

**ACCESS GUIDE FOR SNOWMOBILING
ON PRIVATE AND PUBLIC LANDS**
*Part 1: A Resource Manual for
Associations, Clubs, and
Trail Managers*



*Written by Kim Raap
In association with the
American Council of
Snowmobile Associations*



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ACCESS GUIDE FOR SNOWMOBILING ON PRIVATE AND PUBLIC LANDS

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INTRODUCTION

WHY SNOWMOBILING ACCESS IS IMPORTANT

Snowmobiling provides a way for individuals and families to connect with winter through enjoyable travel and recreation in the great outdoors. It also provides riders with diverse opportunities to connect with their families and friends, nature, and with themselves – to relax and recharge. Snowmobiling can be fun and rewarding for individuals, as well as important economically for communities. But it requires reasonable access to snow-covered trails and open riding areas for these many benefits to be realized and sustained.

There can be several factors that determine why particular areas or routes are needed for snowmobiling and where they would best be located. Trails that exist simply to get riders from one destination or community to another are largely influenced by desires for expedient travel on the most direct routes that provide an acceptable quality trail tread. Clearly, having a destination increases the value of trail experiences for snowmobilers. Other trail routes are needed to provide access to rest stops where riders can warm up from the chill of winter and to access local services that provide fuel, lodging, food, repair services, etc. Snowmobilers also desire to access scenic and natural areas, view scenic vistas and wildlife, and to recreate in open play areas while riding in powder or climbing hills. And most importantly, snowmobile trail routes need to be situated where there is reliable snow cover that provides safe passage and the ability to maintain the trail with grooming equipment. Loops can be important for providing a variety of recreational experiences and trail character, as well as for providing efficiency for trail grooming operations.

Snowmobile clubs, associations, agencies, and other trail providers routinely rely upon a patchwork of public lands, public right-of-ways, and private properties to complete their trail networks. This mixed approach to securing trail corridors and riding areas is critical to the continued success of snowmobile trail systems. The complexity of establishing and keeping areas available for snowmobiling access varies by location based upon whether the areas are rural or suburban and by whether routes traverse public open spaces, private developments, or follow road right-of-ways. However the bottom line is that snowmobiling requires formal permission for access to and the continuing use of private and public lands – and without this permission there are simply no legal places to operate snowmobiles.

ISSUES FACING SNOWMOBILING ACCESS

The placement of any trail (motorized or nonmotorized) on the landscape has the potential for some level of environmental or social impacts. Therefore the challenge is to keep those impacts to a minimum while providing desired recreational experiences in appropriate settings. Landowners need assurance that snowmobiling will not unfavorably impact the ecology of their properties, as well as the primary uses of their properties; otherwise their permission will be hard to obtain and retain.

Trespass is the most frequent complaint landowners have against snowmobilers. This infringement may include entering private lands that riders do not have permission to access, as well as snowmobiling on public properties where motorized recreation has been prohibited. If intrusions occur frequently or continue for long periods of time, landowners often become increasingly skeptical about working with snowmobilers.

Snowmobiling access can also be influenced by the feelings of other landowners adjacent to trails and riding areas, as well as



by communities' and agencies' attitudes regarding snowmobilers and their behavior. Therefore it is important that snowmobilers consistently present an image that they are responsible recreationists.

In addition to land use approvals from private landowners and public land managers, many trail development projects may also require various environmental permits as part of their approval process, particularly if trails cross wetlands or waterways. Road rights-of-way use and site access approvals from appropriate State, county, or local highway authorities may also be necessary.

SUMMARY OF INFORMATION PROVIDED IN THIS GUIDE

This publication is intended to be a resource to help snowmobile clubs, associations, and trail managers establish and retain permission for snowmobiling trails and areas on private and public lands. Access is about building relationships – no matter where or what types of land ownership. Obtaining access can be hard work – but this work can pay huge dividends. And then once access has been obtained, trail sponsors must continue to work hard to keep it.

Access is about building relationships – no matter where or what types of land ownership.



Chapter One discusses issues that can be obstacles to private lands access and provides suggestions on how to work with private landowners. Decisions regarding whether or not snowmobiling access will be allowed on specific pieces of property are clearly reserved for the owners of private lands and are most often driven by economic and risk management factors. Access to these properties often requires either a close working relationship with individual landowners or financial compensation for access to their lands – or both. It is also crucial that landowners be protected from any liability connected to their allowing

recreational use of their properties.

Chapter Two outlines how to work with public land managers within the context of the rules they must follow. While snowmobilers are one of many 'owners' of public lands, snowmobiling access to these lands is not a right of 'ownership.' Public agencies of all types have been designated to manage the various categories of public lands. These agencies have the authority to allow or disallow activities on lands under their management, typically through various public involvement processes influenced by agency missions, policies, and social pressures. Access to public lands for snowmobiling requires participation in complex and lengthy agency rulemaking and planning processes, as well as establishing good working relationships with on-the-ground managers in these agencies. It also oftentimes requires efforts by snowmobilers to provide funding and volunteer partnerships to help public agencies accomplish their missions. More and more, public recreational access is being influenced by recreation groups who bring resources to the table, because public agencies have limited resources for recreation development and management.

USE OF THIS TRAIL IS A PRIVILEGE & NOT A RIGHT

Chapter Three provides examples of tools that have proven to help improve and retain access in various areas across the Snowbelt. It is important to use best management practices and consider management options that helps eliminate or mitigate concerns landowners and public land agencies may have about snowmobiling on their lands. Good trail system layout and design, signing, fencing, law enforcement,

education, and special laws or restrictions can all help address issues that may affect access. Understanding what scientific research says the real impacts of snowmobiling are is also important when negotiating for access with landowners and agencies; an extensive summary of research studies is provided in Part Two – Appendix 8.

If you have access, you need to do everything possible to keep it, including expressing appreciation to your landowners and land agencies. And if you're trying to obtain new access, be aware that it can be increasingly more difficult with each passing year. It is important to recognize changing times and the need for long term visions and, on occasion, even new approaches. It may also sometimes be necessary to bend over backwards, make concessions, or enter into unlikely partnerships to help keep or gain access. Whatever it takes, it's important to make the efforts – because without permission for access, there are no opportunities for recreational snowmobiling.



Partnerships are increasingly important!



CHAPTER ONE – Access to Private Lands

LANDOWNERS' ISSUES THAT CAN BE OBSTACLES TO ACCESS

There are several issues that can be obstacles to gaining access to private lands for snowmobiling. (Note: For the purposes of this manual, the term 'private lands' is intended to encompass all lands owned by private individuals, families, businesses, and corporations.) Snowmobile clubs and trail managers need to recognize that these issues are very important from landowners' perspectives – and work to address these issues the best they can if access for snowmobiling is to be granted and retained. These issues can include:

- ◇ Conflicts with their use of their properties.
- ◇ Changing business demands or interests of landowners.
- ◇ Changing economic needs of landowners.
- ◇ Environmental impacts to their lands.
- ◇ Potential off-season impacts from other non-permitted uses.
- ◇ Administrative headaches of dealing with trails.
- ◇ Liability and legal risks.

Conflicts with Their Use of Their Properties

This can be a significant issue for many landowners. They all own their property for specific reasons and for specific uses. Their properties may be used for one or more uses including agricultural production, extraction of resources, hunting camps, private wildlife preserves, their homes, or vacation getaways for their peace and relaxation. They must have assurance that snowmobile trails can co-exist with their uses of their property or else access likely will not be granted.

