



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAUGH
DIRECTOR

August 28, 2014

Dustin Mcleod
10899 Cope Road
Onaway, Michigan 49765

Dear Mr. Mcleod:

SUBJECT: File Number: FRD608162014001
Section 12, T33N, R01E, Forest Township, Cheboygan County

Thank you for speaking with me yesterday regarding the above referenced trespass and your use of public land adjacent to your ownership in the Pigeon River Country State Forest. As discussed, I will be meeting with other staff from the Department of Natural Resources (DNR) to review options that may be acceptable to the DNR, given our recent conversation. In addition, I have a meeting scheduled between DNR staff, yourself and elders from your tribe on Monday, September 15, 2014 at the Pigeon River Country Headquarters from 10:00 a.m. until noon.

Given the additional conversations and meetings, the deadline for removing the fill from public land will be postponed. If restoration is still deemed necessary following our conversations and meetings, an alternate restoration deadline will be provided to you.

If you have any further questions please contact me at the number below or in writing at 8717 North Roscommon Road, Roscommon, Michigan 48653.

Sincerely,

Lori Burford, Trespass Specialist
Forest Resources Division
Department of Natural Resources
989-275-5151, Ext. 2100

cc: Mr. Scott Rasmusson, DEQ, Gaylord
Mr. Scott Whitcomb, DNR



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAGH
DIRECTOR

July 31, 2014

CERTIFIED MAIL

Dustin Mcleod
10899 Cope Road
Onaway, Michigan 49765

Dear Mr. Mcleod:

SUBJECT: File Number: FRD608162014001
NWNW, Section 12, T33N, R01E, Forest Township, Cheboygan County

Forest Resources Division (FRD) of the Department of Natural Resources (DNR) has conducted an investigation and determined that a trespass has occurred on public land managed by the DNR within the Pigeon River Country State Forest. The trespass includes fill placed in regulated wetlands on state land. FRD staff has reviewed this activity with the Michigan Department of Environmental Quality and with Wildlife and Law Enforcement Divisions of the DNR and have made a determination regarding the best method of resolution for this trespass.

This encroachment and associated damage to public land is a violation of Part 5, Department of Natural Resources, and Part 21, General Real Estate Powers, Section 324.2155 through Section 324.2158, of the Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended (NREPA). It is also a violation of the Rules for the Regulation of State Lands Administered by the Department of Natural Resources, R299.921 through R299.930.

In order to resolve the trespass and bring this site into compliance with the NREPA, you will need to remove the fill that you placed in regulated wetlands on state land adjacent to your private property. Please complete this restoration work by August 31, 2014.

If you have any questions, please contact me in writing at 8717 North Roscommon Road, Roscommon, Michigan 48653, or at the number below. We look forward to working with you to resolve this matter.

Sincerely,

Lori Burford, Trespass Specialist
Forest Resources Division
Department of Natural Resources
989-275-5151, Ext. 2100

cc: Mr. Scott Rasmusson, DEQ, Gaylord
Mr. Scott Whitcomb, DNR, Pigeon River



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAUGH
DIRECTOR

September 11, 2014

Dustin Mcleod
10899 Cope Road
Onaway, Michigan 49765

Dear Mr. Mcleod:

SUBJECT: File Number: FRD608162014001
NWNW, Section 12, T33N, R01E, Forest Township, Cheboygan County

I met with other Department of Natural Resources (DNR) staff to discuss your use of the above referenced public land and to relay the conversation you and I had in August. DNR staff discussed the unauthorized wetland fill placed on the two track, your continued use of this two track for access to your private property, your use of the adjacent public land for ceremonies and camping, and the ceremonial lodges that were constructed months ago on public land. I also shared with DNR staff your interest, on behalf of the Mackinac Bands of Chippewa and Ottawa Indians (Mackinac Bands), to come under an agreement with the DNR to allow for long term use of the public land adjacent to your private property.

As promised, I am providing this letter following my meeting with DNR staff in order to provide you with further information and instructions regarding the resolution of the above referenced issues. The actions that you will need to take to resolve the above issues are as follows:

1. The DNR has determined that the fill you placed in regulated wetlands on public land cannot remain. Please remove this fill and restore the area by **October 1, 2014**.
2. The DNR will not grant you permission for long term use of the public land adjacent to your property. As such, the ceremonial lodges and any other items located on or uses of the adjacent public land may not remain on public land for extended periods of time. Given that you have provided documentation that you are a member of the Sault Ste. Marie Tribe of Chippewa Indians (Sault Tribe), a tribe that is a party to the Inland Consent Decree (Decree), these structures may remain on site for 15 days, per the conditions of the Decree. We recognize that they have already been on public land longer than that. Please remove them from public land no later than **September 25, 2014**. Please be advised that the lodges may not be replaced on public land for one year following removal, unless alternate arrangements are made with the local unit manager.
3. You have indicated previously that you would like to utilize the public land for teaching and ceremonial opportunities for yourself as well as members of the Mackinac Bands. While the Mackinac Bands is not a party to the Decree, the Sault Tribe is.

