

**REQUEST FOR COMMENTS ON POSSIBLE RULES FOR
MANDATORY REVIEW AND EXEMPTION CATEGORIES FOR
RECREATIONAL TRAILS**

LIST OF COMMENTS RECEIVED

Updated: March 25, 2004

1. Metropolitan Council, Arne Stefferud
2. City of Waseca, resolution of City Council
3. Dave Corbett, Backus, MN
4. Ed Glick, Monmouth, OR
5. Gretchen Mehmel, Roosevelt, MN
6. Friends of the Snake River, Thomas Waters, Pres.
7. Roger Landers, Nisswa, MN
8. Jerold Bahls, Fridley, MN
9. Friends of the Boundary Waters Wilderness, Sean Wherley
10. Coalition of MN Conservation Organizations, Harvey K. Nelson, Co-Chair
11. John Reynolds, Merrifield, MN
12. Larry Wannebo, Manhattan Beach, MN
13. Karen Umphress, Jordan, MN
14. All-Terrain Vehicle Assn. of MN, Dustin Young, Pres.
15. Jerry and Shirlee Maertens, Bemidji, MN
16. MN River Valley Audubon Chapter, Lois Norrgard, Chair, Natl Resource Comm.
17. American Lands Alliance, Lois Norrgard
18. MN 4WD Assn., Land Use Committee
19. Audubon MN, Susan Solterman
20. Amateur Riders Motorcycle Assn., Tom Umphress
21. Peter and Charlene Hovde, Moorhead, MN
22. Minnesotans for Responsible Recreation, Jeff Brown
23. John Kreuz, Side Lake, MN (oral by telephone – written summary included)
24. Grayden West (oral by telephone – written summary included)
25. Dept. of Natural Resources, Dennis Thompson
26. MN Center for Environmental Advocacy, Matthew Norton
27. Izaak Walton League of MN, David Zentner.
28. DNR - Final Draft Recommendations

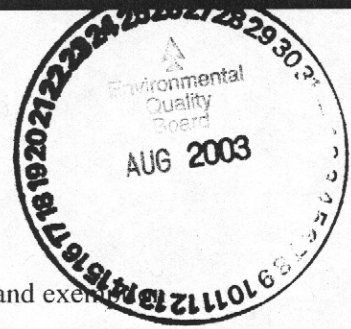


Metropolitan Council

Building communities that work

August 22, 2003

Mr. Gregg Downing
Environmental Quality Board
300 Centennial Building, 658 Cedar Street
St. Paul, MN 55155



Re: Comments on possible adoption of mandatory environmental review and exemption categories for recreational trails

Dear Mr. Downing:

This letter is in reply to your request for comments of July 23 regarding the creation of administrative rules that would require mandatory preparation of Environmental Assessment Worksheets or Environmental Impact Statements when recreational trails are established and possible exemptions.

We request that establishing new and rehabilitating existing recreational trails for non-motorized uses in the Metropolitan Regional Park System be exempt from mandatory preparation of Environmental Assessment Worksheets and Environmental Impact Statements for the following reason: Recreational trails in Metropolitan Regional Park System units (trails in parks and trail corridors linking parks together) undergo public review and environmental analysis through a park or trail master plan process. This process is comparable to the analysis done in preparing an EAW and EIS. Consequently it would be redundant to require EAWs and EISs for such trails.

To provide you with some background on recreational trails in the Metropolitan Regional Park System, currently there are 170 miles of regional trails linking regional parks and park reserves together. An additional 31 miles of regional trails are currently under acquisition and development. 128 more miles are planned to be developed in the next 5 years and 355 more miles are proposed beyond the next 5 years. In addition to these regional trails, there are recreational trails inside regional parks and park reserves. I've enclosed a map entitled **Twin Cities Metropolitan Area—Regional Recreation Open Space** which illustrates the locations of these regional trails, regional parks and park reserves.

These trails are owned and managed by the following regional park implementing agencies:

Anoka County Parks and Recreation Dept.
City of Bloomington Parks and Recreation Dept.
Carver County Parks Dept.
Dakota County Parks Dept.
Minneapolis Park and Recreation Board
Ramsey County Parks and Recreation Dept.
City of St. Paul Parks and Recreation Division
Scott County under a joint powers agreement with Three Rivers Park District
Three Rivers Park District (formerly Hennepin Parks)
Washington County Parks Dept.

Master plans are prepared by these agencies and the Metropolitan Council reviews and approves them. Upon approval by the Council, funding from State appropriations (bonds and Environmental Trust Funds), matched by bonds issued by the Metropolitan Council can be appropriated to finance land acquisition and development of recreation facilities called for in the master plans.

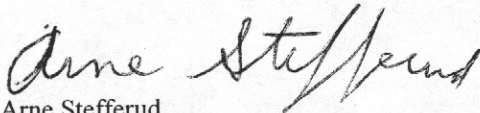
Gregg Downing
August 19, 2003

Information on the construction of these recreational trails are part of master plans, which contain information comparable to what is called for in Environmental Assessment Worksheets. To illustrate this point I've prepared the attached chart that shows the comparability between the questions in an EAW and what is required in master plans for Metropolitan Regional Park System Units. I've also enclosed a copy of a typical park master plan for your information entitled, **Lebanon Hills Regional Park Master Plan**.

The regional park implementing agencies have a stake in and commitment to the preservation of natural resources, both for their intrinsic value and also for their passive recreational and interpretive educational value. This has been demonstrated over time with efforts to preserve and restore natural resources for today and the future. The master plans for these park and trail units illustrate that effort. Therefore it is reasonable to request that establishing new and rehabilitating existing recreational trails for non-motorized uses in the Metropolitan Regional Park System be exempt from mandatory preparation of Environmental Assessment Worksheets and Environmental Impact Statements since master plans for these recreational trails address the same issues as an EAW.

I and staff from the regional park implementing agencies would be happy to meet with you to discuss this matter further. Please contact me at 651-602-1360 to arrange a meeting. Thank you.

Sincerely,



Arne Stefferud
Planning Analyst-Parks

Enclosures:

Twin Cities Metropolitan Area—Regional Recreation Open Space
Lebanon Hills Regional Park Master Plan

CC:

John VonDeLinde, Director-Anoka County Parks and Recreation Dept.
Lance Anderson, Planner- City of Bloomington Parks and Recreation Dept.
Marty Walsh, Director-Carver County Parks Dept.
Steve Sullivan, Director-Dakota County Parks Dept.
Michael Kimble, Sr. Planner-Minneapolis Park & Recreation Board
Greg Mack, Director-Ramsey County Parks & Recreation Dept.
Bob Bierscheid, Superintendent-City of St. Paul Parks and Recreation Division
Delbert Miller, Inter-governmental Relations Manager-Three Rivers Park District
Dawn Tracy, Natural Resources Manager-Scott County
Jim Luger, Director-Washington County Parks and Recreation Dept.

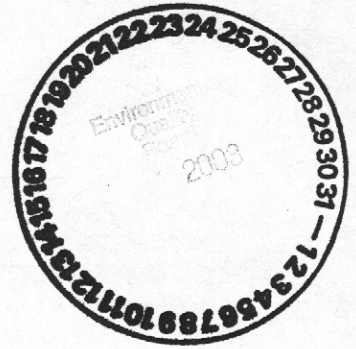
**City of Waseca
MINNESOTA**

Waseca City Hall
508 South State Street
Waseca, MN 56093

Phone
(507) 835-9700

Fax
(507) 835-8871

Website
www.ci.waseca.mn.us



September 18, 2003

Mr. Gregg Downing
Environmental Quality Board
300 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Downing:

Attached is a resolution adopted by the Waseca City Council concerning the proposed Rule Changes to chapter 4410 dealing with mandatory EAWs and EISs for recreational trails. The City does have some concerns, and I think they are generally expressed in the resolution.

We would like to be kept informed of your action on this matter. We would also like to have a draft of the rule changes once they are drafted.

If you have any questions, please give me a call at (507) 835-9739.

Sincerely,

A handwritten signature in cursive script that reads "F.V. Salsbury".

Fredrick V. Salsbury
City Engineer

cc: Kris Busse, City Manager
City Council Members

RESOLUTION NO. 03-95

**A RESOLUTION OF THE WASECA CITY COUNCIL
PERTAINING TO MINNESOTA ENVIRONMENTAL QUALITY BOARD RULE MAKING PROCESS
ADOPTING MANDATORY REVIEW AND EXEMPTION CATEGORIES FOR RECREATIONAL TRAILS**

WHEREAS, the Minnesota Environmental Quality Board has requested comments concerning the adoption of rules for threshold levels for EAWs and EISs concerning recreational trails;

AND, WHEREAS, the City of Waseca has some concern about unnecessary expenses for such reports under many conditions;

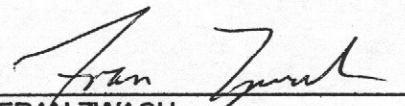
AND, WHEREAS, there may be a need for such reports under certain conditions;

AND, WHEREAS, unless the recreational trail has some impact on known environmentally sensitive areas such as wetlands, or recreational waters of the state there is no need to require EAWs or EISs:

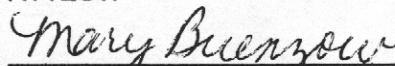
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Waseca that the City Council has determined:

1. That trails that do not traverse through wetlands or recreational waters, or are immediately adjacent to such facilities, an EAW or EIS should not be required, or be exempt from such requirements.
2. That trails through developed areas should be excluded or exempted from the process.
3. That trails using existing Right-of-ways should be excluded or exempted from the process.
4. Trails exempted by the process in the Wetland Act should be excluded or exempted from the process.
5. That trails determined by other State Agencies such as the DNR do not have any significant impact should be excluded or exempted from the process.

Adopted this 16th day of September, 2003


FRAN ZWACH
ACTING MAYOR

ATTEST:


MARY BUENZOW
RECORDS SECRETARY

From: tallyho
Sent: Wednesday, September 24, 2003 5:57 PM
Subject: ATV, comments

To whom it may concern:

As for me, I would like to see ATV's banned entirely, with the exception of use in agricultural needs. I know that "just" isn't going to happen. Therefore, two things must happen if we are to have any real wild country left in Minnesota. HARD enforceable rules, and the personnel to ENFORCE those rules. I don't see either one happening, but in the hopes that something can be done, I encourage all the law makers to try and solve this problem.

ATV's, where I live, are completely out of control. In Cass County there are too few law enforcement officers of ANY type. The ATV'ers have torn up ditches along every road in the county, and in some places, hillside erosion has washed tons of dirt down to road side. Further, any rules regarding age, number of persons aboard, road usage, proper safety gear, and any other law that is on the books are COMPLETELY ignored by the vast majority of riders. Then it must be taken into consideration the amount of damage done to yards and driveways. It is hard for me to understand the complete and utter disregard these drivers have for the personal property of others.

PLEASE, do something to stop this destruction of our state. PLEASE do something to save our beautiful forest from the plague that is now lose upon our land.

Sincerely yours,
David C. Corbett

1947 12th Ave. NW
Backus, MN 56435

From: nurseed
Sent: Thursday, September 25, 2003 1:29 PM
Subject: Public comments for recreational trails

Dear Mr. Downing:

Please add these comments to public comments regarding the adopting of review and catagories for recreational trails.

Your request is beautifully written, and detailed.

But I just want to emphasize the tremendous damage that ORV's do.

I am at this time engaged in a conflict with hunters who have trespassed for decades on my property and have run it into terrible condition with ORV's

I call them "wheeled locusts" because pretty much everywhere they go they destroy plants, animals, waterways, and leave oil and trash. The state, in my opinion needs to hold atv users accountable in the pocketbook for violating the forest with them.

Waterways need to be exempted. In cotton township north of Duluth there is a quarter mile long "aquatic road" cut strait through an enormous bog. The water is knee deep, and the entire length is "Paved" with logs sunk into the mud to form a submerged surface. This roadway is easily discernable on the aerial photo of Long Lake. (sls-25-38)

I sincerely hope that the rules you develop have teeth. ORV use is devastating many areas nationwide. Fifty more years of this kind of abuse and the forests will be devoid of wildness or wildlife.

Thank you

Sincerely,

Ed Glick

39234 Hwy 99W

Monmouth, OR 97361

From: gmehmel
Sent: Thursday, September 25, 2003 11:02 PM
Subject: Rec. Trail Env. Rev. rules

Dear Mr. Downing,

I just have a couple of brief suggestions for the rules that are being drafted for threshold levels for environmental review for recreational trails. Trails (primarily motorized and horse) should be subject to various thresholds of review based on:

a) the total amount of wetlands impacted by the trail (based on the national wetlands inventory). The wetland conservation act could be used as a guide for wetland acreage thresholds, but ephemeral wetlands (types 1 and 2) should be included as well.

b) total length of the trail system in a given area. For example, state forests with motorized trail systems 50 miles or longer would require a mandatory EAW and for more than 75 miles, an EIS would be mandatory.

c) trail segments that cover more than 1 trail/4 square miles would require a mandatory EAW and an EIS would be required for any areas with more than 1 trail/2 square miles.

d) soils criteria should be used as a threshold. A possible criteria for a mandatory EAW would be trails sited on sandy or organic soils. A good paper on determining cumulative effects of trails (and thereby helping to establish thresholds) is: Gaines, William, et.al. 2002. Assessing the cumulative effects of linear recreation routes on wildlife habitats on the Okanogan and Wenatchee National Forests. Gen. Tech. Rep. PNW-GTR-XXX. Portland, Oregon: U.S. Dept. of Agric., Forest Service, Pacific NW Research Station.

Thank you for the opportunity to comment.

Gretchen Mehmel
P.O. Box 130
Roosevelt, MN 56673
gmehmel@wiktel.com

Friends of the Snake River

THOMAS F. WATERS, PRESIDENT

2754 137TH LN NW
763-862-6283

ANDOVER MN 55304-3000
tomfwaters@tcinternet.net

September 24, 2002



Gregg Downing
Environmental Quality Board
300 Centennial Building
658 Cedar Street
St Paul MN 55155

Dear Mr Downing:

Following are my responses to the MEQB request for comments on possible amendment to Rules Governing the Environmental Review Program, Minnesota Rules, Chapter 4410, adopting mandatory review and exemption categories for recreational trails.

I am an emeritus professor, University of Minnesota, Fisheries and Wildlife, where my principal scientific specialization was in the ecology of rivers, and my comments are focused on possible environmental damage to river and watershed areas due to placement of some recreational trails.

My overall, general comment is that concern for the quality of our natural resources should be paramount. This principle should be uppermost when considering any type of recreational trail (or any kind of project) that has the potential for environmental damage.

1. Motorized recreational trails.

It has been overwhelmingly shown that off-highway vehicles (OHV) including all-terrain vehicles (ATV), off-road vehicles, or 4-wheel trucks (ORV), and off-highway motorcycles (OHM) have great potential for environmental damage (Star Tribune articles, February 24-25, 2002). Countless complaints from organizations and individuals have documented rutting, erosion, loss of non-motorized recreation use due to trail damage, damage to private property, and illegal use and damage to protected areas such as wildlife management areas, often irreparable except for major reconstruction. (Please see footnote and photo.)

