

From: David Crowley [REDACTED]

Sent: Fri 1/22/2010 6:05 PM

To: MA Office Disp Resolution

Cc:

Subject: comment re forest plan

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D.C.R. is managed by professional foresters

My comment is that way too many views have been lost because of the meadows that have been removed from inventory.

Wachusett mountain in particular used to have many vistas that can no longer be seen because of no mowing of fields.

David Crowley  
[REDACTED] d  
Princeton, MA 01541

[REDACTED]

From: admin@ [REDACTED]

Sent: Fri 1/22/2010 8:50 PM

To: MA Office Disp Resolution

Cc: MA Office Disp Resolution

Subject: RE: Technical Steering Committee Draft Recommendations

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The format of these public meetings is unacceptable to me and many other people that participated directly in the process.

The reasons are clear, the entire public there should be able to hear any persons comments directly, not filtered through a "facilitator". As you may be aware, I asked a key question at the Savoy tour onsite, which was left unanswerd and ignored, and left in the hands of these "facilitators", and never after answered.

Would like an explanation as to WHY it cannot be the format being put forth by many participants in this process.

Ray

From: Mike Leonard [REDACTED]

Sent: Sat 1/23/2010 12:56 PM

To: [MA Office Disp Resolution](#)

Cc: 

Subject: Comments on the Draft Recommendations by the TSC for the Forest Futures Visioning Process

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Proposed changes to the MA Chapter 132 Forest Cutting Law must be discussed by the TSC otherwise it will have failed in its mission.

Here is some background and my recommendations:

It's been almost 3 years since the last meeting of the Massachusetts Forestry Committee which had proposed draft regulations for revising the Chapter 132 Forest Cutting Law. The proposed changes were supposed to go out to public hearings more than a few years ago but DCR said they needed a lot of time wordsmithing the final draft. The wordsmithing has taken more than two years! Then last April Bob O'Connor said that the public hearings were being delayed because new biomass harvesting regulations were being written by somebody in state government. So that's where the proposed changes in the Forest Cutting regulations now stand.

I'll discuss some of the more important issues that were included in the draft as well as some issues that were not included:

1. The draft revised regulations will require that all trees to be cut or left be designated by marking. This is an extremely good reform. It will help landowners as well as loggers.

Here is some background: The trees on a woodlot do not have to be marked, but you can describe what trees are to be cut and what trees are to be left on the Forest Cutting Plan. This is called a prescription cut.

So if a woodlot to be harvested is not marked, the landowner and Service Forester have to guess or imagine what will be cut and what will be left. It would be like a bank teller opening up the bank vault and telling the customer to just take the amount of the check he wants to cash! It's just too easy for landowners to get ripped off. The Service Forester can also approve the plan as being for good forestry only to see it high-graded after the lot is cut.

A BOF Service Forester testified that less than 1/2 of the Forest Cutting Plans he receives has the timber marked! It should also be noted that when the last revision to the Forest Cutting regulations was done, it was required that when marking trees, all trees must be marked at chest height AND on the stump so that the Service Forester and landowner could see that only marked trees were cut (because the stump mark would still be visible on the trees that were cut). But prescription cuts with no marking were allowed to continue! It made no sense!

I support this most important change because it allows landowners to inspect the marking prior to the harvest and make any adjustments they may want. After the harvest, it can be readily apparent whether the marking was followed or not. So it can be seen as a consumer rights issue for landowners. It is also better for Licensed Timber Harvesters because all they have to do is follow the marking. When the trees are not marked, the cutting decisions are left up to the Harvester which may not leave the desired result.

Because I have a biomass market, I am a very diligent marker and I mark all trees down to a diameter of two inches. However, some foresters may only want to mark trees down to 8 inches in diameter but some

trees smaller than that could be cut during the timber harvesting operation.

So do we want to adjust this marking requirement so that trees less than 8 inches or perhaps 6 inches be exempt from this new regulation? This might be the way to go because no matter how thoroughly you mark, there's always at least a few unmarked smaller trees that are cut that weren't designated by marking.

2. The draft revised regulations need to do a better job of defining what good silviculture is.

Now there is the "Procedure for Long Term Management/Short Term Harvest (liquidation cutting) Determination" which is used by the Service Foresters to determine whether a Forest Cutting Plan is for good forestry or just another liquidation cutting. While this procedure is quite good at determining stem quality, it does not take into account a consideration of species composition. This could mean that one could file a Forest Cutting Plan that would take most of the high value white pine, red oak, sugar maple, and cherry, while leaving most of the lower value, but decent stem quality, hemlock and red maple. This wouldn't be good forestry.

In order to receive approval of a Forest Cutting Plan that calls for long term management (good forestry) , you simply have to maintain the Acceptable/Unacceptable growing stock ratio based on stem quality only. In fact you can be 10% under and still be given the long term designation which means you can mark up to 60% of the better stems without regard to species composition.

By not considering species composition, "kinder and gentler high-grading" masquerading as good forestry will continue. So landowners who think they are getting good forestry are often getting their woodlots high-graded. Thus the Bureau of Forestry is promoting consumer fraud.