Dustin Mcleod
Page 2 of 2
September 11, 2014

As such if the Sault Tribe would like the DNR to consider allowing long term use of the public land, the Sault Tribe may submit a request to Mr. Scott Whitcomb, Pigeon River Country Unit Manager at 9966 Twin Lakes Road, Vanderbilt, MI 49795. A review of the proposal would be completed by DNR staff and a response would be provided directly to the Sault Tribe.

4. Lastly, as we discussed previously, you do not have written legal access through public land to your property. This means that you may not grade, plow or otherwise maintain the two track.
5. The two track you currently utilize that traverses public land is not an open road on the Pigeon River Open Roads plan for its entire length. As such, this road could be closed for a variety of management reasons. If this happens you may not have vehicular access to your property through this route. If you require legal access to your property you will need to submit an easement application for review by the Department. I have enclosed the application and instructions with this letter.

While we appreciate your interest in the public land adjacent to your ownership and respect your efforts to provide a location for future ceremonial and training activities for yourself and members of the Mackinac Bands, we encourage you to provide those on your own private property. If you have any questions, please contact me in writing at 8717 North Roscommon Road, Roscommon, Michigan 48653 or at the number below. Thank you in advance for your cooperation.

Sincerely,



Lori Burford, Trespass Specialist
Forest Resources Division
989-275-5151, Ext. 2100

Enclosure

cc: Mr. Dennis Knapp, DNR, Lansing
Mr. Dennis Nezich, DNR, Marquette
Sgt. Greg Drogowski, DNR, Gaylord
Mr. Brian Mastenbrook, DNR, Gaylord
Mr. Scott Whitcomb, DNR, Pigeon River



PRIVATE ROAD EASEMENT APPLICATION

By authority of Part 21 of Act 451, P.A. 1994, as amended

Please Note: For road access only. Not for Utility Easements. See page 3 for requirements.

LOCATION OF DESIRED EASEMENT

County	Township, City, or Village Name	Town	Range
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Description

Dimensions of easement request crossing State-owned land - Width: _____ feet (20 ft. standard)
 Total Length: _____ feet

If the DNR determines that a similar road easement across your land is necessary in order to provide public access to State-owned land, you will be required to offer such an easement to the State in order to be eligible to receive an access easement. Are you willing to offer an easement to provide public access across your land if it is determined to be necessary by the DNR?

- No
- Yes

LOCATION OF OFFERED EASEMENT

County	Township, City, or Village Name	Town	Range
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Description

PRIVATE ACCESS EASEMENT QUESTIONS:

1. Which type of private easement are you considering?
- The construction of a new access route or trail crossing (skip to question #5)
 - The legal recognition of an existing access route across State-owned land or trail corridor.
 - The modification of a legally recognized access easement or trail corridor crossing.
 - Other (please describe):

2. If you are currently crossing State-owned land or trail corridor to access your property, for what purpose(s) are you using the access route? (check all that apply)
- | | |
|---|---|
| <input type="checkbox"/> For access to _____ single-family residence(s). | <input type="checkbox"/> For access to _____ multi-family residence(s). |
| <input type="checkbox"/> For access to a platted subdivision | <input type="checkbox"/> For access to property used for a commercial or industrial use |
| <input type="checkbox"/> For access to vacant property used for recreational purposes only. | <input type="checkbox"/> For access to property for agricultural or timber management activities. |
| <input type="checkbox"/> I am not currently crossing State-owned lands or trail corridor. | <input type="checkbox"/> Other (please describe): |

3. If you are currently crossing State-owned land or trail corridor to access your property without a legally recognized easement, has the DNR provided to you written authorization for this activity?
- No
 - Yes (please attach copies of all documents authorizing this use).
 - I am not currently crossing State-owned lands or trail corridor.

Complete reverse side.

