

Farmland Preservation & The Michigan Agricultural Preservation Fund

October 23, 2008

Charamy Cleary and Rich Harlow
Michigan Department of Agriculture



Why Preserve Michigan's Farmland ?

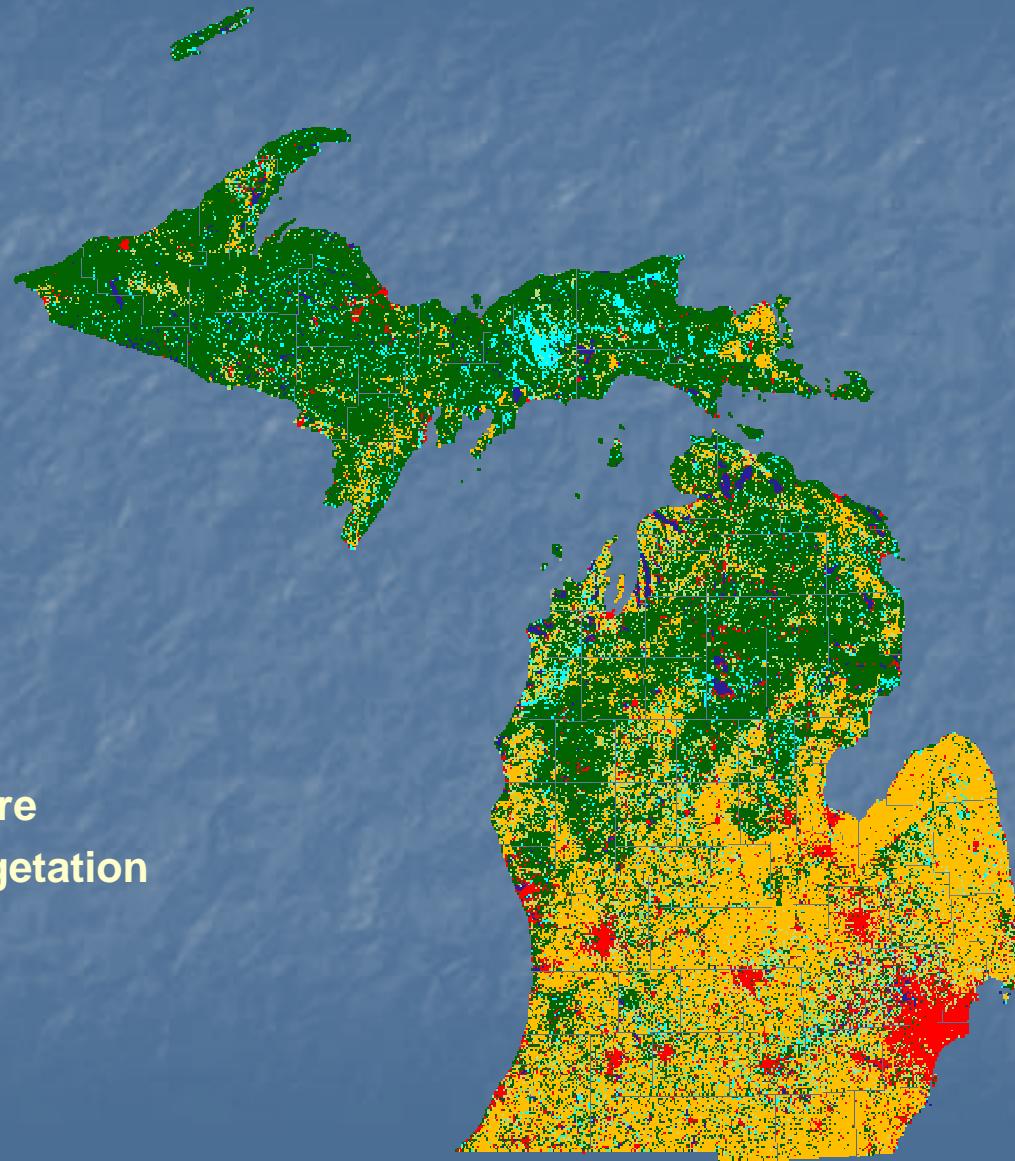
- To preserve the best farmland.
- To protect the agricultural economy.
- To discourage urban sprawl.
- To retain natural systems.
- To reduce conflicts between neighbors.

Michigan Land Resource Project

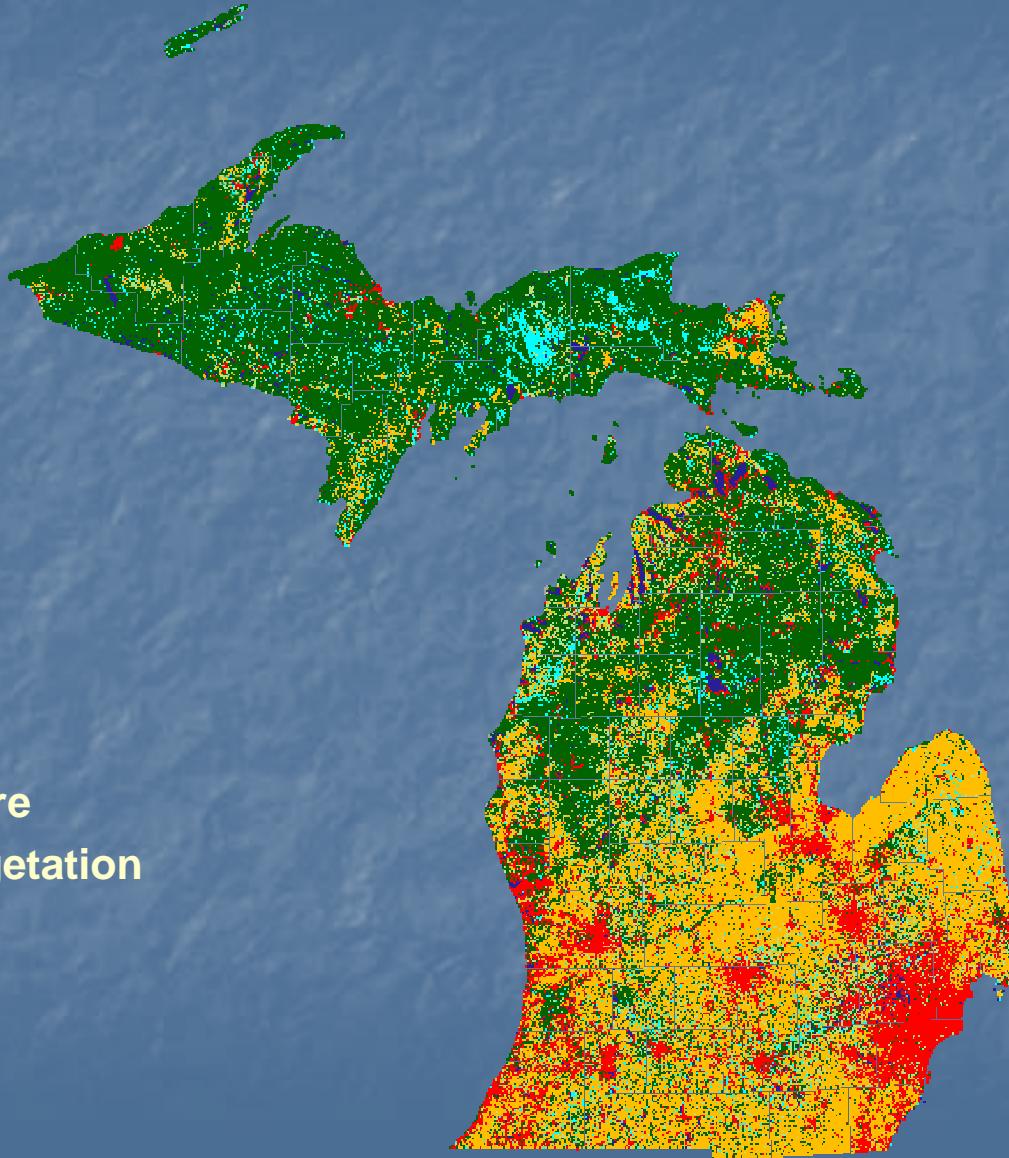
- The following maps show projected land use in Michigan for 2020 and 2040 *if current trends continue.*
- Report prepared under the supervision of Public Sector Consultants.
- Copy of report available at www.pscinc.com

Michigan Land Use, 1980

- █ Built
- █ Agriculture
- █ Other vegetation
- █ Forest
- █ Lake
- █ Wetland



Michigan Land Use, 2020



A map of Michigan showing land use in 2020. The map is color-coded to represent different land use categories. The categories and their corresponding colors are:

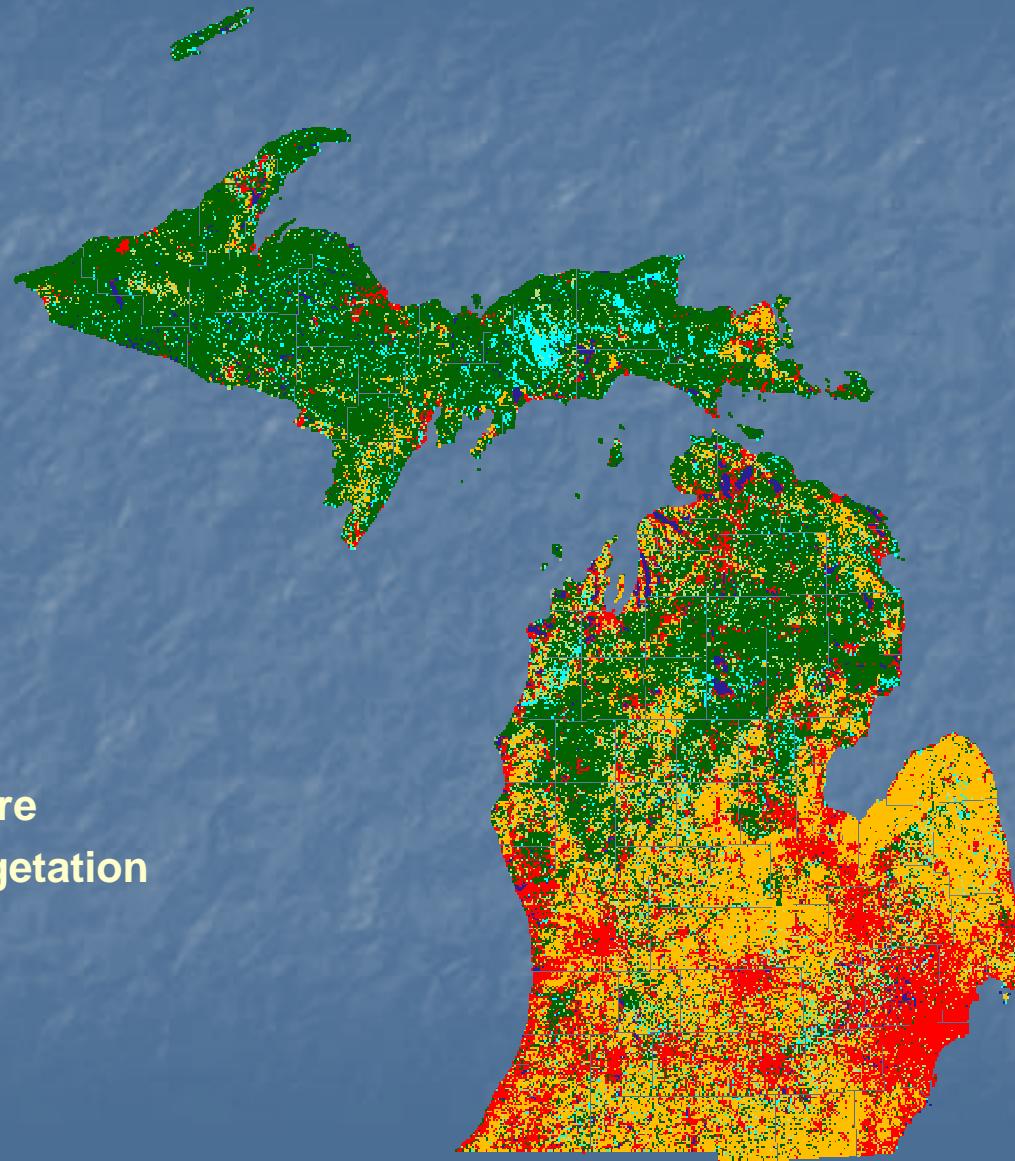
- Built (Red)
- Agriculture (Yellow)
- Other vegetation (Light Green)
- Forest (Dark Green)
- Lake (Dark Blue)
- Wetland (Cyan)

The map shows the state of Michigan with its two main peninsulas. The western peninsula (Lower Peninsula) is predominantly forested (dark green) with significant agricultural areas (yellow) in the central and southern regions. The eastern peninsula (Upper Peninsula) also has large forested areas but includes more built-up areas (red) around the Great Lakes and in the northern part of the state. Lakes (dark blue) are scattered throughout, particularly along the coastlines. Wetlands (cyan) are visible as small, scattered patches.

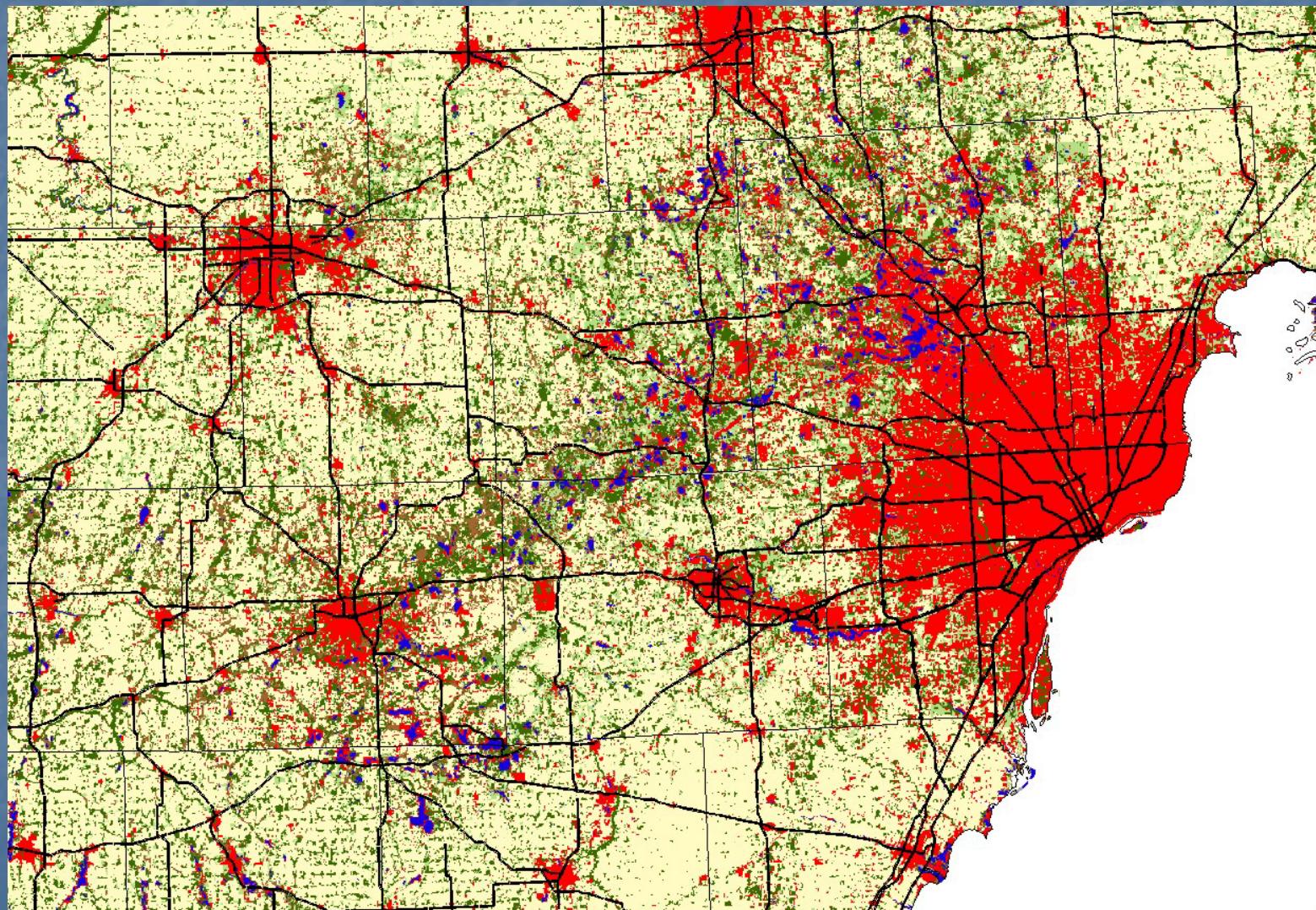
- Built
- Agriculture
- Other vegetation
- Forest
- Lake
- Wetland