But it would be a simple matter to make an addition to the above "Procedure" by adding a "Species List A" and a "Species List B".

Species List A would consist of those trees which are highly desirable for both ecological reasons and for forest products. This list would include red oak, white oak, other oaks, sugar maple, cherry, ash, white pine, and disease free beech.

Species List B would consist of those trees that are less desirable for ecological reasons and for forest products and would include red maple, black birch, diseased beech, and hemlock.

Other species not mentioned such as yellow birch, white birch, spruce, etc. could fall into either category so aren't mentioned.

3. Definitions for silvicultural treatments must be better defined. The most contentious one is what the minimum and maximum size of a clearcut should be. Many people have confused the group selection system with clearcutting. The group selection system helps to create or maintain uneven aged forests by removing trees in small groups. According to the Dictionary of Forestry, the width of groups is commonly about twice the height of the mature trees with smaller openings used for more tolerant regeneration. If we assume that a mature tree is 100' and twice the height is 200', then 200' by 200' = 40,000 square feet or close to one acre. So anything above one acre should be called a clearcut. The maximum size of a clearcut should be 10 acres. Clearcuts larger than this result in too much soil nutrient loss as well as a decline in tree beneficial soil mycorrhizae.

For single tree selection, the current definition in the "Directions for the preparation of Ch.61 Forest Management Plans and Forest Stewardship Plans" is good. It says: The single tree selection method creates regeneration openings that cover an area equivalent to the crown spread of a single mature tree.

These openings are spaced more or less uniformly across a forest stand to promote a new age class that is typically shade tolerant.

Other silvicultural terminology such as "aggregate retention cutting" or shelterwood removal cutting when it's really a clearcut has also caused problems. The term aggregate retention cutting should not be allowed and a true shelterwood removal cutting should release an abundance of new tree regeneration.

4. The list of Forest Types should be revised and expanded. The most important one is the BM (Gray Birch/Red Maple) type. It says it's a pioneer type where these two species predominate. But it should also refer to those hardwood stands where most of the oak has been high-graded out leaving a forest consisting of predominantly red maple and black birch. These high-graded stands are quite common in eastern and central MA.

5. The draft revised regulations will require that wetland resource areas on all Forest Cutting Plans be properly mapped AND be identified on the ground by visibly flagging or painting the boundaries of the wetland resource areas. Currently, only wetland crossings and stream crossings need to be identified on the ground by flagging and/or painting. If all wetlands to be harvested in or lie adjacent to any area to be harvested have to be flagged in all future Forest Cutting Plans, this will greatly increase the cost to landowners and make a lot of forest management impossible especially on the smaller woodlots. This proposed revision is unnecessary because if all timber to be cut or left has to be marked, this will result in a "de facto" wetlands delineation anyway. Passing this revision will, in effect, repeal the "Memorandum of Understanding" (MOU) between DEP and DCR that allows for an exemption from the Wetlands Protection Act with an approved Forest Cutting Plan. Thus it is imperative we keep the regulations as they are now.

I believe that MACC and Audubon are behind the lobbying effort to force the flagging/marketing of all wetland resource areas. The reason given for adding this very expensive and overbearing requirement is that it was said that some Conservation Commissions were complaining that some wetlands are not being accurately delineated on Forest Cutting Plans. If so, then why are Service Foresters approving the plans? If the Conservation Commissions think there is a problem, then shouldn't the Service Foresters be fixing it? The fact is very few Conservation Commissions are complaining. This is being blown way out of proportion and is being used by a few to grab more regulatory power for themselves.

In my decades of experience, we only have had to estimate the wetlands boundaries on the woodlot map in the Forest Cutting Plan since the most important thing is to show where the wetland and stream crossings are in the field and on the map. Let's use some common sense here and don't do something which will cripple the forestry sector.

6. The 25 MBF threshold for filing a Forest Cutting Plan was never addressed even though I brought it up at a MA Forestry Committee meeting. The current policy is to allow landowners to cut (or sell) up to 25 MBF or 50 cords (or an equivalent combination) at "any one time" without filing a Forest Cutting Plan. At "any one time" is not defined in the regulations but a Service Forester told me that 6 months must elapse before another "exempt" cutting can be made.

The result of this loophole has been a huge amount of liquidation cuttings that have come "under the radar". It has been used by some timber buyers to skirt the law and do what they please.

The threshold should be reduced to 10 MBF (20 cords) once a year. This amount would still allow landowners to cut as much as they need for their own personal heating needs without filing a Forest Cutting Plan. The average wood stove uses 3-5 cords/year while an outdoor furnace can use 10-20 cords/year. Closing this loophole is essential to eliminate liquidation cuttings that go undetected or occur with impunity.

7. For regulating whole tree harvesting (biomass), this is what I suggest:

Regulation of whole tree harvesting should be modeled after the filter strip requirement in the Ch.132 Forest Cutting Law except with a longer period between cuttings. We should be able to mark up to 50% of the basal area in any whole tree intermediate cutting (or any other cutting of less than 50%) with a waiting period of 10 years having to elapse before another whole tree harvest is done which would be unlikely once most of the low grade is gone.

