

COUNTY FOREST COMPREHENSIVE LAND USE PLAN

TABLE OF CONTENTS

CHAPTER 500

LAND MANAGEMENT AND USE

<u>Section</u>	<u>Subject</u>	<u>Page</u>
500	LAND USE	3
500.1	OBJECTIVE	3
505	TIMBER SALES.....	3
505.1	FIELD PREPARATION OF TIMBER SALES.....	3
505.2	ADVERTISING FOR BIDS	4
505.3	PROSPECTUS.....	4
505.4	METHOD OF BIDDING.....	4
505.5	AWARDING SALES	5
505.6	SALES CONTRACTS.....	5
505.7	TIMBER SALE PERFORMANCE BOND.....	6
505.8	CONTRACT PROVISIONS.....	6
505.8.1	Contract Number and Contract Name.....	6
505.8.2	Contract Parties.....	6
505.8.3	Durations and Extension of Contracts	6
505.8.4	Termination of Contract by Seller	7
505.8.5	Performance Bond, Damages, Future Contracts	7
505.8.6	Title to Timber	8
505.8.7	Payment Schedule	8
505.8.8	Utilization Specifications.....	8
505.8.9	Training Requirement	9
505.8.10	BMPs, Roads, Landings, Standards	10
505.8.11	Soil Disturbance and Rutting.....	10
505.8.12	Liability and Worker’s Compensation Insurance.....	13
505.8.13	Forest Certification	13
505.8.14	Other Contract Conditions	13
505.8.15	Attachments to Contract	13
505.9	TIMBER SALE RESTRICTIONS.....	14

505.10	TIMBER SALE ROADS	14
505.11	SUPERVISING SALES.....	14
505.12	FOREST PRODUCTS ACCOUNTABILITY.....	15
505.13	SPECIAL FOREST PRODUCTS PERMITS	15
510	TIMBER THEFT	16
510.1	TIMBER THEFT INVESTIGATION.....	16
515	ENCROACHMENTS	17
520	SPECIAL USES	18
520.1	SAND AND GRAVEL.....	18
520.2	EXPLORATION, PROSPECTING AND MINING.....	18
520.3	SANITARY LANDFILLS	19
520.4	MILITARY MANEUVERS	19
520.5	PUBLIC UTILITIES	20
520.6	ACCESS TO PRIVATE LAND	21
520.6.1	Temporary Access.....	21
520.6.2	Access Agreements.....	21
520.6.3	Prescriptive Easements	22
520.6.4	Other Types of Access	22
520.7	PRIVATE UTILITY SERVICE LINES	22
520.8	COMMUNICATION TOWERS	23
520.9	OTHER	24
525	TREATY RIGHTS:GATHERING MISCELLANEOUS FOREST PRODUCTS.....	24

500 LAND USE

500.1 OBJECTIVES

1. To identify policies and procedures employed to effectively manage, utilize and sustain the resources of the County Forest.
2. To identify regulated management activities, land uses and special resource areas.
3. To layout proper permits needed for certain activities on the County Forest

505 TIMBER SALES

Regulated cutting of timber is essential to the goals and objectives of this plan. Timber harvesting will be conducted to achieve a sustainable harvest level. Harvest areas will be distributed in the forest to accommodate such needs as biodiversity, wildlife, aesthetics, watershed protection and other biological needs. WisFIRS will be used for planning all timber harvests activities on the County Forest. All sales will be established, administered and reported in accordance with the [DNR Timber Sale Handbook \(2461\)](#). All sales on the forest are to be advertised for public bidding, with the exception of small sales with an estimated value of \$3000 or less or sales that would qualify under a salvage provision ([s. 28.11\(6\)\(c\)](#), Wis. Stats.). These sales may be sold direct without advertising.

505.1 FIELD PREPARATION OF TIMBER SALES

The County and the DNR will cooperate to locate, designate and prepare harvest areas for sale. The Forest administrator and DNR liaison forester shall jointly be responsible to see that the field work on sales is accomplished. Administrator and Liaison will also jointly be responsible for ensuring that all proper documentation for each timber sale is properly filled out and routed for signatures.