No motorized recreational trail project should be placed in an exemption category. Our natural resources should not be subject to this kind of land damage except after careful review open to the public for petitions and redress in the courts. All motorized recreational trail proposals should be placed in the mandatory EAW category, and subject to an EIS through lawsuit when the EAW result is viewed as unsatisfactory by the public.

The section of recently passed OHV legislation that "suspends" EAWs and citizen lawsuits for seven years should

obviously be repealed; it goes against our generally held concept of protection of our natural resources.

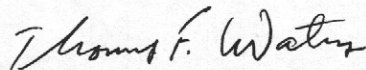
2. Increased attention should be given to non-motorized recreational trails, such as walking trails in recreation areas such as parks, hunter trails in wildlife areas, bike trails on old railroad grades, and ski trails. When a system of trails (as opposed to a single specific trail) is proposed for a larger area, such as a state forest, non-motorized trails could be grouped into a discretionary review category. When proposed by a resource-based governmental unit (e.g., wildlife, fisheries, ecology, and forestry (but not by a development-based unit like Trails and Waterways) then specific trails could be placed into an exempt category.

3. The rules as they stand now — that is, all projects in essentially a discretionary review category — in my opinion are good rules and provide for public participation. Short of strong need for change, consideration should be given to leaving the rules as they are now.

4. The best source of information about motorized damage and management programs in other states and nationwide, is through the organization Natural Trails and Waters Coalition, a group of over 90 environmental organizations (including Friends of the Snake River) under the aegis of The Wilderness Society. I enclose a brochure from the Coalition. Contact can be made to Director Scott Kovarovics, at email: scott_kovarovics@twc.org, and on the web: www.naturaltrails.org.

I hereby request to receive a draft of rules when a draft has been completed.

Sincerely,



Thomas F Waters,
President, Friends of the Snake River

Footnote: I enclose a photograph taken of a formerly pleasant hiking trail leading to the spectacular Lower Falls of the Snake River in Kanabec County, showing extreme damage caused by unregulated ATV use. It is (or was) the only access route open to the general public leading to the Lower Falls (other than by canoe), no longer usable as a foot trail.

03/23/2003 00:10 2103003010

ROGER LANDERS
26587 EDNA LAKE RD
NISSWA, MN 56468
rlanders@tds.net

TO: Greg Downing, EQB (fax-651/294-3698)
From: Roger Landers, Nisswa, Mn (ph:218/568-5016)
Re: Suggestions: rules for recreational trails
Date: Monday, September 29, 2003

Below are suggestions on the five topics that EQB request input for determining threshold levels for the recreational trail's environmental review process.

Topic 1: Types of recreational trails that should receive an environmental review.

Comment: All motorized recreational trails proposals, including new trail development and extension to existing trail systems, should trigger environmental reviews.

Encourage and provide incentives for the establishments of OHV parks (ie. Gilbert OHV Park) rather than mitigating motorized liner trail systems.

Exempted from environmental reviews could be motorized trails entirely on private land, preferably OHV parks, that does not impact the ecosystem (including noise).

Topic 2: Grouping of trails that have similar environmental impacts.

Comment: Encourage OHV parks that would group or contain all motorized uses in one area (ie. Gilbert OHV Park).

Topic 3: Criteria and parameters used to establish thresholds for review and exempted categories.

Comment: BMPs for recreational trails should be used to help determine threshold levels. EQB should seek information from other states and federal agencies.

Topic 4: Specific proposals for EAW, EIS or exempted categories.

Comments: EQB should seek information from other states and federal agencies. Use BMP guidelines.

Topic 5: Source of information for EQB to follow.

Comment: Sources include: DNR's Ecological Service Division, DNR's BMPs, DNR's Enforcement Division, citizen input, and established threshold levels that other states

and federal agencies follow.

Other comments: EQB should hold public hearings to discuss the proposed rules and obtain additional comments. In addition, EQB should form an advisory committee to help select appropriate criteria and threshold levels.

George Landers

From: Bahls-1@Jerold.O
Sent: Tuesday, September 30, 2003 12:46 AM
Subject: Comments on Review of Recreational Trails

Mr. Downing

Below are my proposed mandatory rules for regulating new recreational trails and repair of existing ones.

Thanks for this opportunity to make comments,

Jerold O. Bahls
7514 Alden Way
Fridley, MN 55432

Require Mandatory EIS for -

1. All trails that cross type 2 - 8 wetlands that are greater than 10 sq. ft.
2. Motorized trails that cross within 100 yards of the high water mark of type 3 - 8 wetlands.
3. Non-motorized trails that cross within 10 yards of the high water mark of type 3 - 8 wetlands.
4. All trails that cross within the high water mark of a flowing stream.
5. All trails that cross a seasonal or intermittent stream, except for a hiking trail.
6. Motorized trails that cross within 200 feet of the high water mark of a flowing stream.
7. All trails that cross easily erodable soil.
8. Motorized trails that cross within 100 yards of a designated wilderness or Scientific and Natural Area.
9. Non-motorized trails that cross within 10 yards of a designated wilderness or Scientific and Natural Area.

Require Mandatory Environmental Assessment Worksheet for -

1. All trails that cross any (types 1 - 8) wetland.
2. Motorized trails that cross within 100 yards of the high water mark of a type 2 wetland.
3. Non-motorized trails that cross within 10 yards of the high water mark of a type 2 wetland.
4. Hiking trails that cross a seasonal or intermittent stream.
5. Motorized trails that cross within 100 yards of the high water mark of a flowing stream.
6. Non-motorized trails that cross within 50 feet of the high water mark of a flowing stream.
7. Motorized trails that cross within 200 feet of a seasonal or intermittent stream.
8. Motorized trails that cross within 10 yards of a State Park or Wildlife Management Area.
9. Authorized repair of an existing trail that is within 100 yards of a flowing stream or type 2 - 8 wetland.
10. All trails that come within 100 yards of a known location of or area inhabited by an endangered or threatened species.

Exempt from all review for -

1. Repair of an existing authorized trail of less than 1000 yards in length that are greater than 100 yards from a flowing stream, wetland, area inhabited by an endangered or threatened species or trail built on erodable

soil.

2. Repair of authorized trails that are congruent with an existing township or county road or state forest road class 2, 3 or 4 and not within 100 yards of a flowing stream, wetland, area inhabited by an endangered or threatened species or trail built on erodable soil.

TO PROTECT
FRIENDS
of the BOUNDARY WATERS WILDERNESS
PRESERVE

September 26, 2003

Gregg Downing
Environmental Quality Board
300 Centennial Building
658 Cedar Street
St. Paul, MN 55155



Dear Mr. Downing:

On behalf of the staff and board members of the Friends of the Boundary Waters Wilderness, please accept the following comments regarding the rules governing the Environmental Review Program.

The Friends of the Boundary Waters Wilderness mission is to protect, preserve, and restore the wilderness character of the Boundary Waters Canoe Area Wilderness and the Quetico-Superior Ecosystem. The Friends, which has 3,000 members and donors, is concerned about environmental review because poor planning of recreational trails is detrimental to the land and water near the Boundary Waters. During the last couple of years, several motorized trails were proposed for areas close to the Boundary Waters. Such proximity would have allowed the echo of off-highway vehicles to reach visitors in the wilderness, a place where quiet is not only sought, it is protected by federal law.

The Friends advocates mandatory Environmental Assessment Worksheets (EAW) for all motorized recreation trails. This request should not be deemed excessive because the impact of off-highway vehicles on the land and water is unparalleled. With the passage of legislation during the 2003 session, Minnesota now permits all-terrain vehicles weighing up to 900 pounds to traverse state trails. The weight, power, and acceleration of such vehicles damages land more quickly and thoroughly than other recreation uses like horseback riding, cross-country skiing, hiking, snowshoeing, or birdwatching. Moreover, four-wheel drive trucks weighing several tons may also drive on trails maintained by the state; the size of these vehicles is unsurpassed as is the harm they cause.

The mandatory EAW would apply to any trail proposed for all-terrain vehicles, 4x4 trucks, or off-highway motorcycles. Trails must be reviewed not only for the potential effect on vegetation and soil, but also the potential impact from noise and emissions. This review must be done with regard to both current and future conditions of the proposed trail site.

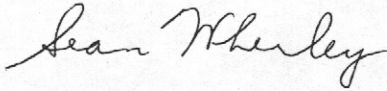
In situations where proposed motorized trails are near wetlands or sensitive soils, or reach a threshold for number of motorized trail miles in a square mile, then an Environmental Impact

Statement (EIS) should be mandatory. This standard would ensure that proposed motorized trails near fragile or heavily trailed lands are appropriately reviewed.

Finally, the Friends opposes any exemption for recreation trails, regardless of trail type or use. It is conceivable that a proposed trail, whether for horseback riding or 4x4 trucks, may have a negative impact on the surrounding area. In the absence of scrutiny required under an EAW or EIS, such impacts could be overlooked or abruptly dismissed. Protection of the land, not expediency of creating new trails, must be the paramount concern for the Environmental Quality Board and the Department of Natural Resources.

I ask you to consider these comments during your final rule making.

Sincerely,

A handwritten signature in cursive script that reads "Sean Wherley". The signature is written in dark ink and is positioned above the printed name and title.

Sean Wherley
Policy and Education Coordinator

September 29, 2003

TO: Minnesota Environmental Quality Board

FROM: Coalition of Minnesota Conservation Organizations (COMCO)

**SUBJECT: Comments on EQB's Possible Adoption of Mandatory
Environmental Review and Exemption Categories for
Recreational Trails.**

We appreciate the opportunity to comment on the above subject. All COMCO participants have not an opportunity to discuss this subject since the next scheduled meeting will be in December 2003. Those that I have talked with favor maintaining strong environmental review requirements that provide for organizational and citizen input when they believe necessary. This would fall largely under the mandatory review category. I assume that the regulations for currently authorized recreational trail development and management are in this category and should not be altered without further public review.

While there may be situations in which certain categories of recreational trails might be exempted from environmental review, the criteria for such action should be clearly stated in the final rule making process. Perhaps publication of such proposed actions should still be required to assure public awareness.

I don't know enough about the different types of recreational trails to offer meaningful recommendations, but there certainly may be merit in grouping similar types to facilitate the review process.

Potential environmental impacts should be based primarily on degradation of habitat, disturbance to fish and wildlife associated with the area, threats to public and private property and travel, and the public need for increased trail development. These are some of the usual criteria considered, so I hesitate to elaborate further at this point. I personally support holding public meetings to obtain additional comments and formation of an advisory committee as mentioned.

We will be pleased to review and comment further on the proposed final rules when available.

Harvey K. Nelson, Co-Chair

**10515 Kell Avenue
Bloomington, MN 55437**

Phone: 952-831-8333

E-mail: harvnel@msn.com

From: johnrey
Sent: Tuesday, September 30, 2003 11:50 AM
Subject: EQB comments

Mr. Downing,

Thank you for the opportunity to comment.

1. Types of trails requiring mandatory EAW.

All motorized trail construction, extension or designation. Any non-motorized trail construction or designation that may increase usage to the point that impacts (ie. erosion, disruption of wildlife, etc.) need to be mitigated.

The act of designation alone is likely to increase usage by making the trail a destination. The designation of motorized trails makes temporary usage permanent and should receive review because of the potential displacement of traditional users. It is also likely that impacts will expand into new areas that are not part of the designated trail and this needs to be reviewed.

Any trail with water access, paved trail, wetland crossing (including winter trails), likely to draw people from large areas.

2. Types of trails requiring mandatory EIS- motorized trails that may affect wetlands or streams either by on trail or off trail travel, traverse wildlife breeding areas.

3. Types of trail exempt from formal review would be a non-motorized trail that is unlikely to draw users from large areas and unlikely to result in environmental impacts that need mitigation (ie. erosion, wildlife disruption, etc.).

3. Grouping of trails.

Definitely certain types of trails can be grouped without minimizing the experience of trail users. That would serve to contain the impacts to discrete areas. Motorized trails could be concentrated into well defined areas (like the Gilbert OHV park) with only narrow visual barriers thus minimizing the impacts. Non-motorized trails would need larger areas with more space because of the 'quiet' nature of the experience.

3. Review thresholds.

Criteria: Likelihood of impacts to wildlife, traditional users, adjoining landowners quality of living (noise, dust, trespass, etc.) and the environment in general (ie. water quality, erosion, forest regeneration, etc.), adjoining public lands including road ditches and driveway approaches.

Sincerely,
John Reynolds
26385 County Road 3
Merrifield MN 56465
johnrey@uslink.net daytime
fishes@brainerd.net home

From: wannebo

Sent: Tuesday, September 30, 2003 5:12 PM

Subject: Trails Rule Changes

Dear Gregg and EQB,

Having been a volunteer on numerous public land projects and issues for the past 15 years, I have some ideas on your proposed rule changes. Like most of the public, I am not able to always organize my comments in to the neat little boxes that might be understood by an agency. But, I hope you will make an effort to understand a position that I share with a majority of the public...sometimes known as the "silent majority". They may come back to haunt you after you change the rules under the charge of "we didn't know anything about it" or, "I didn't know that it would affect me".

You have to answer to the question, "Did we do everything we could to make the public aware of the impacts of the rule changes?" If I were not active on this issue, I would not have been aware of the process.

Now on to my perspective.

1. Motorized recreation is a minority population segment. While it is growing, this does not mean that public lands can be all things to all people. So how many miles of logging roads, actually acres of impact, does the public have to sacrifice solely for this user group?
2. With the nature of their sport, they demand more miles, which are actually acres, of impact area affecting wetlands, soils, plant life, animals, birds, other user groups.
3. I strongly suggest designated riding areas for OHVs rather than linear trails and ditch right of ways. The DNR supports this position in reference item #14 below.
4. Segmentation of the forest with motorized trails impacts on wildlife, including displacement of some species during breeding and rearing.
5. With intense motorized recreation, noxious weeds in our forests will be a major concern, as they are in our lakes today. I have seen the spread of Canadian Thistle and purple loose strife by motorized recreation. If you can't wash the milfoil off a simple boat and trailer, how will you ever wash all the seeds of the ATVs? This is especially important in the fall, when noxious weed seeds are mature. This is complicated further by the fact that a majority of ATV riders are challenged to go off trail, as they have along the Soo Line ATV trail and in the Spider Lake areas.
6. "Expect what you inspect" means enforcement. ATVs are called and promoted as "off road vehicles", so you can't expect that user group to do anything different. Serious enforcement is a priority for this recreational use of public lands. The damage and impacts are like no other form of recreation. Unless your budget reflects enforcement of your rules, you are cheating the public of meaningful results.

7. Must look at long range impacts of your rules, at least 1025 years.
8. I believe that the EAW phase should also consider the economic and quality of life impacts of sustainable trails. You need to broaden the issues at the start of the public policy process.
9. I believe that hearings on trails should be held at the local level. Prior to the public hearing, the trail sponsor of LGU should hold an informational meeting, to inform the public of the trail impacts. We need educated public policy participants.
10. Motorized and nonmotorized trails are incompatible for most user groups. Even though some may say they are compatible, motorized trails pose issues of safety, maintenance and enforcement.
11. Consideration should be given to parking lot and trail head impacts. How much more local traffic will the new site create? This traffic impacts the people along the right of ways and adjoining property owners, local speed limits, hasten the need for road repairs paid for by local taxpayers, etc.
12. The EAW needs to be as comprehensive as the EIS. It also must include the issues of:
 - Soils
 - Enforcement
 - Dust
 - Noise
 - Importation of exotic species
 - Coordination with local governmentsThank you for the opportunity to comment.

