



**FOUNDED 1982**

**MICHIGAN CONSERVATION FOUNDATION**  
**"Conservation is Everyone's Business"**

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April 28, 2009

To: State of Michigan House Committee- Tourism,  
Outdoor Recreation and Natural Resources

From: Robert E. Jacobson, President  
Michigan Conservation Foundation

Subject: Committee Hearing on HB 4610

Dear Michigan State Representatives

As President, I am speaking for the Michigan Conservation Foundation (MCF) Board of Trustees. MCF a Wildlife Habitat Organization has worked in partnership with the Department of Natural Resources and the U.S. Forest Service on habitat, policy and citizen user projects since 1982.

As we interpret House Bill No. 4610, it is a general bill to establish a network of Trailways on all state owned lands that may be used by pack and saddle animals.

HB 4610 does not relate to state lands that were acquired, developed, or managed with Federal Assistance Funds under the "Wildlife Restoration Act of 1937" or (Pittman-Robertson Act) and the "Michigan Game and Fish Protection Trust Fund".

Also, by authority of the "Natural Resource and Environmental Protection Act" (Excerpt) Act 451 of 1994 – 'MCL 324.4051' Wildlife restoration; authority of department to cooperate with federal government; use of hunters' license fees.

*"Sec. 4051- The department shall perform such acts as may be necessary to conduct and establish wildlife restoration, management, and research projects and areas in cooperation with the federal government as defined in chapter 899, 50 Stat. 917, 16 U.S.C. 669 to 669b and 669c to 669i, commonly known as the federal aid in wildlife restoration act, and rules and regulations promulgated by the United States Secretary of Agriculture under that act; and in compliance with that act, funds accruing to this state from license fees paid by hunters shall not be used for any purpose other than game and fish activities under the administration of the department."*

Therefore, House Bill No. 4610 has no authority over land use orders of the Director Amendment No. 8 of 2008 for the Pigeon River Country State Forest (PRCSF).

In 1973, when the Concept of Management was written for the PRCSF it was comprised of 145 square miles or 92,800 acres of which 65 percent or 60,320 acres were purchased with monies from the Game and Fish Protection Fund in which one of its uses is the acquisition of lands to be

used for hunting and fishing purposes. Also, many thousands of dollars were obtained from the Wildlife Restoration Act of 1937 and used in the development and management of wildlife lands, operation maintenance, and research on the Pigeon River Country State Forest.

U.S. FISH & WILDLIFE SERVICE; Allowable Recreational Activities and Related Facilities on Federal Assistance Lands; 522 FW 21 states:

*"21.5 A.- The statutes and applicable regulations prohibit a State fish and wildlife agency from allowing recreational activities and related facilities that would interfere with the purpose for which the acquired, developed, or is managing the land. This means that the State fish and wildlife agency may not allow an activity or facility that would interfere with the fulfillment of the grant objectives for restoration, conservation, management, and/or enhancement of fish, wildlife, plants, and their habitats eligible for funding through the programs listed in section 21.1"*

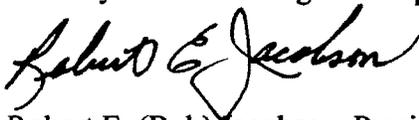
*"21.7 (Excerpt)- The State fish and wildlife agency has responsibility for the accountability and control of all assets, and has responsibility to determine if a recreational activity or related facility interferes with the purpose for which it acquired, developed, or is managing the land. However, the Service has the right to review or inspect at any time to ensure compliance.*

There are State Public Lands in Michigan that have restrictions governed by laws that dictate the usage of recreational activities on specific lands and HB 4610 totally ignores them. In our opinion, HB 4610 has no bearing on the PRCSF Concept of Management November 2007, or Land Use Orders of the Director Amendment No. 20 of 2007 and Amendment No. 8 of 2008.

The Pigeon River Country, designated as a "special management unit," contains sparkling streams, clear lakes, wild, beautiful forests, dense swamps, rolling hills and heartland of Michigan's unique elk herd. To protect its wild character from overuse, development will be limited and people's activities will be more restricted than on most other state forest lands.

(Quotes from the Concept of Management)

Thank you for allowing me to appear before you today.



Robert E. (Bob) Jacobson, President  
Michigan Conservation Foundation  
Member of PRC Steering Committee

Cc: MCF Board of Trustees

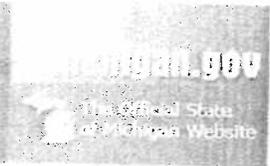
Specific attachment:

- MCF's letter to the House Committee on Tourism, Outdoor Recreation and Natural Resources dated May 13, 2008.
- Report by the U.S. Fish & Wildlife Service on the PRCSF signed by Federal Grant Manager, Jon Parker July 24, 2008.