If lands are used for agriculture, timbering, or mining, trail managers need to work with landowners to assure trails will not interfere with their production and income from their lands. This may mean rerouting as timber sales move about properties or working around landowners' needs to rotate crop production. If properties are used as hunting areas, it may require delaying the use of trails across their properties until after late hunting seasons end; these landowners will also want assurance that trail activities will not interfere with wildlife production on their properties. If properties have fulltime or seasonal residences on them, loss of privacy may be a significant concern; this may require trying to route trails around behind hills or along outer fringes of properties away from their buildings. It may also require building fences or planting trees to help control trail traffic or to screen trail uses and noise from residential areas. It could also require placing curfews on trails to prohibit late night traffic.

Changing Business Demands or Interests of Landowners

It is important to recognize that business demands and the interests of landowners, particularly business and corporate landowners, are subject to change over time and may impact access for trails. These changes may be driven by market demands if their lands are used for production, or by landowners simply tiring of current uses of their properties and making decisions to change course.

If changes are market driven, it is sometimes possible to continue working with landowners as they pursue their revised production needs. However this often requires extreme flexibility on the part of trail managers. It is important to assess whether market driven changes are likely to be long term or if they may only last a year or two. If the changes are short term, perhaps reroutes can help trails survive. In other situations trail routes may need to be temporarily closed until markets change again. Or the worst case scenario is that trail links may be lost forever, which requires major efforts to restore lost routes working with new landowners.

When landowners tire of owning their properties it often eventually results in changes in ownership; trail managers need to be patient and wait to see if new owners may continue to work with their trail routes. In cases where landowners tire of existing uses – or are influenced by family members to change uses of their properties – it sometimes results in more passive, ‘back to nature’ uses of their properties. This often results in snowmobiling access being lost, which forces trail managers to pursue other access options.

The best way to safeguard against this issue is to pursue long term use agreements or permanent right-of-way easements across properties.

Changing Economic Needs of Landowners

While similar in nature to changing business demands of landowners, this issue is driven more by landowners needing to or wanting to generate cash versus retaining wealth in terms of equity in their properties. This situation is often connected to the rising cost of property taxes, the creep of suburbia into rural lands, or changes in status (aging, death, divorce, etc.) of landowners. This often results in either the sale of properties or the subdivision of pieces of their properties in efforts to raise cash to pay property or estate taxes, generate retirement income for aging landowners, divide assets in divorce settlements, etc.

Again, the best safeguard is to pursue long term use agreements or permanent right-of-way easements across properties. Additionally, trail managers need to be patient and try to work with new landowners if properties do in fact change hands.

Environmental Impacts to Their Lands

All landowners – including even resource extraction landowners like mining companies – care deeply about the health of their lands. Trail managers need to provide strong assurances that snowmobiling will not cause adverse environmental effects to landowners’ properties. These concerns include impacts to vegetation, removal of trees, rutting or causing drainage problems on trails, the spread of noxious weeds, etc. Trail managers can help resolve these concerns by showing they are good stewards of lands and by always using ‘best management practices’ that tread lightly on the lands they use for their trails.

Potential Off-Season Impacts From Other Non-Permitted Uses

This can be a huge issue for landowners in some areas. Since snowmobiling occurs in the winter, which is typically the ‘off-season’ for many agricultural and some resource extraction activities, it can often easily coexist with landowners’ primary uses of their properties. On the other hand, other recreational activities that involve ATVs, trucks, bicycles, hikers, horses, hunters, etc. may not be viewed by landowners as compatible uses during the spring, summer, or fall on the same properties. If this is the case, snowmobile trail managers and local clubs need to make extra efforts to help prevent unauthorized uses of landowners’ properties.

If landowners associate your snowmobile trails with problems they are having with other recreationists, access for snowmobile trails may be lost. Oftentimes this requires that snowmobile trail managers and local volunteers make extra efforts to educate the public about proper uses of private properties and trail routes. It may also be necessary to place signs and install gates to help control unauthorized off-season uses on private landowners’ properties.

This is an area where it has been proven time and time again that going the extra mile to help landowners in the summertime can pay huge dividends toward having snowmobiling access in the wintertime – *and* that ignoring landowners’ summer issues can quickly eliminate winter access. Always give this issue top attention.

Administrative Headaches of Dealing with Trails

If landowners, and particularly businesses and corporate landowners, view dealing with trails and/or local club members and trail managers as a major inconvenience, they may be less likely to cooperate with providing access to their lands. Trail coordinators need to look for ways to communicate clearly and concisely with landowners to ensure their time is minimized and not wasted while coordinating details for trail routes. It may be necessary to be flexible with policies or to combine/condense paperwork to fit their needs (but at the same time you must always ensure there is consistency between how landowners are treated). While paper trails are important for risk management purposes, refrain from making coordination processes too bureaucratic since this can quickly turnoff many landowners.

One sure way to irritate landowners is to keep coming back time and time again for the same issues. Another is to keep asking to reroute trails to different locations on their properties year after year – so try your best to get routes located in the right place the first time. On the other hand, if landowners require trails to be relocated year after year to meet their changing needs – accept the changes gracefully and do your best to accommodate landowners’ needs since your only other option may be to work with other landowners who may be just as demanding.

Liability and Legal Risks

This is likely the most prominent issue influencing cooperation from private landowners. It is so significant that State legislatures, in recognition of the importance private lands play in providing land for recreational activities, have passed laws in all States that provide some level of protection for landowners who open their properties for recreational uses. This topic is discussed in depth in the following section.

PRIVATE LANDOWNER LIABILITY AND RECREATIONAL USE STATUTES

Private Landowner Liability

Private landowners are often hesitant or unwilling to open their lands to public uses because they are concerned about liability. While this is a valid concern, every State has legislation that offers landowners protection from liability. Generally, these laws are called ‘Recreational Use Statutes.’ While every State has some form of Recreational Use Statute, the specific protection offered to landowners varies from State to State. (See Appendix 1 for the full text of all Snowbelt State Recreational Use Statutes.) These statutes are critically important and are the cornerstone for recreational access to private lands across the Country.

What are Recreational Use Statutes? ‘Recreational Use Statute’ is a general term given to laws that are intended to encourage public recreational use of privately owned lands. Statutes do this by granting landowners broad immunity from liability for personal injuries or property damages suffered by individuals pursuing recreational activities on their lands. These laws are a response to increased private tort litigation of recreational accidents and an effort to encourage private landowners to make their properties available to the public for recreational purposes. This encouragement takes the form of protecting landowners from legal liability for any accidents that may happen when users are on their properties for recreational purposes. Recreational uses include a wide variety of activities and, whether specifically mentioned in statutes or not, snowmobiling is a recreational use.

How do Recreational Use Statutes work? Recreational Use Statutes generally provide that landowners do not owe, to anyone using their properties for recreational purposes without a charge, either a duty of care to keep their properties safe for entry or use, or a duty to give any warning of dangerous conditions, uses, structures, or activities on their properties.

Under prior common law (law made by precedent/court rulings), landowners typically had different duties of care depending on whether a person was on their land as an invitee, licensee, or a trespasser. The greatest duty of care was typically owed to an invitee and no duty was owed to unknown, adult trespassers. Under Recreational Use Statutes, recreational users are treated in the same manner as trespassers and thus landowners owe them no duty of care.

The protection of these statutes is typically lost if landowners charge for the use of their lands (with exceptions in most States if the land is leased to a public agency for recreational use). It may also be lost if landowners: are guilty of willful malicious conduct, intentionally harm someone, or demonstrate gross negligence.