Here is a list of excellent reference material that I have used over the years.

The DNR, and I, already have a large library on trails. I hope you have, or will obtain, just the few that I list here:

1. Office of Legislative Auditor Statefunded Trails for Motorized Recreation State of Minnesota
2. Motorized Trail Task Force Report to the Legislature and DNR Jan 14, 2003
3. Profiles of Nine Trail User Populations DNR June 30, 1998
4. Awareness and Satisfaction Survey DNR June 2000
5. An OHV Recreation Planning Tool Survey DNR July, 2001
6. ATV/OHV Registration trends 1984-2002 Registrations by county name DNR
7. MDNR Designated Trails Mileage's, 2002
8. 2002-2003 Recreational Motor Vehicle Regulation Guide Booklet DNR
9. Protecting Water Quality and Wetlands in Forest Management (BMPs) DNR or Cowell
10. MN DNR T&W Trail Guidelines (BMPs) <http://www.natureshape.com/mndnr/>
11. Foothills State Forest Visitor Survey In process Norm Moody, Cass Land Commissioner

12. DNR Region 3(Prereorganization) OHV Task Force Report About May 2000-
Jack Olson

13. Enjoying and Protecting our Land and Water DNR SCORP Report 2002

14. "Assessing the ecological impacts of ATV trails...on public lands..." MN DNR
Eco Services Oct. 3, 2002

Larry Wannebo
39911 Co. Road #66
Manhattan Beach, MN 56442
Email: wannebo@uslink.net
Phone:1/ 218/5434622

From: kfitterer
Sent: Wednesday, October 01, 2003 9:28 AM
Subject: EQB rules for recreational trail

Mr. Downing -

Thank you for taking the time to consider my comments on the EQB rules for recreational trails.

I take part in a variety of recreational trails activities. The 2 activities that I do the most are dirt bike riding (OHM) and hiking. When considering which trails should have mandatory EAWs or EISs, I believe that trails should be grouped by how they are constructed and the width needed. The construction of the trails has the highest impact on the environment. The amount of use will have the second highest impact and the type of activity will then follow in third. A trail that is used by 1,000 hikers each day of the weekend will have a higher impact on the environment than a dirt bike trail that sees 10 riders each day of the weekend. I have personally seen this to be true.

I believe that any trail creation that uses bull dozers should have the highest level of scrutiny and the tightest set of rules. They are trails that are the widest, take down the most number of trees, and move the most soil. These types of trails include walking, in-line skating, snowmobiling, etc. They are trails for a wide variety of activities. Of these trails, the ones that use asphalt or any other type of 'paving' should have more restrictions than ones that do not use paving. The level of scrutiny and rules should then decrease according the equipment needed to build and maintain the trails down to the dirt biking and some hiking trails that only require a brush cutter to build and maintain.

I do not think that any 'types' of trails should be exempt from the EQB rules and done on a case by case basis. Any exemptions based on type will only continue the issues that are present today instead of resolving the current and possible future issues. Instead amounts of trails should be exempt from mandatory EAWs or EISs.

There must be leeway given on rerouted trails. The main reason for a trail reroute is to go around an area that is damaged. Excessive restrictions that delay a reroute increase the damage of that area. Also, there should be an amount of trail that can be built without needing an EAW or EIS because the impact is small. But again, the amount of trail that can be put in without restriction as reroutes or as new trail should be determined based on the type of construction. Possible categories are:

- * 25 unrestricted miles for trails that take down 10 trees or less with a chainsaw being the heaviest equipment used
- * 15 unrestricted miles for trails that take down more than 10 trees with a chainsaw being the heaviest equipment used
- * 5 unrestricted miles for trails that use equipment heavier than a chain saw
- * 2 unrestricted miles for trails that use paving

Again, I would like to thank you for your time in considering my position.

Best Regards,

Karen Umphress

8051 W 195th St

Jordan, MN 55352

952-492-6953* unlisted



ALL-TERRAIN VEHICLE ASSOCIATION OF MINNESOTA

Post Office Box 557

Osseo, MN 55369

763-503-1975

1-800-HI-ATVAM

www.atvam.org

October 1st, 2003

TO: Mr. Gregg Downing
Environmental Quality Board

FROM: Dustin Young
President, All-Terrain Vehicle Association of Minnesota (ATVAM)

RE: Comments on Rules Governing the Environmental Review Program, MN Rules, Chapter 4410,
Adopting Mandatory Review and Exemption Categories for Recreational Trails.

Thank you for the opportunity to respond to your request for comments on an appropriate environmental review process for recreational trails in Minnesota.

To begin let me state that ATVAM would be willing to participate in any advisory committee if the EQB decides one is warranted. We look forward to working with the EQB on this important rule making process.

General Comments

As one of the major groups representing motorized recreation in Minnesota we believe it was the intent of the legislature to include all recreational trails in this process. Clearly, all forms of trail development have an impact on our resources, whether that is motorized or non-motorized. All one needs to do is take a hike on hiking trails, or other multiple use trails, and that fact is readily apparent. Laying asphalt or other types of impervious surfaces across our state forests lands should provoke as much concern for environmental impacts as anything done for motorized recreation.

That being said, we support all types of trails on our forest lands, both motorized and non-motorized, and plan on working cooperatively with all groups in the designation of motorized trails presently under way in the Department of Natural Resources.

These rules should only apply to state forest lands or lands administered by the commissioner of DNR, not private lands or other public lands.

Specific Comments

We do not believe it is appropriate to single out any groups, for example, those who support asphalt for their recreational activity (bicyclist, rollerbladers, etc.), for a higher standard than that applied to hikers. All trail activity should stand on its own merit and not grouped according to some preconceived notions.

All recreational trail types should be treated the same in relation to mandatory EAW, mandatory EIS, and exemptions. The requirement of an EAW should be based on the trail or trail proposal itself. The things that will truly affect the environment are the location of the trail and the trail materials.

It is important to note that the need for an EAW does not necessarily equate to denial of a trail. Rather the intent of the review should be to determine what changes may or may not be needed, in order to minimize environmental impact. Trails of every kind can, in fact, have a significant environmental impact, or can be designed and built to prevent the need for excessive maintenance or impact.

An exemption category should apply to already existing forest roads and trails historically used in any recreational trail category. In addition, any new construction that covers 80 acres of land or less should be exempt. Repair, reconstruction or rehabilitation projects should also be exempt.

Railroad grades should be exempt because heavy trains, creosote ties, and rock have already impacted the land.

Mandatory EIS categories are not needed for any recreational trail. We do not believe any trail proposal will rise to the level of requiring a mandatory EIS.

Again, thank you for the opportunity to comment on this important rule making process.

Dustin Young
President
ATVAM
P.O. Box 557
Osseo, MN 55369

Minnesotayoung@cs.com
(763) 242-5428

From: maertens

Sent: Wednesday, October 01, 2003 2:08 PM

Subject: Mandatory Review and Exemption Categories for Recreational Trails

Re: Rules Governing Environmental Review

Mandatory Review and Exemption Categories for Recreational Trails

Dear Mr. Downing:

In your process of establishing recreational trail rules, please consider our input and comments below concerning recreational trails

I am a retired DNR wildlife manager with a 35 year career of service to Minnesotans. Although retired both of us remain active on issues with several environmental organizations.

We live just west of Bemidji within the Mississippi Headwaters State Forest and have several forest tracts within walking distance of our home. We walk, ride bike, ski and snowshoe on several of these tracts. We also have a cabin on Long Lost Lake in Clearwater County that is within the White Earth State Forest. In other words our daily activities bring us within or adjacent to both of these state forests. Our frequent activities also bring us to or through the Paul Bunyan, Baudourea, Foothills, and Two Inlets State Forests.

The environmental damage in all of these forests is rampant. How the DNR, an agency that is directed to manage and protect our Minnesota Natural resources, could design and develop challenge and mudding areas on the infamous Spider Lake Area remains the 64 million dollar question. We also see extensive damage along the township, county and state roads throughout the state and in the hilly area that we live. Snowmobiles have been here for more than 40 years longer than ATVs and we see very little sign of the snowmobile damage. It is obvious that the ATV's "footprint" is not comparable to the snowmobile as some would have us believe.

With the equipment we have these days and with unlimited monies almost any environmental damage can be reversed. We do think that MEQB in establishing the rules need to look at significant environmental damage reversibility and cumulativeness realistically. In other words, the dollar amounts and time needed to repair the damage should be considered.

The DNR 1998 contracted study of OHV users found that there are recreational trail riders, long distance tourers, mudders and scramblers, racers, event riders, local, and utilitarian. For the most part trails on natural resource lands should be limited to recreational trail riders and long distance tourers. Mudders, scramblers, racers, and event riders should not be permitted on resource lands. Until the advent of the ATV and OHM, recreational uses of natural resource lands has been related to these lands and their resources. We now have people using and damaging these lands just so they can live on the edge or get an adrenaline rush.

With all this said here are some of our comments within your proposed categories:

EAW trails

Since roads greater than 1 mile in length and pipelines greater than .75 miles require a mandatory EAW, recreational trails going through natural and environmentally sensitive areas should received greater or at least similar triggering mechanisms. The January 2003 Legislative Audit proposed EAW's on all OHV trails since they are 1) linear, 2) most have potential for significant damage, and 3) are highly controversial.

EIS trails

A mandatory EIS should be triggered when:

- 1.. A trail is proposed within an area of public land that does not contain

any forest roads or summer trails. Logging trails and skid trails or winter trails should not be considered as a corridor that does not need environmental considerations.

2.. A trail is proposed within the boundary of protected wetlands or within the buffer area of types 3 through 8 wetlands regulated by the State or US Government.

Trail groupings

Since snowmobiles are used mostly during the winter on frozen or snow-covered ground they should not be grouped with other motorized uses.

Please consider the following groupings:

- 1.. Hiking, hunter walking, snowshoe and cross-country ski trails.
- 2.. OHM and ATV trails
- 3.. Snowmobile trails
- 4.. 4 x 4 truck trails
- 5.. Horse back riding

Criteria & parameters for thresholds

Recreational trails criteria should take into consideration the fact that the trails are linear; thus, having considerably greater impact on the natural resource and environment than the impact of a similar block acreage.

Existing and non used logging trails and skid trails should not be considered an already existing trail.

Grant-in-aid trails need to be given the same review as DNR designed and built trails.

Environmental review of all trails should include review of impacts on lands other than State of MN since the DNR along with other natural resource agencies are responsible for wetland protection, rare and endangered species. State monies should not be used for a trail that may adversely affect native prairie, wetlands, or other eco-types even if it is on private land.

Sources of information that might help MEQB develop categories

DNR draft Eco Services publication "Assessing the ecological impacts of ATV trail construction and use on public lands: factors to consider and a review of the literature."

The Montana Wildlife Society report will provide useful information on recreational impacts. See: <http://www.montanatws.org/pages/page4.html>

Thank you for this opportunity to provide input.

Jerry and Shirlee Maertens
885 Bootleg Lake Road SW
Bemidj MN 56601
218-751-3793

From: lnorrgard
Sent: Wednesday, October 01, 2003 3:15 PM
Subject: Request for Comments: Motorized Recreation Trails

Minnesota River Valley Audubon Chapter
October 1, 2003
Gregg Downing
Environmental Quality Board
300 Centennial Building, 658 Cedar Street
St. Paul MN 55155

RE: Request for Comments - Adopting Mandatory Review and Exemption Categories for Recreational Trails

Dear Mr. Downing,

On behalf of the Minnesota River Valley Audubon Chapter I submit these comments regarding future motorized trail development in Minnesota.

Require Mandatory Environmental Assessment Worksheet (EAWs) on ALL motorized recreation projects beyond those below that require mandatory Environmental Impact Statements (EISs). Especially, but not limited to:

1. All trails that cross any (types 1 - 8) wetland.
2. Motorized trails that cross within 100 yards of the high water mark of a type 2 wetland.
5. Motorized trails that cross within 100 yards of the high water mark of a flowing stream.
7. Motorized trails that cross within 100 feet of a seasonal or intermittent stream.
8. Motorized trails that cross within 50 yards of a State Park or Wildlife Management Area.
9. Authorized repair of an existing trail that is within 100 yards of a flowing stream or type 2 - 8 wetland.
10. All trails that come within endangered, threatened, or species of special concern habitats, or any trails that come within 100 yards of a known nesting and staging grounds of native species in Minnesota (i.e. great blue heron colonies, eagle or goshawk nest areas, special plant communities, etc.)

Require Mandatory EIS for -

1. All trails that cross type 2 - 8 wetlands that are greater than 10 sq. ft.
2. Motorized trails that cross within 100 yards of the high water mark of type 3 - 8 wetlands.
3. Non-motorized trails that cross within 10 yards of the high water mark of type 3 - 8 wetlands.
4. All trails that cross within the high water mark of a flowing stream.
5. All trails that cross a seasonal or intermittent stream, except for a hiking trail.
6. Motorized trails that cross within 200 feet of the high water mark of a flowing stream.
7. All trails that cross easily erodable soil.
8. Motorized trails that cross within 50 yards of a designated wilderness or Scientific and Natural Area.
9. Non-motorized trails that cross within 10 yards of a designated wilderness or Scientific and Natural Area.
10. All motorized "special use" areas - i.e. scramble areas and OHV parks.

Exempt from all review for -

1. Repair of an existing authorized trail of less than 1000 yards in length that are greater than 100 yards from a flowing stream, wetland, area inhabited by an endangered or threatened species or species of special concern.

2. Repair of authorized trails that are congruent with an existing township or county road or state forest road class 2, 3 or 4 and not within 100 yards of a flowing stream, wetland, area inhabited by an endangered or threatened species or species of special concern.

3. Perhaps trails/areas entirely contained on private property with no impacts to water, wetlands; no increased usage in surrounding areas; no public resources likely to be damaged (include noise effects).

Recommendations on Advisory Committee: -retired COs; current DNR employees; nearby residents active in past; citizens interested in or active on issue and citizens active in other forms of public land recreation.

Thank you for the opportunity to comment on these recommendations.

Sincerely,

Lois Norrgard

Chair, Minnesota River Valley Audubon - Natural Resources Committee

952-881-7282

From: lnorrgard
Sent: Wednesday, October 01, 2003 4:08 PM
Subject: Request for Comments, Mandatory review on Trail development

October 1, 2003

Gregg Downing
Environmental Quality Board
300 Centennial Building, 658 Cedar Street
St. Paul MN 55155

RE: Request for Comments - Adopting Mandatory Review and Exemption Categories for Recreational Trails

Dear Mr. Downing,

I am writing on behalf of American Lands Alliance, a nonprofit, grassroots, conservation organization.

First - it is a mandate that our state, and state Department of Natural Resources protect and maintain environmental quality and ecosystem health. This is a priority above providing recreation, any type of recreation, on our state natural heritage lands.

The Environmental Quality Board (EQB) must consider the impacts of further fragmentation of our state natural areas. Off-road vehicle activity results in impacts to the environment, the soils, the water quality and vegetation as well as the "quiet use" recreational opportunities provided by natural and undeveloped land resources. The use of ATVs (and other motorized recreation) occurs when the ground is not frozen and snow covered, therefore the impacts of increased use must be considered cumulatively with the guarantee of wet ground in spring and fall. The prospect of impact to our environment is absolute and all trail planning must go through a mandatory review process.