505.2 ADVERTISING FOR BIDS

After field work is completed and necessary reports receive DNR approval, the administrator shall prepare a sale prospectus and make it available to interested loggers. Under [s.28.11\(6\)\(b\)](#) Wis. Stats, timber sale advertisements, at a minimum, will be by classified ad in a newspaper having general circulation in the county. The ad shall be run for one week. A longer advance time will be given when feasible. Sealed bid sales will generally be offered in early spring and fall, or as needed.

505.3 [PROSPECTUS](#)

The following minimum information will be made available to prospective bidders:

1. Species to be harvested and estimated volume
2. Maps of sale areas
3. Special contract provisions
4. Procedures for bidding
5. Bid forms
6. Timber sales bond and advance stumpage schedule

505.4 METHOD OF BIDDING

Bids will be read at official Natural Resource Committee meeting and approved by the Committee. A sealed envelope showing tract number or advertised number and marked "sealed bid" shall be submitted on County Forest bid forms by the bidder for each tract bid on, and shall contain:

1. The bid price per unit of species product. The total value of the timber sale bid shall be indicated on both scaled and lump sum bids. The total bid value must meet or exceed the minimum acceptable bid value, as documented in the 2460.
2. A minimum of a \$200.00 check for each tract must accompany the bid as a bid bond, payable to Burnett County. Unless the bidding contractor has a blanket timber sale performance bond with Burnett County prior to bidding, then no bid bond is necessary.

505.5 AWARDING SALES

1. The high bidder is normally awarded the sale contract; however, the committee reserves the right to reject any or all bids and accept the most advantageous bid to the county. Grounds for rejecting bids may include without limit:
 - A. Non-compliance with County Forest contract requirements.
 - B. Delinquent financial obligations.
 - C. Unsatisfactory past performances.
 - D. Inability to demonstrate financial or professional capability. Evaluation criteria on timber sales will be price and documented ability to satisfactorily complete the contract. Factors to be assessed may include proposed equipment and operation, references, proof of financial stability, past performance and documented training completed. The award of contract to the successful bidder shall be based upon the bid determined most advantageous to the County.
2. Tie bids may be settled by toss of a coin if both parties are agreeable; otherwise the bids on that tract will be rejected and the sale re-advertised.
3. Sales remaining unsold after being advertised for two bid openings may be sold direct at not less than the appraised value even though their estimated value exceeds \$3,000. (See DNR [Timber Sale Handbook](#)).

505.6 [SALE CONTRACTS](#)

1. Contracts will be prepared with copies provided to the logger with the original filed in the Forestry office.
2. Contracts are to be signed by the successful bidder within 30 days of the sale or before cutting begins, whichever occurs first, with payment being made according to the County Timber Sale Bond and Advance Stumpage Payment Schedule. Failure to sign the contract within 30 days may result in forfeiture of the bid bond, and disqualify the contractor from bidding on future sales for two years.

505.7 TIMBER SALE PERFORMANCE BOND

1. Surety bonds or an irrevocable letter of credit issued by a bank which is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation may be used in lieu of cash as a performance bond on sales. The letter of credit or surety bond must be in effect for a period of time equal to the term of the contract, plus a sufficient time to allow for possible extension(s) and for closeout of the contract after cutting is completed.
2. The bid bond may be transferred to the performance bond.

505.8 CONTRACT PROVISIONS

All timber sale contracts will be on the form approved by the committee and all provisions therein shall apply. A copy of the timber sale map will be attached and become a part of the contract. The following items are essential contract provisions that should be covered in each contract.

505.8.1 Contract Number and Contract Name

Every contract shall have a unique numerical number and depending on county policies/procedures shall have a unique name.

505.8.2 Contract Parties

Contracts must have Name, Address, and other contact information of the Purchaser.

505.8.3 Duration and Extension of Contracts

All contracts will be issued for not less than six months nor more than 2 years, unless otherwise stated on advertisement and/or contracts. Contract expiration dates will be stated in the prospectus. Exceptions may be made in cases of extenuating circumstances.

A six-month extension if deemed necessary by the seller may be granted. Terms of contract extensions will be outlined in the timber sale contract.

The maximum time duration of a timber sale contract, including extensions, shall be 4 years. Extension beyond this period of time shall be considered by the committee only in the event of special justification. Special stumpage rate adjustments may be made.