When are landowners protected by Recreational Use Statutes? The principal question addressed by courts in personal injury and wrongful death litigation where Recreational Use Statutes are in effect is whether the statutes 'applied under the facts that existed at the time of injury or death.' If facts are determined to be outside the statutes, liability will be determined in accordance with principles of State common law. For instance, if courts determine that landowners don't qualify as an "owner" defined by the statutes, the facts would be considered to be outside the protection of the statutes. Each State's Recreational Use Statute was drafted with conditions specific to that State in mind. Therefore, landowner's liability can vary greatly from State to State. Furthermore, judicial interpretations of various statutes differ greatly such that similar statutes may yield very different results when tested in different State courts. It is therefore very important to check your State's Recreational Use Statutes (See Appendix 1) to see how much protection they offer and how your State's courts have interpreted them.

Who qualifies as "landowners" under Recreational Use Statutes? In order to be protected under Recreational Use Statutes, individuals or companies must qualify as "owners" under the statutes. Most Recreational Use Statutes broadly define "owners" to include the 'legal owners' of the lands, tenants, lessees, occupants, or persons in control of the premises. Some statutes also consider holders of easements as "owners."

What types of land falls within the scope of these statutes? Most Recreational Use Statutes apply broadly to lands and water areas as well as to buildings, structures, and machinery or equipment on the lands.

Each State varies in how broad the statutes and their interpretation go with respect to what constitutes "premises." Some States include only those lands amenable to recreational uses, while others make much broader interpretations and consider whether recreational activities have taken place on lands, regardless of how suitable those lands are for recreational uses.

What activities, use, or purpose qualifies as "recreational?" Many Recreational Use Statutes include, in the text of statutes, a definition of "recreational use" or "recreational purpose." These definitions usually include long lists of specific activities such as hiking, swimming, fishing, driving for pleasure, snowmobiling, hunting, bicycling, etc. The phrase "includes, but is not limited to" is also typically used to prevent narrow interpretations of what constitutes "recreational use." Presumably snowmobiling would be considered "recreational use" by most courts even if it is not specifically listed in the definition of "recreational uses" or "recreational activities" in a State's statutes.

What constitutes payment for use? Most Recreational Use Statutes do not protect landowners from liability if they charge for access to their lands. In most States, landowners do not lose protection if they lease their properties to public agencies for recreational uses. (See Table 1 below) Typically, fees paid for State snowmobile registrations and user fees do not constitute "payment for use" where private landowners would lose their protection. However, if landowners choose to charge their own "trespass fees" to individual recreationists, their protection would typically be lost.

What constitutes malicious conduct? Most Recreational Use Statutes do not protect landowners from liability if they willfully, maliciously, or deliberately cause injuries.

Courts typically require actual knowledge of dangerous conditions, knowledge that injuries could result from those conditions, and inaction in the face of such knowledge. This standard is generally difficult to prove in lawsuits against private landowners because plaintiffs (injured parties) must show landowners had actual knowledge (as opposed to constructive knowledge, which means landowners ‘should have known’) and that landowners willfully failed to guard or warn against dangerous conditions. Since interpretations of this standard can vary from State to State, be sure to consult local statutes and local legal counsel. However as a general rule, if landowners have no knowledge of dangerous conditions, they are normally under no duty to investigate their lands for dangerous conditions.

Do Recreational Use Statutes protect landowners from liability if minors are injured on their lands? Many Recreational Use Statutes refer to "any user" or "any person" without making reference to whether or not minors are included in that language. It is therefore important to check statutes closely for language that either specifically excludes or includes minors in the definition of "recreational user." If statutes are silent on this matter, it is important to check your State's case law to see how courts have dealt with minors and whether or not they are included in your Recreational Use Statutes.

What is an “Attractive Nuisance” and do Recreational Use Statutes protect landowners from liability under the Doctrine of Attractive Nuisance? Basically, the Doctrine of Attractive Nuisance makes landowners liable for injuries caused by conditions on their lands if they knew children were likely to enter their lands because of those conditions. Unfenced swimming pools or trampolines are common examples of this situation. Some Recreational Use Statutes expressly exclude protection against attractive nuisance claims. This issue is somewhat interrelated to whether or not statutes apply to minors or only those young enough to be protected by the Doctrine of Attractive Nuisance. Again, it is important to check your State’s statutes closely to see how or if they address this issue.

What is “Adverse Possession” and do Recreational Use Statutes protect landowners from adverse possession claims? “Adverse possession” is a way to get ownership by continual use or possession of lands without permission or objections by the actual landowners. Some statutes foreclose the possibility of gaining permanent rights of access by adverse possession. This means that landowners can open their lands to recreational uses with the knowledge that they can later close them when they wish without worrying about the possibility of the public gaining permanent rights to access their lands. Again, check your State's statutes to see how or if they address this issue.

Table 1: State Recreational Use Statute Information (06/2008)

State	Statute Number and Web Link	Is Protection Lost if Fee is Charged
Alaska	Alaska Statutes 09.65.200 and 34.17.055 http://touchngo.com/lglcntr/akstats/Statutes/Title09/Chapter65/Section200.htm and http://touchngo.com/lglcntr/akstats/Statutes/Title34/Chapter17/Section055.htm	Yes
California	California Government Code 2-2-3-2-846 http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001-01000&file=840-848	Yes, but fees from land leased to public agency allowed
Colorado	Colorado Revised Statutes 33-41-101 thru 105.5 http://www.michie.com/colorado/lpext.dll?f=templates&fn=main-h.htm&cp=	Yes, but fees from land leased to public agency allowed
Connecticut	Connecticut General Statute 52-557(f) http://asci.uvm.edu/equine/law/recreate/ct_rec.htm	Yes, but fees from land leased to agency allowed
Idaho	Idaho Code 36-1604 http://www3.state.id.us/cgi-bin/newidst?sctid=360160004.K	Yes, but fees from land leased to public agency allowed
Illinois	Illinois Compiled Statutes 745-65-1 thru 7 http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2081&ChapAct=745%26nbsp%3BILCS%26nbsp%3B65%2F&ChapterID=58&ChapterName=CIVIL+IMMUNITIES&ActName=Recreational+Use+of+Land+and+Water+Areas+Act%2E	Yes, but fees from land leased to public agency allowed