General guidelines for siting RMV trails should take into consideration sensitive habitats. Trails should not cross open water - wetlands streams or lakes. They should not involve or be in close proximity to steep slopes, this can be a "draw" for users to go off trail and "challenge" themselves and their machines by traversing the slopes and resulting in irreparable resource damage. Trails should be located away from sensitive or rare resources, rare species and their habitats, away from nesting and staging grounds (especially in spring) and take into consideration other wildlife habitat needs. They should also not be designated on existing trails used for non-motorized activities.

Potential impacts which warrant mandatory environmental review thresholds - any locations.

Soil and Vegetation: If subsoil is very sandy and erosion a high risk. If terrain is steep and hilly trail development can cause irreparable harm. All steep grade trails must have mandatory EIS review. All easily erodible soils must have mandatory EIS review. Impacts to soil quality and quantity then produce impacts to vegetation, wildlife and entire ecosystems.

Require Mandatory Environmental Assessment Worksheet (EAWs) on ALL motorized recreation projects beyond those below that require mandatory Environmental Impact Statements (EISs). Especially, but not limited to:

1. All trails that cross any (types 1 - 8) wetland, or all trails that have stream crossings.
2. Motorized trails that cross within 100 yards of the high water mark of a type 2 wetland.
3. Motorized trails that cross within 100 yards of the high water mark of a flowing stream.
4. Motorized trails that cross within 100 feet of a seasonal or intermittent stream.
5. Motorized trails that cross within 50 yards of a State Park or Wildlife Management Area.
6. Authorized repair of an existing trail that is within 100 yards of a flowing

stream or type 2 - 8 wetland.

7. All trails that come within endangered, threatened, or species of special concern habitats, or any trails that come within 100 yards of a known nesting and staging grounds of native species in Minnesota (i.e. great blue heron colonies, eagle or goshawk nest areas, special plant communities, trout streams, etc.)

Require Mandatory EIS for -

1. All trails that cross type 2 - 8 wetlands that are greater than 10 sq. ft.
2. Motorized trails that cross within 100 yards of the high water mark of type 3 - 8 wetlands.
3. Non-motorized trails that cross within 10 yards of the high water mark of type 3 - 8 wetlands.
4. All trails that cross within the high water mark of a flowing stream.
5. All trails that cross a seasonal or intermittent stream, except for a hiking trail.
6. Motorized trails that cross within 200 feet of the high water mark of a flowing stream.
7. All trails that cross easily erodable soil, or steep terrains.
8. Motorized trails that cross within 100 yards of a designated wilderness or Scientific and Natural Area.
9. Non-motorized trails that cross within 10 yards of a designated wilderness or Scientific and Natural Area.
10. All motorized "special use" areas - i.e. scramble areas and OHV parks.
11. All trails crossing or in proximity to old growth forest areas, old growth reserves, and designated old growth forests.

Exempt from all review for -

1. Repair of an existing authorized trail of less than 1000 yards in length that are greater than 100 yards from a flowing stream, wetland, area inhabited by an endangered or threatened species or species of special concern.
2. Repair of authorized trails that are congruent with an existing township or county road or state forest road class 2, 3 or 4 and not within 100 yards of a flowing stream, wetland, area inhabited by an endangered or threatened species or species of special concern.
3. Perhaps trails/areas entirely contained on private property with no impacts to water, wetlands; no increased usage in surrounding areas; no public resources likely to be damaged (include noise effects).

Recommendations on Advisory Committee: -retired COs; current DNR employees; nearby residents; citizens interested in or active on issue and citizens active in other forms of public land recreation.

Thank you for the opportunity to comment on these recommendations.

Sincerely,

Lois Norrgard

Upper Midwest Organizer - American Lands Alliance

952-881-7282

From: campbell1@le
Sent: Wednesday, October 01, 2003 3:45 PM
Subject: EQB Rules For Environmental Review Pertaining To Recreational Trails

Attn: Mr. Gregg Downing
Environmental Quality Board

From: Minnesota Four Wheel Drive Association Land Use Committee

Re: EQB Rules For Environmental Review Pertaining To Recreational Trails

The MN4WDA is pleased to pass along the following comments for consideration in any possible amendment to Rules Governing the Environmental Review Program, Minnesota Rules, chapter 4410, Adopting Mandatory Review and Exemption Categories for Recreational Trails.

In recognizing the EQB rules apply to state forest lands or lands administered by the commissioner, we believe any amendment to the rules should reflect the following:

*All recreational trail types should be treated the same in relation to the establishment of mandatory EAW, mandatory EIS, and exemption categories.

*The EQB should reject blanket groupings by trail uses such as motorized/non-motorized. All rules pertaining to recreational trails should apply equally to motorized and non-motorized trails

*Criteria that is used to determine whether or not an EAW is necessary should focus on the land where the trail is proposed and the design of the trail. Ex: riparian areas, existing sensitive habitats, and known endangered/threatened species

*No mandatory EIS categories are needed.

The following items should be exempted from EAW's:

- All existing trails
- New trails of less than 25 miles
- Repair, reconstruction or rehabilitation projects
- Existing forest roads
- Railroad grades
- Changes to trail designation

The MN4WDA is eager to participate in any citizens advisory committee created by the EQB as a result of the current recreational trails effort.

Thank you for the opportunity to submit these comments regarding environmental review pertaining to recreational trails. Please keep us informed of public meetings and notify us when the proposed rules have been drafted.

Thank you.

From: ssolterman
Sent: Wednesday, October 01, 2003 3:58 PM
Subject: Recreational Trail Comments

Dear Gregg,

Attached are Audubon Minnesota's comments on proposed rules to revise the threshold level for environmental review of recreational trails.

Susan Solterman
Policy Director
Audubon Minnesota



Audubon MINNESOTA

2357 Ventura Drive, Suite 106, St. Paul, MN 55125 651-739-9332

September 30, 2003

Gregg Downing
Environmental Quality Board
300 Centennial Building, 658 Cedar Street
St. Paul, MN 55155

Dear Mr. Downing,

I am writing to share Audubon Minnesota's comments on rules you will be drafting on threshold levels for environmental review for recreational trails.

We believe that Environmental Assessment Worksheets (EAWs) and Environmental Impact Statements (EISs) should be mandatory on all motorized recreation projects. Establishing mandatory EAWs and EISs eliminates the need for criteria meant to trigger environmental review. The need to now create mandatory environmental review is evidenced by the current state of affairs: an overwhelming presence in Minnesota's state forests of motorized-damaged to public resources, both on-trail and off-trail. Photos, forest manager reports, citizen complaints, newspaper articles and the formation of citizen organizations on the issue offers plenty of evidence that motorized damage has occurred and still occurs on trails open to motorized recreation.

Furthermore, the extensive dialogue, including citizen and state-official testimony, at legislative hearings for the last three years indicates the high-level of public and legislative concern this issue has garnered. Much of this issue might have been quelled if the Department of Natural Resources routinely conducted EAWs and EISs on any trail open to motorized use.

The only situations in which exemptions should apply to trails would be on trails entirely contained on private property with no impacts to water or wetlands, or on trails that do not increase recreational motorized usage or increase noise effects on public land in surrounding areas.

If EQB decides to create an advisory committee to formally discuss the proposed rules, Audubon Minnesota suggests a membership that includes a retired conservation officer, residents living near state forests with motorized damage and citizens active in quiet recreational pursuits, such as bird-watching.

Sincerely,

Susan Solterman
Policy Director
Audubon Minnesota



Amateur Riders Motorcycle Association - ARMCA
8051 West 195th Street
Jordan, MN 55352

October 2, 2003

Gregg Downing
Environmental Quality Board
300 Centennial Building, 658 Cedar Street
St. Paul, MN 55155

Dear Sir:

I am writing to you today in response to your "request for comments" in regards to adopting mandatory review and exemption categories for recreational trails.

I would like to thank you and the Environmental Quality Board for taking the time look at what I consider an important issue. I would also like to volunteer ARMCA to participate on any advisory committee if the EQB decides that one is necessary.

As a major state wide motorized recreation group, ARMCA was very pleased to see the legislature request the EQB to "adopt rules providing for threshold levels for environmental review for recreations trails" this past session. Our reasoning for this pleasure is that we feel that there needs to be some consistency and guidelines for environment review of *all* recreational trails on state forest lands or DNR managed lands. We feel that all types of trails have some sort of impact on the environment. We feel that motorized recreation is unfairly singled out as causing environmental damage. We feel that the location, layout, construction methods, maintenance plans, and amount of usage, among other things, are primary factors in the cause or potential for environmental damage, not the type of usage, motorized or not. An improperly sited, improperly constructed, and/or overused trail can be an environmental problem whether it is a motorized or non-motorized trail.

Responses on requested topics:

We do not feel that any **usage type** should be used as a criteria in deciding if a type of trail should qualify for mandatory or exemption categories. For example, hiking trails requiring mandatory environmental review and dirt bike trails being exempt from environmental review.

We feel that the trail itself or the trail proposal should be what is considered in the decision on mandatory, exemption, or left alone. We feel that the trail location, layout, and construction methods have a greater potential for environmental impact than the type of usage. Take a paved trail as an example, the construction and existence of such a trail has a much greater environmental impact than a user rollerblading or bicycling on it.

We do feel that there should be exemptions for such things as trail reroutes, repairs, reconstruction, or rehabilitation of existing trails. All of these activities are done to help protect the environment. We also feel that existing trails in place prior to the adoption of these new rules be exempt as they could not have been constructed with knowledge of the then none existing rules.

We also feel that there may be room for exemptions based upon the trail construction method. Trails that do not require any equipment larger than a brush cutter and maybe the occasional chainsaw would be an example of a trail that could have an exemption. Some hiking and single-track dirt bike trails could fall in this category.

We do not feel that any recreational trail should require a *mandatory* EIS.

● Page 2

October 2, 2003

Thank you for your time on this matter and feel free to contact me if you have any questions.

Sincerely,

Tom Umphress
Government Relations Officer

From: cmhovsky
Sent: Wednesday, October 01, 2003 5:11 PM
Subject: Comment on rec trails rules

Attn: Mr. Gregg Downing
Environmental Quality Board
Re: Rule making governing environmental review of recreational trails

Dear Mr. Downing,

Thank you for the opportunity to comment on the review rules for recreational trails review. Our comments come in two parts.

Part 1. Comments on your specified issues.

C. What criteria or parameters should the EQB use to establish thresholds for review and exemption categories i.e., what criteria or parameters are the best indicators of potential for environmental impacts?

We would suggest the following criteria as thresholds (there are almost certainly more), any one of which should trigger a review:

- >> Immediate proximity to unstable soils.
- >> Close proximity to wetlands.
- >> Close proximity to endangered or threatened species.
- >> Close proximity to historic and archeological sites.
- >> Close proximity to residences and cabins.

Based on our experience with Trails and Waterways laying down trails, the following sorts of impacts were ignored, as revealed by our own assessment worksheet (complete with photographs and GPS data):

>> No trails laid down on unstable soils. Our entire region is a glacial moraine, with a thin layer of topsoil over sands and light clays. A single rider can breach this soil, turning the trail into a trench with the next rain.

>> Close proximity to wetlands. In some cases, trails are sited right through the wetlands themselves. In others, "industrial strength" bridges are proposed to span them, destroying the beauty and the operation of the very wetlands they are proposed to protect.

>> Close proximity to endangered or threatened species. By the DNR's own admission in the EAW, the trails have been sited within sight of known endangered or threatened species nesting sites or other habitat.

>> Close proximity to historic and archeological sites. Contrary to the grossly inaccurate estimates of the Minnesota State Historical Society, the proposed trail system is directly adjacent to several such sites, one already being used as a staging area by ATV operators.

>> Close proximity to residences and cabins. The sounds of ATVs alone destroy the quality of life sought by residents and cabin owners, not to mention their effect on the wildlife we have sought to protect. Residents and cabin owners (and our concerns) were dismissed by the DNR's EAW as "sensitive sound receptors."

"Proximity" would have to be defined differently for each criterion: for soils, proximity would mean right next to, or on top of. For sound, proximity would mean at least two miles from the nearest cabin or residence. If any of these proximities can be shown to be violated in planning, a review would be triggered.

Frankly though we hope EQB decisions have some positive effect in limiting the future damage done by ATVs we are not very confident that your new rules will be followed by the DNR, for two basic reasons.

>> Flawed EAW/EIS processes. The EAW/EIS processes suffer from one major flaw: the very organization which makes up the EAW or EIS also passes judgment on their need and validity, and the validity of any criticisms of the EAW or EIS. In our case, the DNR's EAW was shown by our own EAW to be ridden with error. In response, the DNR agreed to an EIS, but in a very stealthy way, limited its scope to off-trail impacts only. We have learned to read between the lines, and read all the fine print of anything coming out to the DNR.

>> Lack of a spirit of compromise or flexibility in the DNR. We have tried to be reasonable and flexible with the DNR. In answer to our proposals, we were told that since Trails and Waterways was given authority to lay down a trail in our state forest area, they did not have to make any adjustments in the plan.

We hope we are proven wrong on these last two points. The DNR has publicly promised to continue with the EIS process initiated prior to passage of the 2003 law, and we hear that you at EQB "take their job seriously." But our experience with the DNE has been very disheartening, and we have become very distrustful of the DNR and its proposals.

E. Sources of information that might help the EQB in developing categories....

Rules which other states have developed would seem a good source. That other states have done a better job than Minnesota is clear.

- 1) A reporter friend from Minnesota Public Radio was once assigned this issue as a reporter in northwestern states. When these state governments discovered the damage being done to the environment, they quickly passed rules to prevent further damage.
- 2) The ATV magazines with national circulation recommend that rides come to Minnesota, because "they don't have any restrictive rules" governing ATV use.
- 3) Other states, such as Florida, have done extensive studies on the impacts of ATVs.
- 4) Asking the people directly affected by ATV and other ORV use (residents, cabin owners, lake associations, field workers, Conservation Officers, etc.) would be a good place to get the reality of the impact of such use, and where the thresholds ought to be established. To this point, it has been the ATV rider groups and the industry that has had the ear of the DNR, with Trails and Waterways either turning a deaf ear to those of us who have to live with the problems they are creating, or actively trying to avoid giving us a voice. (This is not just sour grapes. We can document each and every instance of this pattern.)

Part 2. A narrative of the local impact of ATV use, and an appeal to the EQB.

In line with suggestion E. 4) above, please allow us to present this narrative of what it is like to have to live around these proposed trails. (These trails were advertised on the DNR website before public notice was given, before any permits had been applied for, or before any sort of outreach had been done by the DNR. This sort of jumping the gun has made these ATV trail realities, even before the assessment or impact studies have begun, much less their official certification.)

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We turned off the blacktop. Three miles of curving gravel road and we'd be at our lake cabin. It was our wedding present to each other.

We had planned to retire there to its peace and quiet. Then came the invasion.

Their tracks were immediately apparent on the gravel road. They had fanned out from the old chimney that stands vigil over the remains of the historic CCC camp. Skidding and sliding around every turn, their lugged tires had chewed up the surface of our road.

Less than a mile down, the road intersects with an historic forest road which had once been a rail line used to carry the pine logs south to build the homes of Minnesota. They had been here too. We once used this road as an alternative entrance to the lake. They had been turned it into a quagmire of impassible mud.