If purchasers do not wish to have contracts renewed or extended appropriate penalties may be assessed in accordance with the contract. The contractor may request a contract release due to severe physical or financial disability. The committee shall determine whether or not a release shall be granted and may withhold all or a portion of the bond deposit for damages.

505.8.4 Termination of Contract by Seller

If contractor fails to fulfill the contract, the county may choose to terminate the contract. This will be done in writing and in accordance with the contract.

505.8.5 Performance Bond, Damages, Future Contracts

This section of the contract is to identify the dollar amount and the duration of the performance bond. Also covered under this section of the contract are items to which the performance bond may be used to cover damages. This section also addresses County powers should damages exceed the performance bond amount. Examples of damages include:

- A. Undesignated timber removed
- B. Removal of timber without payment
- C. Damage to residual timber, roads or other infrastructure
- D. Restoration of sale area
- E. Costs associated with resale of uncut timber
- F. Other costs...

505.8.6 Title to Timber

All timber on a timber sale shall remain the property of Burnett County until advanced payment for the timber has been received by Burnett County.

505.8.7 Payment Schedule

All contracts shall have a payment schedule that will layout the responsibilities of the seller and the purchaser for payments under the contract. Burnett County requires advanced payment for all timber prior to it being cut and hauled. For sales less than \$20,000, 50% advanced payment is required, for sales over \$20,000, 1/3 advanced payment is required. As the contractor cuts the sale and the next payment is due as that acreage is cut. When sales are large and initial payments are due, the Forest Administrator may work with the contractor to allow for smaller more frequent payments. Haul tickets issued should not exceed advanced payments.

505.8.8 Utilization Specifications

Common utilization standards are:

Sawlogs will be scaled by the Scribner Decimal C. log rule. A log is defined as a minimum 9" diameter inside bark (d.i.b.) small end and 8' in length for softwood and a minimum 10" (d.i.b.) small end and 8' in length for hardwood.

The standard unit of measure for cordwood is measuring 4' x 4' x 8' of unpeeled wood. Peeled wood will be converted to the standard cord by adding 12.5% for sap-peeled and adding 25% for machine-peeled wood to the gross volume measured. A pulpwood tree contains at least one (1) 8' stick, to a minimum top diameter as defined in the contract. Burnett County will use the following weight conversion rates for green, recently cut cordwood:

Aspen, spruce, tamarack, cedar	4500 lbs/cd
White pine	4200 lbs/cd
Jack pine	4250 lbs/cd
Red pine	4500 lbs/cd
Balsam fir	4250 lbs/cd
Ash	5100 lbs/cd
Basswood	3850 lbs/cd
White birch,	4800 lbs/cd
Mixed hardwoods	5200 lbs/cd
Elm	5000 lbs/cd
Hard maple	5100 lbs/cd
Yellow birch	5350 lbs/cd
White oak	5850 lbs/cd
Red oak, scrub oak	5500 lbs/cd

DNR Timber Sale Handbook [#2461](#) will be used as a guide in determining the conversion rates for posts, poles, bolts, chips, weight-scaled wood or other types of forest products.

Utilization standards will be specified on individual contracts to provide maximum utilization of all merchantable timber.

505.8.9 Training Requirement

Logging contractor and sale operators are to be compliant with the Wisconsin SFI Training Standard as adopted by the Wisconsin SFI Implementation Committee. Valid documentation of compliance with the Forest Industry Safety and Training Alliance training standards must be on file with the County before cutting operations begin and during all operations.

505.8.10 BMPs, Roads, Landings, Standards

When applicable, Burnett County will follow the [WI BMP's for Water Quality](#), [WI Biomass Harvesting Guidelines](#) and the [WI Invasive Species Guidelines](#) when establishing and harvesting timber sales.

It is Burnett Counties policy that any new woods road be closed at the end of the sale unless it is determined by the Forestry Department that the road is needed for future management projects. Roads can be closed with a gate, earth berm and completely covered with debris from the sale. New road and landing construction will be laid out by the forester and the WI BMP's will be used when applicable to help design the road to minimize environmental impacts.

505.8.11 Soil Disturbance and Rutting

Rutting Standards

Soil compaction and rutting can reduce the productivity of a site, disrupt surface drainage and infiltration, and contribute to erosion and sedimentation.