State	Statute Number and Web Link	Is Protection Lost if Fee is Charged
Indiana	Indiana Statutes 14-22-10-2 http://www.ai.org/legislative/ic/code/title14/ar22/ch10.html#IC14-22-10-2	Yes
Iowa	Iowa Code XI-2-461C.1 thru 7 http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode&input=461C.2	Yes, but fees from land leased to public agency allowed
Maine	Maine Revised Statutes Annotated 14-1-7-159(A) http://janus.state.me.us/legis/statutes/14/title14sec159-A.html	Yes, but fees from land leased to public agency allowed
Massachusetts	Massachusetts General Laws I-21-17C http://www.mass.gov/legis/laws/mgl/21-17c.htm	Yes, but fees from land leased to public agency & voluntary payments allowed
Michigan	Michigan Compiled Laws 324.73301 http://www.legislature.mi.gov/(S(5gqa5q3ghm45sojkdcaowkbw))/mileg.aspx?page=getObject&objectName=mcl-324-73301&highlight=73301	Yes, but lands used for public trails are excepted
Minnesota	Minnesota Statutes 604A .20 thru 27 http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP&year=2006&section=604A#stat.604A.20.0	Yes, but fees from land leased to public agency allowed
Montana	Montana Code 70-16-301 and 302 http://data.opi.state.mt.us/bills/mca_toc/70_16_3.htm	Yes, but fees from land leased to public agency allowed
Nebraska	Nebraska Revised Statutes 37-729 thru 736 http://uniweb.legislature.ne.gov/legaldocs/view.php?page=s3707029000	Yes, but fees from land leased to public agency allowed
Nevada	Nevada Revised Statutes 41.510 http://www.leg.state.nv.us/NRS/NRS-041.html#NRS041Sec510	Yes, but fees from land leased to public agency allowed
New Hampshire	New Hampshire Revised Statutes XVIII-212:34 http://www.gencourt.state.nh.us/rsa/html/XVIII/212/212-34.htm	Yes, but fees from land leased by state allowed
New York	New York General Obligations Law 9-103 http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS	Yes, but fees from land leased to public agency allowed
North Dakota	North Dakota Century Code 53-08-01 thru 06 http://www.legis.nd.gov/cencode/t53c08.pdf	Yes, but fees from land leased to public agency allowed
Ohio	Ohio Revised Code 1533.18 thru 181 http://codes.ohio.gov/orc/1533.18	Yes, but fees from land leased to public agency allowed
Oregon	Oregon Revised Statutes 105.672 thru 700 http://www.leg.state.or.us/ors/105.html	Yes, unless an easement has been transferred to a public body
Pennsylvania	Pennsylvania Statutes 68-11-477-1 thru 7 http://members.aol.com/StatutesPI/68.Cp.11.html	Yes, but fees from land leased to public agency allowed
South Dakota	South Dakota Codified Laws 20-9-12 thru 18 http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=20-9	Yes, but fees from land leased to public agency allowed
Utah	Utah Code 57-14-1 thru 7 http://le.utah.gov/~code/TITLE57/57_10.htm	Yes, but fees from land leased to public agency allowed
Vermont	Vermont Statutes Annotated 12-203-5791 thru 5795 http://www.leg.state.vt.us/statutes/sections.cfm?Title=12&Chapter=203	Yes, except consideration paid for permanent easements & as compensation for damages from rec. use are allowed
Washington	Washington Revised Code 4-24.200 thru 210 http://apps.leg.wa.gov/RCW/default.aspx?cite=4.24.200	Yes
Wisconsin	Wisconsin Statutes 895.52 thru 525 http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=WI:Default&d=stats&jd=895.52	Yes, but fees from land leased to public agency or a nonprofit organization for recreation are allowed
Wyoming	Wyoming Statutes 34-19-101 thru 106 http://legisweb.state.wy.us/statutes/compress/title34.doc	Yes, but fees from land leased to public agency allowed

Visit <http://www.americanwhitewater.org/archive/article/123/> to locate other individual State's statutes.

TYPES OF LANDOWNER PERMISSION

The five most common types of permission granted when working with private landowners includes:

- ◇ Verbal permission.
- ◇ Permits.
- ◇ Written lease agreements (annual or multiple years).
- ◇ Right-of-way easements.
- ◇ Conservation easements through land trusts.

Verbal Permission

Many trails are located on private lands with only the verbal permission of landowners. This practice often dates back to days when a handshake and a ‘gentleman’s agreement’ were the most common way of doing business, particularly in rural areas.

While many trails have successfully existed for many years with only verbal permission from landowners, it is by far the riskiest situation since trail providers have no rights and are totally at the whim of their landowners. If landowners simply change their minds or a single snowmobiler irritates them – trails can be gone overnight. If landowners die, their heirs often do not honor ‘verbal’ arrangements. Or if landowners decide to subdivide parts of or sell off all their properties – trail routes can be eliminated with very little or even no prior notice. While this practice has worked in many areas for years, it is the least desirable situation; trail managers are strongly encouraged to get all permission for trail access in writing.

Permits

Revocable permits provide less risk and are more secure than simple verbal agreements, but they have more risk and are less secure than written lease agreements. Temporary use permits are revocable at the will of landowners with very short notice. They are sometimes used for short term construction projects or emergency reroutes. Revocable permits do not convey any real property rights away from landowners.

Written Lease Agreements

Written leases can be used to provide trail access on an annual basis or for multiple years. While fairly simple and relatively short, they put conditions of use, including the expectations of both landowners and trail managers, into concise written documents. They typically include starting and ending dates, any restrictions or special conditions for permitted uses, conditions for non-winter access for trail maintenance tasks, and point of contact information for both parties.

Both parties can normally cancel access agreements on a fairly short notice; cancellation processes are outlined in the lease so all parties know the exact process and risks when entering into their agreements. While there are no guarantees for long term access with written leases, they typically provide some assurances for short term season-to-season access since cancellation clauses typically require at least a 30-day notice to other parties. Additionally, ‘incentive payments’ may sometimes be made to landowners as part of written leases. Two examples of ‘no payment’ and ‘incentive payment’ types of written lease agreements are shown in Exhibits 1 and 2 below:

It is important to note that many State and Federal funding programs (such as the Federal Recreational Trails Program) require written assurances to ensure continuing public access as a condition of using public funds for trails that cross private lands.

Exhibit 1: Example of a 'No Payment' Private Land Use Agreement

SNOWMOBILE LAND USE AGREEMENT

It is hereby agreed between _____ of _____
(Land Owner) (Mailing Address)
_____, _____,
(City) (State) (Zip Code) (Phone)

Hereinafter Permitter, and the _____ Snowmobile Club,
acting in partnership with State of South Dakota, Department of Game, Fish and Parks, Division of Parks
and Recreation Snowmobile Trails Program, Pierre, South Dakota, hereinafter Permittee, as follows:

1. The Permitter agrees to permit public snowmobiling between the period of December 1 through April 1 on the following described premises owned or controlled by the Permitter situated and being in the County of _____, State of South Dakota to wit:

Legal Description: _____
_____ County, South Dakota

Permitter is: _____ Owner _____ Lessee

Legal description includes: _____ Usable Acres, and/or
_____ Miles of Trail

2. The Permitter does not, by this agreement, assume any responsibility or liability by granting free public access for outdoor recreational purposes except as provided by SDCL 20-9-12 to 20-9-18, inclusive.
3. Both parties agree that the use of the described premises subject to this agreement shall be only for the purpose of snowmobile operation for the general public, said premises to be enjoyed equally by all individuals without regard to race, color, creed, or sex.
4. The Permitter will not be restricted from the use of said premises for any purpose in connection with normal operation of these lands during the lease period except for any interference with snowmobile operation or trail grooming.
5. The Permittee will restrict snowmobile use when snow cover on the trail is less than three inches (3”).
6. The Permitter will not post “No Trespassing” or similar signs on the area described during the term of the Agreement.
7. The Permitter agrees to maintain the condition or usability of the premises herein described by making no physical changes either through alteration, cultivation, storage of materials, or other ways which will interfere with snowmobile operations that are not agreed to the date signing this agreement. Types of ground cover for these premises will be: _____.
8. The Permittee will be responsible for maintaining the conditions of said premises for trail use, which are present at the date of signing this agreement. All fences opened will be repaired to original condition and all trail signing materials will be removed by the Permittee by May 15. Access by the Permittee to described premises between the date of signing this agreement and prior to December 1st to perform snowmobile trail preparatory tasks will be permitted after obtaining consent of the Permitter 24 hours in advance.

9. Non-compliance with this agreement by Permittee may result in cancellation of this land use agreement.

IT IS FULLY UNDERSTOOD that this Use Agreement contains ALL of the agreements between the parties and that NO AMENDMENT of this printed form shall be allowed unless agreed to in writing by the parties hereto.