Michigan Land Use, 2040

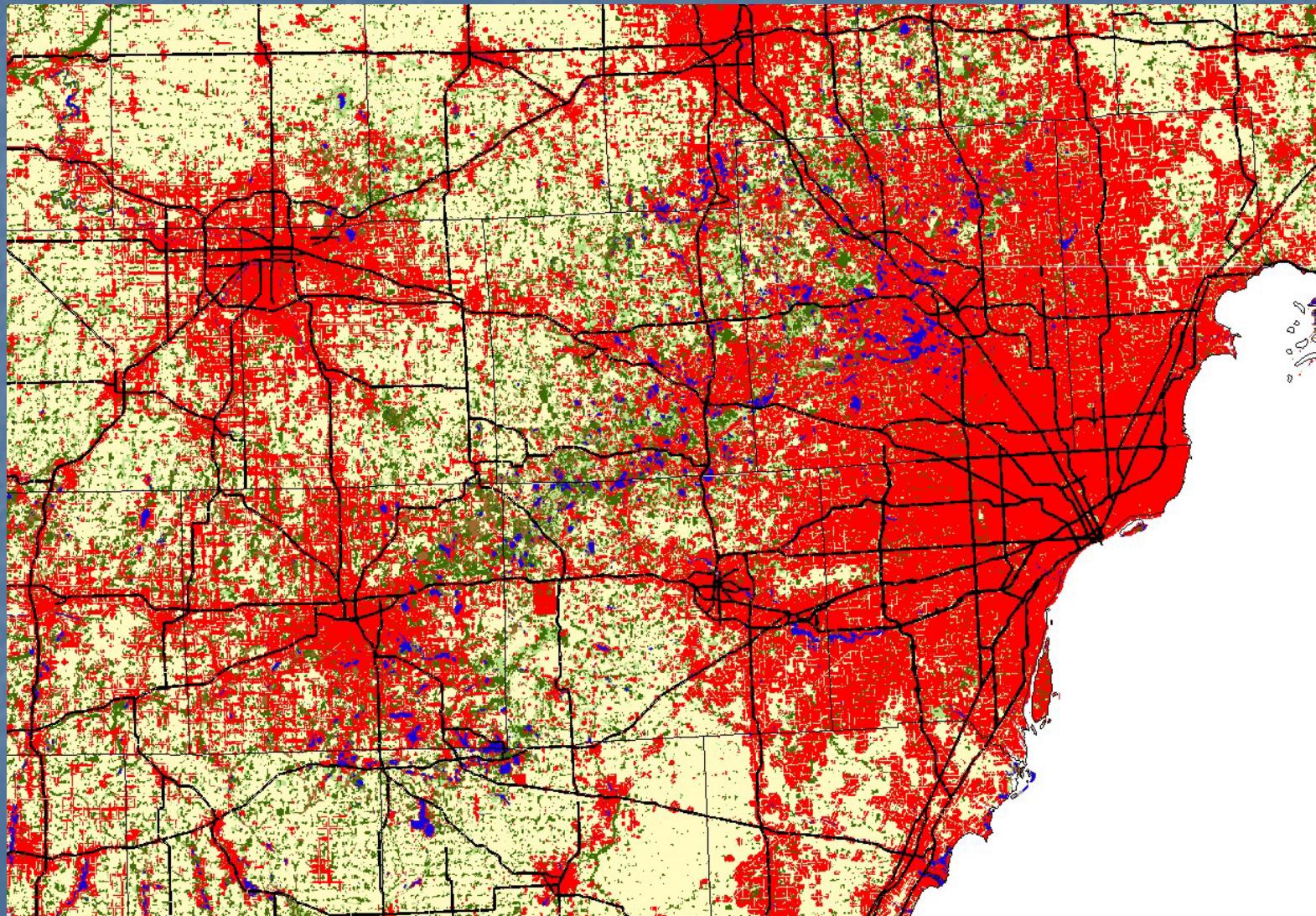
- █ Built
- █ Agriculture
- █ Other vegetation
- █ Forest
- █ Lake
- █ Wetland



