3A
Agenda Item #

Aitkin County Board of Commissioners
Request for County Board Action/Agenda Item Cover Sheet

To: Chairperson, Aitkin County Board of Commissioners Date: 12-12-13

Via: Patrick Wussow, County Administrator

From: Patrick Wussow, County Administrator

Title of Item:

Sustainable Forest Incentive Program

Requested Meeting Date: 12-17-13 Estimated Presentation Time: _____

Presenter: Steve Hughes and Dennis Thompson, Aitkin County Soil & Water

Type of Action Requested (check all that apply)

_X_ For info only, no action requested
___ Approve under Consent Agenda
___ For discussion with possible action
___ Adopt Ordinance Revision
___ Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
___ Approve/adopt proposal by motion
___ Approve/adopt proposal by resolution (attach draft resolution)
___ Authorize filling vacant staff position
___ Request to schedule public hearing or sale
___ Other (please list) _____
___ Request by member of the public to be heard
___ Item should be addressed in closed session under MN Statute _____

Fiscal Impact (check all that apply)

Is this item in the current approved budget? Yes _____ No _____(attach explanation)

What type of expenditure is this? __ Operating __ Capital __ Other (attach explanation)

Revenue line account # that funds this item is: _____

Expenditure line account # for this item is: _____

Staffing Impact (Any yes answer requires a review by Human Resources Manager before going to the board)

Duties of a department employee(s) may be materially affected. __ Yes ___ No
Applicable job description(s) may require revision. __ Yes ___ No
Item may impact a bargaining unit agreement or county work policy. __ Yes ___ No
Item may change the department's authorized staffing level. __ Yes ___ No

_____
HR Review

Supporting Attachment(s)

_X_ Memorandum Summary of Item
___ Copy of applicable county policy and/or ordinance (excerpts acceptable)
___ Copy of applicable state/federal statute/regulation (excerpts acceptable)
___ Copy of applicable contract and/or agreement
___ Original bid spec or quote request (excluding complex construction projects)
___ Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
___ Bid/quote comparison worksheet
___ Draft County Board resolution
___ Plat approval check-list and supporting documents
___ Copy of previous minutes related to this issue
_X_ Other supporting document(s) (please list) _____

Provide (1) copy of supporting documentation NO LATER THAN Wednesday at Noon to make the Board's agenda for the following Tuesday. *(If your packet contains colored copies, please provide (4) paper copies of supporting documentation as we do not have a color printer or copier.)* Items WILL NOT be placed on the Board agenda unless complete documentation is provided for the Board packets.

AITKIN COUNTY ADMINISTRATION

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Aitkin, MN 56431
218-927-7276
Fax: 218-927-7374

TO: **Aitkin County Board of Commissioners**

FROM: **Patrick Wussow, Aitkin County Administrator**

RE: **Aitkin County Soil and Water District (SWCD) Presentation/Update on Sustainable Forest Incentive Program**

DATE: **December 11, 2013**

Staff has attached a recent report from the Minnesota Office of the Legislative Auditor (OLA) relating to the Sustainable Forest Incentive Program. Staff feels it is important to have the local SWCD staff update the County Board on how the program is working for Aitkin County property owners.

Prior to hearing the report from individuals that work with the program, it is fair to make the comment that the OLA is painting with a broad brush in this report and not everything is as negative here in Aitkin County.

OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Evaluation Report Summary / November 2013

Sustainable Forest Incentive Program

The Sustainable Forest Incentive Act (SFIA) does not require sufficient assurance that program participants comply with requirements.

Key Facts and Findings:

- Between 2003 and 2013, the state made over $44 million in payments through the sustainable forest incentive program.
- The number of participants in the program has increased each year and exceeded 2,200 in 2013, but participants' enrolled acreage has dropped recently due to changes to the Sustainable Forest Incentive Act (SFIA).
- Sustainable forest incentive payment amounts are not tied to property taxes or program goals.
- In some cases, sustainable forest incentive payments exceed property taxes on enrolled land.
- SFIA relies primarily on self-reported compliance; it requires little third-party verification or oversight.
- Some owners of land in the sustainable forest incentive program have violated the restriction against developing the property.
- SFIA's penalty provision is not sufficient to address different circumstances of noncompliance.
- The Department of Revenue reviews program applications, but it is not equipped to verify all program requirements.
- Subsequent owners of land enrolled in the sustainable forest incentive program create challenges to program oversight.

