2015 Maine Forest Policy – Forest Guild Position Summary

Summary

The Forest Guild is a national organization of natural resource professionals dedicated to the stewardship of the forest resource. Forest Guild members in Maine include career professionals involved in all aspects of forest management.

With a number of proposals being considered by the Maine legislature within the state budget and in separate legislation, the Forest Guild offers the following statement of position on these issues:

**Sustainable timber harvest levels and the annual allowable cut (AAC) on Maine’s Public Reserve Lands should continue to be determined using a science-based process.**

- AAC levels in Maine have for many years been determined based on comprehensive data, and with consideration of multiple non-timber values and a public consultation process. That process should continue.

- Stakeholders have not been provided with a comprehensive assessment of the forest inventory and growth data or justification for the increase proposed by the Department of Agriculture, Conservation, and Forestry, nor has the Department sufficiently addressed the potential impact of increased harvests on the ecological and social values provided by Maine’s public lands.

- To date, the legislature has been the only forum for public involvement in the reviewing the AAC. While the legislature should be consulted, the Department of Agriculture, Conservation, and Forestry should establish a more comprehensive and open public consultation process to determine an AAC that meets clear, long-term targets for forest characteristics of interest including the balance of age classes and other important characteristics of the public lands that make them unique in comparison to most private timberlands.

**Maine Public Reserve Lands are one of our state’s most valuable public assets. Timber harvest revenues from public lands should continue to be re-invested to support their management.**

- The legislature should maintain the requirement that income from timber harvests on public land may only be used for public land management or land purchases. This use of revenues has been supported by legal decisions in 1973 and 1992.

- **LD 1397.** The legislation proposing to direct timber revenues into an unrelated program would increase the risk that harvest levels become subject to ongoing political debates rather than sound forest management.
Timber revenues in Maine’s public lands reserve account sustain the exemplary, multi-use management of Maine’s public lands. Timber revenues should be used first to meet the short- and long-term management needs of the public lands, provide an adequate buffer to allow for fluctuations in timber markets, allow for new initiatives to promote recreation and tourism, and purchase additional conservation lands.

The LePage administration’s proposal for significant organizational changes to Maine’s Bureau of Parks and Lands and the Maine Forest Service lack sufficient detail to ensure that the State can maintain the capacity to serve Maine’s private woodland owners while upholding the multiple use values of Maine’s public lands.

- Any such proposal for agency reorganization should be supported by an assessment of revenues, staffing assignments, and resources that would be necessary to maintain given program functions and to ensure that the tradition of balanced uses, for which Maine forest lands have been recognized, can be sustained. The current budget proposal and its supporting testimony do not provide sufficient information to make that determination.

- The public has not been provided with sufficient assessments of the individual and cumulative impacts of these changes. Ideally a third-party assessment of these changes and how they would affect the capacity of the agencies to fulfill their mission and responsibilities should occur.

- Moreover, the process through which these proposed changes have emerged falls short of Maine’s traditions of transparency, public consultation, and accountability.

The Forest Guild urges Maine’s public representatives to practice and promote transparency, public consultation, and accountability and to ground decisions in the full scope of the ecological, social, and economic values associated with Maine’s forestlands and the agencies charged with the stewardship of those lands.

The Forest Guild welcomes the opportunity to engage with any interested parties on these issues and to provide a perspective on sustainable forest management guided by forest science and the extensive experience of our practicing members.

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Introduction

The Forest Guild is a national organization of foresters and allied natural resource professionals that practice and promote ecologically, economically, and socially responsible forestry. Our mission is to practice and promote responsible forestry as a means of sustaining the integrity of forest ecosystems and the human communities that depend on them. The Guild has a strong professional membership in Maine and throughout the Northeast. We engage in education, training, policy analysis, research, and advocacy to foster excellence in stewardship, support practicing foresters and allied professionals, and engage woodland owners, communities, and the public in the challenges of forest conservation and management.

The 2015 legislative session in Maine has seen a number of bills and administrative actions related to forestry and public lands management. Because of the large number of bills and the collective impact of these proposed significant changes in management and administration, the Forest Guild has prepared the following policy review.