(Other attachments are also provided)



# Department of Natural Resources



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The Game and Fish Protection Trust Fund was created under the provisions of Public Act 73 of 1986. The intent of the act was to provide the Department of Natural Resources (DNR) with a source of income that would help offset increased costs due to inflation and offset or reduced hunting and fishing license increases. The Game and Fish Protection Fund provides revenues for the operation of the DNR's Fish, Wildlife, and Law Enforcement programs in the Department. Management, research, enforcement of fishing and hunting laws and acquisition of lands to be used for hunting and fishing purposes are examples of uses of this fund.

The fund receives money from various sources including gifts, grants, bequests; plus rentals, bonuses, royalties, etc. from the removal of minerals, coal, oil, gas, timber or other resources from State-owned land acquired by Game and Fish Protection Fund monies. Initially, the major source of funds was \$8 million that had been generated under the former Kammer recreational land acquisition trust fund act. Money was also received during fiscal years 1985-87 from oil and gas royalties from state lands bought by game and fish protection funds that would ordinarily have gone into an account created by the former Kammer act. The interest and earnings plus \$6,000,000 as authorized in 2001 PA 50 from this Trust Fund are deposited in the Game and Fish Protection Fund for expenditure.

If nothing changes, the Game and Fish Protection Fund will have a deficit of \$9 million to \$11 million by 2007-08, and by 2009-10, this deficit balloons to \$45.9 million.

### Conservation Funding Trends and Implications Presentation



NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)  
Act 451 of 1994

**324.40501 Wildlife restoration; authority of department to cooperate with federal government: use of hunters' license fees.**

Sec. 40501. The department shall perform such acts as may be necessary to conduct and establish wildlife restoration, management, and research projects and areas in cooperation with the federal government as defined in chapter 899, 50 Stat. 917, 16 U.S.C. 669 to 669b and 669c to 669i, commonly known as the federal aid in wildlife restoration act, and with rules and regulations promulgated by the United States secretary of agriculture under that act; and in compliance with that act, funds accruing to this state from license fees paid by hunters shall not be used for any purpose other than game and fish activities under the administration of the department.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451





## *Allowable Recreational Activities and Related Facilities on Federal Assistance Lands*

Supersedes Director's Order 152, 07/01/2003  
Date: August 18, 2006  
Series: State Grant Programs  
Part 522: Federal Assistance Program Guidance  
Originating Office: Division of Federal Assistance

**21.1 What is the purpose of this chapter?** This chapter provides guidance on recreational activities and related facilities constructed on lands States acquire, develop, or manage with Federal Assistance funds under:

- A. The Wildlife and Sport Fish Restoration Programs,
- B. The Wildlife Conservation and Restoration Program,
- C. The State Wildlife Grants Program (non-Tribal), and
- D. The Landowner Incentive Program (non-Tribal).

**21.2 To whom does this chapter apply?** This chapter applies to all Service personnel who administer grant funds through the programs in 21.1A through D.

**21.3 To what lands does this chapter apply?** This chapter applies to the following, unless otherwise specified in the grant agreement between the State fish and wildlife agency and the Service:

- A. Lands States acquire with Federal Assistance funds, regardless of when they acquired them.
- B. Lands States develop or improve with Federal Assistance funds for the useful life of the development or improvement (see 522 FW 19).
- C. Lands on which States conduct any Federal Assistance-funded management activities during the defined grant periods.

**21.4 What are the authorities for this chapter?**

- A. Federal Aid in Sport Fish Restoration Act (16 U.S.C. 775).
- B. Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669).
- C. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Real Property and Enforcement (48 CFR 201).
- D. Administrative Requirements for Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts, Eligible Undertakings, Application of Federal Aid, Responsibilities, and Assurances (50 CFR 22.80 through 22.802).
- E. Consolidated Appropriations Act, 2005 (Pub. Law 109, 118 STAT. 2809).
- F. Environment and Related Agencies Appropriations Act (Pub. Law 109, 118 STAT. 2809).

**21.5 What recreational activities and related facilities may States allow on lands they acquire, develop, or manage with Federal Assistance funds?** The State fish and wildlife agency determines what recreational activities and related facilities to allow on Federal Assistance supported lands, based on authorizing legislation.