Key Recommendations:

- The Legislature should either tie sustainable forest incentive payments more directly to SFIA's goals or repeal SFIA and use other programs to encourage sustainable forest management.
- The Legislature should require program applicants to register their forest management plans with the Department of Natural Resources.
- The Legislature should require increased verification of program compliance.
- The Legislature should clarify and expand penalty options for noncompliance with SFIA.
- The Legislature should amend SFIA to better address changes in ownership of enrolled land.

Room 140 Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155-1603 • Tel: 651-296-4708 • Fax: 651-296-4712
E-mail: legislative.auditor@state.mn.us • Web Site: www.auditor.leg.state.mn.us • Minnesota Relay: 1-800-627-3529 or 7-1-1

Report Summary

Enacted in 2001, the Sustainable Forest Incentive Act (SFIA) created a program to encourage sustainable forest management practices on private forest land, replacing a forest taxation law dating from 1957. Over 40 percent of the 17 million forested acres in Minnesota are privately owned. In SFIA, the Legislature recognized the importance of engaging private forest landowners in sustainable forest management.

The sustainable forest incentive program offers $7 per acre to landowners who enroll their land in the program, obtain and follow a forest management plan, and record a document (called a "covenant") that restricts development on the enrolled land. Landowners who enroll more than 1,920 acres must allow public access. The program requires that land be enrolled for a minimum of eight years.

Sustainable forest incentive payment amounts are not tied to property taxes and, in some cases, greatly exceed them.

In 2013, approximately 2,300 landowners were participating in the program, with over 737,000 enrolled acres. In 2011, prior to legislative changes to SFIA, participating landowners had over 900,000 acres enrolled in the program. Nine owners had more than 1,920 enrolled acres in 2013. That year, the state made incentive payments totaling $5.16 million.

Sustainable forestry involves informed and active management of forest land, but it does not prescribe management objectives.

Sustainable forest management is informed and active management of forest resources to achieve economic, environmental, and social goals, without compromising the ability of future generations to do the same.

Other than keeping forest land as forest land, sustainable forest management does not have one specific goal. Goals might include producing timber, providing recreation opportunities, or preserving wildlife habitat, among others.

While intended to encourage sustainable forest management by offsetting property taxes, the sustainable forest incentive payment amount is not reflective of property taxes.

In passing SFIA, the Legislature recognized the disincentive to sustainable forest management that property taxes can create. However, the incentive payment amount is not based on property taxes.

Our review of a sample of participants found that their expected incentive payment in 2013 would equal between 12 and 306 percent of their property taxes on the enrolled land. For example, one landowner's property taxes averaged $3.25 per acre, but the incentive payment is $7 per acre. Another landowner, whose taxes on one parcel averaged over $100 per acre, would receive the same per-acre incentive payment.

We recommend the Legislature either align sustainable forest incentive payment amounts with the goals it is trying to achieve related to private forest land or repeal SFIA.

The forest management plans required by SFIA are underutilized as a tool of oversight and accountability.

The sustainable forest incentive program requires enrolled land to be managed according to a plan developed by a forester approved by the Department of Natural Resources (DNR). The activities recommended in plans must be consistent with landowners' objectives and guidelines

The Legislature could amend SFIA to make greater use of forest management plans, but doing so could increase administrative costs.

developed by the Minnesota Forest Resources Council.

Requiring a forest management plan could support sustainable forestry because it ensures that landowners have contact with a professional forester. The forester's suggested activities could increase the benefits from well-managed land or prevent negative consequences of poor management. Owners' objectives listed in a sample of plans were consistent with sustainable forest management.

At the same time, the state has little assurance that plans meet minimum requirements and that owners follow their plans. To provide more oversight, we recommend that the Legislature require landowners to register the plans with DNR. In addition, the Legislature should consider requiring renewed plans to include an assessment of the extent to which a landowner followed recommendations in previous plans. DNR might need additional resources, depending on how its role changes.

Restrictions against development of forest land enrolled in the program have, at times, gone unheeded.