Southeast Michigan, 1980

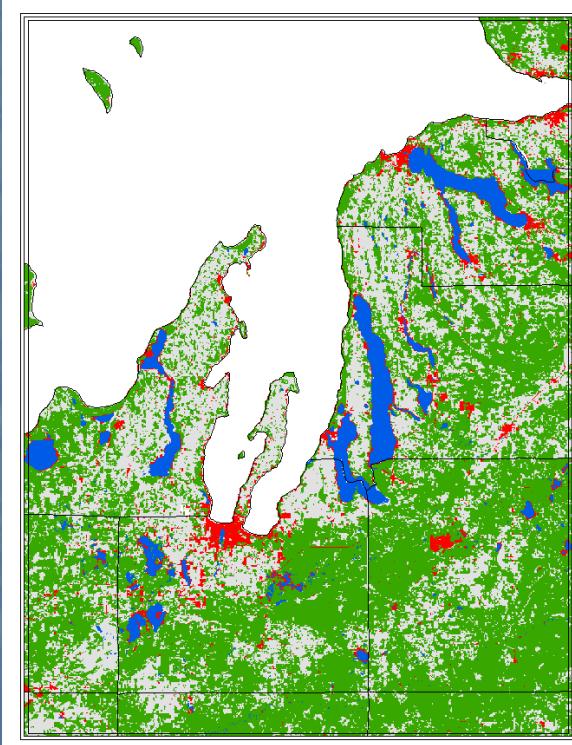


Southeast Michigan, 2040

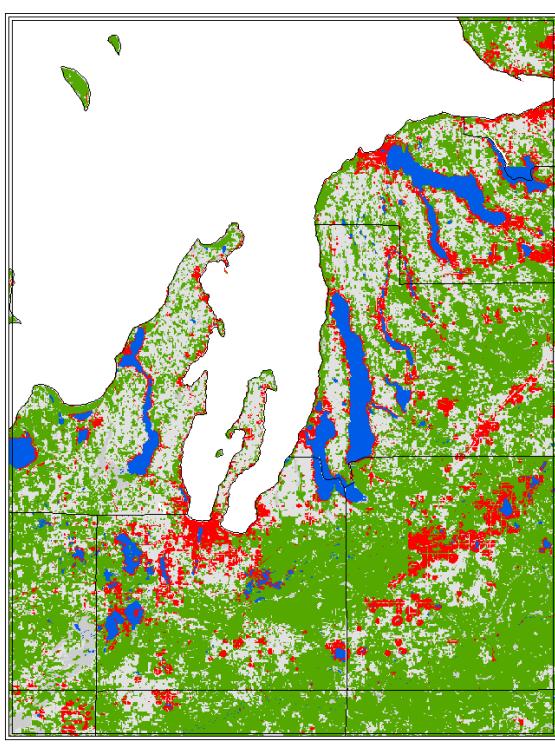


Northwest Lower Michigan Land Use 1980, 2020 and 2040

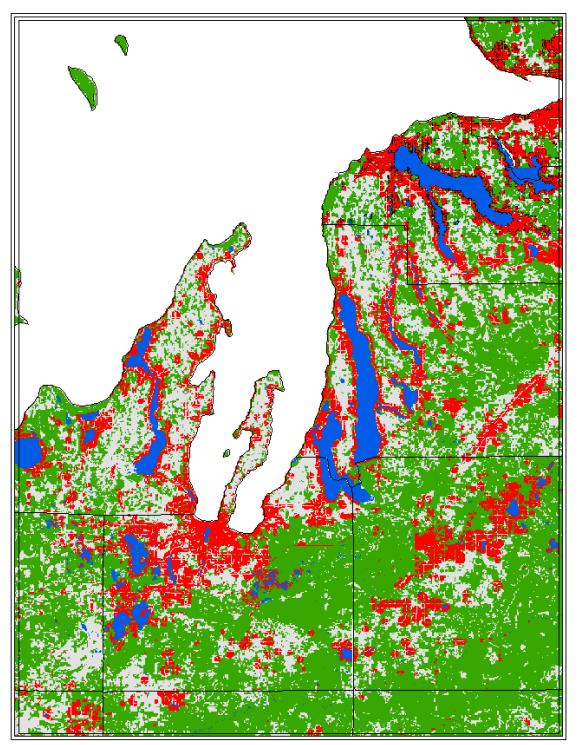
1980



2020

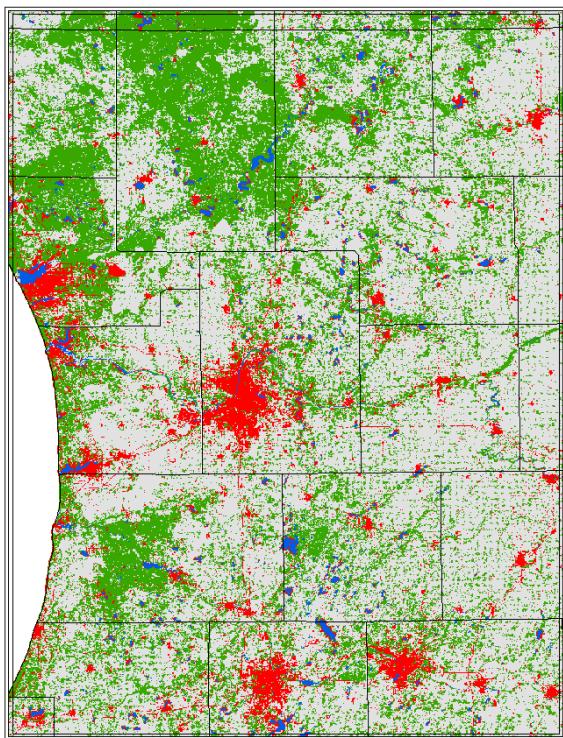


2040

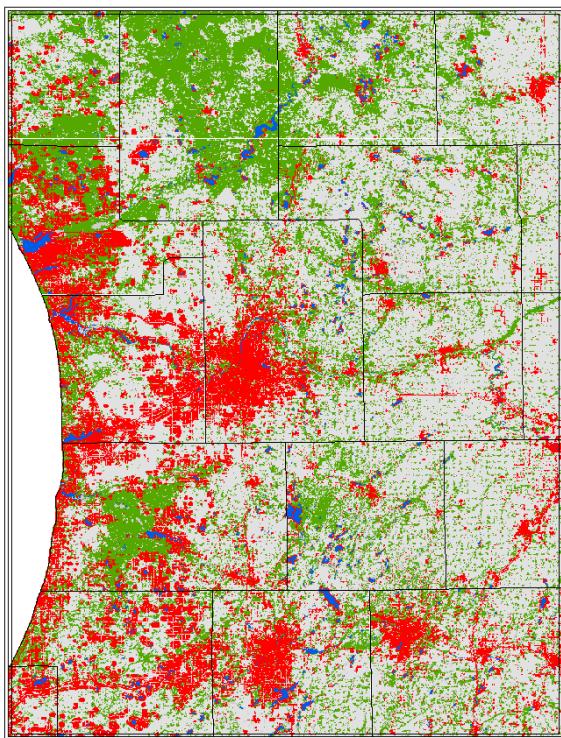


Southwest Michigan Land Use 1980, 2020 and 2040

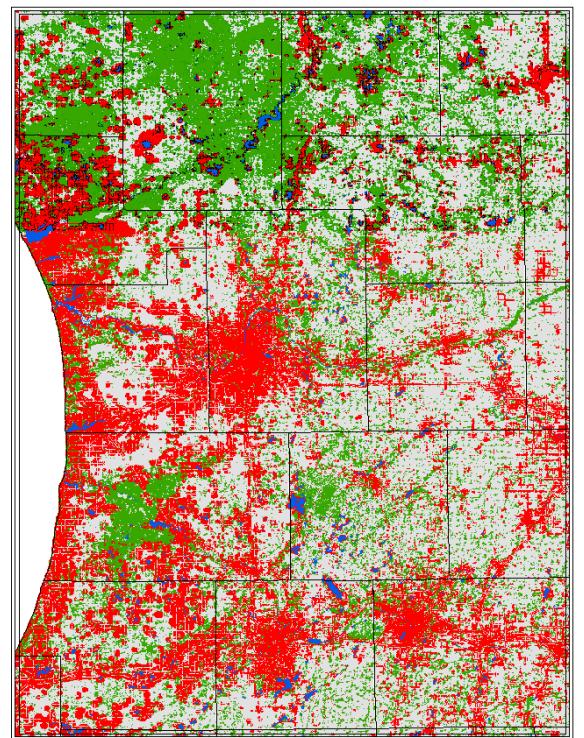
1980



2020

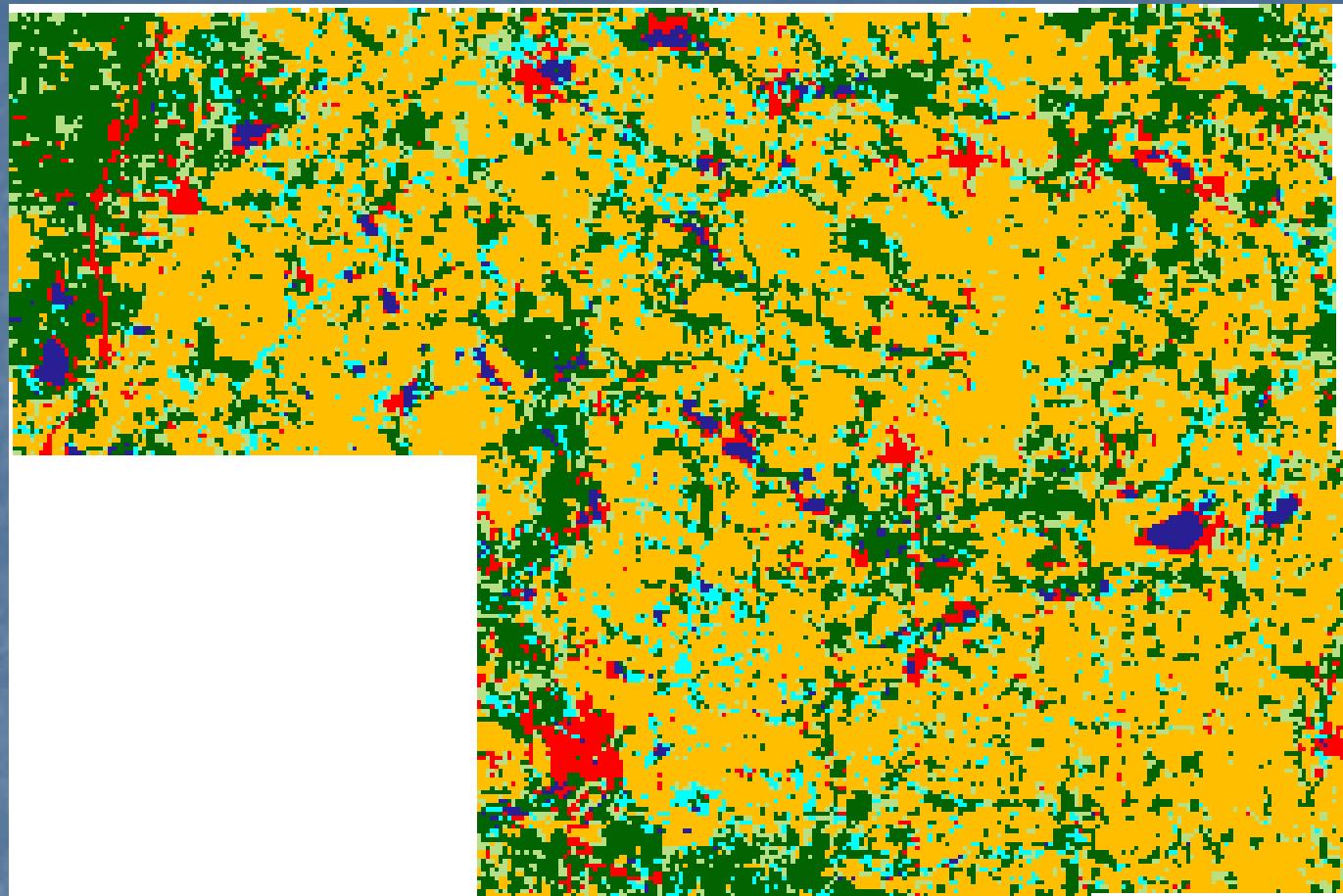


2040



Montcalm County

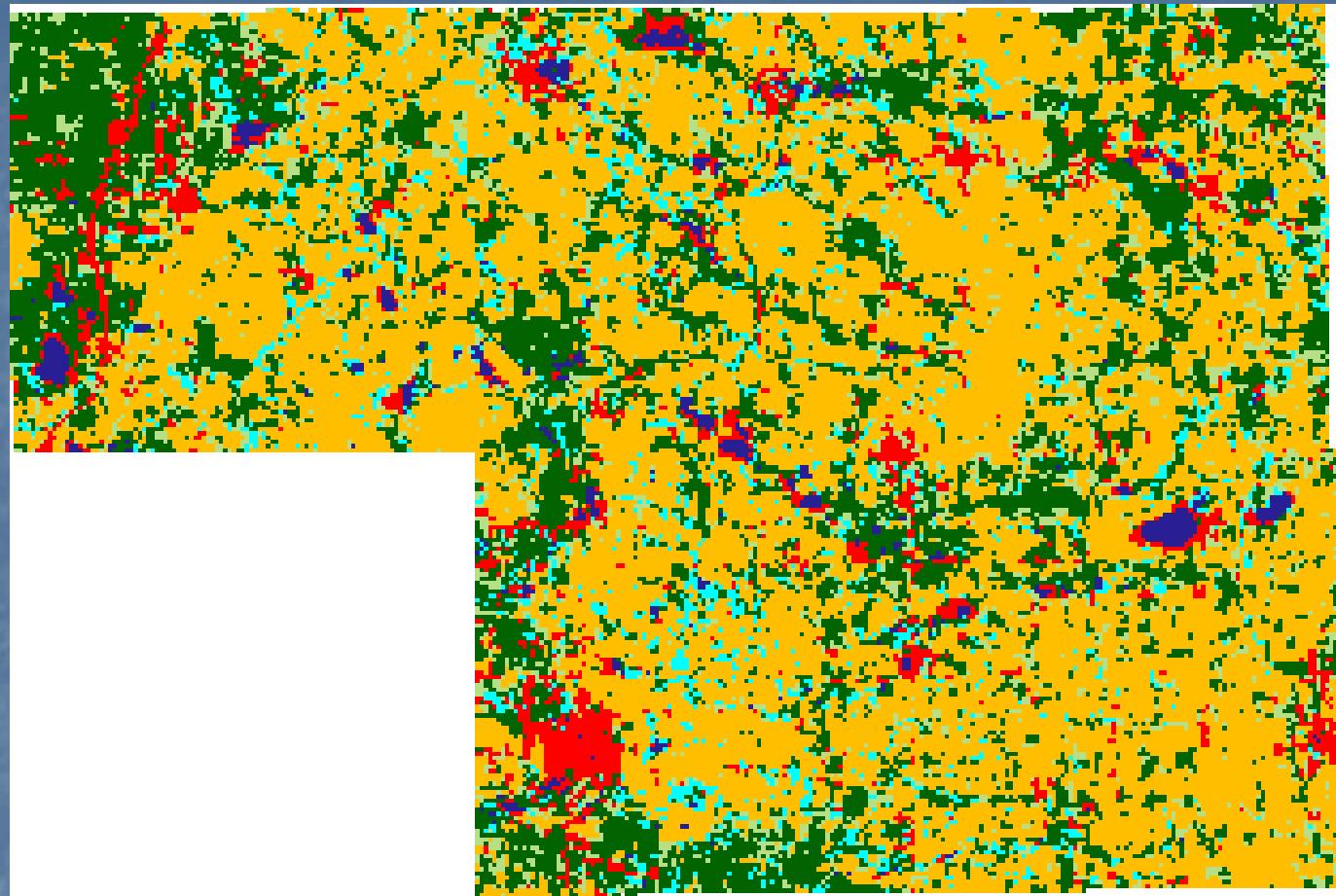
1980



- █ Built
