



Minnesotans for Responsible Recreation

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September 16, 2009
1:00 p.m.

Via E-mail

Laurie Young, Director, Trails and Waterways Division
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, Minnesota 55155
laurie.young@dnr.state.mn.us

Dear Ms. Young,

For more than a decade Minnesotans for Responsible Recreation has been a champion of maintaining the integrity of the North Shore State Trail.

Thank you for sending us a complete copy of the North Shore Trail Master Plan, an impressive 136 document. Thank you also for verifying that the single amendment to the plan to-date was that granted in 2002 to allow ATVs only on the Moosewalk/Mooserun ATV route portion of the North Shore State Trail. Thank you for sending us a copy of this amendment.

We follow-up today with a Minnesota Data Practices Act request regarding an immediate and urgent concern that, inconsistent with the North Shore Trail Master Plan and Minnesota state law, a Lake County-sponsored project is underway to re-align and convert a portion of the North Shore Trail to ATV use. We are also concerned that it appears the DNR has not sufficiently fulfilled its duty identified in the plan and statutes to vet such projects and that the integrity of the trail will suffer without immediate and proper DNR involvement and intervention. We preface our data request with a brief discussion of our concerns, citing the North Shore Trail Master Plan and Minnesota statute to provide context and direction for you in responding to our request.

The North Shore Trail Master Plan states that “The use of recreational motor vehicles on this trail, except for snowmobiles, is prohibited. Minnesota Regulation NR 20 prohibits off road vehicles (ORVs) on the trail.” (p. 86) In conclusion to the single amendment to the plan from 2002 that allowed ATVs on 6.6 miles of the state trail, then-DNR Commissioner Allen Garber reminded interested parties that “the remainder of the North Shore State Trail will continue to be managed as before, according the recommendations contained in the approved Management Plan for the North Shore State Trail.” Except for the 6.6 miles referenced above, ATV use on the North Shore State Trail is prohibited.

Inconsistent with the North Shore Trail Master Plan, Lake County recently approved a proposal to “change the existing North Shore State snowmobile trail to allow ATV’s [sic] beginning at the Lake County Demonstration Forest (on County Road 301) to the Alger Spur.”. The County has received funding and has informed us that Forestry and Planning Department staff were traveling the state trail last week on ATVs to “decide where to firm up the trail, install culverts and signage” to allow ATV use on the North Shore State Trail.

The North Shore Trail Master Plan clearly delineates the DNR’s ongoing duty to implement the express prohibition regarding ATVs. On page 117 the plan states “Proposed changes must be sent to the Trails and Waterways Unit in St. Paul. These proposals will be reviewed by both the trail operations and planning sections. When agreement is reached, the trail planning section will draft the changes for the Special Assistant to the Commissioner assigned to the Trails and Waterways Unit.”

On page 118 the North Shore Trail Master Plan describes the DNR’s duty in greater detail. “The entire plan should be thoroughly reviewed and updated every ten years by the Trails and Waterways Unit Planning Section. Public comments, DNR staff recommendations, and trail studies should all be utilized in these reviews. If major changes are proposed for the trail, such as changes in the trail goal or actions which will significantly affect the trail alignment or management, then the same procedures used to develop the plan should be followed: public meetings, in-house DNR review and State Planning Agency review should all be sought.” It is our understanding that, at its August meeting, the Lake County Planning Commission not only voted to convert a portion of the North Shore State Trail to ATV use, but also appears to have promised a landowner that the county would re-align a portion of the North Shore State Trail away from his property.

Minnesota Environmental Quality Board rules mandate completion of an Environmental Assessment Worksheet for any proposed permanent physical encroachment of a state trail corridor inconsistent with the state trail master plan. The DNR recognized this in its own 2005 *Feasibility Study* stating “If a decision is made to proceed with a trail project proposal which includes ATV designation to all or portions of the North Shore State Trail, then the range of likely effects and appropriate mitigation measures can be identified for selected segments. Project-level effects will be evaluated within the context of an Environmental Assessment Worksheet (EAW), a federal Environmental Assessment (EA) where required, and pursuant to the North Shore Trail Master Plan (DNR, 1981) amendment which would be required in order to effect change in permitted trail use. These state and federal processes provide for public review and comment.” The Lake County project is proceeding in violation and without the benefit of the DNR’s mandatory public and environmental review process.

