

1 **RESOLUTION**

2 OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WARREN IN
3 THE COMMONWEALTH OF PENNSYLVANIA

4
5 RESOLUTION ASSERTING LEGAL STANDING AND FORMALLY REQUESTING
6 COORDINATION WITH ALL FEDERAL
7 AGENCIES MAINTAINING JURSDICTION OVER
8 LANDS AND/OR RESOURCES LOCATED
9 WITHIN WARREN COUNTY

10
11 **WHEREAS,** Warren County is a public unit of local government within the
12 Commonwealth Of Pennsylvania and a three-member elected Board of
13 Commissioners serves as its chief governing authority; and,

14
15 **WHEREAS,** Warren County Board of Commissioners is charged with supervising and
16 protecting the tax base of the county and establishing comprehensive land
17 use plans (including, but not limited to the County Comprehensive Plan)
18 outlining present and future authorized uses for all lands and resources
19 situated within the county; and,

20
21 **WHEREAS,** the Warren County Commissioners have designated the Warren County
22 Planning and Zoning Commission as the lead agency for land use
23 planning within Warren County, and the Planning Director serves as the
24 chief point of contact and facilitator for those functions; and,

25
26 **WHEREAS,** Warren County is engaged in the land use planning process for future land
27 uses to serve the welfare of all the citizens of Warren County; and,

28
29 **WHEREAS,** Warren County is comprised of approximately twenty-six percent (26%)
30 federally held lands that are in the jurisdiction of the U.S. Forest Service;
31 and,

32
33 **WHEREAS,** many citizens of Warren County historically earn their livelihood from
34 activities reliant upon natural resources, and land which produces natural
35 resources is critical to the economy of Warren County; and,

36
37 **WHEREAS,** the economic base and stability of Warren County is dependent upon
38 commercial and business activities operated on federally owned,
39 managed, and/or regulated lands that include, but are not limited to
40 recreation, tourism, timber harvesting, oil, gas and mineral extraction, and
41 other commercial pursuits; and,

42
43 **WHEREAS,** Warren County desires federal agencies to inform the Board of
44 Commissioners of all pending or proposed actions affecting local
45 communities and citizens within Warren County and coordinate with the

46 Board of Commissioners in the planning and implementation of those
47 actions; and,

48
49 **WHEREAS,** coordination of planning and management actions is mandated by federal
50 laws governing land management including the Federal Land Policy and
51 Management Act, 43 US § 1712, regarding the coordinate status of a
52 county engaging in the land use planning process, and requires that the
53 “Secretary of the Agriculture [Secretary] shall...coordinate the land use
54 inventory, planning, and management activities...with the land use
55 planning, and management programs of other federal departments and
56 agencies and of the state and local governments within which the lands
57 are located”; and,

58
59 **WHEREAS,** the coordination requirements of Section 1712 provide for special
60 involvement by government officials who are engaged in the land use
61 planning process; and,

62
63 **WHEREAS,** Section 1712 sets forth the nature of the coordination required with
64 planning efforts by government officials and subsection (f) of Section 1712
65 sets forth an additional requirement that the Secretary “shall allow an
66 opportunity for public involvement” (including local government without
67 limiting the coordination requirement of Section 1712 allowing land or
68 resource management or regulatory agencies to simply lump local
69 government in with special interest groups of citizens or members of the
70 public in general); and,

71
72 **WHEREAS,** Section 1712 also provides that the “Secretary shall...assist in resolving,
73 to the extent practical, inconsistencies between federal and non-federal
74 government plans” and gives preference to those counties which are
75 engaging in the planning process over the general public, special interest
76 groups of citizens, and even counties not engaging in a land use planning
77 program; and,

78
79 **WHEREAS,** the requirement that the Secretary “coordinate” land use inventory,
80 planning, and management activities with local governments, requires that
81 assisting in resolving inconsistencies to mean that the resolution process
82 takes place during the planning cycle instead of at the end of the planning
83 cycle when the draft federal plan or proposed action is released for public
84 review; and,

85
86 **WHEREAS,** Section 1712 further requires that the “Secretary shall...provide for
87 meaningful public involvement of state and local government officials...in
88 the development of land use programs, land use regulations, and land use
89 decisions for public lands”; and, when read in light of the “coordinate”
90 requirement of Section 1712, reasonably contemplates “meaningful
91 involvement” as referring to on-going consultations and involvement

92 throughout the planning cycle, not merely at the end of the planning cycle;
93 and,

94
95 **WHEREAS**, Section 1712 further provides that the Secretary must assure that the
96 federal agency's land use plan be "consistent with state and local plans" to
97 the maximum extent possible under federal law and the purpose of the
98 Federal Land Policy and Management Act and distinguishes local
99 government officials from members of the general public or special
100 interest groups of citizens; and,

101
102 **WHEREAS**, the Environmental Protection Agency, charged with administration and
103 implementation of the National Environmental Protection Act (NEPA), has
104 issued regulations which require that federal agencies consider the
105 economic impact of their actions and plans on local government such as
106 Warren County; and,

107
108 **WHEREAS**, Since NEPA requires federal agencies to consider the impact of their
109 actions on the customs of the people as shown by their federal beliefs,
110 social forms, and "material traits," it reasonably follows that NEPA requires
111 federal agencies to consider the impact of their actions on the rural, land
112 and resource-oriented citizens of Warren County who depend on the
113 "material traits" including recreation, tourism, timber harvesting, oil, gas
114 and mineral extraction, and other commercial pursuits for their economic
115 livelihoods; and,