(Signature of Snowmobile Club) Date

(Signature of Owner) Date

(Title)

(Signature of Lessee if Permitter is Lessee) Date

(Signature of Game, Fish and Parks) Date

(Title)

(NOTE: If Permitter is lessee, owner must also sign.)

Exhibit 2: Example of an 'Incentive Payment' Private Land Use Agreement

**SNOWMOBILE TRAILS PROGRAM
LAND USE AGREEMENT**

South Dakota Department of Game, Fish and Parks

This Agreement is made effective this ____ day of _____, ____ by and between the STATE OF SOUTH DAKOTA, DEPARTMENT OF GAME, FISH AND PARKS, SNOWMOBILE TRAILS PROGRAM, having an address at 523 East Capitol Avenue, Pierre, South Dakota 57501, Phone (605) 773-3391 ("State"), and _____ having an address of _____ Phone _____ ("Landowner").

In consideration of the terms and conditions set forth below, both parties agree as follows:

1. The Landowner agrees to permit public snowmobiling between the period of December 1, through April 1, hereafter until terminated by either party hereto pursuant to Section 10 of this agreement, on the following described property owned by the Landowner situated and being in the County of _____, State of South Dakota to wit:

Legal Description:

Legal description includes _____ acres and _____ miles of trail.

2. The State agrees to pay the Landowner an incentive payment, as allowed in SDCL 20-9-16, at a rate equal to the property tax assessed against the above described property on which snowmobiling will be allowed. Incentive payments by the State shall be made as follows: 50% of the total sum shall be paid to the Landowner prior to December 1 of the effective year of this Agreement; the remaining 50% of the total sum shall be paid to the Landowner by the following April 1 after the successful completion of the terms of this Agreement. The Landowner may choose to waive any incentive payment by signing the following box [_____].

Total incentive payment: \$_____

3. The Landowner does not, by this agreement, assume any responsibility or liability by granting free public access for outdoor recreational purposes, except as provided by SDCL 20-9-12 to 20-9-18, inclusive.
4. Both parties agree that the use of the described premises shall be only for the purpose associated with snowmobile operation for the general public, said premises to be enjoyed equally by all individuals without regard to race, color, creed, or sex.
5. The State shall be responsible for cleaning, signing, and maintaining the groomed snowmobile trail across said property. Following the signing of this Agreement and during the term of the Agreement, access to the above described premises will be permitted to Snowmobile Program employees at any time for the purpose of inspection, cleaning, signing, or grooming tasks.
6. The Landowner shall not be restricted from use of the above described property, except that the landowner shall not interfere with snowmobile operation during the term of the Agreement.
7. The Landowner shall not post "No Trespassing" or similar prohibitory signs on the above described property during the term of the Agreement.

8. The State agrees to maintain the conditions of the premises present at the date of signing this Agreement and will not make any physical changes to the premises, except as provided in paragraph 5 hereof, without the consent of the Landowner.
9. Non-compliance with this Agreement by the Landowner will result in forfeiture of payment by the State. Non-compliance with this Agreement by the State will result in cancellation of this land use Agreement.
10. This Agreement may be terminated by either party by notifying the other party in writing between April 1 and July 1 of any year.

IT IS FULLY UNDERSTOOD that this Agreement contains **ALL** of the agreements between the parties and that **NO AMENDMENT** shall be binding unless in written form signed by all of the parties to this Agreement.

(Director-Division of Parks & Recreation)

(Date)

(Signature of Landowner)

(Date)

Right-of-Way Easements

The terms ‘right-of-way’ and ‘easement’ are very similar and are often interchangeable (depending upon local laws). They typically provide either permanent access or access for long periods of time across specific portions of properties. Easements are ‘the right to use other persons’ properties for stated purposes’ and can involve general or very specific portions of properties. Right-of-ways are types of easements that ‘give someone the right to travel across properties owned by other persons.’ They are also sometimes referred to as ‘covenants’ since they typically add (‘attach’) specific conditions to property deeds.

Easements can benefit properties. An example of this is that Susan owns a tract of land that borders a national forest that is a popular recreation area. Bob lives next door to Susan, but his land does not touch the national forest. Therefore, to avoid trespassing, he must drive or walk to a public entry point to access the forest recreation area. Instead, Susan grants an easement allowing present and future owners of Bob’s property to cross her land to access the national forest. This easement then becomes part of the deed for both properties to ensure permanent access to the forest from Bob’s property. As the landowner, Susan has the right to limit such access to only Bob and future owners of Bob’s property, or she could grant the easement across her property to a broader group, or even to the public as a whole.

Easements can also benefit individuals or business entities. In the example above, a tract of land was granted an easement so its owners could use a neighbor’s land to access a public area. Susan could grant an easement to another individual to do the same, but without adding it to her deed. Such an easement normally expires at a specific time or event or upon the death of the person who benefits from it.

An example of easements that benefit business includes easements giving a utility company the right to erect power lines or bury a gas pipeline across specific tracts of land. Another could be when housing developments retain easements allowing them to build and maintain utilities and water lines within their developments. Both examples would likely have easements added to property deeds and remain in effect if lands are sold. Utility easements may be exclusive and allow only individual utilities to use the properties, or in other cases easements may allow either utility companies or landowners to permit additional uses of properties for activities such as snowmobile trails. Consult landowners first when attempting to determine if properties may also be able to accommodate your trail needs.

Landowners who grant easements usually cannot build structures within easement areas or use fencing which would hinder access. Other activities may also be prohibited, depending upon terms stipulated when easements were granted. Typically, landowners may receive one-time payments when easements are granted. However, some easements are also granted free of charge, solely at the discretion of landowners.

Easements can sometimes affect property values, which might discourage some landowners from agreeing to provide access. Examples of when easements may affect property values include: 1) if several easements are on a tract of land, it might seriously limit the choice of building sites on that property, 2) high tension power lines running on an easement through an otherwise good building site may be considered unsightly by some and therefore decrease that property’s value, or 3) buyers may simply not like the idea that others have a right to use their property in any manner.

Just because easements are not currently being used does not mean they can’t be used or never will be used. If easements are part of property deeds, they remain available (‘attached to the deed’) for the stipulated uses until such time they are removed from property deeds. This can be important if easements exist that could provide public access across important pieces of properties for trail linkages. Likewise, as rural properties are subdivided and developed, it can be an important strategy for long term snowmobiling access to pursue easements for important trail routes.

Exhibit 3: Example of a Right-of-Way Easement

RIGHT-OF-WAY EASEMENT

____ (Landowner's Name) _____, ("DBA _____ Resort" or business name as appropriate if a business) having an address at _____, ("Grantor"), in consideration of \$ _____ Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, hereby grants to the _____ (Name of Agency or Entity receiving ROW permission) _____, having an address at _____ ("Grantee"), a non-exclusive easement and right-of-way (for use by members of the general public) to construct, maintain, access, and utilize premises hereafter described for snowmobile (*recreational* if the route may be open to other trail uses) trail purposes over and across those certain lands owned by Granter located in _____ (insert property's legal description) _____ as more particularly described in Exhibit A ("Easement"). The Easement is generally shown on the maps attached as Exhibit B and Exhibit C and shall include: {*the following language is for hypothetical example purposes only, but should spell out the exact intent of the ROW's location across the property*} Segment 1) a 30-foot wide strip of land along the entire length of Lots 2, 3, and 4 that is generally South of a line starting 33-feet on the South side of the centerline of Highway 100, running from National Forest lands on the West to Forest Service Road 200 on the East; Segment 2) a 30-foot wide strip of land running generally North to South across Lot 3A, from Highway 100 on the North to National Forest lands on the South; and Segment 3) a 25-foot wide strip of land running generally South to North across Lot 4, from the _____ Resort's East driveway/ Highway 100 on the South to National Forest Lands on the North. The Easement shall also include the portion of Lot 4 Revised which is located South of Highway 100 (only the portion located South of the highway, in its entirety) for the limited and express purpose of snowmobile trail related vehicle and trailer parking commencing on December 1 and ending April 1 of each calendar year and the portion of Lot 3B located between the recreational trail corridor and Lot 4, for the limited and express purpose of snowmobile egress/ingress from/to the parking area during the December 1 – April 1 snowmobile use season.