**A.** The statutes and applicable regulations prohibit a State fish and wildlife agency from allowing recreational activities and related facilities that would interfere with the purpose for which the State acquired, developed, or is managing the land. This means that the State fish and wildlife agency may not allow an activity or facility that would interfere with the fulfillment of the grant objectives for restoration, conservation, management, and/or enhancement of fish, wildlife, plants, and their habitats eligible for funding through the programs listed in [section 21.1](#).

**B.** The statutes and applicable regulations require that grants used to acquire, develop, or manage lands must have a purpose consistent with the Wildlife Restoration and Sport Fish Restoration Acts, the Wildlife Conservation and Restoration Program, the State Wildlife Grants Program (non-Tribal), or the Landowner Incentive Program (non-Tribal):

**(1)** States generally allow fish or wildlife-dependent activities (e.g., hunting, trapping, fishing, birding, wildlife photography, or viewing platforms) because these activities do not interfere with the purpose.

**(2)** States may allow recreational activities and related facilities that are not fish or wildlife-dependent (e.g. bicycling, swimming, rock climbing, kennels, stables, horseback riding) if they determine that the activities will not interfere with the purpose for which they acquired, developed, or are managing the land.

**C.** For the Federal Assistance programs identified in [section 21.1](#) that fund activities on private lands, it is the responsibility of the State and the private landowner to agree on allowable recreational activities and related facilities, consistent with [sections 21.1\(a\) and 21.2](#).

**D.** At the request of the State fish and wildlife agency, the Service will confer on recreational activities or related facilities.

**21.6 Are costs attributable to recreational activities on lands States acquire, develop, or manage with Federal Assistance funds eligible for Federal Assistance funding?** A State may only recover costs attributable to recreational activities if the activity or facility is:

**A.** Allowable as [section 21.5](#) describes, and

**B.** Specified in the grant agreement.

**21.7 What is the Service's authority to review compliance with the statutes and regulations related to allowing recreational activities?** The State fish and wildlife agency has responsibility for the accountability and control of all assets, and has responsibility to determine if a recreational activity or related facility interferes with the purpose for which it acquired, developed, or is managing the land (see [43 CFR 12.71](#) and [50 CFR 80.18](#)). However, the Service has the right to review or inspect at any time to ensure compliance (see [50 CFR 80.21](#) and [43 CFR 12.68](#)).

**21.8 Must States include in the grant documents information about recreational activities and related facilities on lands they acquire, develop, or manage with Federal Assistance funds?** No. States do not need to include in grant documents a description of recreational activities and related facilities on lands they acquire, develop, or manage with Federal Assistance funds as long as:

**A.** The decision about what recreational activities and related facilities to allow remains with the State fish and wildlife agency,

**B.** The activities and related facilities do not interfere with the purpose for which they acquired, developed, or manage the lands, and

**C.** The cost of the activities and related facilities is not paid for with Federal Assistance funds.



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May 13, 2008

To: The Honorable Joel A. Sheltroun  
State Representative, District 103 and Committee Members  
Tourism, Outdoor Recreation and Natural Resources

From: Robert E. Jacobson, President  
Michigan Conservation Foundation

Subject: Pigeon River Country State Forest  
A Concept of Management for the PRCSF – MDNR November 2007  
Land Use Order of the Director Amendment 8 of 2008

Dear Representative Sheltroun and Committee Members

The problems that the Pigeon River Country is experiencing, is not so much about Horses, Bicycles, Snowmobiles, ATV's/ORV's, etc., it's about PEOPLE. There are too many people today with their TOYS to be compatible with the Forestlands, Waters and Wildlife that the Pigeon River Country was establish, and to be protected, as a SPECIAL Managed State Forest.

A Concept of Management for the Pigeon was written and approved in 1973 and an Advisory Council was formed in 1974. The Advisory Council is charged to work with the DNR in an advisory role to implement and monitor compliance with the Concept. The Advisory Council's responsibilities include consideration of plans, programs and activities and management decisions proposed or conducted within or affecting the Pigeon River Country and making recommendations to the Director. It consists of 18 citizen members and 4 ex-officio members. The citizen members are to include a balance of representatives from local and statewide organizations, including government.

Neither the Pigeon River Country State Forest (PRCSF) nor any other local area of state lands can satisfy all the needs and wants of the public.

*The Pigeon River Country is well suited to satisfy many different objectives and needs, but to do so it is necessary to deny or restrict certain activities or uses which conflict with or seriously affect the uses planned.*

Of great concern to people of the area is the possibility that any development or improvement will lead to great additional numbers of people using the Pigeon at the same time. This plan is intended to encourage only compatible and least damaging uses.

