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July 12, 2018

To the Honorable Chairman and  
Members of the Board of Commissioners

Agenda Item: 72-7-18AO

Ladies and Gentlemen:

We your Administration and Operations Committee recommend the approval of the attached Resolution, recommending the formation of a Citizen Task Force to plan to implement the normal lake level for Wixom Lake, Sanford Lake, Smallwood Lake and Secord Lake pursuant to Part 307 of the Michigan Natural Resources and Environmental Protection Act.

Respectfully Submitted,

  
James Geisler, Chairperson

  
Scott Noesen

  
Eric Dorrien

Administration and Operations Committee

jmg

**ADOPTED**  
Midland County Board  
Of Commissioners

Date: July 17, 2018  
Attested: [Signature] for

County Clerk and  
Clerk of the Board of Commissioners

72-7-18A0

Introduced by \_\_\_\_\_:

BOARD OF COMMISSIONERS OF THE COUNTY OF MIDLAND

**RESOLUTION RECOMMENDING THE FORMATION OF A CITIZEN TASK FORCE  
TO PLAN TO IMPLEMENT  
THE NORMAL LAKE LEVEL FOR WIXOM LAKE, SANFORD LAKE, SMALLWOOD  
LAKE AND SECORD LAKE PURSUANT TO PART 307 OF THE MICHIGAN  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT**

**RESOLUTION # \_\_\_\_\_**

Minutes of a regular meeting of the Board of Commissioners of the County of Midland, Michigan, held at the County Services Building, 220 W. Ellsworth Street, Midland, Michigan 48640, on July 17, 2018, at 10:00 a.m., local time.

PRESENT: Commissioners Snyder, Terwilliger, Noesen  
Dorrien, Geisler, Bone

ABSENT: Commissioners Glaser

The following resolution was offered by Commissioner Geisler and supported by Commissioner: Dorrien.

WHEREAS, Wixom Lake, Sanford Lake, Smallwood Lake, and Secord Lake are inland lakes located in Gladwin and Midland Counties, created by the impoundment of the Tittabawassee River by four (4) hydroelectric dams which are privately owned and operated by Boyce Hydro Power, LLC ("Boyce Hydro"); and regulated by the Federal Energy Regulatory Commission ("FERC") which, among other things, includes terms and conditions concerning the water levels for each of the lakes, dam safety, property rights, water quality, public recreation and safety, and other areas of public concern; and,

WHEREAS, in the event that Boyce Hydro loses its FERC license(s) or is unable to perform its responsibilities there is no current state requirement for maintaining the lake levels or governance structure in the community to ensure that the dams and lake levels will be sustained long term.

WHEREAS, Wixom Lake, Sanford Lake, Smallwood Lake, and Secord Lake, are important resources in Gladwin and Midland Counties, and the continued operation of the dams and water levels are of paramount importance to the environment, recreation, property values of lake residents, and the public and economic health of Gladwin and Midland Counties; and,

WHEREAS, Part 307 of the Michigan Natural Resources and Environmental Protection Act, "Inland Lake Levels", MCL 324.30701 et seq. ("Part 307") governs the process for the determination, establishment and maintenance of the water levels of an inland lake, and authorizes counties to finance, construct, operate and maintain dams as necessary to maintain such levels as determined by the circuit court; and,

WHEREAS, Section 30704(2) of Part 307, MCL 324.30704(2) provides that if the waters of an inland lake are located in 2 or more counties, the normal level of the lake may be determined by all counties involved, by resolution directing legal counsel of 1 or more counties to initiate proceedings by proper petition in the circuit court for a determination of the normal level and for establishment of a special assessment district; and,

WHEREAS, before proceeding with legal action to determine the normal level of the lakes under Part 307, the Midland County Board of Commissioners recommends and encourages the formation of a task force consisting of representatives from the lake associations that will interface with representatives of the Counties and other interested parties to plan for the implementation of the lake levels, including preparation of the potential assessment district boundaries, the designation of the Delegated Authority responsible, and any other issues necessary to establish and manage the normal level or levels of Wixom Lake, Sanford Lake, Smallwood Lake, and Secord Lake;

NOW THEREFORE BE IT RESOLVED, that the Midland County Board of Commissioners finds that in order to protect the public's health, safety, and welfare, to best preserve the natural resources of the state, and to preserve and protect the value of property around Wixom Lake, Sanford Lake, Smallwood Lake, and Secord Lake, that a normal lake level or levels should be established for said lakes, pursuant to Part 307.

BE IT FURTHER RESOLVED, the County Board of Commissioners recommends and invites the lake associations from Wixom Lake, Sanford Lake, Smallwood Lake and Secord Lake, to form a task force ("Task Force") to develop a plan, and present its recommendations for the implementation for establishing the normal levels for Wixom Lake, Sanford Lake, Smallwood Lake, and Secord Lake (the "Lake Level Project").

BE IT FURTHER RESOLVED, that the County Board of Commissioners recommends and encourages the formation of a Task Force consisting of two (2) representatives from Wixom Lake Association, one (1) from Sanford Lake Association, one (1) from the Sanford Lake Preservation Association, and should they choose to participate, one (1) representative from any citizen group or lake association representing Smallwood Lake, and (1) representative from any citizen group or lake association representing Secord Lake.

BE IT FURTHER RESOLVED, the County Board of Commissioners recommends that the Task Force meet and provide regular progress reports to the Board of Commissioners, elected representatives of the affected townships, the lake associations, and lake owners on all four lakes, and present a Final report by the end December, 2018, that addresses the following:

(1) An implementation plan for establishing the normal level for Wixom Lake, Sanford Lake, Smallwood Lake, and Secord Lake;

(2) Recommendations with respect to the potential assessment district boundaries for all four lakes;

(3) Recommendations regarding the person or entity that shall serve as the Delegated Authority as provided by Part 307, to act on behalf of the Gladwin and Midland Counties to oversee the dams and manage the lake level, prepare a potential Special Assessment District and

potential Special Assessment Roll in accordance with the procedures set forth in Part 307, and take all other actions as necessary and required by the delegated authority as provided in Part 307; and,

(4) Recommendations concerning options for the long term ownership, finance, operations, maintenance and improvement of the lake level structures; and,

(5) Recommendations on County responses to FERC, Boyce or others action, that may impact this resolutions intention.

BE IT FURTHER RESOLVED, the County Board of Commissioners recommends that the Task Force keep all stakeholders informed by establishing a "Lake Level Project Communication Forum", consisting of a county commissioner from Gladwin, a county commissioner from Midland, designated representatives from the affected townships, the Village of Sanford, the Wixom Lake Improvement Board, the Sanford Lake Improvement Board, and Secord and Smallwood Lake Associations.

BE IT FURTHER RESOLVED, that no county funds shall be used to fund the costs and expenses of the Task Force..

YEAS: Commissioners Snyder, Terwilligar, Noesen  
Dorrien, Geister, Bone

NAYS: Commissioners NONE.

ABSTAIN: Commissioners Glaser