This Easement is personal to the Grantee. Grantee shall not sell, assign, or otherwise transfer the Easement or any rights hereunder to a third person, nor shall Grantee transfer to any person, company, agency, or utility company, this Easement or any right to use the ground covered by this Easement or the snowmobile (*recreational* if the route may be open to other trail uses) trail without the prior written permission of the Grantor, its successors, or assigns.

This Easement is granted without any warranty or representation, express or implied, as to Grantor's right, title, or interest in the ground covered by this Easement or snowmobile (*recreational* if the route may be open to other trail uses) trail.

Grantee shall comply with all applicable laws and regulations in connection with the Grantee's use of the ground covered by this Easement. By its acceptance of this Easement, Grantee assumes responsibility for cleaning, signing, and maintenance of the Easement area as related to snowmobile (*recreational* if the route may be open to other trail uses) trail use and purposes. The right of the public to use the Easement for snowmobile (*recreational* if the route may be open to other trail uses) trail purposes shall be from _____ to _____ (or *year-round* if it is a 'recreational trail' open to other uses).

Grantor, its successors, and assigns shall not be restricted from use of the Easement area except the Grantor shall not interfere with recreational use (including but not limited to snowmobile, bicycle, ATV, hiking, equestrian, etc., as permitted by the USDA Forest Service on adjacent National Forest lands) on the recreational trail and Grantor shall not build any structure on or otherwise block or prevent recreational use of the Right-of-Way area for the purposes set out in this Easement. Grantor, its successors, and assigns reserve the right to install, construct, and maintain utility lines and other infrastructure beneath the Easement area which may cause short-term disruptions to public recreational use and access on the Right-of-Way. Grantor, its successors, and assigns reserve the right to construct and

maintain driveways across the Easement area for the purpose of motor vehicle access to their property and will coordinate the need for any traffic control devices on the recreational trail with the Grantee. Grantee agrees to cooperate with Grantor in the construction, maintenance, and use by Grantor, its successors, and assigns of cattle guards, fences, and the like on or near the recreational trail.

Grantee agrees that Grantor, its successors, and assigns shall assume no responsibility or obligation arising out of the use or maintenance of the Easement and recreational trail, which responsibility shall be that of the Grantee. The Grantor, its successors, and assigns do not, by this Easement, assume any responsibility or liability by granting free public access for outdoor recreational purposes, except as provided by (cite State's recreational use statutes), inclusive, and the Grantee agrees to accept liability for recreational use of the Easement area, to the extent allowed by law, and hold the Grantor, its successors, and assigns harmless for any damages which might occur on the recreational trail.

This Easement shall be construed, interpreted, and enforced in accordance with the laws of the State of _____.

All terms and conditions of this Agreement shall run with the land and bind and inure to the benefit of the parties hereto, their successors, and assigns.

The Easement and Right-of-Way granted herein shall remain in full force and effect until such time as it is terminated by written agreement of the parties, including their successors and assigns, or by the Grantee's abandonment and non-use of the recreational trail for two (2) consecutive years.

Agreed to by the below signed parties on _____, 2008.

AGENCY/ENTITY NAME

LANDOWNERS

By _____

By _____

Its _____

By _____

EXHIBIT A

Recreational Trail crosses over and the Easement granted herein covers the following described property located in _____ County, (State): (insert legal description of all property crossed by the ROW)

EXHIBIT B

(See attached maps – general area, showing ROW)

EXHIBIT C

(See attached maps – more specific, showing ROW)

What is “Fair Compensation” for ROW Easements? This is a hard question to answer since it can be heavily influenced by local real estate markets and, most importantly, landowners’ attitudes toward snowmobiling. It must be kept in mind that most ROW easements are forever – which is a very long time. Therefore ROW easements will likely not be inexpensive since landowners have a right to be fairly compensated for giving up certain rights to their properties (through the ROW easement) for forever.

Therefore this document can only discuss 'fair compensation' in general terms since the question of value must be appraised by qualified real estate appraisers and is ultimately decided by good faith negotiations with property owners. Remember that landowners are in the driver's seat – they don't have to negotiate long term access if they don't want to – so building good relationships with them is a critical prerequisite. While the cost of ROW easements may be viewed as too expensive, they can be a good investment in the future and their true value toward assuring long term (forever) access may be immeasurable.

The value of a ROW easement will generally be near the 'lost value difference' determined by subtracting the value of the property 'with the easement' (after value) from the value of the property 'without the easement' (before value). The estimated value of the easement could also include any damages to the remainder property not physically encumbered by the easement if the remainder property was negatively impacted (damaged) by the easement. Compensable damages, as well as appraisal methods and techniques, can vary depending upon State laws so the involvement of locally qualified appraisers is extremely important. Ultimately, the value of an easement will depend upon how much the development value and/or future use of the property is impacted by the ROW easement in regard to set-backs, infringements, loss of privacy, loss of use, etc.

In the Exhibit 3 example above, Segment 1 is a 30-foot wide strip of land alongside highway frontage. The ROW easement would most likely result in a minimal impact to the long term value of the land, unless the ROW interfered with set-backs or "build-ability" on the lot; consequently fair compensation would likely have a relatively low cost. In contrast, portions of the ROW described in Segment 2 theoretically split a residential building lot in half. The ROW easement would therefore significantly impact the property by preventing the construction of any building on flat ground since everything that is left is on a steep hillside, as well as route significant snowmobile traffic through the heart of the residential lot. The result is that the value of this lot could be significantly diminished and fair compensation would likely be much more costly than for Segment 1.

The other part of this example that could substantially impact fair compensation negotiations is the parcel reserved for 'vehicle and trailer parking' during the snowmobiling season. First, this could impact (devalue) the adjacent lot (the same one discussed in respect to Segment 2 above) because of snowmobilers cutting across the adjacent residential lot from the parking area to reach the trail. Second, reserving the 'south part of Lot 4' for a parking area would result in the landowners and their successors foregoing potential development income – as well as any other uses of that property during the winter – on that piece of property (for forever). The result is that the value of this lot would also likely be significantly diminished and fair compensation could be a significant portion of the lot's 'before value.'

Conservation Easements through Land Trusts

Conservation easements are similar to ROW Easements discussed above, except they are typically granted through, and managed in perpetuity by, nonprofit organizations called Land Trusts.

What are Land Trusts? Land trusts are nonprofit organizations that, as all or part of their missions, actively work to conserve lands by undertaking or assisting in land or conservation easement acquisitions, or by stewardship of such lands or easements. Land trusts are experts at helping interested landowners find ways to protect their lands in the face of ever-growing development pressures. They protect lands by working with landowners who wish to donate or sell conservation easements (permanent deed restrictions that prevent harmful land uses), or by acquiring land outright through donations or purchase to maintain working farms, forests, wilderness, or for other conservation reasons.

Are land trusts government agencies? No, they are independent, entrepreneurial organizations that work with landowners who are interested in protecting open spaces. However land trusts do often work cooperatively with governmental agencies by acquiring or managing lands, researching open space needs and priorities, or assisting in the development of open space plans.