Landowners must record a covenant prohibiting development of land enrolled in the sustainable forest incentive program, and subsequent owners of the land must abide by it. But, there is little third-party verification. In some cases, landowners have developed land enrolled in the program. Violations of the covenant have been perpetrated by participating landowners and subsequent owners of enrolled land who never applied to receive payments.

Identified violations are rare, but the true extent of violations is unknown because third-party oversight of the program is limited.

The current approach to program accountability provides little assurance that persons receiving payments comply with program requirements.

The sustainable forest incentive program relies heavily upon applicants' and participants' attestations that they meet program requirements. The Department of Revenue can confirm some aspects of applicants' eligibility. For example, staff can make sure land is not tax exempt or tax delinquent. The department relies upon the assessment of the forest management plan writer as to whether the land meets the definition of "forest land" for the purposes of SFIA.

Participants attest to their ongoing compliance annually in order to receive the year's incentive payment. However, currently, the Department of Revenue does not have the capacity or expertise to determine whether landowners are following their management plans or that their land continues to be eligible. For example, while already enrolled in the program, all or parts of the land could become ineligible by being classified as 2c Managed Forest Land or tax exempt. Or, the landowner may have become delinquent in paying property taxes.

DNR does not have a role in confirming initial or ongoing eligibility of enrolled land, and SFIA does not require assistance of county assessors (although the Department of Revenue seeks it, and some assessors are thorough in the help they provide).

We recommend the Legislature increase verification that program participants continue to be eligible for incentive payments. However, increased verification would increase state administrative costs. One option is requiring county assistance with verification, but limiting county involvement was one of the goals when SFIA was enacted.

SFIA's penalty provision does not provide adequate clarity and flexibility.

Subsequent ownership of land enrolled in the program creates oversight challenges.

Subsequent owners of land enrolled in the sustainable forest incentive program create numerous challenges. Even if the owners do not apply for incentive payments, the land remains bound by the SFIA covenant's development restrictions.

Challenges begin with the Department of Revenue learning who the new owners are if the sellers do not inform the department and the new owners do not apply to the program. If the new owners do not apply, the department does not include them or their land in the limited oversight that does occur. If they do apply, challenges include confirming that their land is eligible for them to receive program payments and that they have a forest management plan.

We recommend that the Legislature amend SFIA to better address changes in ownership. The Legislature should also consider how the covenant might better prevent parcelization and development. For example, the program could prohibit a single covenant from applying to tax parcels with different owners. This would not eliminate changes of ownership, but would increase participation costs of landowners who want the flexibility to sell portions of enrolled land.

SFIA penalty provisions are insufficient.

Penalties for failing to verify compliance annually, falsely confirming compliance, or developing enrolled land must be sufficient to deter the behavior. Currently, penalty provisions are limited and seldom used. The Department of Revenue could recall only one case in which it has imposed a financial penalty.

The department has indicated that SFIA's penalty provision is not always workable. For example, if a landowner has not received an incentive payment in the previous four years, imposing a penalty equal to the previous four years' payments plus interest—the current penalty provision—is without effect. We recommend the Legislature increase penalty options and clarify circumstances in which the department can and should impose them.

Summary of Agencies' Responses

Department of Revenue Commissioner Myron Frans and Department of Natural Resources (DNR) Commissioner Tom Landwehr generally agreed with the report's findings and many of its recommendations. Both commissioners supported increased verification of participants' compliance with program requirements, expanded penalty options, and registration of forest management plans with DNR prior to program enrollment.

Commissioner Frans agreed with "the direction" of the recommendation that the Legislature either tie incentive payments to program goals or repeal the Sustainable Forest Incentive Act (SFIA). He noted that "changing the nature of the existing program ... would increase administrative complexity and require increased staffing," and highlighted an advantage to using separate programs to achieve SFIA's goals. Commissioner Landwehr agreed there is a need to clarify program goals and tie incentive payments more directly to them, but noted that "many stakeholders would be concerned over repealing ... SFIA and eliminating the support it provides for sustainable management" of private forest land. The commissioners indicated their willingness to work with each other, as well as legislators and other stakeholders, to explore options for achieving the state's goals related to sustainable forest management of private forest land.

The full evaluation report, *Sustainable Forest Incentive Program*, is available at 651-296-4708 or:
www.auditor.leg.state.mn.us/ped/2013/SFIP.htm