- █ Agriculture
- █ Other vegetation
- █ Forest
- █ Lake
- █ Wetland

Montcalm County

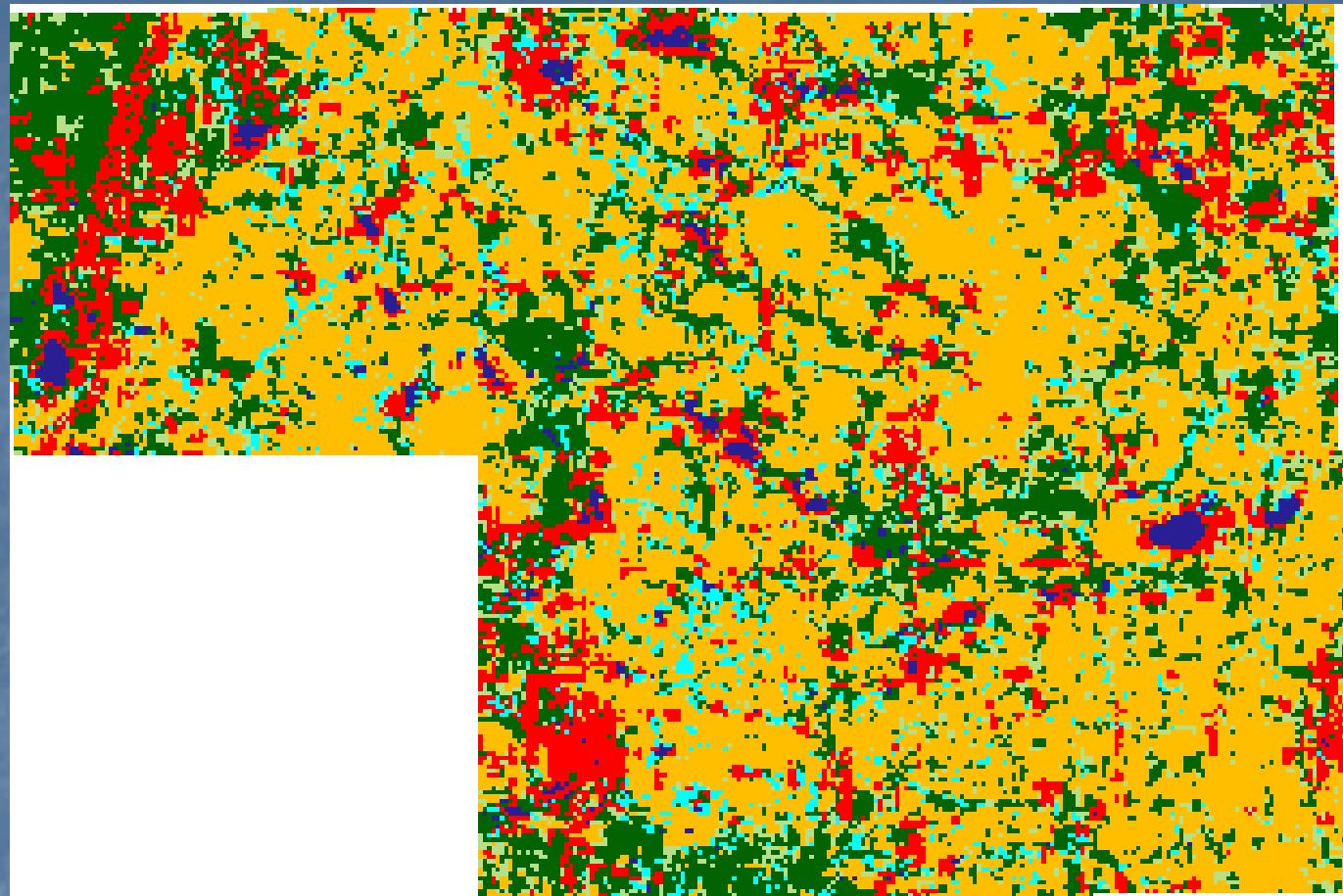
2020



- Built
- Agriculture
- Other vegetation
- Forest
- Lake
- Wetland

Montcalm County

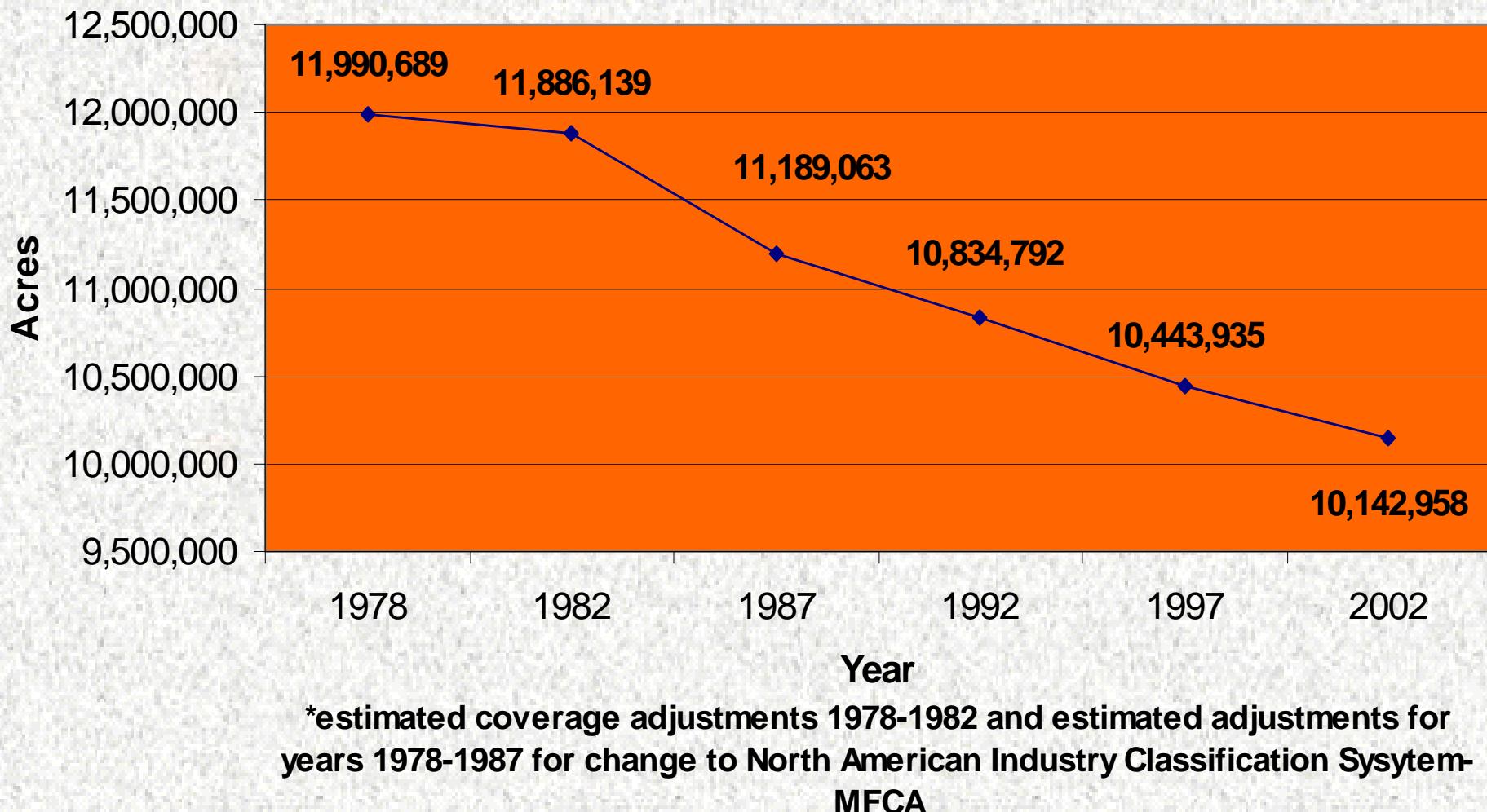
2040



- Built
- Agriculture
- Other vegetation
- Forest
- Lake
- Wetland

Michigan Farmland Trend*

1978-2002



Ways to Preserve Farmland in Michigan

- Temporary Restrictions (PA 116)
- State Purchase and Donation of Development Rights
- Michigan Agricultural Preservation Fund/Purchase of Development Rights
- *Zoning*