4. If you are currently crossing State-owned land or trail corridor to access your property without a legally recognized easement and without any other form of written authorization from the DNR, provide any evidence that will document the span of time that you have been using the access route. Potential sources of documentation are listed below as example for you to consider:

<input type="checkbox"/> County Road Commission driveway permit	<input type="checkbox"/> Local building permit
<input type="checkbox"/> Water well permit	<input type="checkbox"/> Soil and sedimentation permits
<input type="checkbox"/> Septic drain field construction permit	<input type="checkbox"/> Railroad leases, licenses, or letters of permission
<input type="checkbox"/> Private landowners leases, licenses or letters of permission	<input type="checkbox"/> Verifiable photographic evidence showing use of the access route
<input type="checkbox"/> This question is not applicable to my situation.	<input type="checkbox"/> Other (please describe):

5. 5. If this easement will involve a new access route, what is the intended purpose for the new access route? (check all that apply)

<input type="checkbox"/> Provide access to _____ single-family residence(s)	<input type="checkbox"/> Provide access to _____ multi-family residence(s)
<input type="checkbox"/> Provide access to a platted subdivision	<input type="checkbox"/> Provide access to property for a commercial or industrial use
<input type="checkbox"/> Provide access to vacant property for recreational use	<input type="checkbox"/> Provide access to property for agricultural or timber management activities
<input type="checkbox"/> This easement request does not require a new access route.	<input type="checkbox"/> Other (please describe)

6. Do you believe that your property has legal access?

No

Yes (This may make your application for an access easement ineligible)

7. If you answered No to question #6, your application will not be considered complete for review until documentation is provided that a title search has been conducted on all real estate transactions involving the parcel and its parent parcel(s) for the past 40 years and that the search failed to discover any means of legal access. In addition, you may provide copies of any other documentation that will support your claim that your property does not have legal access.

An attorney has rendered an opinion regarding the status of legal access to the parcel.

8. Have you discussed the details of your proposed easement with any employees from your local DNR office?

No

Yes (if yes, which staff members have you contacted?)

CONTACT INFORMATION (Please print or type the following information)

Applicant Name	Telephone Number
Organization	FAX Number
Mailing Address	E-mail Address
City, State, ZIP	

_____ <i>Applicant's Signature</i>	_____ <i>Date</i>	_____ <i>DNR Staff Signature</i> <small>Proposal reviewed by staff only. This signature is not approval of easement request.</small>	_____ <i>Date</i>
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Applications will NOT be reviewed without payment.

Mail completed application, required documents and check or money order, made payable to the "State of Michigan", to:

**CASHIER'S OFFICE
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
PO BOX 30451
LANSING MI 48909-7951**

**** DO NOT WRITE BELOW – FOR DNR CASHIER'S USE ONLY ****

INFORMATION:

REQUIRED DOCUMENTATION OF PROPOSED EASEMENT TO BE SUBMITTED WITH APPLICATION:

1. Completed Private Easement Application also signed by local DNR staff following the pre-application meeting
2. A copy of the deed for your parcel;
3. The local tax identification number for your parcel;
4. A detailed map showing the following:
 - a. The location of your property in relation to nearby public or private roads;
 - b. Indicate the property that you own and the approximate location desired for the requested easement;
 - c. Indicate the state-owned land in relationship to your property and the requested easement;
 - d. If deed research indicates that your parcel was split from a larger parent parcel (as described in Section 560.108 of the Land Division Act of 1967, Public Act 288), show the location of that residual parent parcel in relation to the location of your parcel (please see attached excerpt);
5. A recordable survey describing the route of your requested easement as well as a legal description of the land to be benefitted by the easement, that meets the DNR specifications that were provided at the pre-application meeting. Standard width of easements is 20 ft. Any width less than or greater than that will be reviewed on a case by case basis. To meet document recording requirements, description must be provided:
 - On 8.5 X 14 inch paper,
 - using a minimum font size of 10 point, and
 - minimum 0.5 inch margins
6. A title search on all real estate transactions involving the parcel and its parent parcel(s) for the past 40 years; and,
7. If available, provide a copy of your title insurance policy for the parcel to be accessed.
8. **Application Fee of \$300.00.**

ADDITIONAL REQUIREMENTS OF PROPOSED EASEMENT AFTER REVIEW BY DNR:

1. Some Department-managed lands were acquired with assistance from the Federal Government. Permission from Federal Agencies may be required prior to the Department granting final approval of your request.
2. No easement shall be granted for land in excess of the amount necessary for the approved use. Easements shall only be granted for the current fair market value for such easement rights as determined by the Department.
3. **If the Michigan Department of Natural Resources approves this application, an invoice will be sent for the easement rights, and vegetation consideration fee. The easement will be issued after receipt of payment in full.**