Compaction occurs over broad areas, but does not necessarily result in visible depressions. Ruts are depressions, such as furrows or trenches, created by breaking through the forest floor.

Forest Roads

- Existing roads systems will be utilized when environmentally appropriate
- The Forest Administrator will have final approval in designating the location of roads, landings, and skid trails, and may consult with other County and DNR staff.
- Wisconsin Forestry Best Management Practices for Water Quality (BMPs) and this Plan will be followed during all phases of the timber sale to prevent or reduce erosion and sedimentation to surface waters and wetlands.

- Expanding the footprint of roads, landings, and skid trails to maneuver around wet or muddy areas that develop during use is prohibited unless authorized by the Forest Administrator.
- It is expected that appropriate measures will be taken to prevent excessive rutting. If excessive rutting occurs, forestry operations will be suspended.
- The Forest Administrator may modify standards in this policy if modifications provide equal or greater soil and water protection. Depending on site conditions, rutting standards may need to be more restrictive or flexible. Detail of and justifications for modifications must be documented in the timber sale narrative and timber sale field notes.
- This policy applies to forestry operations. Problems occurring from recreational use or operations shall be handled as prescribed in appropriate handbooks or guidance.
- Rutting is prohibited on forest roads within a riparian management zone (RMZ). New forest roads are to be located outside of RMZs, except at stream crossings.
- In wetlands, a rut on a forest road may not exceed 50 feet in length with depths of 6 inches or greater.
- In uplands, a rut on a forest road may not result in channelized flow into a wetland or waterbody.
- Other ruts are acceptable provided it is shown that they can and will be repaired prior to final sale close out.

Landings

- Landings are prohibited in wetlands unless the timber sale is located in a large wetland complex without suitable upland landing sites. Wetland landings may only be used during frozen ground conditions. Details of and justifications for modifications must be documented.

- In uplands, a rut on a landing may not result in channelized flow into a wetland or waterbody.
- Other ruts are acceptable provided it is shown that they can and will be repaired prior to final sale closeout.

Skid Trails

- Ruts with depths of 6 inches or greater may not exceed a total of 25 feet in any 100 feet
- Total rut length on skid trails may not exceed 10% of the total length of skid trails.

General Harvest Area

- The rutted area for an acre of general harvest area may not exceed 5% (six inches or deeper).
- The average rutted area per acre may not exceed 2% of the total harvest area.

Forest Road Rut Length is determined by measuring the length of ruts with depths 6 inches or greater.

Skid Trail Rut Length is determined by measuring the total length of ruts and dividing by the total length of skid trails. The length of rut made by each wheel or track is measured separately.

General Harvest Area Rutted Area is determined by measuring the length and width, in feet, of ruts, greater than 6 inches in depth, in an acre of harvest to determine square feet of rutted area. This total is divided by 43560.

505.8.12 Liability and Workers Compensation Insurance

All contracts should require proof of insurance. The proof of insurance shall be kept in the sale folder and must cover the entire operation period of the contract.

505.8.13 Forest Certification

As part of being third party certified, Burnett County will incorporate it's certification number on Timber Sale Contracts, Haul tickets and Scale sheets.

505.8.14 Other Contract Conditions

- A. Waste
- B. Stump heights
- C. Zone/Unit completion
- D. Slash requirements
- E. Cleanup of sale area
- F. Forest fire prevention
- G. Survey monument restriction
- H. Indemnification
- I. Independent contractor
- J. Assignment (sub-contracting)
- K. Right of inspection by seller
- L. Applicable law
- M. Other conditions

505.8.15 Attachments to Contract

The following shall be attached to and made part of the timber sale contract.

- Timber Sale map with cutting requirements
- [Burnett County Rutting Policy](#)
- [Burnett County Contract Default Policy](#)

505.9 TIMBER SALE RESTRICTIONS

1. To minimize resource damage, the types of logging equipment, methods, and times of operation used on sale areas may be restricted by the county.
2. Special restrictions may be required in accordance with county aesthetic policy, if applicable.
3. Seasonal restrictions may be applied to protect roads, minimize recreation use conflicts, benefit wildlife management, avoid endangered resources concerns, minimize insect and disease problems, or to assist in fire protection.