Preserved Farmland In Michigan

17,200 Acres Permanently Protected

5,120 Acres in Local Conservancies

3,300,000 Acres in Farmland Agreements

3,322,320 Total Acres

Preserved

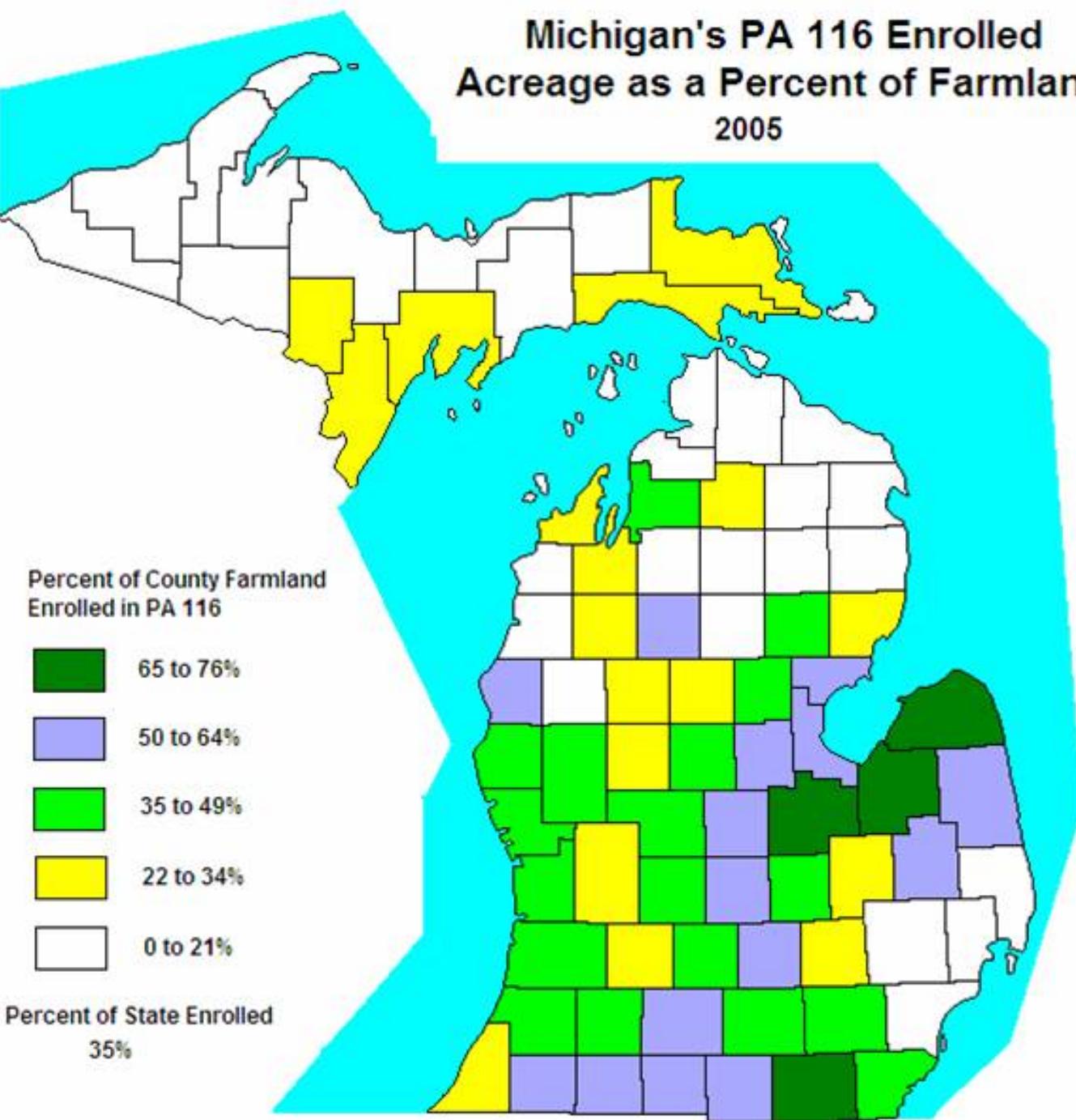
PA 116

- Landowner enters into a temporary agreement with the State (10-90 years)
- State holds development rights
- Landowner may get tax credits on MI income tax and other benefits.

PA 116 Status

- Currently 41,884 contracts
- 3.3 million acres protected
- 350 to 400 new enrollments per year
- 90% of landowners renewing contracts

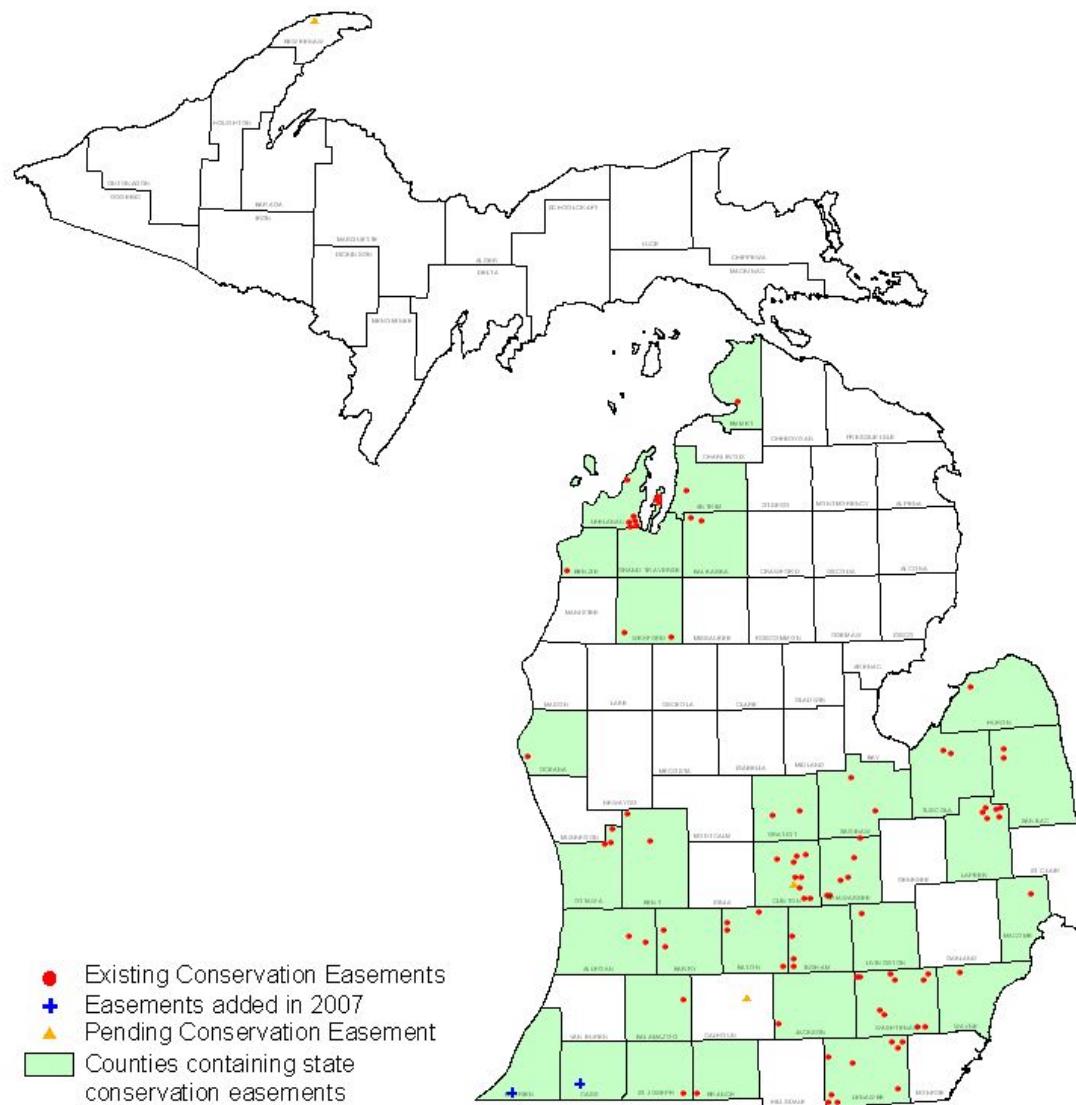
Michigan's PA 116 Enrolled Acreage as a Percent of Farmland 2005



State Purchase and Donated Conservation Easements

- 87 permanent conservation easements are held by MDA
- 18 are donated conservation easements
- 69 are purchased conservation easements
- Over 19,000 acres permanently protected
- State conservation easements in 34 counties

State of Michigan
Conservation Easements
August 2007



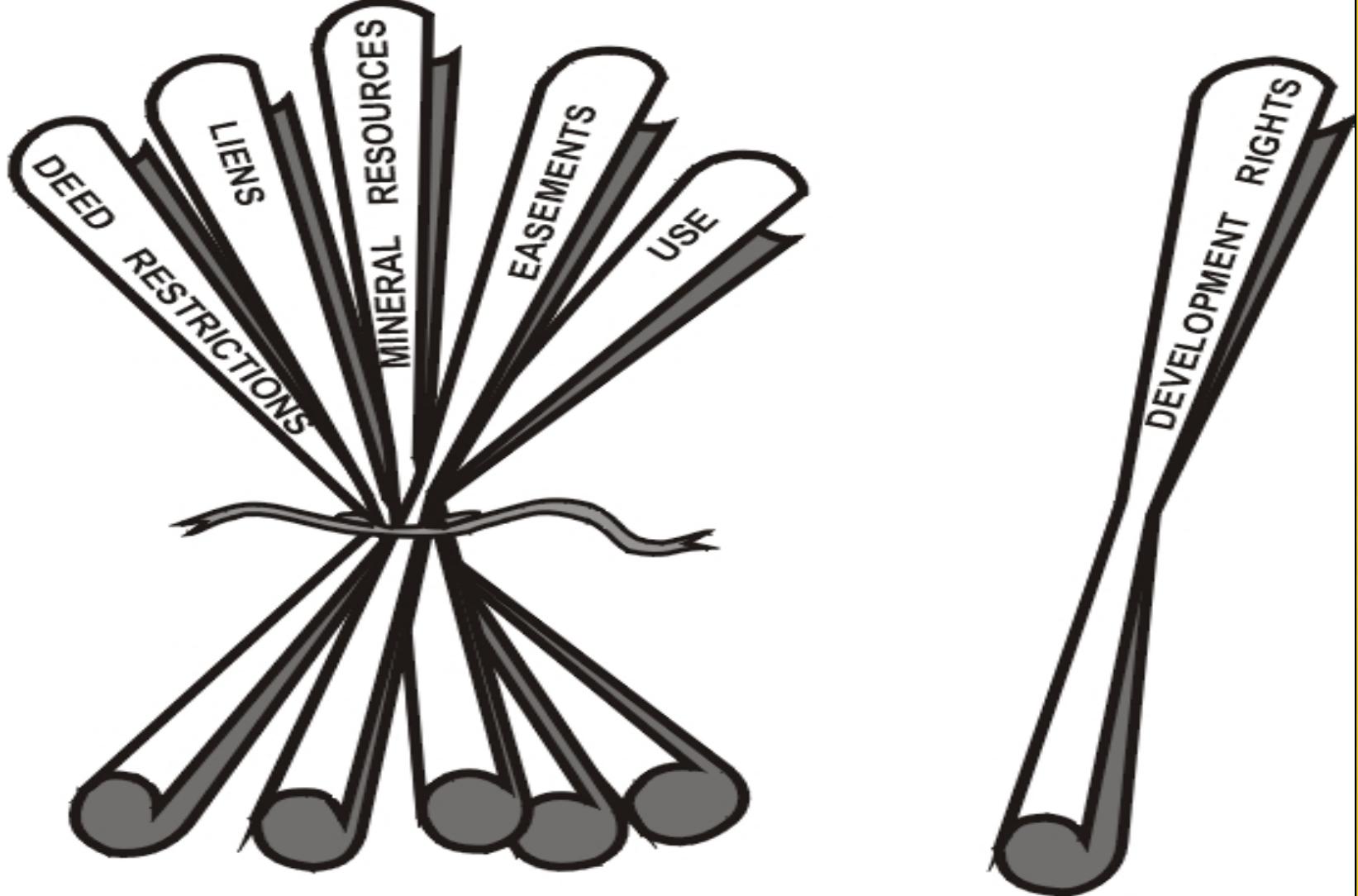
DNR FMFM
Dengis10Com_Memo
memo\PR status
08-31-07, 10:15 am