Background

At the time of this writing (late May, 2015) multiple bills and related actions are being considered by the legislature; these are subject to change as the legislative session proceeds:

Sustainable Harvest Level on Maine’s Public Reserved Lands (PRL). In its FY 2014 annual report to the legislature, the Bureau of Parks and Lands (BP&L) proposed to increase the annual harvest level to 161,000 cords from the current level of 141,500 cords for FY 2016, and then to 180,000 cords for FY 2017 and beyond in an effort to reduce the risk of mortality by reducing overall stocking from 23 cords per acre to 21.5 cords per acre over a 20-year period.¹ In the same report, the Bureau stated its intention to guide the increased harvests through more up-to-date timber typing and a spatially-explicit timber harvest model. On April 24, 2015, Doug Denico, Director of the Maine Forest Service and newly-appointed in charge of Public Lands, met with a small group from the Forest Guild to discuss forest policy issues and provided a brief summary of growth and inventory figures in support of the proposed increase.

The BP&L FY 2014 annual report states that “Bureau staff will also be looking at potential impacts to both timber and non-timber values, to ensure that management continues to follow the management mandates of the Bureau’s enabling legislation and the overall direction provided in the Management Plans.” To date, the Department of Agriculture, Conservation, and Forestry has not provided details of the calculations, constraints, and assumptions in support of proposed harvest rates; it is the Forest Guild’s

¹ Bureau of Parks and Lands FY 2014 report to the Agriculture Conservation and Forestry Committee, March 1, 2015, p.15-16.
understanding that the timber type update and spatially-explicit timber harvest model are still in progress. Therefore, sufficient information does not yet exist to calculate a sustainable AAC on Maine’s Public Reserve Lands.

The major rationale for the increased AAC stated in the 2014 annual report is to reduce risk of mortality. However, the risk has not been quantified. While the mortality on the Public Reserve Lands is 13% higher than that on private lands, the net growth (after mortality) is 18% higher than that on private lands, which indicates that the Public Reserve Lands support net greater productivity. The anticipated spruce budworm outbreak has also been used as justification for the increased AAC. However, the 2014 annual report also does not specify how the proposed AAC relates to this as-yet unknown level of risk of mortality from the impending outbreak.

The Forest Guild is not aware of any documented assessment of the impact of the proposed increased harvest levels on the multiple use values and ecological services of the Public Reserved Lands, including those identified in the Public Reserve Lands’ Integrated Resource Policy (2000), and the Bureau’s ability to meet targets identified in its regional and unit management plans. Indeed, several of these plans, which could provide a more nuanced ground-level assessment of appropriate management strategies and operational needs than calculation of the AAC, are either incomplete or outdated. An assessment should not only examine current growth rates and short-term changes under different harvest scenarios, but should also consider the long-term impacts (e.g. 25-50 years) on all aspects of the forest and the desired future conditions of the Public Reserve Lands, including specific targets for age class structure, the amount of older and late-successional stands, and other important characteristics. These conditions, as well as the history of exemplary management and the attendant higher timber volumes and values, are what make public lands unique in Maine. Arguably, this focus on multi-resource management on very long planning horizons is not found on most private timberlands. While the Bureau’s legislative reports provide updates and a chance for public testimony, the process and supporting documentation do not appear to meet the standards of a public consultation process or the social and ecological assessments as required by the Public Reserve Lands’ Forest Stewardship Council certificate.

While it is the Guild’s understanding that the Director and the Bureau desire to maintain all values associated with Maine’s Public Lands regardless of the harvesting level, changes in management approach must be accompanied by the resources to achieve established goals, without compromising other values. The Bureau will need to support adequate staffing levels for planning and operational control functions, and staff must be empowered to uphold multiple use values and maintain the long-established culture of practicing exemplary silviculture on Maine’s public lands.

The Agriculture, Conservation, and Forestry (ACF) Committee added an amendment to the Governor’s budget that would cap the annual harvest at 141,500 cords until an independent inventory shows that a

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2 Per the BP&L FY 2014 report (page 5), thee Public Reserve Lands units have no management plans and seven plans have not been updated since the Integrated Resource Policy was substantially revised in 2000.

3 See FSC-US Forest Management Standard (v1.0), Indicators 4.4.a - 4.4.d and Indicators 6.1.b – 6.1.d
different level is sustainable. However, the changes proposed in the ACF report could be modified or eliminated prior to final budget approval.