What are the advantages and disadvantages of working with land trusts? Land trusts are often very closely tied to communities in which they operate. Moreover, land trusts' nonprofit tax status brings them a variety of tax benefits. Donations of lands, conservation easements, or money may qualify landowners for income, estate, or gift tax savings. Moreover, because they are private organizations, land trusts can be more flexible and creative than public agencies – and therefore can act more quickly – in acquiring lands or easements that serve land trusts' missions.

Some people object to land trusts since, as nonprofit landowners, they may take land out of local property tax bases (this will vary with State and local tax laws). Therefore if their lands are in fact taken out of local tax bases, other landowning taxpayers conceivably have higher property tax burdens. As a result there is potential for local opposition to putting more private lands into land trusts.

What do land trusts do? Many local and regional land trusts, organized as charitable organizations under Federal tax laws, are directly involved in conserving lands for their natural, recreational, scenic, historical, or productive values. Many well known national organizations like the Nature Conservancy and Rocky Mountain Elk Foundation are also land trusts that operate through local chapters to conserve lands important to their missions – and oftentimes eventually transfer their 'conserved' lands to State or Federal government agencies for long term management. Land trusts can purchase lands for permanent protection, or they may use one of the several other methods: accept donations of land or the funds to purchase lands, accept bequests, or accept donations of conservation easements which permanently limit the types and scope of developments that can take place on lands. In some instances, land trusts also purchase conservation easements.

Are land trusts new? A few land trusts have been around for over one hundred years, but most are much younger. While there were only 53 land trusts operating in 26 States in 1950, there are over 1,500 land trusts operating across the country today, in every State in the nation. The Northeast is home of the first land trust and boasts the greatest number – 558. Most land trusts focus primarily on conservation, environmental education, etc. and therefore are open primarily for nonmotorized recreational uses. Land trusts which cater to motorized vehicle uses are relatively rare, although they are growing in interest as a mechanism for providing long term riding opportunities.

Are there needs for new land trusts? Land trusts are extremely effective vehicles for conserving lands. But with more than 1,500 land trusts already in existence, starting new land trusts may not be necessary, timely, or the best approach to achieving local land conservation goals. Given the time and effort it takes to run land trusts – and the long term commitment needed to protect lands in perpetuity – it may be best to first try working with existing land trusts. However, since many existing land trusts are not receptive to motorized uses on their lands, it may be necessary to consider starting new ones that can serve the needs of snowmobiling and other motorized recreational uses.

Land trusts are very complex, require very organized structures and substantial funding, and must operate within strict guidelines. Examples of articles of incorporation, bylaws, operating procedures, etc. pertinent to establishing and operating land trusts to serve motorized uses can be found in Appendixes 2 and 3.

Land Trust Land Conservation Options

There are two types of land conservation options typically used when working with land trusts: donation of lands and conservation easements.

Donation of Lands: Donating lands for conservation purposes is sometimes used by landowners who wish to leave a legacy to future generations. It may be a good conservation strategy for owners who do not wish to pass their land onto heirs, own property they no longer use, own highly appreciated property, have substantial real estate holdings and wish to reduce estate tax burdens, or would like to be relieved of the responsibility of managing and caring for their lands.

Land donations can:

- Result in substantial income tax deductions.
- Be structured in ways that allow landowners to continue to live on their lands or to receive life incomes.

Conservation Easements: Conservation easements are voluntary legal agreements between landowners and qualified easement holders, such as Federal, State, or local governmental entities, or charitable conservation organizations like land trusts, in which owners of lands voluntarily agree to give up certain rights to the use of their lands *in perpetuity* for a stated "conservation purpose", such as: (a) preservation of lands for outdoor recreation by, or the education of, the general public, (b) protection of natural habitats of fish, wildlife, or plants, (c) preservation of open spaces, or (d) preservation of historically important land areas or certified historic structures.

Conservation easements must be recorded in the county where the real property is located and sets forth the rights and obligations of parties to the agreement. Conservation easements may be either donated or sold by landowners to easement holders. While agreeing to give up certain rights to the use of their properties, landowners can also specify certain rights they wish to keep, as long as such *retained rights are not inconsistent* with the *conservation purposes* the easement seeks to protect (i.e., farming or ranching activities are generally not inconsistent with easements for open space, but may or may not be inconsistent with easements for the protection of wildlife or natural habitats). Public access is not necessarily required. Moreover, landowners retain their rights to sell, lease, mortgage, or otherwise convey their properties to anyone else, subject to their conservation easements, and landowners can dispose of their properties to family members, either by gifts during life or by testamentary disposition.

How can conservation easements be tailored to landowners' needs and desires? Easements restrict developments to the degree necessary to protect significant conservation values or needs for trail routes through properties. Sometimes this totally prohibits construction by landowners and sometimes it doesn't. Landowners and land trusts, working together, can often write conservation easements that reflect both landowners' desires and the needs for trails or open space conservation. Oftentimes, restrictive easements typically permit landowners to continue traditional uses of lands for such things as farming and ranching. Landowners should always consult with other family members, as well as their own attorneys and financial advisors regarding such substantial, long lasting decisions.

What are land trusts' responsibilities regarding conservation easements? Land trusts are responsible for enforcing restrictions that easement documents spell out. Therefore, land trusts must monitor their trust properties on a regular basis – typically once a year – to determine that properties remain in the condition prescribed by their agreements. Land trusts maintain written records of their monitoring visits, which also provide landowners a chance to keep in touch with trusts. Many land trusts establish endowments to provide for long term stewardship of their easements. If land trusts find violations of agreement terms, they must work with their landowners to try to correct the issues. If landowners do not cooperate, land trusts may ultimately pursue court action to enforce terms of their conservation easements.

Overview of Conservation Easement Benefits

Non-tax benefits: The most important benefit to landowners who wish to donate conservation easements is protection of their lands in perpetuity for stated conservation purposes while retaining the right to continue owning and using their lands. Benefits to their communities and/or the general public can also be reasons why benevolent landowners donate conservation easements.

Tax benefits: As a general principle, contributions of partial interests in real property are not tax deductible. [See I.R.C. (Internal Revenue Code) § 170; Regulations §1.170A-7(a)(1)] However, "Qualified Conservation Contributions," which can include conservation easements, can constitute an

exception to this general rule. The tax benefits which are potentially available to landowners who wish to donate conservation easements on their properties can include: 1) charitable income tax deductions, 2) reductions in the value of their lands included in the gross estate of decedents when such lands are encumbered by conservation easements, 3) estate tax exclusions, and 4) property tax relief benefits, in some cases.

Charitable Income Tax Deductions: Deductions for a ‘qualified conservation contribution’ are allowed under I.R.C. §170(h) if the following four requirements are met: 1) the property contributed must be a ‘qualified real property interest,’ 2) the property must be donated to a qualified organization, 3) the gift must be for ‘conservation purposes,’ and 4) the contribution must be ‘exclusively’ for conservation purposes.

If these four requirements are met, landowners may claim charitable income tax deductions on their income tax return for the donation of conservation easements. The amount of the deduction that may be claimed by donors in any taxable year is limited to 30% of the donors’ adjusted gross income for that year. Donors may carry forward any unused deductions for up to five years after the year of the donation (i.e., donors have six years to fully utilize the tax benefits of their donations).

