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Legislative Study on the Managed Forest Law Program

Legislative Council Committee

Department of Natural Resources Testimony
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Mr. Chairman and Committee Members:

Good morning. My name is Paul DeLong and I am the Administrator of the DNR's Division of Forestry and Wisconsin's Chief State Forester. I appreciate this opportunity to appear before you as you begin your review of Wisconsin's Managed Forest Law program (MFL).

The MFL is Wisconsin's largest and most widely used incentive program to encourage the maintenance and sustainable management of forests on Wisconsin's private lands. It is a program that was enacted in 1985, but has its roots in 1927 when its predecessor program, the Forest Crop Law (FCL) was enacted. The people of Wisconsin, through their elected representatives, have a long history of encouraging sustainable forestry on private lands. The basis of this commitment is the fact that forests provide an array of benefits to the public. These benefits include clean air, clean water, wood products, settings for recreation and tourism, wildlife habitat, renewable energy, carbon sequestration and scenic beauty. Our forests generate jobs throughout Wisconsin and contribute billions in value to Wisconsin's economy. Forests are an essential element of Wisconsin's landscape and the places where millions of us live, work and recreate. MFL is one of the key tools in keeping forested land in forest and providing these benefits to both present and future generations.

Wisconsin's private forestry program is well recognized and respected as one of the best in the United States. One significant reason for this is the MFL. The MFL program currently has in excess of 43,000 enrollees with over 3 million acres of land. It is the largest and arguably most successful program of its kind in the nation. It has facilitated millions of acres of forest land in Wisconsin being managed for long-term public benefits. It has provided thousands of landowners with technical assistance to help them achieve their objectives for their land in a manner that is compatible with the public interest.

MFL has facilitated Wisconsin gaining both recognition and market access through third-party certification of smaller family-owned forests. In the last few years, the MFL program has been certified under both the Forest Stewardship Council (FSC) and American Tree Farm as being managed sustainably. The MFL certification is far and away the largest group of certified family forest owners in the world. Independent, third-party certification validates that management of forests under MFL meets strict standards for ecological, social and economic sustainability. Publishers, building contractors and other manufacturers are expanding use of certified wood to assure customers that their products are from well managed forests and not from timber either illegally harvested or destructively cut. Forest certification helps Wisconsin remain competitive in global markets that increasingly demand certified raw materials, and it could be a conduit for

helping landowners benefit from emerging markets, such as for carbon, which could in turn increase value to Wisconsin.

Forests are a long-term investment; the values they provide can not be readily turned on and off. Decisions regarding management of a forest often have consequences that affect the public benefits provided for many years. The original law was put in place in 1927 in the face of clear evidence of what can happen when there is a financial incentive to "cut and run". Wisconsin created a program in which annual property taxation was reduced in exchange for a long-term commitment to practice sound management of the forest to produce wood products that were, and still are, an important part of the state's economy. Deferring some taxes to the time in which the landowner received income was an effective way to encourage sustainable management of this long-term asset. It still is.

An incentive program targeting private forest landowners is important since over two-thirds of forested lands in Wisconsin are privately owned. Family-owned forest lands alone contribute two-thirds of all the timber harvested in Wisconsin. These are the forests most at risk of losing the capacity to provide public benefits due to land use conversion or destructive management. The approach taken by MFL to assure the provision of benefits long-term from our private forests includes:

- significant reduction in annual property taxes from forest land;
- long-term (25 or 50 year) commitment to keep that land forested and managed sustainably for multiple public benefits;
- payment of taxes at the time of harvest when income is received by the landowner; and
- a greater incentive to keep land open for public recreation, with a requirement that larger parcels be open.

There is no doubt Wisconsin would not have the large blocks of working forest lands were it not for MFL and FCL. Property taxes would drive the parcelization and fragmentation of these lands, reducing their contributions to the state's economy – both forest products and recreation/tourism – and the quality of our environment.

Although the net result of MFL is that fewer taxes are paid on those lands over the term of the enrollment, the benefits received by the public can be substantial. Furthermore, uninhabited forest lands require a significantly lower level of public services than most other land classes.

There is a natural tension between the investment the public makes in a program like MFL – reduced taxation – and the level of incentive needed for landowners to make a long-term commitment to manage their forest for those public benefits. As the agency that administers this program, we see the effects of this tension play out on a regular basis.

Although the benefits are extensive and diverse, the MFL program is not without its challenges. By definition, any program in which the public seeks to provide incentive for private individuals to act in a manner that assures public benefits will have the challenge of finding the right balance between public and private interests. With respect to MFL, there are several issues that are at the center of that balancing act.

First, the tax rate under the program influences the attractiveness of the program to landowners and local governments. The lower the rates (annual tax and yield tax) the more attractive the program is to landowners. On the other hand, lower rates increase the concerns expressed by local units of government and the citizens they serve. Furthermore, the level of services provided by the state for landowners within the program can influence its attractiveness. Although DNR invests significant resources in the administration of this program, with constrained budgets and

staffing, reductions have occurred in some of the direct services provided by DNR for landowners in the program.