Another mile along, one of the side trails had been closed for April and May by the DNR to prevent spring damage. Their tracks went around the barrier on either side. Not one of them had turned around and obeyed the closure sign. Not one. Not one!

The invader is the All Terrain Vehicle (ATV) and its cousins, the OffRoad Motorcycle (ORM) and the OffHighway Vehicle (OHV) or 4X4 trucks.

The damage is unbelievable, because it is hard to believe, even after seeing it with your own eyes. With four (or six) spinning heavy lugged tires ripping through the thin layer of top soil, the subsoil of clays and sands hasn't got a chance. A couple of heavy rains later, and there are ruts cut into the land up to nine feet deep. The resultant damage is multiple, as the eroded soil washes down to become sediment in lakes and wetlands, upsetting their balances and reducing the populations of animals, fish, birds, and plants.

And the noise. "It's like having a giant mosquito in you face, all day long," as one resident described it. In these otherwise quiet forests and lakes, the engine yowl of these machines travels for miles.

ATVs are invading what is left of pristine rural Minnesota with the very worst aspects of urban lifenoise, pollution, lawlessness. The ATV advocates would have us believe that only 5% of their number are these rule violating outlaws. I don't know what the actual proportion of outlaws is; I only know it is far higher than 5%. You can tell by their tracks they leave behind....

There is one incontrovertible fact about All Terrain Vehicle use: If the ATVs use a trail, their use not only ruins the trail itself (and any nearby wetland or nesting area), but ATV use ruins that trail and

area for every other human use birdwatching or hunting, hiking or skiing, or even just sitting and enjoying nature.

Backed by an iron triangle of political muscle the manufacturers Polaris and Arctic Cat, the ATV riders groups, and the Trails and Waterways division of the DNR ATV riders go wherever they want, whenever they want, wreaking unbelievable damage in their wake.

Were they the responsible citizens we have come to expect of Minnesota corporations, Polaris and Arctic Cat would support the kinds of legislation which would insure that ATV damage be limited and repaired, and lawbreakers severely punished. And they would design a "Minnesota" ATV which is quiet and which would not be able damage the land and waters of our state, and support legislation which would keep any other kind of ATV out of the state.

Instead, Polaris and Arctic Cat just keep upping the ante, designing ever bigger (just raised from 800 to 900 pounds) and more powerful (up to 900 cc's of engine displacement) machines, able to do more and greater damage, machines which are a threat to the safety of hikers, hunters, and to the safety of the riders themselves. Sadly, it is the younger riders who are most at risk, children who are allowed to ride machines way beyond their abilities, whose deaths are way out of proportion to adult rider deaths.

Right now, it is only the Environmental Quality Board which can ameliorate the hideous damage being done by ATVs to the rural environments of our state, and the quality of life of those living in them. In writing your regulations, we beg you to turn this invasion of ATVs around as much as you are able.

As we all know, the ATV will advocates scream bloody murder at any restriction on their "freedoms" their "rights," as they see it. What they want is not freedom, but pure license, license to go wherever they want, license to go whenever they want, and license to do whatever they want, with the rights of everyone else be damned.

We plead with you to write regulations which will allow ATVs to be operated legitimately, but to write regulations which will protect the legitimate and the prior rights of landowners and residents, and the vast majority of Minnesotans and vacationers who only want to be able to enjoy our great outdoors without harming it, regulations which will preserve our state's greatest natural resource.

Sincerely,

Peter and Charlene Hovde
1322 4th Street South
Moorhead, MN 56560



Minnesotans for Responsible Recreation

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October 1, 2003

Via Facsimile

Gregg Downing
Environmental Quality Board
300 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Downing;

Please accept the following as public comment on your *Request for Comments on EQB's Possible Adoption of Mandatory Environmental Review and Exemption Categories for Recreational Trails* on behalf of MRR's 700 members. Thank you for agreeing to accept these comments via fax and to accept the below mentioned attachments being mailed to you today into the public record.

Minnesotans for Responsible Recreation, MRR, urges the Minnesota Environmental Quality Board (EQB) to **adopt rules requiring mandatory review of all all-terrain vehicle (ATV), dirt-bike motorcycle, and four-wheel drive truck routes and use areas.** There is substantial evidence regarding the design and use of these off-highway vehicles (OHVs), the political-economic structure of Minnesota's Department of Natural Resources, and the need to preserve the public's singular legal right to review establishment of such routes and use areas which supports the need to adopt mandatory review.

SIGNIFICANT ENVIRONMENTAL EFFECTS ARE INHERENT IN THE DESIGN AND INTENDED USE OF OFF-HIGHWAY VEHICLES

There is substantial and overwhelming evidence that off-highway vehicles by their design and intended use have the potential for significant environmental effects, warranting mandatory public and environmental review of routes and use areas provided for these machines on public lands and/or with public funds. This evidence is extensively reviewed in the following two documents to be attached to these comments for inclusion in the record: MRR's 1999 report, *Off-Highway Vehicles in Minnesota*, and the 2003 Minnesota Office of the Legislative Auditor's *Program Evaluation Report: State-Funded Trails for Motorized Recreation*. Thank you for accepting these "attached" documents, which are being mailed to you today, into the public record.

In brief, ATVs, dirt-bike motorcycles and four-wheel drive trucks are designed to travel great distances across forested lands, streams and wetlands, thus the reference to "off-highway

vehicles". In doing so they have the potential for significant impacts on vegetation, soils, water, wetlands, fish and wildlife, and air quality. These impacts are reviewed on pages 3 – 13 of the attached report, *Off-Highway Vehicles in Minnesota*. Photographic documentation of these impacts is provided in Appendix B of the report. These machines also have the potential for significant noise impacts which lead to the displacement of those seeking quiet on Minnesota's public lands, whom, data shows are the vast majority of Minnesotans. A discussion of this data and these impacts is provided on pages 14 – 22 of our report. Please note that prior to publication, the Minnesota Department of Natural Resources (DNR) confirmed the factual accuracy of this report.

Beyond evidence provided in MRR's report, the need for mandatory environmental review is corroborated in the attached 2003 audit of the DNR's motorized trail program. On page 30, the report states:

"We believe that OHV trail projects should also be a mandatory category for three reasons. First, many projects in other "linear corridors" such as pipelines, transmission lines, and roads are already mandatory categories. Second, as we discussed earlier in this chapter, in many cases, OHV trails may have the potential for significant environmental impact. Third, OHVs are highly controversial and likely to be then subject of lawsuits as demonstrated by the OHV plans. Minnesota could avoid some future litigation and its associated costs and delays by requiring an EAW up front and making environmental assessment more transparent to the public."

There is substantial and overwhelming evidence that proposed OHV routes and use areas require mandatory environmental review.

NEED FOR "CHECKS AND BALANCES": DNR BIAS REQUIRES ONGOING PUBLIC AND ENVIRONMENTAL REVIEW

Minnesota's Department of Natural Resources has well-documented history of favoring the development of OHV access to public land and the needs of users of these machines over the need for environmental review and the needs of non-motorized users.

"The DNR's effort to plan a statewide OHV trail system has been inadequate... The DNR failed to develop its three planning elements. Specifically, the planning effort lacked (1) detailed information about their community's recreational needs, (2) a thorough examination to protect the environment, and (3) fiscal information about the cost of developing, administering, maintaining, and enforcing the trail system that was proposed" (*Program Evaluation Report: State-Funded Trails for Motorized Recreation*, page 19).

The audit also finds that the DNR and counties that administer public "grant-in-aid" funds to snowmobile and ATV clubs for trail building, provide little or no oversight as to how these funds are used, often resulting in damage to wetlands and other sensitive areas and encroachment on private property.

"We found 32 cases of trails allegedly being developed or maintained in violation of regulations in the last five years (page 35). ... We found that 39 percent of the files for the traditional snowmobile and OHV grants were missing an up-to-date list of landowners. In addition, we found that just over 60 percent of the grant-in-aid files that we reviewed were missing a map of the trail alignment (page 42). ..DNR and the local government trail sponsors have provided little oversight of the grant-in-aid programs, leaving clubs to largely operate on their own (page 40)."

In recommending reform of DNR policies and practices the audit states:

"DNR should set up a schedule of reductions in future grants for violations of program requirements, including not following federal, state, and local regulations (page 58)."

Most important to note is that **the DNR's response to audit findings and recommendations has been to avoid reform by actively working to weaken the rules rather than correct problems to meet the standards already provided.** The request to amend the very EQB rules in question by exempting categories of OHV trails was initiated by the DNR's Deputy Commissioner Holstein in a April 29, 2003 letter to Senator Dallas Sams in order to put the DNR on a fast track of trail development..

Furthermore, it was Commissioner Holstein, according to Representative Alice Hausman, who weakened legislative language to implement the audit recommendation which would hold clubs accountable for their illegal and high-impact trail building. Representative Hausman reports that when, during the final days of the 2003 legislative session, she offered an amendment to the DNR's finance bill that would have required that "the DNR commissioner must withhold grant-in-aid funds from clubs that violate the terms of their grants or the law", it was Commissioner Holstein, lobbying others in the hallway, that nullified the meaning and purpose of this amendment by changing the word "must" to "may".

That the DNR is compelled to weaken the environmental standards they must follow, and compelled to continue to provide public funds to clubs who violate the terms of their grants and/or the law, is reason alone to preserve the public's singular right to review and intervene in development of DNR OHV proposals. In the absence of implementation of audit recommendations, mandatory environmental review is irreplaceable.

EXEMPTING OHV PROPOSALS FROM PUBLIC REVIEW WILL DISENFRANCHISE THE PUBLIC WHO CAN NOT BE GUARANTEED EQUAL ACCESS TO DNR DECISION-MAKING

Not only has the DNR worked to weaken the standards it must follow but it continues to attempt to insulate itself from genuine public review, making preservation of the public's singular legal right to call for review essential. It is MRR's experience with the DNR that when "backed into a corner" with evidence of the need for reform, rather than respond proactively, the agency changes the jargon it uses and recreates its format for public participation creating endless confusion for those attempting to de-mystify the OHV planning process. In

2000 the DNR opened over 95% of Minnesota's state forests to OHV travel making Minnesota a virtual island of unrestricted OHV use among neighboring states. To assuage public concern the agency labeled this forest classification as "managed" and latter added the phrase "managed use on managed trails". That the DNR has managed neither OHV use or trails was made clear in the recent audit.

Furthermore, while the DNR has recently insisted that it is engaged in in-house reform and involving a greater number of stakeholders, and that the public will be invited to comment on future OHV proposals, this is contradicted by the facts. While MRR has made constant requests over the years to be included in DNR mailings and discussions we are continually in the position of having to request such information upon discovery.

A letter sent to the DNR Commissioner on May 16, 2003 expressing concerns over proposed trail construction in the Finland State Forest, did not receive a response until September 27, 2003 declaring "official opening of the ATV trail". While the agency laid out its plans to develop OHV routes in selected state forests at a September 11, 2003 meeting in Virginia, MRR was neither notified of this meeting nor of the DNR's plans. An August 29, 2003 focus group in which representatives of each of Minnesota's motorized advocacy groups were invited to express what "has and has not worked well for your group and its constituents, and what kinds of program relationships are important to you" excluded MRR and other critical observers of the DNR. (While the DNR invited token participation from a Minnesota nordic ski group, it did not by any stretch of the imagination, provide balanced representation in these feedback sessions.)

In short, despite years of documenting inadequate DNR policies and practices by MRR and despite a recent legislative audit corroborating these concerns and calling for specific reforms to make the agency "more transparent", it is business as usual in the DNR today. This business as usual calls for the highest level of ongoing public review.

MINNESOTA'S PUBLIC LANDS ARE OWNED BY ALL NOT JUST THOSE WITH "DEDICATED ACCOUNTS"

Mandatory public and environmental review of DNR OHV proposals is necessary because the DNR is beholden to the motorized groups it deems as its paying "clients". Motorized recreation in Minnesota is big business. It is a business that is well subsidized by the public and from which a host of motorized users and public employees draw benefit. MRR believes it is the collection of public gas-tax funds to subsidize motorized access to public lands which has such a firm hold on the DNR bureaucracy and specifically the Trails and Waterways Division whose mission is to administer these funds. Millions of dollars in public funds have been deposited in "dedicated accounts" in the Trails and Waterways Division for snowmobiles, ATVs, dirt-bike motorcycles, and four-wheel drive trucks over the past few decades. In 2002, for example approximately a half-million dollars was deposited in a dedicated account for snowmobilers who already enjoyed a 5 million-dollar balance in the Trails and Waterways Division despite the fact that there has been very little snow in recent winters on which to ride a snowmobile. And this while the state was suffering from a \$4.5 billion deficit and essential services were being cut.

It was MRR's interest in "following this money trail" that lead MRR members to call for the 2003 audit of the DNR's motorized trail program. As witnessed in the recent focus group and throughout the state audit, it is the DNR's first priority to serve and take comment from those "clients" with the largest "dedicated" accounts. **Regarding the sacred cow of motorized recreation in Minnesota and the DNR that milks it, there is no separation of church and state.**

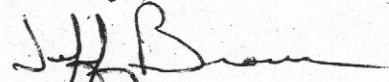
A vivid and symbolic example of the DNR's institutionalized lack of objectivity and separation from motorized groups is the DNR truck in the Tower area carrying a dirt-bike motorcycle with a decal prominently displayed on the rear window declaring the driver's membership and support for the All-terrain Vehicle Association of Minnesota.

Minnesota's public lands are owned by all Minnesotans. They should not be leased or sold to the highest bidder. Every Minnesotan should have a legal right to participate in decisions as to how these lands are used. Given the inherent potential of ATVs, dirt-bike motorcycles, and four-wheel drive trucks to damage these lands and the DNR's ingrown inability to represent the public's interest, it is essential that the public's singular legal right to review DNR OHV proposals be preserved.

"Off-road vehicles have damaged every kind of ecosystem found in the United States: sand dunes covered with American beach grass on Cape Cod; pine and cypress woodlands in Florida; hardwood forests in Indiana; prairie grasslands in Montana; chaparral and sagebrush hills in Arizona; alpine meadows in Colorado; conifer forests in Washington; arctic tundras in Alaska. In some cases the wound will heal naturally; in others they will not, at least for millennia."

An excerpt from the report *Off-rad Vehicles on Public Lands*, by the White House Council on Environmental Quality

Sincerely,



Jeff Brown,
Executive Director

**SUMMARY OF ORAL COMMENTS RECEIVED BY TELEPHONE
REQUEST FOR COMMENTS ON POSSIBLE RECREATIONAL TRAIL
ENVIRONMENTAL REVIEW CATEGORIES**

Comments received and summarized by G. Downing, EQB staff

I. October 1, 2003; comments of John Kreuz, Side Lake, MN
Mr. Kruez is a private citizen who has observed ATV use in his vicinity for 6 years.

Any plan by any organization to build or assist on any ATV trail or use (scramble) area should have a mandatory EAW

Very few projects should be exempted.

EQB should err on the side of environmental protection in setting categories because ATV damage is often nearly irreparable. In general, the more environmental review, the better.

II. October 8, 2003; comments of Grayden West, representing his local Isaac Walton League chapter

All trails have an impact and all should be reviewed at least through an EAW

An EIS should be mandatory if the trail will affect: lakes, wetlands, or streams, affect scenic areas, or affect endangered species.