Condemnation and Conservation Easements

- Conservation easements, where the state is a participant, are not subject to condemnation for local public projects.

What are Development Rights?

- Development rights are a severable right in land that includes the right to construct buildings or to subdivide the parcels.
- Development rights are similar to mineral rights in that they can be leased (PA 116), sold (PDR/TDR), or donated.



Bundle of Property Rights

What a Conservation Easement Does

- Permanently restricts a property's use in order to protect its conservation values.
- Runs with the land/future owners are bound by the agreement terms.

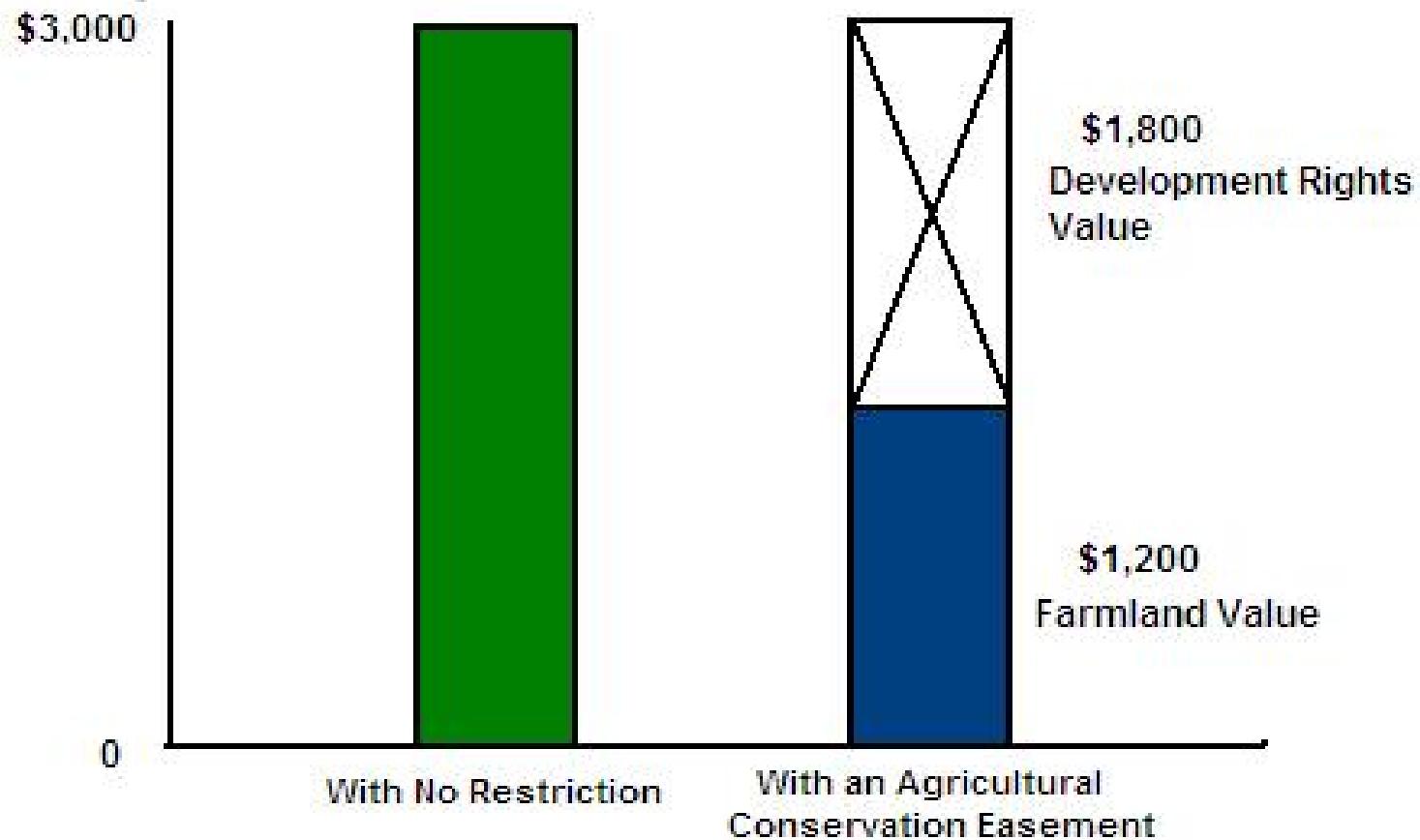
What a Conservation Easement Doesn't do

- Allow the public access to the land
- Prohibit the owner from using, leasing, or selling the property for agricultural purposes
- Protect against eminent domain

How are Development Rights Values Determined?

- Determined via certified appraisal. Appraisal determines the fair market value of the land without the agricultural conservation easement and the value of the land with the easement.
- The difference between the two appraisals is the amount offered.

Example of Development Rights Value for One Acre of Farmland



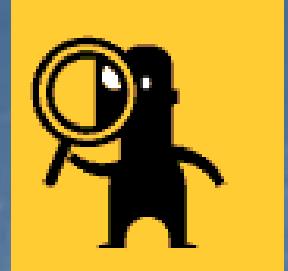
Tax Issues to Consider Regarding PDR

- Capital Gains – Can be reduced by charitable donation and/or a like kind exchange (1031 exchange)
- Property taxes – May be reduced due to change in property values
- Inheritance Tax – May be reduced due to change in property values

Typical PDR Conservation Easement Provisions

- The land may only be used for agricultural purposes.
- Development is limited to the construction of farm related buildings.
- Parcel divisions are prohibited or limited
- The easement is permanent.

Easement Monitoring



- The land covered by the conservation easement should be monitored on an annual basis.
- Monitoring can be done by the agency holding the easement or may be contracted out to other entities such as a conservancy.

Michigan Agricultural Preservation Fund

- Created in 2000 (PA 262 of 2000)
- Preservation Fund and the
Preservation Board created
- Seven members appointed by the
governor
- Fund to provide grants to local
Purchase of Development Rights
(PDR) programs.

The Michigan Agricultural Preservation Fund

- Ended the State PDR Program
- Requires local government PDR programs to qualify

Local Program Requirements

- Local government is to have a comprehensive land use plan that is less than 5 years old and includes agricultural preservation.
- Local government adopts a purchase of development rights ordinance.
- Local matching funds are included with the application.

Sources of Funding

- PA 116 recapture monies (Farmland Development Rights Agreements)
- Ag Pop Up Tax (PA 260 of 2000)



Key Elements of the Agricultural Preservation Fund

- Approved local programs apply for funding.
- The local match must be no less than 25% of the value of the development rights.
- A maximum amount of \$5,000 per acre may be paid toward the purchase price of an easement.
- Local PDR program selects farms to be preserved.
- Agricultural Conservation easements are to be monitored on an annual basis by the local applying entity.