116
117 **WHEREAS**, NEPA requires federal agencies to consider the impact of their actions on
118 the customs, beliefs, and social forms, as well as the "material traits" of
119 the people; and,

120
121 **WHEREAS**, it is reasonable to interpret NEPA as requiring federal agencies to
122 consider the impacts of their actions on those traditional and historical and
123 economic practices, including commercial and business activities, which
124 are performed or operated on federally managed lands (including, but not
125 limited to recreation, tourism, timber harvesting, oil, gas and mineral
126 extraction, and other commercial pursuits); and,

127
128 **WHEREAS**, 42 U.S.C. § 4331 places upon federal agencies the "continuing
129 responsibility...to use all practicable means, consistent with other
130 considerations of national policy to...preserve important historic, culture,
131 and natural aspects of our national heritage"; and,

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133 **WHEREAS**, Webster's New Collegiate Dictionary (at 277, 1975) defines "culture" as
134 "customary beliefs, social forms, and material traits of a group; the
135 integrated pattern of human behavior passed to succeeding generations";
136 and,

137

138 **WHEREAS**, in 16 U.S.C. § 1604, the National Forest Management Act, requires the U.
139 S. Forest Service to coordinate its planning processes with local
140 government units such as Warren County; and,
141

142 **WHEREAS**, federal agencies implementing the Endangered Species Act, the Clean
143 Water Act, the Clean Air Act, and the Outdoor Recreation Coordination
144 Act (16 U.S.C. § 460I-1(c) and (d)) are required by Congress to consider
145 local plans and to coordinate and cooperate directly with plans of local
146 government such as Warren County; and,
147

148 **WHEREAS**, the coordinating provisions referred in this resolution require the Secretary
149 of Agriculture to work directly with local government to resolve recreation,
150 tourism, timber harvesting, oil, gas and mineral extraction, and other
151 commercial pursuits with regard to uses of the federal lands; and,
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153 **WHEREAS**, the regulations issued by the federal agencies in this resolution are
154 consistent with statutory requirements of coordination and direct
155 cooperation and provide implementation processes for such coordination
156 and direct consideration and communication; and,
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158 **WHEREAS**, the Warren County Commissioners recently and historically have
159 attempted to interface with the local administration of the Allegheny
160 National Forest in an effort to collaborate and coordinate with their various
161 planning functions; these overtures did not result in sufficient recognition
162 of Warren County's planning documents and resolved positions; and,
163

164 **NOW THEREFORE BE IT RESOLVED** that the Warren County Commissioners
165 do hereby assert legal standing and formally request from the Secretary of
166 Agriculture coordination status with the U. S. Forest Service over lands
167 and/or resources located within Warren County that are under the local
168 administration of the Allegheny National Forest; and,
169

170 **BE IT FURTHER RESOLVED** that the Warren County Commissioners, in asserting
171 their legal standing, request from the Secretary of Agriculture to instruct
172 the U. S. Forest Service to engage the Warren County Commissioners no
173 less than 120 days prior to the initiation of any planning activity which will
174 result in a need for public input regarding lands and/or resources located
175 within Warren County that are under the local administration of the
176 Allegheny National Forest; and,
177

178 **BE IT FURTHER RESOLVED** that the Warren County Commissioners, in asserting
179 their legal standing, request from the Secretary of Agriculture to instruct
180 the U. S. Forest Service to respect a unilateral and proprietary authority by
181 the Warren County Commissioners to make addendums and additions to
182 any Scope of Issues which will be used for seeking public input germane
183 to any planning process regarding lands and/or resources located within

184 Warren County that are under the local administration of the Allegheny
185 National Forest; the drafted Scope of Issues as generated by the internal
186 procedures of the Allegheny National Forest's administration of the U. S.
187 Forest Service will be submitted to the Warren County Commissioners for
188 their review, revision and approval no less than 120 days prior to using
189 those Scope of Issues for public input; and,

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191 **BE IT FURTHER RESOLVED** that the Warren County Commissioners, in asserting
192 their legal standing, realize any number of planning processes and
193 procedures are utilized by the Secretary of Agriculture and the agency
194 under the Secretary's authority, the U. S. Forest Service, and the details of
195 such planning activities are beyond the scope of this Resolution; we
196 reserve the right to make further commentary regarding the involvement of
197 the Warren County Commissioners onto these yet unspecified planning
198 activities; and,

199
200 **BE IT FURTHER RESOLVED** that the Warren County Commissioners shall cause a
201 copy of this Resolution to be transmitted to local, regional, state and/or
202 national offices of all federal and state agencies maintaining jurisdiction
203 over lands and/or resources located within Warren County and to all
204 federal and state elected representatives serving Warren County; and,

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206 **BE IT FURTHER RESOLVED** that the Warren County Commissioners are authorized
207 and hereby directed to publish a copy of this Resolution in the Warren
208 Times Observer, a newspaper of general circulation printed and published
209 in the County of Warren, Commonwealth of Pennsylvania.

210
211 **ADOPTED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WARREN**
212 **ON THIS DATE.**

213
214
215 John E. Eggleston
216 Chairman

Terry L. Hawk
Vice Chairman

John R. Bortz, Jr.
Secretary

217
218 Attest:

219
220 Pamela Matve
221 Chief Clerk