STATE OF MINNESOTA
Office Memorandum

Office of Management and Budget Services

DATE: October 14, 2003

TO: Gregg Downing
Environmental Quality Board

FROM: Dennis Thompson
DNR, OMBS Principal Planner

A handwritten signature in black ink, reading "Dennis L. Thompson".

PHONE: 651-284-0111

SUBJECT: Response to Notice for Recreational Trail Rulemaking

Listed below are the Department of Natural Resources responses to the five topic areas in your July 28, 2003 Environmental Quality Board Monitor Notice. Our response to question number four is very brief. Over the next few months, DNR staff will analyze available research and work to provide EQB with additional criteria and recommendations. We will work with EQB and interested stakeholders to provide assistance and supporting materials throughout the Recreational Trails Rulemaking Process.

1. For which types of recreational trails should mandatory EAW, mandatory EIS, and exemption categories be established? Should some types of trails not be placed in any of these categories (and therefore remain subject to possible discretionary review on a case-by-case basis)?

No recreational trail type or category should be entirely exempt from environmental review. For example, depending on location, an unpaved trail could affect the environment more than a paved trail. Good trail planning that avoids sensitive natural areas is an important first step in minimizing environmental issues.

2. Could some types of trails be logically grouped together into the same categories due to similar environmental impacts?

Recreational trails can be grouped many different ways. Various trail groupings although similar in some respects, have important differences that could require different environmental review thresholds. Trail projects could be logically grouped, for purposes of rulemaking, as follows:

- 1) New trail alignment vs. existing trail corridor;
- 2) Sharing the same type of surface (e.g., natural-surface, hard, or frozen surface);
- 3) Similar trail width;
- 4) Amount of use;

- 5) Season of use (e.g., winter-only versus summer-only); and
- 6) Type of use (e.g., Pedestrian & Cross-country skiing; Mountain bike & Horseback; Snowmobile; mixed use; All-Terrain Vehicle (ATV); Off Highway Motorcycle (OHM); Off Road Vehicle (ORV)).

New trail alignment vs. existing trail corridor: There is a greater potential for adverse construction effects when developing a new trail corridor than when using pre-existing corridors.

Sharing the same type of surface: A grouping that combines trail types by hard surfaced, unconsolidated surface, or frozen surface will indicate how the construction and use of these trails will affect the environment.

Similar trail width: Grouping trail projects by trail width addresses the amount of land directly impacted by a trail.

Amount of use: Trails that are heavily used will have more disturbance-based effects and would require more maintenance for erosion than lightly used trails on similar soils and trail surface.

Season of use: There are differences between winter-use only and summer-use only trails. Trails that are used primarily on frozen soils have less potential for soil erosion or compaction related effects. However, the effects of natural community fragmentation may remain throughout the year. Winter-only trails are sometimes used when frozen conditions do not exist (early season, late season and warm spells). Even light use levels under these conditions could cause environmental damage from soil erosion or compaction. Again, depending on its location, a winter trail could have greater environmental impacts than a summer trail, or vice versa.

Type of use: Trails for different types of use have many similar environmental effects, but also have important differences that could justify trail use specific environmental review thresholds.

3. What criteria or parameters should the EQB use to establish thresholds for review and exemption categories – i.e., what criteria or parameters would be the best indicators of potential for environmental impacts?

The criteria that the EQB adopts should be easily understood and be patterned after existing rules and precedent. Mandatory environmental review categories should be based on the environmental change associated with construction of recreational trails and effects associated with trail use. Thresholds for review and exemption categories should distinguish between new construction versus reuse of existing travel corridors and between various types of trail uses.

For example, construction related effects lend themselves well to development of thresholds for mandatory categories and exemptions. Recreational trail construction thresholds should be based upon when a trail's development and operational footprint exceeds some specified amount. This amount can be calculated, allowing proposers, responsible government units (RGUs), and permitting authorities a simple and consistent test of whether and when environmental review is necessary.

Another possible approach is to recognize that for some trail types there is a relationship between length and use; in general, shorter trails will not generate as much use as longer trails. The rationale is that once a trail reaches a certain length (and this will vary by type) it will attract users from beyond the local area. While a threshold based on length and type would be easy to apply it could trigger review of projects with very little in the way of potential adverse effects. However, by including factors that could screen out the low impact projects (e.g., season of use or pre-existing land use) the number of variables would be greatly expanded.

4. Specific proposals for mandatory EAW, mandatory EIS, and exemption categories.

The DNR does not currently have a position on specific criteria or parameters to establish necessary thresholds for environmental review.

Exemption Categories

Minor rerouting of existing trails should be exempt from environmental review.

Repair, reconstruction and rehabilitation of existing recreational trails should be exempt. This could be covered by the existing exemption: “[o]peration, maintenance, or repair work having no substantial impact on existing structures, land use, or natural resources is exempt” (Minn. Rules part 4410.4600, subp. 21.C.).

Minor, temporary trails having no substantial impact on land use or natural resources should be exempt. This could be covered by existing exemptions: “[m]inor temporary uses of land having negligible or no permanent effect on the environment are exempt” (Minn. Rules part 4410.4600, subp. 22.B.).

(The term minor will need to be defined through the rulemaking process.)

5. Sources of information that might help EQB in developing categories – e.g., published studies on environmental impacts from types of recreational trails or classifications of trails developed by other states according to potential for environmental impacts.

Copies of the following studies may be useful in developing categories and the DNR will make arrangements to provide these to the EQB. This is not a complete or exhaustive list.

Jalotzy, M.G., Ross, P.I., Nasserden, M.D., Arc Wildlife Services Ltd., Jan. 1998, Effects of Linear Development on Wildlife: A Review of Selected Scientific Literature, Prepared for the Canadian Assoc of Petroleum Producers. 113 Pages.

Weir, Donald V of Donald V. Weir & Assoc. 2000, A Guide to the Impacts of Non-Motorized Trail Use, Edmonton, Alberta Canada. 300 Pages.

Montana Fish, Wildlife & Parks, Draft State Trails Grant Program: Programmatic Environmental Impact Statement, August 2000. State Trails Program. 104 Pages.

Gaines, William L.; Singleton, Peter H.; Ross, Roger C. 2002, Assessing the Cumulative Effects of Linear Recreation Routes on Wildlife Habitats on the Okanogan and Wenatchee National Forests. Gen. Tech. Rep. PNW-GTR-XXX. Portland, OR: U. S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 93 pages.

Trombulak, S.C., and C. A. Frissell. 2000. Review of ecological effects of roads on terrestrial and aquatic communities. *Conservation Biology* 14(1):18-30.

Defenders of Wildlife. 2002. Out of control: the impacts of off-road vehicles and roads on wildlife habitat in Florida's national forests. Defenders of Wildlife, Washington, D.C. 124 pages. <http://www.defenders.org/habitat/florvs/>



Minnesota Center for Environmental Advocacy

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October 13, 2003

VIA EMAIL AND U.S. MAIL

Gregg Downing
Environmental Quality Board
300 Centennial Building
658 Cedar Street
St. Paul, MN 55155
(651) 205-4660 / 296-3698
gregg.downing@state.mn.us

Re: Comments on possible environmental review rules for recreational trails

Dear Gregg Downing and Environmental Quality Board:

Thank you for the opportunity to comment on possible adoption of rules for environmental review of recreational trails. I am the forestry advocate and a staff attorney for the Minnesota Center for Environmental Advocacy (MCEA). MCEA is a non-profit environmental group using law, science, and research to protect Minnesota's natural resources, its wildlife, and the health of its people. MCEA has a history of involvement in recreational trails issues, with particular focus on motorized trails.

Before addressing the particular topics suggested in the Request for Comments, this letter provides some information, for the sake of context, regarding Off-Highway Vehicles (OHVs), the significance of the OHV law passed during the state legislative session, the extent and manner of their use, their social effects and public reaction to them, and their environmental effects on the state's natural resources.

I. CONTEXTUAL COMMENTS:

The meaning of "OHV"

The term OHV includes All-Terrain Vehicles (ATVs) (characterized by three to six low pressure floatation tires and a design that requires the rider to straddle the seat); Off-Highway Motorcycles (OHMs); and Off-Road Vehicles (ORVs) (most often 4-wheel-drive trucks, but also encompasses ATVs weighing more than 900 lbs dry weight or having an engine displacement of over 900 cubic centimeters, and other vehicles not classified including those with more than six floatation tires.

Minnesota's 2002 and 2003 OHV laws, their significance, and current conditions

The 2002 and 2003 Legislative sessions both produced notable OHV legislation. The 2002 law, in pertinent part, banned OHVs from traveling "cross-country" on public

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lands. Cross-country travel was defined as travel off of any road or trail. Trail, however, is not well-defined in State law, and according to some can be interpreted very broadly to encompass any linear track that looks like a trail, including perhaps game trails, grown-over ancient skid trails, or even the bent vegetation traces left by a single vehicle recently operated across a formerly trail-less area in violation of the "cross-country travel ban," as it is widely known. Accordingly, the cross-country travel ban was perceived from the outset by most observers (including DNR Conservation Officers and citizens following the issue) as being relatively inconsequential for at least two reasons: 1) it failed to address the fact that continuing use of existing trails was causing as much or more environmental damage and social discord as the creation of new trails through cross-country riding; and 2) even with respect to the blazing of renegade trails by cross-country riders, the ban is plagued by the administrative impossibility of being effectively enforced.

A second part of the 2002 OHV law directed the DNR to establish a "Motorized Trail Task Force" with a 6-month mission: make recommendations to the DNR and the Legislature on a number of subjects. That Task Force reported 31 unanimous recommendations, but failed to reach unanimous agreement on any proposed recommendation addressing "natural resource protection concerns" with motorized trails. While a number of the reported recommendations and many of the proposed-but-failed recommendations (those that drew one or more veto votes) were quite good, and have value for policy-makers in MCEA's opinion, the Final Report, in its entirety, was vehemently attacked primarily by motorized interests as a failure when it was delivered in mid-January, 2003. These attacks were leveled against the report in its entirety, including the 31 recommendations that had recently been approved unanimously.

The state of Minnesota passed a more extensive law concerning OHVs on May 19, 2003. Among other important provisions, it directs the DNR to evaluate and re-classify (with respect to OHV use) all 54 State Forests currently permitting OHV use off of forest roadways. Under the existing classification scheme, all State Forests are classified as either "managed," "limited," or "closed." Currently, 45 State Forests are "managed," eight are "limited," and four are "closed." State Forests in the "managed" classification permit OHVs to travel on any trail.¹ In State Forests classified as "limited," OHVs may use, and must remain on, trails specifically provided and posted ("designated") by the DNR for them; on "limited" State Forests, all trails are presumed closed to OHVs unless posted open. In State Forests classified as "closed," no designated trails for OHVs are provided and hence no OHV trail riding is permitted, but OHVs may use and must remain on inventoried State Forest roads (unless posted otherwise). As a result of the 2003 OHV law, there will no longer be any forests in the "managed" classification. The DNR has until December 31, 2006 (extendable to December 31, 2008 if request is made to the Legislature by January 1, 2005) to evaluate all State Forests and reclassify them as either "limited" or "closed."

The scheduled elimination of the "managed" classification, and the movement of all State Forest lands to a management status in which trails are closed unless posted open, constitutes a major change in state policy. The 2003 OHV bill accomplished this change (though many other important provisions that survived intense scrutiny in the Senate were stripped in conference committee), and it was passed over stiff opposition from motorized recreation enthusiasts and the OHV manufacturers. It passed, reversing the previous policy with its emphasis on "managed"

¹ Lack of sufficient law enforcement resources, combined with the broad definition of "trail," has already allowed the proliferation of more than 7,000 miles of user-created, or "renegade," motorized trails on State Forest lands, according to DNR estimates (Statement by Mike Carroll at the April, 2003 meeting of the Minnesota Forest Resources Council). Due to the proliferation of unplanned OHV trails in "managed" State Forests, the term "managed" as a forest classification is generally conceded to be a misnomer.

State Forests, because of the strength and sustained nature of public outrage. The outrage was and continues to be fed by OHV-caused damage to public resources, disruption to private lives of Minnesotans, and degradation to Minnesota citizens' outdoor recreation experiences.

The same concerns that prompted Minnesotans to demand governmental action on this issue are directly relevant to the proposed rulemaking now in the hands of the Environmental Quality Board (EQB). Minnesotans are not outraged over hiking trails, ski trails, or kayak and canoe routes, as such. To the extent these and other non-motorized types of recreational trail have drawn public attention in the context of OHVs in the past years, it is only because OHVs have used them illegally, damaged them, and in some cases prevented the rightful non-motorized uses to which those trails are devoted. A good example of this outrage can be seen in the continuing litigation over the ownership of the Paul Bunyan Trail, in north-central Minnesota, where the State Court of Appeals has ruled in favor of two landowner neighbors of that paved biking and winter snowmobile trail, declaring that the state has no legitimate right-of-way for the trail section traversing their land. Reportedly, the landowners' primary concern and the reason the blocked the trail and went to court, is the rampant illegal use of the trail by ATVs.

Extent and manner of OHV recreational use

According to DNR figures and the January, 2003 Office of the Legislative Auditor's Program Evaluation Report titled State-Funded Trails for Motorized Recreation (OLA Report), there were over 180,000 ATVs, 6,300 OHMs, and 1,400 ORVs registered in Minnesota at the end of 2002. OHVs (other than OHMs) used exclusively on private lands need not be registered for public lands use, and so are not counted in these figures. The uses of OHVs on public lands include sport riding, secondary-recreational riding (as in ATV use associated with hunting), and other utilitarian uses.

The great preponderance of OHV riding in Minnesota is ATV riding, and the bulk of all ATV riding is performed by a fairly small minority of Minnesotans. Those who own a registered ATV often own more than one. According to the July, 2001 study, prepared for the DNR by John P. Genereux, titled "An OHV Recreation Planning Tool Based on: A Survey of Resource Managers; and A Survey of [OHV] Riders in Minnesota" (DNR's Genereux Study), "10% of all ATV owners accounted for 57% of all forest riding on ATVs.... In other words, 60% of the riding was being done by 10,000 ATV riders." Furthermore, "over one-half of the ATVs registered for recreation in Minnesota are not being used in the [public] forests." "74% of ATV riders own or rent land where they can ride ATVs and other OHVs." *Id.* at p. 55.

A super-majority (78%) of Minnesota deer hunters do not use an ATV in any way when hunting, according to a January, 2002 report on a survey conducted for the DNR by Responsive Management, titled, "Minnesota Deer Hunters' Opinions and Attitudes Toward Deer Management" (2002 Deer Hunter Survey), at pp. 15-18. The most common use among those who do use an ATV for hunting use it only for retrieval of game after it is shot.

According to best information available, therefore, OHV users of Minnesota public lands represent a small subset of the state's population, yet it is commonly understood that the amount and the severity of the damage they do through their OHV riding activity is entirely out of proportion to their numbers. This incongruity is due in part to the nature of the machines they ride (as will be discussed more extensively, below), but also due to the manner in which they ride.