The Lake County Planning Commission has resolved to “change the existing North Shore State snowmobile trail to allow ATV’s [sic] beginning at the Lake County Demonstration Forest (on County Road 301) to the Alger Spur.” The North Shore Trail Master Plan references the Alger Grade on page 87 regarding the general prohibition of ATV on the trail: “However, there is a problem here in that one part of the trail alignment, the Alger Grade, is designated as a public road. Licensed motor vehicles, such as motorcycles and four-wheel-drive vehicles, cannot be prohibited from public roads. The DNR is working to resolve this problem.”

The North Shore Trail Master Plan describes the DNR’s duty to be engaged in resolving this problem. On page 114 the plan states “The DNR and Lake County will need to come to an agreement on the development, use, and maintenance of the Alger Grade right-of-way, if that segment is to adequately meet the needs of trail users.”

The Lake County project to re-align the North Shore State Trail and allow prohibited use of ATVs on the state trail is not only inconsistent with the letter and spirit of the North Shore State Trail Master Plan, but it involves acts that would certainly be considered to be “permanent physical encroachment[s]” on the North Shore State Trail, each of which on their own would trigger *mandatory* completion of an Environmental Assessment Worksheet. Here, Minnesota state law is explicit regarding the Minnesota DNR’s duty:

4410.4300 MANDATORY EAW CATEGORIES.

Subp. 30.Natural areas.

For projects resulting in the permanent physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.

Immediate concerns motivating this Minnesota Data Practices request are four-fold:

First, inconsistent with the North Shore State Trail Master Plan, Lake County has received funding, recently passed a resolution and is preparing to “firm up the trail, install culverts and signage” to allow ATV use along a portion of the North Shore State Trail in Lake County.

Second, it our understanding that the County has promised a landowner that the County would reroute a portion of the state trail.

Third, the North Shore Trail Master Plan and Minnesota Statute 4410.4300 clearly defines DNR duty to oversee the state trail and especially activities inconsistent with the plan. Omission of this duty appears to have allowed the Lake County project to improperly proceed.

Forth, permanent and irreversible damage to the North Shore State Trail corridor and environs may soon occur without the DNR’s proper, mandated and urgently needed involvement and intervention in protecting the North Shore State Trail in Lake County in accordance with the North Shore Trail Master Plan and state statute.

Given the above background and concerns we request that you provide copies of the following data as soon as possible:

1. All written and electronic DNR communications whether internal to DNR or between DNR and another party(ies), including especially but not limited to Lake County regarding the county's project to convert the above described portion of the North Shore State Trail to ATV use;
2. All attachments to the above communications, and all other documents regarding the county's project that are in the DNR's possession;
3. Any detailed map(s) and descriptions showing the full extent of the section of the North Shore State Trail that Lake County intends to convert to ATV use,
4. Any detailed map(s) and descriptions showing the full extent of the section of the North Shore State Trail that traverses the Alger Grade referenced in the North Shore Trail Master Plan,
5. Any and all documents regarding any DNR agreement with Lake County on the development, use, and maintenance of the Alger Grade right-of-way. See the North Shore Trail Master Plan, page 114.
6. Documents regarding required completion of an Environmental Assessment Worksheet or federal Environmental Assessment on the current Lake County project,
7. Any documents indicating how the DNR has fulfilled its duty consistent with North Shore Trail Master Plan to vet the current Lake County project to convert a portion of the North Shore State Trail to ATV use, and
8. Any documents related to Lake County's plan to realign a portion of the North Shore State Trail.
9. Any documents related to this realignment regarding the mandatory completion of an Environmental Assessment Worksheet
10. Any other documents related to the DNR's coordination or review of and/or involvement with the above described Lake County project to convert a portion of the North Shore State Trail to ATV use.

Please contact me at 218-740-3175 as soon as requested data is available and I will appear at your St. Paul office to pick it up. In the meantime please call this number with any questions you might have regarding our request.

Thank you in advance for your time and prompt attention to our concerns.



Jeff Brown
Executive Director