505.10 TIMBER SALE ROADS

1. The contractor will be responsible for securing legal access to sale areas across private or other non-county ownership.
2. The contractor will be responsible for securing permission to conduct logging activities within town, county or state road rights-of-way (e.g. decking, skidding)
3. Forestry personnel will approve the lay-out of all roads and make other necessary special provisions within the sale contract.
4. Skidding, decking, or other logging activity is not allowed on County Forest roads or ditches unless approved by the County Forest Administrator. These areas will be kept free from logging debris. County Forest access roads will be maintained by the logger and be left in good as original condition at the close of the sale. Roads will be inspected by county personnel to insure minimal resource damage.
5. A timber sale purchaser may request permission to gate a timber sale access road. The administrator may grant a gate permit to prohibit only motorized traffic.

505.11 SUPERVISING SALES

Sale inspections will be performed periodically by county and / or state personnel with corresponding notations in the sales record. These comments can also be used to evaluate the area for post harvest treatments and recon updates.

505.12 FOREST PRODUCTS ACCOUNTABILITY

Wood harvested from the sale area must be accounted for and payment made in accordance with existing policy and procedure. One or more of the following may be used on an individual sale:

1. The ticket system allows contractors to haul wood from the sale after reporting information on the date, time, volume, species, trucker, and destination using serialized three part hauling tickets. Mill delivered scale with the attached county ticket will be used to determine final sale volumes. The County has established a bidding and reporting process that allows the contractor to haul mixed species loads of cordwood using the ticket system as specified in the timber sale contract.
2. Wood may also be scaled on the landing by Forestry staff. This method is generally used for all sawlogs and occasional volumes of cordwood.
3. Lump sum sales may also be sold.

505.13 SPECIAL FOREST PRODUCT PERMITS

The Burnett County Forestry Committee may grant county residents, or landowners permission to gather small quantities of firewood, Christmas trees, or other miscellaneous forest products for personal use only. A permit system has been established to regulate this harvest. The following types of permits can be issued:

1. [Firewood Permit](#) Allows the harvest and gathering of firewood for personal use only and from designated areas on the Forest. County will designate the areas and limit the volumes to 4-10 cords per household per year. Separate fees may be assessed for harvesting green standing hardwoods or for gathering dead and down wood that remains after completion of a timber sale. Fees will be set by the Committee.

2. [Christmas Tree and Bough Permits](#) Allows the harvest of no more than two conifers per household for personal use for holiday decorations. Bough gathering permits may also be issued and limited to no more than one pickup load (1000 lbs) per household. Areas and cutting regulations will be designated by County staff. Fees will be set by the Committee.
3. Post, Poles, and Other Miscellaneous Forest Product Permits. Allows the harvest of small quantities of raw forest products for personal use. Appraised value of stumpage may not exceed \$200.00 per year per household. Gathering of sap, bark, or other products that will leave damaged trees is not allowed. Areas and harvest regulations will be determined by County staff.

510 TIMBER THEFT

All cases of alleged timber theft on the county forest shall be investigated and resolved promptly. An allegation of theft by cutting and /or removing timber from the county forest does not alleviate the county from payment under [s. 28.11 \(9\)](#) Wis. Stats. The county will collect damages pursuant to [s. 26.05](#) Wis. Stats. and may also pursue criminal charges under [s. 943.20](#) Wis. Stats. and /or seek civil damages.

510.1 TIMBER THEFT INVESTIGATION

The following procedure should be used in all cases of alleged timber theft:

1. Determination of Theft

A. Gathering facts - The county, through its sheriff's department and along with assistance of the DNR liaison, rangers and wardens, will ascertain the facts pertinent to the alleged theft, including determination of the damages to the county. Legal counsel representing the county should be involved in all aspects of investigation. Property involved in the alleged theft may be seized pursuant to [s. 26.06](#) Wis. Stats. for use as evidence.

B. Boundary determination - If property boundaries are involved, the county shall conduct a legal survey of the boundary in question.