Some OHV riders are attracted to opportunities to create and drive through mud; to throw dirt, sand, and mud; to climb steep hills; to corner sharply at high rates of speed; to spin their wheels. The stated reason for the attraction of riders to all of these activities is that riders are generally

looking for opportunities to “challenge their machines.” The over-arching reason they ride on public lands because they can find those opportunities on the natural landscape. The riders who fit this description are not riding first and foremost to see or appreciate nature, or to maintain the environmental condition of the public lands on which they ride. As put in the DNR’s Genereux Study, “[a]ccording to this survey, riders do neither understand nor appreciate the possible connection between their riding and environmental damage. Respondents think mud, natural water hazards [otherwise known as lakes, rivers, streams, wetlands, and vernal pools], and hill climbs are all appropriate uses in the forest....” *Id.* at p. 25.

It is difficult to know how many OHV riders break the law while riding, and estimates vary widely. Riders will say emphatically but without offering evidence or any substantiating explanation that “just a few” percent, or frequently, “three percent,” of riders are causing all the trouble. There are two problems with this assertion. First, the few people who have claimed to keep any kind of record of the behavior of riders claim the percentage who break the law is much larger. Larry Wannebo, of Crow Wing County, claims to have kept a notebook record on the OHV ditch riders whom he sees near his home, and his numbers show 70% or more of those riding in ditches break at least one law when in plain view. I don’t know what methodology he used or whether it is valid, but at a minimum it is as sound or better information than the conflicting anecdotal claims of riders. Another source of information that could be considered are estimates from Conservation Officers (COs). One such estimate, offered by recently-retired CO Roger Lueth. His April 18, 2003 letter to the Legislature on the OHV problem in Minnesota, as seen from the eyes of a veteran CO, is captivating and highly informative. He estimates the ratio of “irresponsible” to responsible OHV riders is about 75:25, or 75% causing trouble.

One reason for the discrepancy in estimates may be that the riders’ definition of what constitutes “causing trouble” environmentally is not, as the DNR’s Genereux Study shows, very well-informed. It would not be surprising if riders’ ideas of appropriate uses of their machines are defined, largely, by the OHV advertising they see on television. A second reason is that the design of OHVs makes them inherently environmentally destructive in many locations they ride, as is discussed in depth below. Regardless of what exact percentage of riders is breaking the law, the damage they do is exceptionally long-lasting and is severe.

Social and environmental effects of OHV recreation

For the most thorough look at the environmental effects of OHV recreation, you should read the October 3, 2002 DNR document titled, “Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature.” This document was prepared by and for the Environmental Review Program in the Ecological Services Division of the Minnesota [DNR], and is the single best and most comprehensive treatment of the subject that is available.² MCEA incorporates this document by reference in this comment letter. In addition the following points are important and bear summary treatment here, as well.

In important ways, no other recreational activity compares to OHV riding. First, no class of recreational activity has ever put as much power at the disposal of the outdoor recreationist as OHV riding. Tractive power and torque are selling points, with manufacturers currently engaged in an “arms race” of sorts, as they compete to make machines faster and more powerful. The

² It also contains an extensive bibliography. Copies of nearly every journal article listed in that bibliography have been reproduced and are submitted by MCEA with this comment letter for the EQB’s convenience. Though the EQB rules do not require the EQB to do so, MCEA asks that these materials be retained by EQB after the drafting stage, so that they may be considered as part of MCEA’s eventual formal comment letter at the next stage of the process.

consequences of this conferral of power are demonstrated in manufacturers' commercials, and translated on Minnesota's landscape as rutted wetlands, churned-up streambeds, sediment-choked spawning gravels in trout streams, eroded hillsides, compacted soil, and vegetation loss. Even when ridden responsibly or at least without intent to cause environmental damage, the sheer power and weight of the machines carry an inherent capacity to cause damage that is unparalleled in the history of outdoor recreation.

A second feature of OHV riding is the fact that it allows its practitioners to travel longer distances and cover larger areas than any other form of outdoor recreation. Ardent hikers might cover 10 miles or more in a day's effort; ardent canoeists might cover 30 miles or more with substantial effort and under decent conditions. According to the DNR's 2001 Genereux report, an average ATVer, by comparison, likes to cover 30 miles of trail riding in just 2 hours' worth of riding, and an OHMer likes to cover 40 miles in under 2 hours. *Id.* at p. 53. I believe the DNR defines a "rider day," its unit for measuring volume of motorized recreation, as four hours worth of riding, and so a typical OHV "rider day" amounts to over 60 to 80 miles of riding. And some riders do ride even farther. With the exception of bicycle touring (on roads), no other sport comes close to these amounts.

A third feature of OHVs is the size of the area that they affect on the landscape. This area is not just the 3-to-8-foot wide ribbon of trail over which they roll. More accurately, an OHV has multiple effects on the landscape, and the different effects are felt over different-sized areas. Nearly every effect, however, has a "footprint" on the land that is felt over a larger area than similar effects from other forms of outdoor recreation. Consider some examples:

- *Erosion* - When OHVs ride over steep slopes or weak soils, the affected area can grow over time. At first it may be just the area where surface vegetation is destroyed and the sediment travels. Over time, the disturbed area often grows, spreading down-slope as destabilized soil succumbs to gravity and precipitation; and spreading upslope as erosion below undercuts and causes the collapse of soil upslope. Depending on the relative weakness of the soil and other local site factors, the area affected by an OHV's passage may spread and grow over time to cover an area much larger than the tracks initially left by the OHV. The erosion effects of OHVs are inherently likely to be several levels of magnitude greater than those of hikers, cyclists, or skiers, for example, because the OHV without the rider typically weighs several hundred pounds (for OHMs), up to 900 lbs (for ATVs), or even several tons (for ORVs); and because that tremendous weight is coupled with powerful engines, aggressively-treaded tires, and a tendency of operators to gun the engines and spin wheels intentionally.
- *Sedimentation* - OHVs operating illegally near or in a stream, river, or lake, stir up or cause the erosion of sediment, and frequently also introduce the seeds of invasive non-native weeds. Sediment and noxious weed seeds can be transported great distances by water. That entire area receiving the sediment and seeds is another area affected by OHVs. The sedimentation effects of OHVs are many levels of magnitude greater than for other forms of non-motorized recreation because hikers and cyclists behave differently when encountering wetlands, streams, and lakes. Like hikers and cyclists (just to name a few non-motorized forms of recreation), canoeists lack both the power and the inclination to destroy wetlands churn up lakes or streams. Similarly, because hikers, cyclists, and canoeists travel shorter distances and generally avoid becoming mud-caked, their innate capacity to spread the seeds of noxious non-native invasive weed species is lower than that of OHVs.
- *Noise pollution* - OHV noise legally may approach 99 decibels at a distance of 20 inches from the muffler, according to the DNR's 2002-03 Recreational Motor Vehicles Regulations, at p. 13. When revved and running, OHVs can be heard at great distances

up to and over two miles. Even if a single OHV can be heard only within a radius of one mile, it still has a "soundshed" – the area where people and wildlife are affected by its noise – of 3.14 square miles (area = πr^2 , with the radius = 1 mile). When a single OHV travels 33 miles (the average length of a preferred ride for ATVers and OHMers, according to the DNR's Genereux Study) on a trail, in the course of a 2 or 3-hour ride, it affects all the people and wildlife within an area of 69 square miles (33-mile long x 2-mile wide soundshed, plus a semi-circle on each end with a radius of 1 mile). Hikers, cyclists, canoeists, etc., simply do not generate the sustained high-volume noise of an OHV. A moderately noisy hiker might be heard over a distance of 100 yards at most (if talking exceptionally noisily), and thus the entire area affected on a 10-mile day-long hike would be about 1.15 square miles (600-foot wide x 10-mile long soundshed, plus a semi-circle on each end with a radius of 300 feet), or just 1.7% the area affected by an ATV.

- *Noxious weed spread* - An ATV driven through a few feet of spotted knapweed can pick up 2,000 seeds, and when ridden farther, will spread those seeds for tens of miles.

In sum, the combination of inherent abilities (to do more damage, travel longer distances, and affect larger areas with their various effects) to disturb people and damage the environment make OHVs the most intrusive and inherently destructive form of outdoor recreation yet. For these reasons, and for all the additional reasons elaborated upon in the DNR document already noted above (Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature), OHV recreation projects and decisions deserve the most careful environmental review accorded any form of outdoor recreation.

The costs of providing, managing, monitoring, maintaining, repairing, and enforcing OHV trails far exceed the costs for other forms of recreation.

Since the first meetings of the Motorized Trail Task Force, the DNR has received requests to show the costs of building, managing, monitoring, maintaining, repairing, and enforcing OHV trails, and has been largely unable to do so. The best estimate that has ever been provided was for maintenance on a hardened-surface ATV trail in the south-eastern corner of the State. Those figures were provided by the DNR to an individual named Tom McMillan, and showed that yearly maintenance totaled just over \$1,100 per mile of trail. DNR's Trails and Waterways staff has at various times estimated costs at closer to \$50 to \$150/mile, but has not supported these estimates with figures or documentation similar to the documentation showing \$1,100/mile/year.

Other forms of recreational trails do not require such enormous investments in maintenance. Nor do other forms of recreational trails carry the enforcement costs of motorized trails. The full costs of enforcing rules on public land dictating where OHVs can and cannot travel are probably an order of magnitude greater than what is currently being spent. Right or wrong, OHV representatives and others have said, in so many words, that the State will never be able to afford to pay for enforcement at levels sufficient to achieve compliance with the law. Failure to enforce rules governing OHV riding carries still greater costs, of course, measured in environmental damage, reduced quality of life and quality of recreational experience for other citizens, and the monetary costs associated with repairing damage after the fact, and with lost tourism and other economic activity as a result of visitors' bad experiences in an area due to OHV recreation. If there has been any research in this area, it has not been publicized, but to illustrate the point that OHV recreation carries economic costs in the form of foregone economic benefits: "Motorized vehicles are considered a nuisance by non-users, and jet ski noise drives away significant numbers of tourists, costing an estimated \$1 billion in lost revenue nationally." (Final Report of the New Jersey State Comparative Risk Project, at p. 154).

Recreational trails that cater to less destructive activities carry monitoring, maintenance, repair, and enforcement costs that are just a fraction of those for OHV trails. Monitoring need not be as frequent because the trails withstand the lighter impact of lighter forms of recreation for longer periods of time. Less wear and tear per unit time translates into much lower maintenance and repair costs. And other forms of recreational trail use, unlike OHV riding, are far more likely to stay on the trails provided, resulting in far less damage off-trail, and thus far lower costs to repair illegal off-trail traffic.

MCEA suggests that the costs of OHV recreation are likely to become, if they are not already, out of control, resulting in a situation in which the State, by attempting to satisfy OHV riders, takes on obligations bearing costs that it cannot afford to meet. Actual availability and use of maintenance, repair, and enforcement resources at levels that make maintenance, repair, and enforcement effective, is necessary to avoid environmental destruction on public lands. MCEA therefore recommends that the EQB attempt to address the prospective rulemaking from the perspective of hard costs and affordability. This approach would make the connections between the miles of trail that would be provided by a given trail project (motorized or non-motorized) and the total already in the area and in the state, as well as the existing enforcement, monitoring, maintenance, and repair costs already borne by the state and the additional anticipated costs that the specific proposal would bring. If this approach is used or incorporated into a larger approach, then costs should be calculated both with and without assuming in-kind maintenance and monitoring work conducted by local clubs. The experience with snowmobile trails is that clubs do back out of commitments to monitor and maintain trails, may perform inadequate work, and may even violate federal and state law while doing their work (see May 17, 2002 letter from Cass County Environmental Services Wetland Act Administrator to the U.S. Army Corps of Engineers, attached). In addition, the 2003 OHV law directs the DNR to enter into *informal* agreements with motorized clubs. These informal agreements cannot be counted on to provide problem-free continuous and effective service to the State, and thus trail projects will always necessitate DNR expenditures at some level to monitor, or step in and conduct (or undo) work done by private clubs and individuals. Accordingly, grant-in-aid trails require the same environmental review as DNR-designed and built trails.

II. COMMENTS RESPONSIVE TO THE TOPICS SPECIFICALLY IDENTIFIED IN THE REQUEST FOR COMMENTS:

➤ Types of recreational trails that should receive mandatory EAWs, mandatory EISs, and exemptions

All recreational trail types are not the same. MCEA believes that proper motorized recreational trails are strikingly different from non-motorized trails in nearly every element of design, construction, maintenance, repair, and enforcement, as well as in the severity of their harmful effects on environmental and socioeconomic conditions in the areas (not just the narrow ribbon-footprint) that they traverse. Because even short motorized trails may result in substantial damage to the areas for miles around the trail proper, and for all the particular reasons offered above in this comment letter, MCEA recommends that all types of motorized trail traversing public lands receive mandatory EAWs. The documentation submitted with this comment letter, and particularly DNR documents, identify the vast differences between motorized and non-motorized trails, and contain more than sufficient evidence to support MCEA's position. If thresholds for mandatory EAWs and EISs are proposed, they should be proposed and enumerated separately and specifically for each type of trail, whether motorized or non-motorized.

Exemptions from environmental review are not proper for any kind of recreational trail, because trails of all types are varied in the types of terrain and habitat they cross, and also because even trails administratively intended only for non-motorized use may be used regularly and illegally by

OHVs. MCEA has documented such illegal use to be common on the North Shore Trail, the North Country Trail, and numerous hunter walking trails around the state. Illegal use is reasonably predictable based on past experience, and thus it cannot be ignored as a factor that should be considered when trails of any kind are proposed. Because the prospect for illegal use and the potential magnitude of environmental and socioeconomic damage vary from location to location, it does not make sense to exempt any trail type from environmental review.

Specifically, the following exemption categories that MCEA anticipates may be suggested, are inappropriate:

- 1) exemptions based on a trail's current status as a legally-riden trail for OHVs. The more than 7,000 miles of renegade trails now in existence on State Forest lands are responsible for the environmental damage and social strife in Minnesota that necessitates a rulemaking. Exempting these same trails from environmental review would be antithetical to the underlying enterprise;
- 2) exemptions based on the pre-existence of a trail or travel corridor (e.g., a snowmobile or hiking trail now proposed to be designated for ATV use), even though that trail or travel corridor is not currently open to the OHV now proposed to use it. Foot trails and winter-use/frozen condition trails have very different environmental and social effects. In some circumstances, it is clear that a trail would do less damage if relocated away from existing corridors, so it would be illogical and unworkable to establish exemption categories on this basis;
- 3) exemptions based on whether the trail follows a road way. Environmental effects scale with levels and type of usage. A forest road with a low level of usage has different environmental and social effects than a forest road that receives 50,000 OHV rider-days of use per year, as was projected to be the case with the White Earth State Forest ATV/OHM Trail. Furthermore, because OHVs are far more likely (than a Honda Civic or a hiker) to go off the road into sensitive areas, the area through which a road passes might militate for environmental review, thus making location on a road a poor basis for establishing an exemption category for OHV trails; and
- 4) exemptions based on an arbitrary number acres that would be consumed by the trail. Such an exemption assumes the only area affected by a trail is the physical space occupied by the trail tread, or the grade, or the area brushed out around the trail. As has been discussed above, and as is thoroughly addressed in attached documents, the effects of a trail extend far beyond the tread, grade, and cleared area occupied by a trail, and thus these measurements are not rational bases for determining that a trail would not have potential for significant impact.