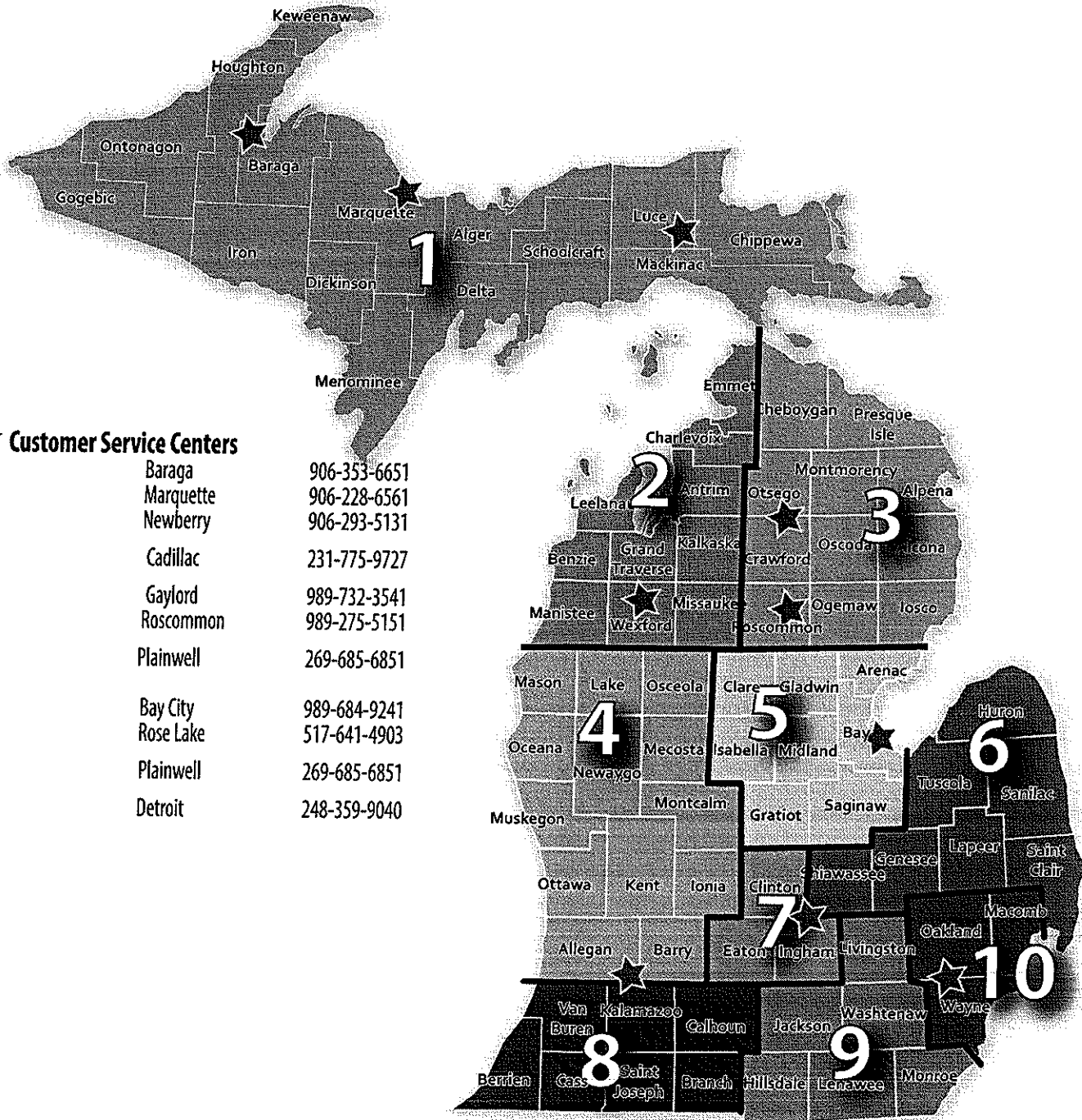
Keweenaw
(Isle Royale)

State of Michigan

Prosperity Regions

Department of Natural Resources

Customer Service Centers



★ Customer Service Centers

Baraga	906-353-6651
Marquette	906-228-6561
Newberry	906-293-5131
Cadillac	231-775-9727
Gaylord	989-732-3541
Roscommon	989-275-5151
Plainwell	269-685-6851
Bay City	989-684-9241
Rose Lake	517-641-4903
Plainwell	269-685-6851
Detroit	248-359-9040

