ILLINOIS FORESTRY DEVELOPMENT FUND TRANSFERS AND IMPACTS TO FOREST LAND OWNER INCENTIVES (4% TIMBER HARVEST FEE)

A Position Statement by the Illinois Forestry Association
Revised: February 1, 2010

Position

The Illinois Forestry Association (IFA) believes that the taking of the 4% timber harvest fee for uses not authorized by the Illinois Forestry Development Act of 1983 (the Act) is illegal and has dealt a severe blow to the forest resources of Illinois. We strongly urge full and immediate restoration of the funds taken from the Forestry Development Fund. Furthermore, a cease and desist order must be executed to prevent any future taking or use of these funds for other than the uses contained in the Act. Accounting and budget appropriation practices must be instituted that truly reflect the revenue and expenditure processes of the Fund. We believe a public statement from the administration to Illinois' forest landowners that affirms the future use of these funds as described in the Act and whose purpose is defined by the Illinois State Comptrollers office is necessary.

Issue

Beginning in state fiscal year 2004, expenditures from the Illinois Forestry Development Fund (FDF) began to go beyond the intended purpose of funding forest management practices for landowners that have approved forest management plans by the Illinois Department of Natural Resources (IDNR). The Illinois Forestry Development Act of 1983 (Act) established the FDF and program guidelines to deliver these funds in order to establish and improve the forest resources within the state.

Over the past five years, nearly $2.0 million of timber harvest fee revenues have been taken from the Illinois Forestry Development Fund through administrative charges and transfers (sweeps). These actions have severely impeded the implementation of recommended forestry practices as authorized by the Act. Practices that are designed to establish, maintain and improve the forest conditions of our state.

Many forest landowners have postponed or abandoned the implementation of their plans until cost share reimbursement commitments that are to be made by IDNR are ensured. A 2008 survey by the IDNR, established that over 1,000 additional forest landowners had expressed a desire to develop forest management plans. Inadequate funding for forestry personnel and the Cost Share Reimbursement Program has prevented these needs from being met. <u>Approved forest management plans are also required in order for landowners to receive tax relief for holding and managing their forest land.</u>

Since 2004, timber harvest fees paid by Illinois forest landowners and collected by the Illinois licensed timber buyers have generated nearly $6 million in revenue. FY08 produced the highest revenue in the history of the program. In FY 06 the General Assembly appropriated $1,441,681 in Cost Share Reimbursement Program funds to the IDNR Yet no new Cost Share funds were allocated to District Foresters to obligate to forest landowners to develop plans and implement forestry practices. The Cost Share Reimbursement Program was put on hold. Appropriations do not match revenues resulting in program expenditure authorizations being much less than the revenues that support them. Budget accounting protocols do not account for dollar obligations made to landowners for approved forestry practices. These factors all combine to create the illusion of surplus dollars in the fund which are then subject to the administration's "fund sweeping" practices. The functional attrition of Illinois forest programs brought on by the presumptive reallocation of Funds countermands the clearly stated intent of the Act (P.A. 96-217; Sec. 7) which is to appropriate monies from the Illinois Forestry Development Fund and to pay timber growers for the implementation of acceptable forestry management practices. These failures are crippling the vitality and sustainability of Illinois woodlands. A growing and disillusioned constituency has lost trust in the execution of state commitments to forest landowners as these funds are consistently underfunded or diverted from their intended use altogether.

Background

The 4% Timber Harvest Fee (Fee) was created by enactment of the Illinois Forestry Development Act of 1983. The Act also created the Illinois Forestry Development Fund in which to deposit revenues from the Fee. The Fee is derived from the dollar value paid to Illinois forest landowners for the sale of timber on their properties. Illinois licensed timber buyers collect 4% of the value paid to Illinois forest landowners for the sale of their timber. These funds are submitted to the IDNR for deposit into the Fund.

The Act provides that the dedicated uses of the Fund are to be expended as cost share payments to forest landowners who have implemented practices recommended in an IDNR approved forest management plan. These funds are also to be used for the operational expenses of the Illinois Forestry Development Council. IDNR deposits harvest fee money received into the Fund which is then appropriated in the following fiscal year. This allows for planning and implementation of forestry programs that meet the needs of the Illinois Forestry Development Council (IFDC) and the cost share program for forest landowners.

In 2004, the Administration began a practice of transferring balances from the Forestry Development Fund to the state's General Revenue Fund for use in non-forestry related governmental programs. Fund transfers have been made through "administrative charges" issued against the Fund or, as reported by the State Comptroller, and by "Statutory Transfers" (sweeps). In its June 14, 2006 edition, *The State Journal-Register* stated, "The administration argues it is only taking surplus funds from the accounts that are not needed to sustain programs. However, organizations that pay fees to support the funds argue (that it) is unconstitutional to take fees assessed for one purpose and use the money to pay general state expenses."