515 ENCROACHMENTS

The county will actively investigate all suspected cases of encroachments on the County Forest. To insure the integrity and continuity of the County Forest land, all cases will be dealt with promptly and in a consistent manner. The following procedures will be used in all cases of suspected encroachments:

1. The county will establish property boundaries; if necessary, a legal survey will be conducted.
2. The county will gather all facts.
3. The Committee, in consultation with the forest administrator, county legal counsel, and the DNR, will make a decision as to the disposition of the case.
 - A. All above ground encroachments that are movable will be removed from county property.
 - B. Permanent type facilities, such as homes, garages, and septic systems shall be addressed individually and may be removed or handled by a land use agreement. Sale or transfer of the encroachment should remain an option depending on the circumstances involved and the viability of an adverse possession claim ([s. 893.29 Wis. Stats.](#)).
 - C. Provisions in the land use agreement, if that option is pursued, may include granting the encroacher permission to encroach on the County Forest lands with the following stipulations: no other encroachments will be allowed; the permit is non-transferable; the county must be notified once encroachment is terminated; county continues full ownership and control of property; permittee agrees to waive any rights to any future declaration of ownership or interest in the encroached county property; county reserves the right to cancel the permit and the permit is to be filed in the office of the County Forestry Department and all fees related to the land use permit shall be paid by the permittee.
 - D. A copy of the actual [Land Use Agreement](#) can be found in the Appendix.

520 SPECIAL USES

Recognizing the vast potential for a variety of special uses of the County Forest by governmental units, industries or business, organizations or individuals, the Committee upon request or on its own action may designate specified areas for special uses. Specific management methods are to be considered on these areas. Uses must be consistent with the intent of the County Forest Law. All requests for specialized uses of any County Forest lands will be reviewed by the Committee and may require a permit or use agreement to be authorized by the Committee. The NHI and Arc-view information will be consulted for historical information before issuing any use.

520.1 SAND AND GRAVEL

Sand and gravel pits located on County Forest may be used only by units of government or contractors performing public works. Use of existing pits and the opening of new pits by other than the County Forestry Department will require Committee approval and be authorized by permit only. The condition of such permits may include but not be limited to requiring the pit and its access road to be screened from view from any public highway, severing trees from the stump, disposition of brush, disposing of dirt spoil by leveling or hauling away, sloping to prevent steep banks, a site reclamation plan, and filing with the Forestry office an annual written report of gravel and sand removed. Other conditions may be set at the discretion of the Committee or County Forest Administrator. Committee may set royalty fees and payment schedules for materials removed. Other non-metalliferous materials will be dealt with on a case-by-case basis. All pits must also comply with pertinent County and state regulations.

520.2 EXPLORATION, PROSPECTING, AND MINING

The committee may investigate all mineral exploration, prospecting and mining request as they are received. The DNR shall be notified of all requests as they become known in accord with Manual Code 2712.1. (Mineral exploration on County Forests per [s.s. 28.11 \(3\)\(i\)](#) Wis. Stats.) or other codes which may be subsequently adopted.

The [Public Lands Handbook](#) should be referenced for more detailed procedure.

520.3 SANITARY LANDFILLS

The use of County Forest Lands for sanitary landfills will not be allowed unless the lands involved are withdrawn from the County Forest Law. No active landfills occur on the Forest now but two townships are operating residential waste transfer stations at the closed landfill sites. These operations are covered by terms of separate Land Use Agreements between the County and Townships.

These waste transfer sites are located at:

SWNW Sec. 17 T42N R14W operated by the Town of Blaine

SESW Sec. 15 T41N R14W operated by the Town of Webb Lake

In addition, the following sanitary landfill sites have been closed and inspected by WDNR and will be maintained indefinitely with a grass cover by the responsible township:

SWNW Sec. 17 T42N R14W Town of Blaine

SESW Sec. 15 T41N R14W Town of Webb Lake

SWSW Sec. 22 T41N R15W Town of Swiss

SWNW Sec. 33 T40N R15W Town of Jackson

NWSE Sec. 14 T39N R15W Town of Sand Lake

520.4 MILITARY MANEUVERS

Military maneuvers on County Forest lands will be considered under a lease or written land use agreement. Upon receipt of a written request from the military the Committee, other necessary County staff, Military, and D.N.R. representatives will discuss the issue at a public Committee meeting. After the needs have been outlined, the site shall be field checked, D.N.R. input and consistency with the County Forest Law sought, and town officials advised. Depending on the scope of the project, a public hearing may be appropriate. If all aspects and concerns are addressed and agreed to, a legal instrument will be drafted. The matter will then be brought back to a Committee meeting for final input and approval. The [Public Forest Lands Handbook](#) will be used for further direction in this matter.