CUSTOMER SERVICE CENTERS

Region 1

Baraga Customer Service Center
427 US-41 North
Baraga, MI 49908
906-353-6651

Marquette Customer Service Center
1990 US-41 South
Marquette, MI 49855
906-228-6561

Newberry Customer Service Center
5100 State Highway M-123
Newberry MI 49868
906-293-5131

Region 2

Cadillac Customer Service Center
8015 Mackinaw Trail
Cadillac, MI 49601
231-775-9727

Region 3

Gaylord Customer Service Center
1732 West M-32
Gaylord, MI 49735
989-732-3541

Roscommon Customer Service Center
8717 N. Roscommon Road
Roscommon, MI 48653
989-275-5151

Regions 4 & 8

Plainwell Customer Service Center
621 North 10th Street
Plainwell, MI 49080
269-685-6851

Regions 5, 6 & 7

Bay City Customer Service Center
3580 State Park Drive
Bay City, MI 48706
989-684-9141

Rose Lake Field Office
8562 Stoll Rd.
East Lansing, MI 48823
517-641-4903

Regions 9 & 10

Detroit Customer Service Center
1801 Atwater St.
Detroit, MI 48207
313-396-6890

**Department of Natural Resources
Private Easement on Public Lands – Legal Considerations**

**Natural Resources and Environmental Protection Act
(Public Act 451 of 1994)**

By law, the director of the Department of Natural Resources has the final authority to approve or deny a request for a private-access easement on state-owned land. That authority is governed by the following excerpts from the Natural Resources and Environmental Protection Act (PA 451 of 1994). Excerpts from this law, shown below, outline the specific requirements the department has to consider when evaluating the potential benefit or detriment of a proposed easement.

*MCL 324.2123. The department **may grant** or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:*

- (a) The individual applies for the easement on a form provided by the department.*
- (b) The individual does not have other legal access to the individual's land.*
- (c) The easement does not conflict with any of the following:*
 - (i) An existing program or management as described in a plan of the department*
 - (ii) A local ordinance.*
- (d) The road for which the easement is granted is open to public access and not for the exclusive use of the grantee.*
- (e) The easement provides the logical and most feasible access to the individual's land.*
- (f) The width of the roadway is restricted to the minimum consistent with the quality of the road required.*
- (g) The individual agrees to construct, if necessary and maintain the road.*
- (h) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.*
- (i) The individual does all of the following:*
 - (i) Pays the cost of a survey*
 - (ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).*

*MCL 324.2123a. Subject to section 2124 and notwithstanding section 2123, the department **shall grant** or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:*

- (a) The individual applies for the easement on a form provided by the department.*
- (b) The individual does not have other legal access to the individual's land.*
- (c) The easement does not conflict with any of the following:*
 - (i) An existing program or management as described in a plan of the department*

(ii) If the land was acquired using revenue from hunting and fishing license fees, federal funds from a wildlife or sport fish restoration program, or other state or federal program funds, with state or federal laws governing the use of lands acquired through the respective program.

(iii) A local ordinance.

(d) The easement does not cross an environmentally sensitive area, including, but not limited to, a wetland as defined in section 30301 or a critical dune area as defined in section 35301.

(e) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.

(f) The individual does all of the following:

(i) Pays the cost of a survey

(ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).

MCL 324.2124. *The department shall not grant an easement over state-owned land under the jurisdiction of the department if any of the following apply:*

(a) The proposed easement is over land designated as a wilderness area, wild area, or natural area under part 351.

(b) The proposed easement is over land in an area closed to vehicular traffic pursuant to management as described in an existing plan of the department.

(c) The construction or use of the new or existing roadway will result in unnecessary damage to or destruction of the surface, soil, animal life or aquatic life, or property.

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LAND DIVISION ACT (EXCERPT)
Act 288 of 1967

560.108 Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.

Sec. 108.

- (1) A division is not subject to the platting requirements of this act.
- (2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:
 - (a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.
 - (b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.
 - (c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.
- (3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:
 - (a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.
 - (b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.
- (4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.
- (5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:
 - (a) Not less than 10 years have elapsed since the parcel or tract was recorded.
 - (b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:
 - (i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.
 - (ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.
 - (c) The partitioning or splitting satisfies the requirements of section 109.
- (6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting requirements of this act, except in accordance with the provisions of subsection (5).

Definitions:

(i) "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.

(j) "Accessible", in reference to a parcel, means that the parcel meets 1 or both of the following requirements:

(i) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

(ii) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.