Second, the term of enrollments under the program, currently 25 or 50 years, influences the willingness of landowners to get into the program. Forests are long-term investments, however, many landowners are concerned about making such a long commitment. Exacerbating the issue of length is the fact that conditions of the designation can change during the term, increasing landowner concerns.

Third, although MFL was designed to balance landowner desires to be able to close a portion of their land to public recreation, many view public recreation as one of the most important benefits provided by the law. The law allows a landowner to close either 80 acres (pre-2005 entries) or 160 acres per township to the public. This was designed to ensure that the majority of larger ownerships remain open to the public for recreation. There is no question that most family forest owners will not enter land under MFL if they are required to have all their land open. This would result in the loss of the many other benefits derived from lands under MFL.

The original program design worked well for a number of years. However, some landowners eventually figured out a way to work around the closed acreage limitation by dividing their ownership into what appear to be separate ownerships and entering them individually under the law. In the last few years some high profile large owners have taken this step, generating complaints from the public who perceive this as violating the clear intent of the program. The Legislature responded by prohibiting leasing of MFL land for private recreation, a response seemingly designed to eliminate the financial incentive for large landowners to configure their lands in such a way as to close them to the public. This angered many landowners who entered the law during a period in which recreational leasing was allowed.

Fourth, the law requires the sound management of forests under the law. The Legislature designed the program to ensure that the forests under the program would be able to provide public benefits – including forest products – over the long-term. Consistent with the law's intent to provide a supply of forest products to support the state's economy, the law is designed to have landowners pay a deferred tax at the time of harvest. DNR is in the position of evaluating whether the management practices desired by landowners are in keeping with the public interest. To address this challenge, DNR has developed forest management guidelines based on scientific research provided by the U.S. Forest Service, universities, and other research institutions. A range of management options are available to landowners. Foresters prescribe actual practices for an individual forest based on the landowner's objectives, current site conditions and the generally accepted practices.

We receive feedback from some landowners that our silviculture standards are too narrow, both by those wishing to manage more aggressively for short-term economic reasons or those wishing to manage in a manner that might not produce recurring forest products. DNR has outlined a range of acceptable practices that allows various levels of intensity in managing the forest to produce wood products while also producing an array of other public benefits. We work with landowners who wish to pursue alternative management practices and approve them if they are supported by research and are in keeping with the law's intent that lands under MFL provide multiple public benefits.

Directly related to this issue is the degree to which lands under the program provide ecosystem services – those public benefits typically not traded in the marketplace including clean water, habitat for flora and fauna, and so on. Although all lands under the program provide important ecosystem services, the way in which forests are managed can increase or decrease the level of various services. The degree to which landowner desires to either more aggressively manage for

short-term economics or to manage for some services to the exclusion of other benefits such as timber is one that should be overtly addressed by this committee.

Finally, as the agency charged with administering the law, we strive to ensure that both landowners and local units of government are treated fairly under the law. We endeavor to help landowners understand the law before they enter their land and to keep landowners under the law and in compliance during the length of their enrollment. We collect and pass along to local units of government both yield taxes and withdrawal taxes. The latter can be substantial, particularly for lands under the program for many years. The Legislature created a strong incentive to stay in the program for the length of the term.

Although MFL has its challenges, I firmly believe that it is a program that delivers great value to the people of Wisconsin. Forests are one of Wisconsin's great natural assets; they produce benefits that all of us enjoy. MFL fills an important niche in our overall efforts to protect and sustainably manage Wisconsin's forests to provide economic, ecological and social benefits for present and future generations. The program is not for everyone, nor can it alone ensure the conservation of all our private forest lands. However, no other program does more to advance this goal.

The Department welcomes dialogue about ways in which MFL can be improved. We also welcome the opportunity to explore with you in more detail other tools -- such as some of those that are being implemented to maintain working agricultural land in Wisconsin -- that can be used to further private forest conservation. After all, Wisconsin's forests are a major reason why our state is an excellent place to live, work and recreate.

I appreciate this opportunity to share with you the importance of the MFL and look forward to your deliberations and the recommendations you produce. The Department stands ready and willing to assist you in any way we can. Kathy Nelson has led an effort to bring together some extensive background information about MFL and Wisconsin's private forests. Knowing some of you as I do, I suspect this may merely whet your appetites for data. We'll do what we can to support your work.

In closing, I believe this effort will be successful if what emerges is an MFL program that is efficient to navigate and administer, and effective in maximizing the public benefits that are derived from Wisconsin's private forest lands. To accomplish this we need a tax program that balances landowner interests and the public's willingness to pay for a suite of important benefits. Given that no one program can be all things to all people, I also hope that your discussions will consider how MFL can work in concert with other tools to sustain these lands and their values.

Thank you for your service on this committee addressing an important topic. I would be glad to answer any questions you might have.