520.5 PUBLIC UTILITIES.

Easements for public utilities may be considered by the Committee. Underground installations will be encouraged. The following main provisions shall be included in any County Board resolution granting permission for construction of any utility transmission line:

1. Utility may be billed for merchantable forest products and existing timber reproduction.
2. Utility may be billed for land removed from production due to right-of-way clearing for losses of future income and multiple use benefits.
3. Land removed for utility operations that is no longer suited “primarily for timber production or, that is no longer suitable for scenic, outdoor recreation, public hunting & fishing, water conservation or multiple use purposes” ([s. 28.11\(4\)\(c\)](#) Wis. Stats) may need to be withdrawn from county forest law designation. The utility shall replace any lands requiring withdrawal from county forest with other lands suitable for county forest entry that are in the forest blocking of the County Forest.
4. Utility companies will be encouraged to use existing corridors and underground lines to minimize disturbance to the county forest and native plants and animals.
5. Merchantable timber will be removed in a manner approved by the Committee. Timber cut must be reported to the DNR on form 2460-1.
6. Utility must provide notice of proposed route, including a map of not less than 1 inch /mile scale, 90 days in advance of proposed construction.
7. Special maintenance, controlled access and signage concerns shall be addressed in any proposal.
8. An appropriate fee shall be charged for easements.

520.6 ACCESS TO PRIVATE LAND

The Department has determined that granting a private easement across county forest lands is not consistent with the County Forest Law program. This determination is based on an Attorney General opinion ([OAG-08-10](#)). Easement grants to individuals are generally determined to be an exclusive right on a publicly owned asset. Counties are generally restricted from granting easements unless the overall management of the forest could be improved by granting the easement or if the easement grant will serve a greater public good.

520.6.1 Temporary Access

Requests for temporary access across County Forest Lands will be reviewed for any potential conflicts with management activities or public access. If impacts are minimal, access for short term needs will be permitted through the use of access agreements or letters of authorization. Temporary access is generally for activities such as access to maintain utilities (rail, powerline, etc.) or for logging access on private lands. The recipient of temporary access is required to restore the roadway to at least its prior condition and to expand coverage of any performance deposits or liability insurance to cover the use of the County road.

520.6.2 [Access Agreements](#)

Requests for access to private lands may be made by private parties to build or improve access roads through the County Forest. Access agreements will be considered on a case-by-case basis and with the understanding that the County is not legally obligated to provide access to private lands.

A fee of \$.75/linear ft or a minimum of \$250.00 whichever is greater will be assessed by the Committee for access permits. The Committee may elect to waive these fees in cases of agreement renewals or in cases of existing roads or driveways.

Access across County Forest lands must be demonstrated by the applicant as the route of last resort, including evidence of an offer of fair compensation for access across other private lands. The following stipulations will be included in access agreements:

1. Permits are made by and between the County and the property owner. The permits are not transferrable and subsequent property owners must secure their own agreement.
2. Permits are not to exceed 10 years.
3. Gates, signs, or other articles of the permittee are not permitted on County lands
4. *Other county specific stipulations*

520.6.3 Prescriptive Easements

Historical access points and driveways may meet the requirements of prescriptive use. A prescriptive use easement does not generally trigger a need to withdraw lands from the County Forest program unless the public is excluded from motorized travel on the subject road. Any potential claims of prescriptive easement across County Forest lands must be reviewed by legal counsel in order to determine legal validity and possible legal defense or standing.

520.6.4 Other Types of Access

Complex issues of private access needs may arise in the future. Any proposals to grant an easement across County Forest must help achieve the purposes of the County Forest Law and meet a standard of better and higher public use. Easements to private parties will require withdrawal from County Forest Law and are to be discussed with the Department prior to initiating any proposals.

