree and group tree selection method.**” (DNR Order #04-203-1996)*

On several occasions I asked the second DNR forester to meet with me on the property after giving her several weeks notice that I was coming up. She never agreed to meet me on the property. I did meet with her in her office. She gave me a can of orange paint and told me to use it to mark more maple if I wanted to get a cutting permit. I had already marked more maple than what was called for in the Plan. Under protest, I spent an early August weekend making more maple.

I also marked small maple (<2 inches) that the logger could cut to get out of his way. He would not be required to cut all the marked saplings because cutting thousands of little un-merchantable maple would make a marginal sale even less attractive to the logger. I told the forester that I planned to cut those stems myself--at the optimal time. (I have experimented with un-even aged white pine regeneration for 30 years—the results were published in *Woodland Management* –Vol. XXXI (No.3), Fall 2010.)

Everything was in place in spring. I was willing to harvest. I had marked the sale. A consulting forester had done the cruise. A trusted logger had scheduled the logging for October when the leaves would be down but before snow covered the seedlings of species being promoted under the Plan. From May-November, 20 letters and emails were exchanged with the second DNR forester. In addition, several email exchanges with her supervisor failed to get the second harvest back on track. A letter sent to the Division of Forestry Administrator seeking help in resolving the impasse was not even acknowledged.

The second DNR forester and I never disagreed on the core practice—a second harvest. The only issue of substance throughout the 2009 controversy was whether to include Stand 1 in the harvest. That issue was quickly resolved when I agreed to harvest both stands. The other encounters were motivated by a perverse delight in abusing the power available to local DNR foresters under the Statute and sanctioned by the Division of Forestry. Few landowners would have the technical background and personal commitment to endure such abuse of power--for decades. Fortunately, most MFL landowners in other counties have not suffered from such abuse of power but too many have.

On October 30, the second DNR forester finally issued a cutting permit. The cutting permit demanded that: **“All non-commercial trees not cut as part of the harvest must be cut within one year of the sale.”** These saplings are so small that they would not have been cut at all if I had agreed to the 2” and 3” diameter cuts the forester initially demanded. That order again had no basis in the Management Plan. The forester just wanted to give another order--order me to do something I wanted to do and had said I would do—and

arbitrarily demanded that I complete the practice in one year. It was just another swing of the hammer on my head – another instance of abuse of power—for the delight of it—perhaps for the need of it. (There was little consolation, and a lot of sadness, in knowing that many other Bayfield County (and in select other counties) MFL landowners have similar welts on their head.)

By the time I got the cutting permit on November 9th, the logger had long since moved on to another job and was not available until late December when snow was likely to be covering the young trees with the little pink ribbons. After five long trips from Amherst to Washburn in 2009 and many days typing emails, the sale was abandoned—at least for 2009. I needed a separation to reconsider this 35 year relationship.

It is now clear that that an early divorce would have been a better choice than staying in an abusive relationship. However, now the cost of divorce is very high. Unless an appeals procedure is added to the MFL statute and DNR hiring/retention policies are changed, the cost of staying in an MFL relationship is also very high—for many MFL landowners.

Lowell Klessig

October 4, 2010

Lowell Klessig – professional relationships to forest management:

**Emeritus Professor of Human Dimensions of Natural Resource Management, College of Natural Resources, University of Wisconsin-Stevens Point where he taught “Integrated Resource Management” and used MFL as the forestry case study for 40 semesters.*

**Ph.D. in Environmental Management and Resource Planning (UW-Madison) and developed the Land Use Planning Major at the University of Wisconsin-Stevens Point*

**Held various positions with the Wisconsin Rural Leadership Program including Executive Director. Developed the Wisconsin Woodland Leaders Institute and the Master Woodland Owners Program*

**Taught UW-Extension adult short courses throughout the state on rural land management (including MFL options) *Authored numerous UW-Extension publications on natural resources management including:---*

Country Acres: A Guide Buying and Managing Rural Property

Woodland Visions: Appreciating and Managing Forests for Scenic Beauty.

Co-authored **ONE FAMILY’S FOREST: How they kept it in the family. Back Forty Press. Forthcoming December 2010*

Member of the SmartWood Panel that explored FSC certification of the Bayfield County Forest.

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Lowell Klessig – personal relationships to forest management:

**Owns and personally manages 80 acres of woodland in each of three Wisconsin counties (Ashland, Bayfield and Portage). Spends 100 days a year in the woods since retirement. Contracted for eight and personally logged two commercial harvests. Annually cuts firewood for 2-5 families and supplies practice logs for UWSP Wood Lab.*

**Participant in MFL and its predecessor programs (Forest Crop Law and Woodland Tax Law) for 35 years. MFL land is open to public recreation—more deer hunters wanted.*

**President of the New Hope Family Forest Alliance – township based community group of forest landowners. Board member of Wisconsin Family Forest Inc.*

**Long time member of Wisconsin Woodland Owners Association*

**Member of Living Forest Cooperative*

**Operates 127 acre beef farm/forest on which his family lives and has placed their property under a “Working Lands Conservation Easement.” (first in central Wisconsin)*