For regeneration cuttings, the same rule could apply except for clearcuts, seed tree cuts, and shelterwood removal cuts which obviously take much more than 50% of the basal area. In these cases, trees can be specially marked (with a different color perhaps) where the tops or the entire tree itself would be lopped and left on the site and the total amount would be equal or greater than two cords/acre. This is the same standard that NRCS uses in their wildlife improvement contracts for early successional habitat.

8. The revised draft regulations fail to address the most critical question and that is who is qualified and can legally prepare Forest Cutting Plans. If all future Forest Cutting Plans will require a solid silvicultural basis and only Licensed Foresters are trained to practice silviculture, then it stands to reason that only Licensed Foresters are qualified to prepare Forest Cutting Plans.

9. A Right to Harvest clause - any local wetlands bylaws or forest cutting bylaws should not be applicable with an approved Forest Cutting Plan.

The Massachusetts Association of Conservation Commissions has been pushing towns to adopt local wetlands bylaws for years now. These hodgepodge array of local bylaws are often very different from town to town and add an unnecessary expense to landowners sometimes even making a Forest Cutting Plan economically unfeasible. Wetlands will still be protected by following all BMPs (Best Management Practices).

10. A Right to Install Permanent Stream and Wetland Crossings without filing a Notice of Intent to the local Conservation Commission. This would apply only to those properties that have a Ch.61 Forest Management Plan and/or a Forest Stewardship Plan. If the use of the land is changed to development, then this exemption would be voided and a Notice of Intent would have to be filed. New Hampshire does something like this and we should too. This makes it easier for landowners to make periodic thinnings without having to take the crossing structures in and out for every entry.

11. NHESP (Natural Heritage & Endangered Species Program) needs to be reformed so that the mitigation measures do not include any basal area restriction or any no cut provisions. A few years ago, there was a salamander present in an area I was going to thin and NHESP said I could only cut 25% of the basal area. That was ridiculous! After I protested, they agreed I could cut up to 50%. On another property, they said I had to have a 150 foot no cut zone around a pond on this small woodlot (for a turtle that probably wasn't even there) which made the Forest Cutting Plan economically unfeasible. Most of the rare species hits we get are either turtles or salamanders. These species can be protected when cutting in their rare habitat areas by simply restricting the time of harvest from November to March when these creatures are hibernating. Adding other restrictions is totally unreasonable and takes away a landowner's right to manage their forest land effectively.

By adopting more landowner friendly laws, we can encourage landowners to keep their land in forest rather than develop it. Encouraging more landowners to protect their forest land and reducing rates of deforestation is the number one environmental issue we face in this state. There are 2.3 million acres of private forest land in Massachusetts but it's disappearing fast! If we allow agencies like NHESP and groups like MACC to keep squeezing landowners, then that will discourage more landowners from protecting and managing their forest land and deforestation rates will continue to increase.

Destructive liquidation cuttings (<http://www.northquabbinforestry.com/pages/liquidation.html>), increased rates of deforestation and forest fragmentation of private forest land are the most important environmental and forestry issues our state faces. If the Forest Futures Visioning Process does not address them, then

you have all wasted your time. If you do not address the proposed changes in the Forest Cutting regulations PRIOR to making any recommendations about the management of our public lands, then you are putting the cart before the horse. How can you propose any management activities if you don't know what the new forest cutting regulations will say?

So until the new Forest Cutting Regulations are finished, then the Forest Futures Visioning Process must be put on hold until such time that the new regulations are promulgated. We don't need another "visioning process" for private forest land. Get it all done here and now.

Mike Leonard, Consulting Forester  
North Quabbin Forestry - [REDACTED]  
[REDACTED]  
Petersham, MA 01366

From: Jameson Lockhart [REDACTED]

Sent: Sun 1/24/2010 8:14 PM

To: MA Office Disp Resolution

Cc:

Subject: Legal Portion of Draft

Attachments:

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To whom it may concern,

I would like to first state that the Draft looks great. It was most refreshing to read that Forestry is at the top of the list for some people.

I am asking that someone take a good look at MGL CH 48 "Fire Laws". I noticed that sec 16 was the only section that was noted in the draft as being a law that effects DCR. The "Commissioner" of DCR or the "Director" of F&P (discrepancy) have a lot more legal obligation to the municipal Fire Depts. and the Fire Service than most realize. Parts of ch 48 and ch 132 contradict one another.

As a former County Forest Patrolman, I witnessed first hand how the lack of clarity between DCR and Ch 48 directly caused confusion between DCR, DEP (open burning cmr's) and the local communities. The confusion of 48 directly effects DCR Forestry, its Forest Wardens and the municipalities in a negative manner. A lot of the chapter dates back to the start of the organized Forestry program when protection of natural resources were a top priority. It would be much appreciated if the committee would look into this public safety issue.

Thank you,

JL