520.7 PRIVATE UTILITY SERVICE LINES

If a landowner cannot gain utility access across other lands, the committee may consider a land use agreement for access across County Forest. Requests will be considered on a case-by-case basis. These agreements should consider the inclusions mentioned in Section 520.5 (1-8) for easements as well as:

1. The permit is non-transferable
2. The County retains full ownership of the utility corridor, however it shall not be liable for maintenance, upkeep, or other damages associated with the utility service.
3. The permittee waives any rights to any declaration of ownership or interest in the utility corridor on County land for administrative costs as a result of this [Land Use Agreement – Utility permit](#). This agreement is granted upon the signature and any fees being received by Burnett County.
4. The fee schedule for a one-time payment is set at \$.75/ft and a minimum of \$250.00.

520.8 COMMUNICATION TOWERS

The setting of cellular communication towers on the Burnett County Forest will be considered by the Committee on a limited basis. Requests will be considered on a case-by-case basis subject to the following conditions:

1. It must be demonstrated that the site is the most practical location for such a tower.
2. Land selected for such a tower is no longer suitable for continued entry in the County Forest program. In addition, any accompanying lands needed for tower support wires that inhibit the practice of forestry and are no longer suitable for scenic, outdoor recreation, public hunting & fishing, water conservation or multiple use purposes ([s. 28.11\(4\)](#), Wis.Stats) may also need to be withdrawn from county forest law. Withdrawal is subject to approval by both County Board and DNR. The cellular communication company shall replace any lands requiring withdrawal from county forest with other lands suitable for county forest entry that are in the forest blocking.
3. Burnett County will be required to withdrawal these lands from the County Forest Law Program.
4. Burnett County will charge a fee for cellular towers, fee amount to be set by the Natural Resources Committee.
5. Any agreement should also consider the inclusions listed under 520.5 (1-8).

520.9 OTHER

Other types of special uses of the county forest may be considered by the committee.

Regulations governing these uses will be developed on an individual basis. These may include, but are not limited to: research, independent study and scientific areas.

525 TREATY RIGHTS: GATHERING MISCELLANEOUS FOREST PRODUCTS

Chippewa Gathering Rights Permit. As a result of the 1990-1991 trial in the U.S. District Court for the Western District of Wisconsin, Judge Barbara Crab issued the final judgment [74-C-313-C](#). In this judgment, the Wisconsin Bands of the Lake Superior Chippewa's retained their treaty rights to gather firewood, poles, bark, and other miscellaneous forest products from the Forest. To meet the conditions of this judgment, Burnett County has adopted [Ordinance 91-3](#), which regulates the gathering rights on the Burnett County Forest. Gathering Permits must be issued before gathering may occur. No permit fee is assessed but the County may regulate the gathering as follows:

- a. Any treaty rights participant interested in gathering firewood, tree bark, maple sap, lodge poles, boughs, marsh hay or other miscellaneous forest products (except fruits, seeds, or berries not enumerated in County ordinances) from County land shall obtain a County gathering permit from the County Forestry office.

The County shall respond to the gathering permit request no later than 14 days after receipt of the request. The gathering permit shall indicate the location of the material to be gathered, the volume of material to be gathered, and conditions of the gathering of the material necessary for conservation of the timber and miscellaneous forest products on the County land, or for public health or safety.

- b. The County may not deny a request to gather miscellaneous forest products on County property under this section unless:
 1. The gathering is inconsistent with the management plan for the property.

2. The gathering will conflict with the pre-existing rights of a permittee or other person possessing an approval to conduct an activity on the property, including a contractor of the county or, (c) is otherwise inconsistent with conservation or public health or safety.
3. An annual summary report of cut products sold by permit will be filed with the DNR using CUTTING REPORT FORM 2460-1.
4. The commercial harvest for resale of any part or entire live plants, mosses, ferns, flora and fauna (except cones or seeds) found on the Forest but not regulated by other County or WDNR regulations will not be permitted until:
 - a. The Committee reviews a written request for commercial harvest and receives sufficient information to assess the environmental, social, and economic impacts.
 - b. The County reviews a species inventory or population estimate for the identified species on the Forest.
 - c. The County determines the appropriate techniques for gathering and establishes the sustainable level of harvest.
 - d. The County establishes a competitive bidding process, insurance requirements, and other harvest regulations.
 - e. The Committee approves and issues a permit.