➤ Types of trail that could be grouped together due to similar environmental impacts

The following criteria can help bifurcate trail types into distinct groups. These groups should be considered separately:

- 1) motorized trails and non-motorized trails (this distinction is essential);
- 2) non-frozen and frozen condition trails,
- 3) steep terrain and level trails,
- 4) upland and wetland trails, and
- 5) trails on strong soils and weak/easily-eroded-soils.

➤ Criteria or parameters the EQB should use to establish thresholds for review and exemption categories

The following are potential criteria for use in establishing thresholds for review:

- 1) presence of natural resources seen elsewhere to have been damaged by OHV use (legal or illegal);

- 2) presence nearby of natural resources found likely to be damaged, taking into account the ubiquity of law-breaking, etc.;
- 3) presence of conflicting human recreational and residential uses;
- 4) relative costs of monitoring, maintaining, repairing, and enforcing trails, based on type, location, sight distances, etc.;
- 5) certainty of availability of resources (personnel time and funding) for monitoring, maintaining, repairing, and enforcing uses of the trail (necessitated by both legal and illegal riding).

➤ Specific proposals for mandatory EAW, mandatory EIS, and exemption categories

Roads greater than 1 mile in length and pipelines greater than .75 miles require a mandatory EAW. Non-OHV road vehicles (the typical Ford Taurus or Honda accord), and non-motorized trail users do not, as a general rule, go off-road/off-trail intentionally because there is no urge, incentive, or engineering capability on the part of the vehicles or their operators to do so. OHVs, on the other hand, have demonstrated a tendency to leave roads and trails (including posted non-motorized trails) and are far more prone to go into surrounding sensitive areas. It would be a mistake not to account for this fact of OHV management. Setting environmental review triggers equivalent to those afforded to roads and pipelines would not address this fact of OHV management. Accordingly, recreational trails going through natural and environmentally sensitive areas should be subject to stronger triggering mechanisms than those afforded roads and pipelines.

An EIS should be mandatory when a trail is proposed within an area of public land that does not contain any forest roads or non-frozen trails, or when a trail is proposed within the boundary of protected wetlands or within an appropriate buffer area surrounding types 3 through 8 wetlands, or when a motorized trail is proposed within a linear distance of 2 miles from the boundary of any State or federal park, wilderness area, or Potential Candidate Wild and Scenic River, or within one-half mile of any trout stream or tributary, Waterfowl Respite Lake, or designated non-motorized area.

➤ Recommendations on Public Meetings

Hold meetings in all parts of the state, but make sure to hold meetings in areas with existing designated trails as well as illegal use, environmental damage; and examples of other forms of high-value environmental and recreation resources.

➤ Recommendations on Advisory Committee:

To be helpful, the Advisory Committee should include retired personnel from the DNR, particularly COs, who have shown a willingness to speak out about the challenges inherent in managing OHV recreation. The more the Advisory Committee is populated with outspoken and seasoned retired staff, the more effective and helpful it will be in an advisory capacity. The purpose of an Advisory Committee is not to represent all comers. Select people who are respected, experienced, innovative thinkers, and who speak plainly even when saying potentially unpopular things. Besides retired DNR personnel, consider retired personnel from other agencies; current DNR and other agency employees; nearby residents active in past recreation issues; and citizens who participate in a variety of forms of recreation.

➤ Sources of information helpful to the EQB in developing categories

MCEA has attached a CD-ROM containing hundreds of photographs taken from more than a dozen OHV club web sites, to demonstrate the types of activities these clubs engage in. Please first review the text file included on this CD-ROM. Attached, as well, are the following documents that may be helpful sources of information:

Creel, S., Fox, J. E., Hardy, A., Sands, J. Garrott, B., and Peterson, R. O. 2001. Snowmobile Activity and Glucocorticoid Stress Responses in Wolves and Elk. Conservation Biology ():809-814.

4/18/2003 Letter from Roger Lueth to Legislature on OHVs

Genereux, J. P. 2001. An OHV Recreation Planning Tool Based on: A Survey of Resource Managers; and A Survey of [OHV] Riders in Minnesota

Minnesota Department of Natural Resources. October 3, 2002. Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature. [Document located at back tab of MCEA's comments submission, with the documents cited in the document's bibliography]

Motorized Trail Task Force Report to the Minnesota State Legislature and the Minnesota Department of Natural Resources. January 14, 2003.

National Oceanographic and Atmospheric Administration Coastal Services Center web publication titled Coastal Recreation and Tourism, at [www://www.csc.noaa.gov/techniques/recreation/user_conflict.html](http://www.csc.noaa.gov/techniques/recreation/user_conflict.html)

Final Report of the New Jersey State Comparative Risk Project, page 154.

January, 2003 Office of the Legislative Auditor's Program Evaluation Report titled State-Funded Trails for Motorized Recreation.

5/17/2002 Letter from John Sumption of the Cass County Environmental Services Office to the U.S. Army Corps of Engineers

Taylor, R. B. The Effects of Off-Road Vehicles on Ecosystems. Texas Parks and Wildlife

Texas Living Waters Project. Impacts of Off Road Vehicles on State-Owned Riverbeds and Banks. Issue Paper #2.

Texas Chapter of the American Fisheries Society. Off-Road Vehicles and Their Impact on Stream Environments: A Policy Statement. January, 2002.

3/7/2002 Texas Parks and Wildlife. Office Memorandum (Subject: Comments on Off-Road Vehicles for Rivers Task Force).

2002-03 Recreational Motor Vehicle Regulations. Minnesota Department of Natural Resources.

Please also find and consider the following documents listed in the bibliography of the Minnesota DNR document, "Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature":

- Ambuel, B.A. and S.A. Temple. 1983. Area-dependent changes in the bird communities and vegetation of southern Wisconsin forests. *Ecology* 64:1057-1068.
- Brown, M. and J.J. Dinsmore. 1986. Implications of marsh size and isolation for marsh bird management. *J. Wildl. Mgmt.* 50:392-397.
- Burke, V. J. and J. W. Gibbons. 1995. Terrestrial buffer zones and wetland conservation: a case study of freshwater turtles in a Carolina bay. *Conservation Biology*, 9:1365-1377.
- Douglas, Hamann and Joslyn. 1999. [Chapter 9 in Effects of Recreation on Rocky Mountain Wildlife, grouped with other papers in this document, at Joslin G. and H. Youmans]
- Duncan, C., J. Story, and R. Sheley. 2002. Montana Knapweeds: Identification, Biology, and Management. Montana State University Extension Service, Circular 311.
- Emmons and Olivier Resources, Inc. 2001. Benefits of Wetland Buffers: A Study of Functions, Values and Size. Report prepared for the Minnehaha Creek Watershed District.
- Findlay, C. S., and J. Bourdages. 2000. Response time of wetland biodiversity to road construction on adjacent lands. *Conservation Biology* 14(1):86-94. [Grouped with other papers in this issue of Conservation Biology, under Trombulak]
- Forman, 1999. **[MCEA not yet able to identify and obtain]
- Forman, R.T.T. and R.D. Deblinger. 2000. The ecological road-effect zone of a Massachusetts (U.S.A.) suburban highway. *Conservation Biology* 14(1):36-46. [Grouped with other papers in this issue of Conservation Biology, under Trombulak]
- Glaser, P.H. 1990. A Report Prepared for the Minnesota Department of Natural Resources Concerning the Impacts to the Lost Lake Peatland by the Construction of a Drill Road and Drill Site for Mineral Exploration. Limnological Research Center University of Minnesota Minneapolis, MN 55455. **[MCEA not yet able to obtain]
- Harr, R.D and R.A Nichols. 1993. Stabilizing forest roads to help restore fish habitats: A Northwest Washington example. *Fisheries* 18(4).
- Haskell, D. 2002. Middlebury College, Middlebury VT. Personnel communication with Paul Stolen (email) August 6. **[MCEA not yet able to obtain]
- Haskell, D. 2000. Effects of forest roads on macroinvertebrate soil fauna of the southern Appalachian Mountains. *Conservation Biology* 14(1):57-64. [Grouped with other papers in this issue of Conservation Biology, under Trombulak]

Haskell, D. 1999. **[MCEA not yet able to identify and obtain]

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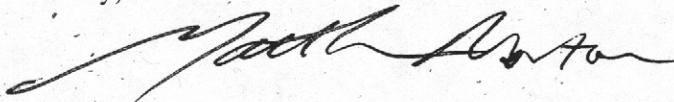
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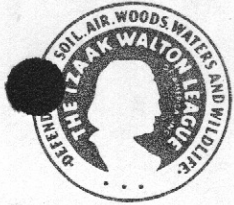
-Youmans 1999 [Chapter 1 in Effects of Recreation on Rocky Mountain Wildlife]

This completes MCEA's first submission of comments on the drafting of the proposed recreational trail rulemaking. If you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew Norton



The Izaak Walton League of America

October 27, 2003

Gregg Downing
C/o Environmental Quality Board
300 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Downing:

Thanks again for the time on the phone, my apologies on behalf of the MN Division Izaak Walton League for not responding sooner in the matter of proposed amendments to rules governing Environmental Rules Program MN Rules Chapter 4410 (Adopting Mandatory Review and Exemption Categories for Recreational Trails)

On page 2 you indicate, "The EQB is especially seeking information about the following topics:"

- For which types of recreational trails should mandatory EAW, mandatory EIS, and exemption categories be established? Should some types of trails not be placed in any of these categories (and therefore remain subject to possible discretionary review on a case by case basis)?

The Izaak Walton League in testimony before the MN Senate in March of 2002 emphatically indicated that at a minimum An EAW should be done on all ATV trails. MN Division of the Izaak Walton League acknowledges that in many situations giving land managers the discretion is highly desirable, expeditious, and less costly. The league maintains that given the sad history of accountability in the last several years by the users, and various units of government including the state of MN, that for the immediate time frame ahead a mandatory EAW is not unreasonable. Once confidence is restored and trust replaces the current mistrust, it may be very reasonable to move on and to permit some of the options described in the other bullets such as:

1. Some types of trails might be logically grouped in the categories due to similar impacts.
2. Enough experience will have been gained to have solid criteria or parameters for EQB use to establish thresholds.
3. Specific proposals can then be developed for mandatory EAW, Mandatory EIS.

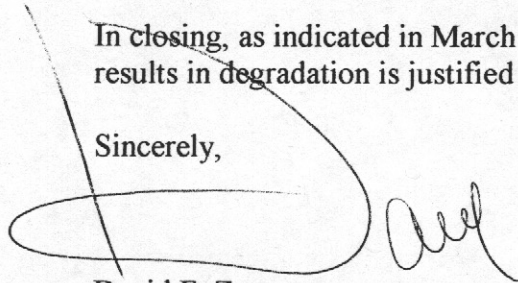
**David Zentner • 302 West Superior Street, Suite 400 • Duluth, MN 55802
(218) 722-4431 • Fax (218) 727-1770 • e-mail dzentner@jic-benefits.com**

Gregg Downing
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October 27, 2003

Finally, the MN Division of the Izaak Walton League presumes that the EQB must have at its own disposal or easily accessible from other government units charged with protecting public lands studies on environmental impacts by classifications of trails, etc. It does not appear to the MN Division IWLA to be necessary for the EQB to look beyond our own relatively sorry experience on public lands, there is an abundance of information showing the degradation of uplands, wetlands, roadside ditches, lake shore lands, etc.

In closing, as indicated in March 2002 to the MN Senate, no use of public lands which results in degradation is justified regardless of the origin of the degradation.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David', is written over a large, loopy, handwritten 'D' that serves as a background for the signature.

David F. Zentner
MN Division Issues Committee

Cc: MN State Division Officers
MN State Division Issues Committee
Noreen Tyler

Mr. Mike Sullivan, Executive Director
Minnesota Environmental Quality Board
Department of Administration
300 Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155

1 March 2004

Dear Mike,

As you know, for several months the Department of Natural Resources has been working to prepare a draft list of recommendations for the Environmental Quality Board to consider as they prepare to develop rules governing the environmental review of recreational trails. We provided the Board with some very preliminary recommendations in mid-October. Since then an internal, inter-disciplinary team of technical staff has been working on providing additional guidance. They have completed their work and their recommendations have been reviewed by our Commissioner's Office. The final draft recommendations are attached. If you have any questions as you proceed forward to establish permanent rules please contact either Ms. Lee A. Pfannmuller, Director of Ecological Services (296-0783) or her staff lead, Mr. Tom Balcom (296-4796).

Thank you for accepting our input.

Sincerely,

Brad Moore, Assistant Commissioner
Department of Natural Resources

cc. Tom Balcom
Lee A. Pfannmuller

Draft Thresholds For Discussion

Thresholds For Recreational Trails

I. Draft Environmental Review Exemption Categories

4410.4600 EXEMPTIONS

Subpart _____. **Recreational Trails.** The following projects are exempt:

- A. The designation of minor, temporary or seasonal trails with no significant or lasting effects.
- B. Winter only trails across agricultural land.
- C. The designation or conversion of an existing corridor as a winter only trail.
- D. Less than 1 continuous mile of recreational trail for snowmobile use.
- E. The rehabilitation, reconstruction and maintenance of existing trails within the existing corridor.
- F. The designation of existing State Forest roads for motorized recreational vehicle use.
- G. "Roadway landscaping, construction of bicycle and pedestrian lanes, paths, and facilities within existing right-of-way are exempt." (MR 4410.4600 Subp. 14 D) (*Note: Present rule language provides an exemption for some trails in the highway right-of-way. We are not advocating a change to this exemption.*)
- H. The rerouting of less than 1 continuous mile of recreational trail for safety considerations or to avoid sensitive areas.

II. Draft Thresholds For Mandatory EAW

4410.4300 MANDATORY EAW CATEGORIES

Subpart _____. **Recreational Trails.** Items A to B designate the RGU for the type of project listed: (Note: If the project will be carried out by DNR or another state agency, then the DNR or another state agency will be the RGU. MR 4410.0500 Subp 1. RGU for mandatory categories.)

- A. For the **construction** of trails for **motorized or non-motorized** uses (except for snowmobile use), **10** miles or more in length of new alignment through native prairie, forest, or naturally vegetated land, the local government shall be the RGU.
- B. For the **construction** of trails designated solely for winter use, **20** miles or more in length of new alignment through native prairie, forest, or naturally vegetated land, the local government shall be the RGU.
- C. For **designation or conversion** of an existing corridor to a motorized recreational trail or to a **new motorized use** of **25** miles or more in length, the local government shall be the RGU.

III. Draft Thresholds For Mandatory EIS

We are not recommending any mandatory EIS threshold for trail projects.

IV. Thresholds For Off-highway Vehicle Recreation Areas

A. Draft Thresholds For Mandatory EAW

4410.4300 MANDATORY EAW CATEGORIES

Subpart _____. **Off-highway vehicle recreation areas.**

- 1. For the development of an off-highway vehicle recreation area resulting in the permanent conversion of **80** or more acres of native prairie, forest, or naturally vegetated land, the local government shall be the RGU.
- 2. For the development of an off-highway vehicle recreation area **640** or more acres in size on a site that has already been degraded/converted and does not result in the loss of any native prairie, forest or naturally vegetated land, the local government shall be the RGU.

B. Draft Thresholds For Mandatory EIS

We are not recommending any mandatory EIS threshold for off-highway vehicle recreation area projects