



Minnesotans for Responsible Recreation

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Facsimile and U.S. Mail

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Kathy Docter and Katherine Engler:

Minnesotans for Responsible Recreation filed complaints with your offices on June 8, 2004 regarding violations of the Data Practices Act and disbursements of state trail funds without required written landowner permission by St. Louis County. We write today to file an additional complaint related to illegal and inappropriate Department of Natural Resources action on a state funding grant request for the proposed Eveleth-Gilbert All-Terrain Vehicle/Off-Highway Motorcycle (OHM) Trail cited in our June 8 complaint.

This request for an investigation seeks urgent resolution of our concerns as it involves the attached time sensitive petition recently filed by MRR with the Minnesota Environmental Quality Board (EQB). The EQB has assigned decision-making responsibility regarding this petition to the Eveleth-Gilbert ATV/OHM Trail Joint Powers Board, whom the EQB has identified as the "Responsible Governmental Unit" based partly on the board's local government sponsorship of the proposed project. Based on information below, MRR believes it is inappropriate for the joint powers board to act as local government sponsor for the project. MRR also believes the DNR along with St. Louis County (see June 8 complaint) is withholding readily available public information to prevent public participation and intervention in the proposed controversial project. While a prohibition on final government action on the proposed project is in effect while the RGU decides whether or not to proceed with a request environmental review, the St. Louis County Board voted at its last meeting on 22 to take such action at its July 6 meeting. This indicates to us that the St. Louis County Board has information not available to MRR, that our petition will be denied before the next meeting, allowing the board to proceed in making final governmental decisions regarding local funding and easements. Current concerns enumerated in this complaint have significant bearing on what final government decisions should still be required and what entities should be making them.

MRR seeks an investigation regarding the following facts related to the proposed Eveleth-Gilbert ATV/OHM Trail:

- 1. DNR approved public trail funds without required written landowner permission:** The Trails and Waterways Division of the Department of Natural Resources has improperly approved state Recreational Motor Vehicle grant-in-aid funds for the proposed Eveleth-Gilbert ATV/OHM Trail without required written landowner permits as required in the "Minnesota Trail Assistance Program Recreational Motor Vehicle Grant Agreement". Scott Kelling, staffperson with the Tower office of the DNR Trails and Waterways Division, while refusing to fax to MRR the attached requested information today, acknowledged on the phone today that the DNR's Trails and Waterways Region 2 Supervisor, Les Olila has signed off on a grant agreement, originally dated August 14, 2003 and that funds became available to the recipient as of March 22, 2004. Mr. Kelling acknowledged that written landowner permission from two property owners, St. Louis County and RGGs along the proposed trail route of the has not been obtained as required in the grant agreement. Proposed project requires easement across and 40 acre parcel of county-managed tax forfeit land and easement from RGGs to cross the Mesabi Trail, which is on land owned by RGGs Steel. See attached unsigned grant agreement, *Exhibit T* referenced in previous complaint. Contact Scott Kelling at 218-753-6256 to confirm that the grant has been approved without required written landowner permits.
- 2. DNR is withholding readily available public information:** MRR faxed the attached request for information this morning and confirmed receipt on the telephone with Tower office Trails and Waterways staff person, Steve Henisee, who agreed to fax requested information. At 12:15 MRR received a phone call from Scott Kelling stating that information request must go through the Trails and Waterways Business Manager in St. Paul. MRR believes the requested information was readily available, required little staff time and cost for retrieval, and involved a relatively small amount of paper.
- 3. DNR has approved public trail grant where obvious conflict of interest exists:** A 2003 Office of the Legislative Auditor's *Program Evaluation Report: State Funded Trails for Motorized Recreation* recommends that "DNR should prohibit the local government sponsor [of grant-in-aid requests] from assigning responsibility for overseeing the trail grants to a local government official who is also an officer or the bookkeeper of the club receiving the grant.". Regarding the grant-in-aid funding request discussed above the local government sponsor and grant recipient are the same entity: the Eveleth-Gilbert ATV/OHM Joint Powers Trail Board. Scott Kelling reports that the City of Gilbert Clerk will be assigned responsibility for overseeing the approved state trail grant. MRR charges this is the very situation the legislative audit seeks to avoid. This situation also appears to be an exaggerated reflection of a situation in the City of Orr, where the city clerk appeared to be fired for responding to a public information request related to her assigned oversight role regarding public trail funds.

MRR urgently seeks an opinion or preliminary finding regarding the above concerns.

Thank you,



Jeff Brown
Executive Director