Qualification Requirements for Local PDR Programs

Local Government Requirements (county or township)

- PDR Ordinance
 - Application Procedure
 - Scoring System
- Comprehensive Plan

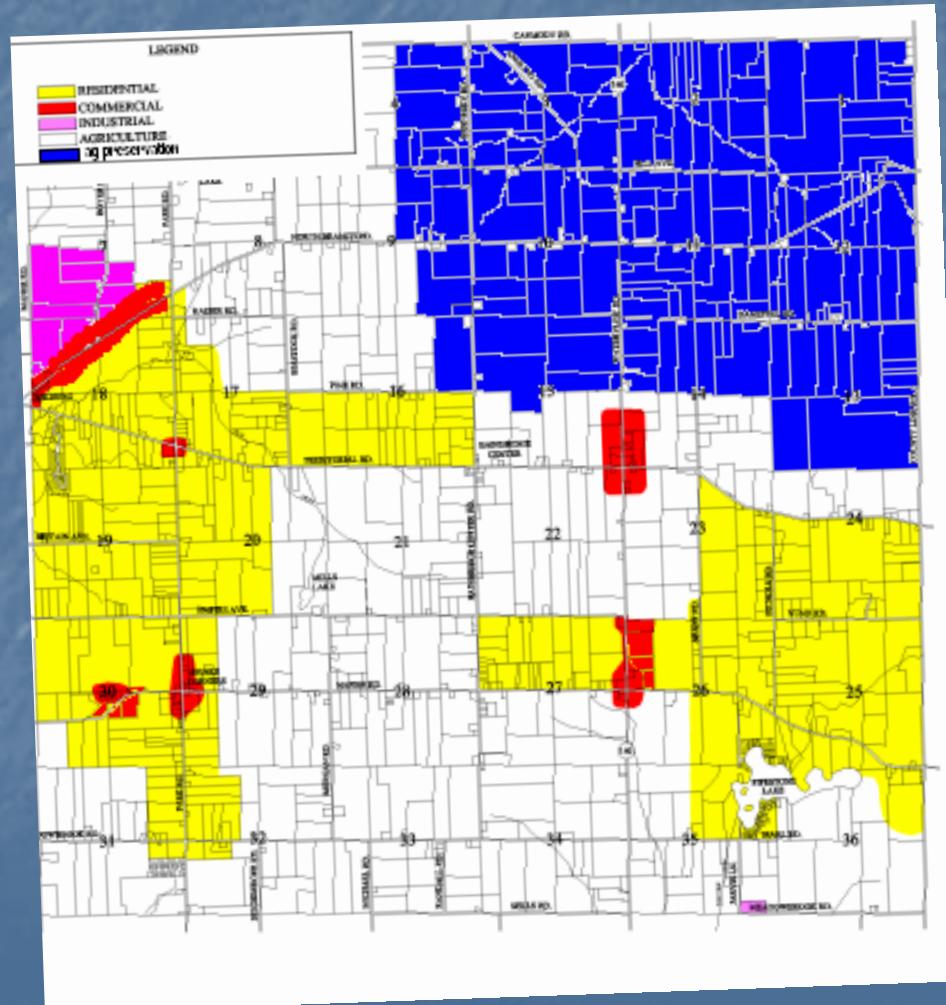
Purchase of Development Rights Ordinance

- Authority in the Michigan Zoning Enabling Act
- Adopted Purchase of Development Rights
Ordinance must contain:
 - Public benefits of a PDR program
 - Procedure to make application
 - Development rights authorized to be purchased
 - Circumstances under which the owner can re-purchase development rights and how the funds will be used.

Comprehensive Land Use Plan

- Updated in the last five years (10 years for regional plans).
- Must include:
 - Future Land Use Map with preservation area
 - A description of how and why the preservation area was selected
 - Text describing the strategies intended to be used to preserve agricultural land
 - Language indicating why farmland should be preserved
 - Goals for farmland preservation

Comprehensive Plan: Example Future Land use Map



For County Level PDR Programs

- *If township has zoning authority:*
 - *Must pass resolution agreeing to be governed by County Ordinance.*
 - *Must provide written approval for each purchase.*
 - *County PDR Ordinance must be consistent with township comprehensive plan.*
- *If township has own PDR ordinance:*
 - *Comprehensive plan requirements PLUS*
 - *Intergovt. agreement*

Other Qualification Requirements:

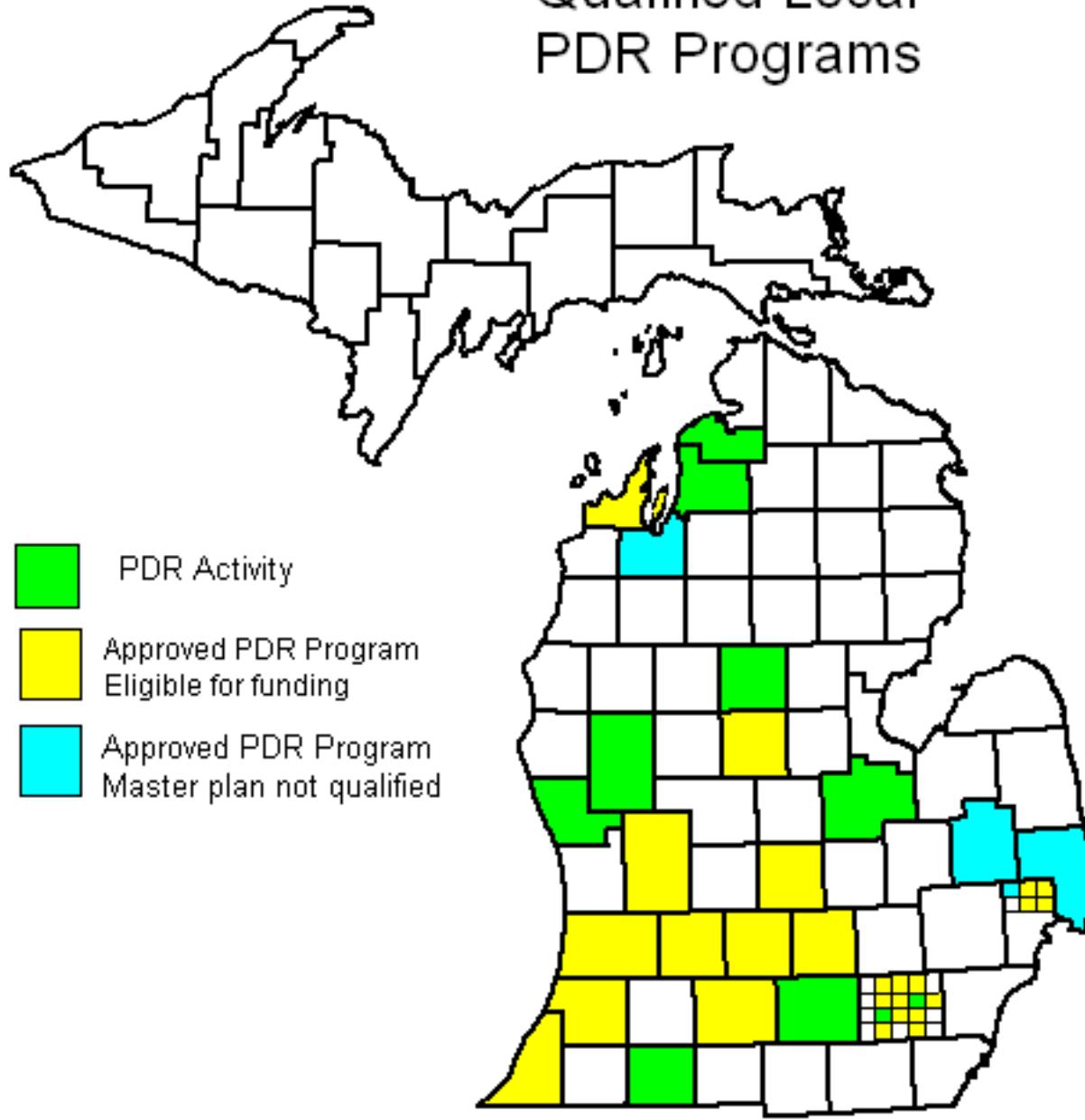
Standards and Guidelines of the Agricultural Preservation Fund (June 2005)

- Easement Language
- Monitoring and Enforcement

Current Local Programs

- More than 24 communities have developed local PDR programs within the past 5 years.
- Considerations
 - Development of a local program may take one, two or more years.
 - It may take a year or two to complete your first purchase of development rights conservation easement.

Qualified Local PDR Programs



Sept 2006

Policies and Procedures of the Michigan Agricultural Preservation Fund Board

Approved August 2008



Michigan Ag. Preservation Board 2005 Pilot Cycle

- 19 local PDR Programs Previously Qualified (old system)
- Pilot Application Cycle
 - Received 12 applications for over \$16.6 million.
 - \$1.3 million available for awards.
- Five local PDR programs awarded funds.
 - Eaton County, Kent County, Peninsula Twp,
Pittsfield Twp, Macomb Twps

Michigan Agricultural Preservation Fund

- \$1.3 million in grants awarded in 2005
- \$1.48 million awarded February 2007
- Two awarded in 2006 cancelled
- Pre-qualification of programs currently on going. 24 communities qualified.

Michigan Agricultural Preservation Fund

- Conservation easements have been completed on three parcels
- Two in Kent County (232 acres)
- One in Van Buren County (80 acres)
- Eight additional parcels pending acquisition

Michigan Agricultural Preservation Fund - Selection Criteria

- Eligibility requires that at least 51% of a parcel be in agricultural use, with preference given to:
 - Productive farmland
 - Complements documented, long-range local farmland preservation plan
 - Creates a block of protected farmland
 - Enrolled in a PA 116 development rights agreement
 - Supported by local matching funds

The 2008 Scoring System

- **Agricultural Capacity (150)**
- **Conservation Plan (50)**
- **MAEAP Participation (50)**
- **Parcel Size (50)**
- **Parcel Location (100)**
- Local FP Commitment (100)
- Matching Funds (100)
- Intergovt. Cooperation (100)
- Local Planning Training(50)
- Capacity to Execute (100)
- Local Ag Planning (75)
- Agricultural Economic Development Plan (75)

Total Points Available: 1000

Total Local Program Points: 600

Future Agricultural Preservation Fund Application Cycle

- The State Agricultural Preservation Fund Board indicates that an application cycle will not be held if less the \$500,000.00 is available in the fund.
- Less the \$500,000.00 is currently available, therefore no application cycle is scheduled.
- HB 4278 would likely provide an opportunity for a funding cycle if passed by the legislature and signed into law.
- Currently no action on HB 4278.

QUESTIONS?

**Farmland and Open Space Program
Michigan Department of Agriculture
PO BOX 30449
Lansing, MI 48909**

www.michigan.gov/farmland