In 1973, when the Concept was written, the Pigeon River Country was comprised of 145 square miles or 92,800 acres of which 65 percent or 60,320 acres were purchased with monies from the Game and Fish Protection Fund. The Fund is financed principally by the sale of hunting and fishing licenses and to be used for statewide hunting and fishing programs, management, research, law enforcement and **acquisition of lands to be used for hunting and fishing purposes**. The Pigeon River Country today totals 105,516 acres.

The PRC Advisory Council's June 1981 meeting minutes stated that in spite of signs requesting horse riders to not use the Shingle Mill and High Country Pathways they were continually violated. Request for a Director Order was denied, because of inadequate Law Enforcement.

Recreational Activities were identified as problems in the DNR Research and Development Report No. 267 "The Rocky Mountain Elk in Michigan" by Richard J. Moran – 1963 – 1968.

- *Recreational Activities in the heart of the Pigeon River Country has reached proportions no longer compatible with Elk.*
- *The Human Disturbance factor, reflected by changes in land use and kinds and intensity of Recreation, grew to alarming portions over the Elk Range during this study.*
- *Management needs and priorities on the Elk Range have changed drastically over the past decade. Concern of the 1960's with range conditions is dwarfed in the 1970's by new trends in recreation and land use which threaten to exclude wildlife.*

Over the past 5 1/2 years I have been extensively involved in first hand viewing recreational activities on the Pigeon relative to the intent of the 1973 Concept of Management, and for the past 3 1/2 years as a member of Director Humphries Steering Committee to update the 1973 Concept.

The Steering Committee and Director Humphries had NO CHOICE, but to restrict Recreational Activities. Since the Horse and Snowmobile Associations can not control many of their riders the Updated Concept and Land Use Orders of the Director were mandatory, or future generations of Man and Wildlife will be deprived of their rightful inheritance.



Robert E. (Bob) Jacobson, President  
Michigan Conservation Foundation  
Member of PRC Steering Committee

Cc: MCF Board of Trustees

U.S. Fish and Wildlife Service  
Region 3  
Wildlife and Sport Fish Restoration TRIP REPORT

STATE: Michigan

PROJECTS: W-145-L Land Acquisition / Pigeon River Country State Forest

PERSONNEL:

*State:* Steve Beyer, Federal Aid Coordinator, and Scott Whitcomb, Asst. Field Coordinator / Public Lands Specialist, Michigan DNR Wildlife Division

*Federal:* Jon Parker, Wildlife Biologist, Grant Manager

DATES: September 14, 2007

PURPOSE: The inspection of the Pigeon River Country State Forest (PRCSF) was part of a larger field review to assess the Michigan Department of Natural Resources' management of lands acquired with WSFR grants and/or hunting license revenues. We have been monitoring the uses of lands with a Federal, or license fee, interest in State Forests and Parks, since the principal managing agency is not the State Fish and Wildlife Agency.

FINDINGS: We conducted a driving inspection of much of the accessible portions of the Forest. We observed numerous horse trailers and evidence of equestrian use in parking areas and along the forest roads. DNR Wildlife staff responded to questions concerning the level of horseback use and the regulations pertaining to this use. It was reported that this forest was a major destination for equestrians, with campground facilities and that riding was not relegated to designated trails. I was told, and subsequently verified that a majority of these lands were acquired with hunting and fishing license revenues. I informed Mr. Beyer and Mr. Whitcomb that the use of these lands for the primary purpose of providing unstructured equestrian recreation was not consistent with the provisions of the Pittman-Robertson Wildlife Restoration (P-R) Act. The Act requires that license fees be used only for the administration of the State fish and wildlife agency. I told them that I did not believe that the current recreational use of the license fee acquired lands was consistent with provisions of the Act, and that the activities could constitute a diversion of P-R funds which could result in sanctions to the Department, up to and including the loss of P-R funding.

RECOMMENDATIONS: In most cases, horseback riding on lands acquired with license fees and administered by the Michigan DNR Wildlife Division, has been prohibited or has been eliminated. In the PRCSF and in other areas where horseback use has been permitted, the Wildlife Division should work to eliminate or regulate and monitor the use. This is necessary to insure that it does not interfere with wildlife habitat management and wildlife-dependent public uses, such as hunting and trapping. We believe that the "Concept of Management for the Pigeon River Country", produced by the Michigan DNR in 2007 is likely to accomplish these objectives. We should continue to monitor the PRCSF and other similar properties to insure compliance with the Act.

Prepared by: Jon Parker Date: July 24, 2008  
Jon Parker, Wildlife Biologist

Reviewed by: Robert C. Bryant Date: July 24, 2008  
Robert C. Bryant, Chief  
Region 3, WSFR