LD 1397. An Act To Establish the Affordable Heating from Maine's Forests Fund. LD 1397 would establish the Affordable Heating from Maine's Forests Fund, which would be funded by revenue from the sale of timber and other things of value from Maine's Public Reserved Lands. In 2015, a minimum of $1,000,000 would be transferred from the Public Reserved Lands Management Fund to the Affordable Heating from Maine's Forests Fund. Subsequent transfers would be based on revenue accrued over the 2012 revenue amounts of the Public Reserved Lands Management Fund, subject to some limitations. The Efficiency Maine Trust would be required to use the funding for measures that reduce residential heating costs and must prioritize rural and low-income residences. This bill is being heard by the Agriculture, Conservation, and Forestry Committee. Although not stated explicitly in the bill, there is an understanding that the increase in timber harvest on the Public Reserve Lands would be used for ongoing funding of this program. Bill text: http://www.mainelegislature.org/legis/bills/bills_127th/billtexts/HP094901.asp.

Under current law, all revenues from timber harvests on the Public Reserve Lands may only be used for management of the Public Reserve Lands or for the acquisition of additional lands to be managed under the same statutory provisions. The legal underpinnings of this requirement include the “public trust” provisions of the 1820 Articles of Separation from Massachusetts, the Maine Supreme Court decision regarding Public Reserve Lands management in 1973, subsequent legislation establishing the Public Reserved Lands system, and a 1992 Attorney General’s opinion concluding that that the public trust limitations on the use of income from these lands did not allow funds to be taken from the Public Reserved Lands Management Fund for other purposes.

The Forest Guild believes that the Public Reserve Lands account must be adequate to meet the short- and long-term management and infrastructure needs of the Public Reserve Lands. In the overall context of sustaining and the agency’s ability to meet goals and objectives, the fund must also maintain an adequate financial buffer to mitigate seasonal fluctuations in revenues and expenses, and retain a buffer to account for changes in harvest rates and timber prices as influenced by the broader economy. The funds should also allow the Bureau of Parks and Lands to increase, in accordance with its public trust responsibilities, the values and services it offers to the public (for example, in promoting regional forest-based economic growth through recreation and tourism), or its ability to purchase additional conservation and/or operational lands with the reserve funds. However, with the limited information presented to date, the Guild is concerned that the withdrawal of Public Reserve Lands funds for non-Bureau uses will adversely affect these outcomes. Emergency legislation as proposed by the current administration is not the appropriate vehicle to consider such a significant change in policy.

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4 Agriculture, Conservation and Forestry Committee budget report 4/15/2015.
5 12 M.R.S. sections 1845 – 1858. Section 1849 states that all income received from the sale of timber from public reserved lands must be placed in the Public Reserved Lands Management Fund to be used for the management of public reserved lands.
Changes to Bureau of Parks and Lands and Bureau of Forestry proposed in the Biennial Budget for 2015-2016. A number of changes have been proposed, including:

- Transfer of the Public Lands from the Bureau of Parks and Lands to the Bureau of Forestry.
- Rewriting job responsibilities for other field staff and administrators across both agencies.
- Eliminating about 20 forest ranger jobs, taking law enforcement authority away from the remaining rangers, and then creating seven new fully-armed law officers.
- Modifications to the administration of the Tree Growth Tax Law program (See Appendix).

It is unclear to the Forest Guild what the impact of these significant changes would be to the management focus of the Public Reserve Lands and to the work load and duties of District Foresters, Forest Rangers, and other Maine Forest Service staff members. Collectively, these professionals serve the thousands of private landowners small and large across the state, Maine’s multi-faceted forest-based economy, and the public at large. They do this by providing education and technical assistance, enforcing forest harvesting and water quality laws and regulations, protecting forests from threats from insects, disease, fire, and other hazards, and promoting informed decisions and sustainable practices regarding forests and trees by landowners, foresters, loggers, towns, and other entities. While administrative efficiencies could be realized, there is also potential for adverse impacts to program effectiveness, uncertainty about long-established forest policies, and unintended shifts in agency priorities.

In its April 15, 2015 budget report (see prior footnote), the ACF Committee rejected most of these changes, including the Public Reserve Lands transfer, and most changes to the forest ranger force. The Forest Guild has been informed that the changes to Tree Growth were also rejected by the ACF and Taxation Committees. As with other budget items, the changes included in the ACF report could be modified or dropped prior to final budget approval. However, organizational changes, particularly of the magnitude proposed, and in the context of the 2012 consolidation of the Agriculture and Conservation departments, should be undertaken only after thorough and transparent discussion of agency mission(s) and required staff and other resources.