As shown in the following table, transfers totaling over $1.9 million in the past five years, created negative annual balances in 2005 and in 2009. This included the taking of operational expenses dedicated to the Illinois Forestry Development Council and from commitments made to qualifying Cost Share Reimbursement Program landowners. Although revenues were nearly $5 million, appropriations for the same time period totaled $3.7 million, 24% less than the revenues that support the program.

	2005	2006	2007	2008	2009	Total
Revenues Timber Harvest Tax Fees (4%)	$978,816	$1,072,885	$1,043,735	$1,084,474	$708,415	$4,888,325
Expenditures						
Cost Share Payments	$779,800	$241,234	$165,977	$257,722	$376,124	$1,820,857
IFDC	$118,500	$90,200	$100,411	$73,285	$283	$382,679
Admin Charges/ Transfers (Sweeps)	$1,357,606	$117,686	$3,387	$0	$504,117	$1,982,796
Balance After Transfers *	**($1,277,090)**	$623,765	$773,960	$753,467	**($172,109)**	**$701,993** **(unaccounted for)**

***** Balances do not reflect unpaid commitments to cost share program or obligations for IDNR program delivery

In part, these sweeps are based on a mistaken perception that there is a surplus in the Fund at the end of the fiscal year because funds that IDNR has obligated to forest landowners should be spent within the same fiscal year. Expenditures of these funds are often made in a following fiscal year.

According to State fiscal accounting policy, funds are considered obligated only if the amount exceeds $10,000 and the obligation has been filed with the State Comptroller. Most reimbursements to forest landowners for a Cost Share practice are less than $10,000. Therefore these obligations are not filed with the State Comptroller's Office. Therefore, at the end of each fiscal year, or whenever the Fund is examined, the Forestry Development Fund appears to contain a surplus of unobligated money.

In fact, these monies have been committed by the IDNR to forest landowners for reimbursement under the Cost Share Program. However, since these accumulated obligations of less than $10,000 have not been filed with the State Comptroller, the Administration "sees" a surplus and has transferred all or part of the fund's balance in to the General Revenue Fund to be used for other purposes. Thus money that should have been available for Cost Share programs is used to cover other general state obligations and/or IDNR operating expenses. The IDNR is aware of this situation and has not taken appropriate action to protect the money to cover these obligations from being taken.

The fact remains that individual forest landowners are directly affected through delayed payments for completed forestry practices. In addition, forest management plans are not getting implemented at all due to the unavailability of funds for carrying out practices recommended in their plans. The end result has been frustration and anger by forest landowners who have paid the 4% timber harvest fee but are unable to implement necessary follow-up forestry practices due to the lack of funding. This negatively influences the forest landowners' willingness to comply with paying the required harvest fees and in making future investments in their forests. The greatest long term impact will be on Illinois' forest resources. The future of a viable and sustainable forest resource and the associated benefits enjoyed by our society is a direct function of our forest landowners' willingness and ability to continue to establish and manage their forests.

Recommendations

The Illinois Forestry Association will work with a broad spectrum of other organizations, groups, institutions, and individuals to encourage the Governor and the Illinois General Assembly to restore funds and carry out the Act. IFA endorses the following recommendations and actions in order to achieve the position stated above:

- Immediately restore the funds swept from the Fund through legislative action.

- By Executive Order or legislative action prohibit any and all future administrative or statutory transfers from the Fund. In each future fiscal year, preserve and protect all Fund monies exclusively for the intended purposes as defined by the Forestry Development Act.

- Conduct an independent audit of the 905 Fund to provide accountability and transparency of expenditures

- If actions taken by the Administration and the General Assembly fail to resolve this situation, IFA will work with other concerned organizations, groups, and individuals to resolve the matter through legal means.

- The IDNR, in collaboration with the State Comptrollers office, should develop a protocol to account for funding "commitments" made to landowners for amounts less than $10,000 to more accurately reflect the obligations against the Fund.

- Current cost share rates are over ten years old. These need to be adjusted to reflect current costs involved in carrying out forest management practices. This will affect Fund balances and obligations

- IDNR appropriations for the Timber Growers Grants (4% monies) should accurately reflect the revenues into the fund and anticipated expenditures

- IDNR needs to provide an adequate delivery system in order to ensure that these funds can be obligated and expended in an appropriate amount of time by addressing the woefully inadequate staffing levels in the Division of Forest Resources.

  (See the Illinois Forestry Association's Position Statement: Forestry Assistance for Illinois Landowners and Communities)