LD 870. An Act To Amend the Maine Spruce Budworm Management Laws. In response to an impending spruce budworm outbreak, this bill would amend the Maine Spruce Budworm Management Act to eliminate outdated language such as that referring to pesticide spraying and would add language governing presalvage and salvage harvesting of forest stands that have a significant risk of damage from spruce budworm. Information on this bill is presented here for information purposes only. The Forest Guild has not fully reviewed this bill at this time.

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6 Maine Forest Products Council Executive Director Patrick Strauch noted: “the organizational changes made in the budget to accommodate public lands into the MFS are problematic. The restructuring of divisions and resulting staff reassignments in the budget are currently confusing to me and appear to erode the effectiveness of the Bureau.” [http://maineforest.org/mfpc-review-of-the-governors-budget-and-more/](http://maineforest.org/mfpc-review-of-the-governors-budget-and-more/)
LD 1378. An Act To Amend the Laws Governing the Issuance of Bonds and To Effectuate the Issuance of Bonds To Support Maine's Natural Resource-based Economy. This bill would require the Governor to issue general obligation bonds that have been ratified by the legal voters of the State unless one of five specific conditions exist, and it would require the Governor to provide certain information upon delaying or forgoing issuance of a bond. This bill was drafted in response to the Governor’s refusal to issue voter-approved bonds to fund the Lands for Maine’s Future program. The administration has stated publicly that the LMF funding is being withheld pending approval of the administration’s plan to increase timber harvest on Maine’s Public Lands and approval of LD 1397. LD 1378 is being heard by the State and Local Committee. Bill text: http://www.mainelegislature.org/legis/bills/bills_127th/billtexts/SP050801.asp

Conclusions

Public land management and state forest policies are important in any state, and especially so in Maine given the magnitude of the state’s forest resources and their multiple social, economic, and ecological benefits. The administration has proposed a number of significant changes to Maine’s forest policy, including changes in harvest rates on the Public Reserved Lands, administration of the PRL, precedent-setting use of Public Reserve Lands funds for non-bureau programs, major reorganization of the Bureau of Forestry, and changes to the Tree Growth tax law. In addition, the administration’s withholding of Lands for Maine’s Future voter-approved bonds is preventing the permanent protection of valuable conservation lands that would provide a broad range of benefits to the people of Maine, including timber supply, wildlife habitat and watershed protection, and recreational opportunities.

The Forest Guild, based on our mission of promoting ecologically, economically, and socially responsible forestry, finds that the administration’s forest policy initiatives and corresponding responses by the legislature potentially have significant, long-term impacts on forest stewardship values within Maine. However, the proposed changes have not been presented with adequate supporting information and assessments, nor has there been a transparent process that allows Maine’s natural resource community or the general public to fully evaluate the long and short-term consequences of these changes and to participate constructively in state forest policy planning and development process.
Appendix

Tree Growth Tax Program

Changes to the Tree Growth tax program proposed in the Biennial Budget for 2015-2016. The budget implements several changes to the law governing the forest management plans that landowners with property enrolled in the Tree Growth tax program are required to procure and update every 10 years in order to remain in the special and favorable Tree Growth tax category. Specifically, Part BB would:

- Require the plan to specifically identify the type, nature and timing of the forest management activities recommended by the forester,
- Require Tree Growth landowners to have a copy of the plan in their possession for auditing purposes,
- Allow Maine Forest Service to continue its auditing program of randomly selected parcels, which was initiated as a pilot program in 2012,
- Create municipal penalties in the form of reduced Tree Growth reimbursement if the municipality fails to provide timely reports to Maine Forest Services or fails to act in response to Maine Forest Service’s recommendations to withdraw noncompliant parcels, and
- Establish a landowner penalty to cover the circumstance of parcels being withdrawn from the program by Maine Forest Services’ post-audit recommendations, which would be a 10-year “back taxes” penalty; that is, the difference between what the landowner would have paid in taxes over the last 10 years if the property had been assessed differently.

7 Source: Maine Municipal Association memo by Geoff Herman, 1/10/2015