Gifted real property must be a gift of: 1) the entire interest in the property, other than the reservation of subsurface mining rights, 2) a remainder interest, or 3) a perpetual conservation restriction. Conservation easements qualify as partial interests in real property under the third category. Remember that contributions must be exclusively for one or more of these conservation purposes. Conservation purposes must be protected in perpetuity. Property may not be put to uses inconsistent with the conservation purposes of the gift. However, donors may continue to use their properties for existing uses as long as that use does not conflict with conservation purposes of their gift. Any retained interests of donors must be subject to legally enforceable restrictions that prevent retained interests from being used inconsistently with conservation purposes.

Qualified Organizations: A governmental unit or a charitable organization as defined in I.R.C. §170(h)(3), which can include:

- (1) Federal, State, and local governments;
- (2) Traditional public charities described in I.R.C. §170(b)(1)(A)(vi);
- (3) Section 501(c)(3) organizations that meet the public support test of I.R.C. §509(a)(2); or
- (4) Section 509(a)(3) organizations which are organizations that operate exclusively to support any of the organizations described above, and are controlled by that organization.

Additionally, the following three requirements must be satisfied:

- (1) The qualified organization must have a commitment to protect the conservation purposes of the easement;
- (2) The qualified organization must have the resources to enforce the restrictions in the easement;
- (3) The terms of the easement must require that any transfer of the easement by a qualified organization must be made to one or more other qualified organizations that: (a) agree to enforce the terms of the easement; (b) have a commitment to protect the conservation purposes of the easement; and (c) have the resources to enforce the restrictions in the easement.

Conservation Purposes: A qualified conservation contribution must be made for one or more of the following permitted conservation purposes:

- (1) The preservation of land for outdoor recreation by, or the education of, the general public;
- (2) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems;
- (3) The preservation of open space, including farmland and forests, where such preservation is for the scenic enjoyment of the general public or is pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit;

or

- (4) The preservation of a historically important land area or a certified historic structure.

Incidental Benefits to Donors Permitted: The fact that donors may obtain “incidental” benefits from their contributions will not cause the loss of their contributions.

Inconsistent Uses: In general, no deductions are available if properties are put to uses that are inconsistent with the conservation purposes of gifts. Contributions are not deductible if they would accomplish permitted conservation purposes while also destroying other significant conservation interests. Donors who donate conservation easements may reserve rights with respect to existing or future uses of their properties that do not impair the conservation purposes of their gift and, therefore, do not jeopardize the allowance of their deductions.

Subordination Required of Mortgagee: A special rule applies for contributions of interests in real properties subject to a mortgage. No deduction is allowed unless the mortgagee agrees to subordinate its rights in properties to the right of the donee to enforce the conservation purposes in perpetuity.

Public Access Requirements: Certain conservation easements require public access to properties. Table 2 below summarizes public access requirements for each type of conservation purpose.

Table 2: Public Access Requirements for Types of Conservation Easements

TYPE OF CONSERVATION PURPOSE	PUBLIC ACCESS REQUIRED?	STATUTE	IRS REGULATIONS
Preservation of land for recreational or educational use by the general public	Yes, must have public access for regular and substantial use	26 U.S.C. §170(h)(4)(A)(i)	26 CFR §1.170A-14(d)(2)(ii)
Protection of natural habit of fish, wildlife, plants, or similar ecosystems	No	26 U.S.C. §170(h)(4)(A)(ii)	26 CFR §1.170A-14(d)(3)(iii)
Preservation of open space for the scenic enjoyment of the general public	Some visual access required (physical access is not required)	26 U.S.C. §170(h)(4)(A)(iii)	26 CFR (I) §1.170A-14(d)(4)(ii)(B)
Preservation of open space pursuant to governmental policy	No, unless required by governmental policy	26 U.S.C. §170(h)(4)(A)(iii)	26 CFR (II) §1.170A-14(d)(4)(iii)(C)
Preservation of historically important land or certified historic structures	Some visual access required (physical access is not required)	26 U.S.C. §170(h)(4)(A)(iv)	26 CFR §1.170A-14(d)(5)(iv)

Reductions in the Value of Lands Subject to Estate Tax: The second tax benefit consists of reductions in estate taxes for properties included in the gross estate of decedents when their properties are subject to conservation easements. As explained above, because conservation easements place restrictions on the development and use of properties, the fair market value of properties encumbered by conservation easements will be less than the fair market value of those same properties without conservation easements.

Estate Tax Exclusions: The third tax benefit provides additional estate tax savings for beneficiaries of estates that include lands subject to conservation easements. As noted above, prior to the enactment of

I.R.C. §2031(c), the only estate tax relief available for conservation easements was in the form of reductions in the fair market value of properties subject to conservation easements that was includable in the gross estates of decedents. An additional incentive to make conservation easements is available under I.R.C. §2031(c), which provides an exclusion for Federal estate tax purposes of up to 40% of the value of *land subject to Qualified Conservation Easements* for intervivos gifts (during life) or testamentary gifts (at death) made to *governmental entities* and *certain charitable conservation organizations*. This exclusion is limited to \$500,000.

Property Tax Relief Benefits: The fourth tax benefit can consist, in some States, of property tax relief for certain qualified charitable conservation organizations. These benefits depend heavily upon State law and local applications of that law, but are potentially important considerations for entities considering whether to accept donations of or manage conservation easements.

Conservation Easement Valuation Issues for Charitable Income Tax Deductions

The value of conservation easements and the amount of qualifying income tax deductions are based upon comparable sales of similar easements. However, because there are rarely – if ever – comparable sales of similar easements Treasury Regulations provide that the value of easements is equal to the difference between the value of property before and after the gift of conservation easements (similar to the ‘fair value’ discussion above under Right-of-Way Easements). To qualify for charitable tax deductions, donors must obtain a "qualified appraisal" of easements from a "qualified appraiser," and the donors, donee, and appraiser must sign IRS Form 8283. In addition, donors must file Form 8283 with their income tax return in the year of the donation. To substantiate the deduction of qualified conservation contributions, donors must maintain written records of the fair market value of the underlying property before and after the gift, as well as of the conservation purposes furthered by their gift. [26 CFR §1.170A-14(i)]

Before and After Method: Treasury Regulations authorize a ‘before and after’ approach to determining the value of conservation easements. This approach assumes that the fair market value of conservation easements should be the difference between the fair market value of the land before any easements are placed on it and the fair market value of land after the donation of any conservation easements. This appraisal methodology is best illustrated by the following example:

Example: Landowner Bob donates Black Forest which has a fair market value of \$1,000,000 to a qualifying charitable conservation organization, Snow Trails. After donation of the conservation easement to Snow Trails, Black Forest has a fair market value of only \$750,000. Therefore under the ‘before and after method’ the value of the conservation easement is \$250,000. Landowner Bob, the donor of this conservation easement, can claim a \$250,000 charitable income tax deduction on his income tax return, subject to the IRS 30% adjusted gross income limitation.

Enhancement in Value of Other Property: The value of conservation easements will be reduced to the extent the easements have an effect of increasing the value of *any other properties owned by the donors or related persons*, whether or not such property is *contiguous*. Treasury Regulations define "related person" by reference to I.R.C. §267(b) and I.R.C. §707(b).

Allocation of Basis: When landowners donate conservation easements, a portion of the basis (cost) of their properties must be allocated between their conservation easements and the retained portion of their lands. The portion of the basis allocated to their easements is equal to a fraction of their land’s total basis, the numerator of which is the fair market value of their easements and the denominator is the fair market value of their lands immediately before their donation. The basis allocation is illustrated by the following example:

Example: Assume the same facts as in the ‘Before and After Method’ example above except that the basis (purchase price or cost) of the land is \$400,000. The amount of the basis allocated to the easement is

\$100,000 (i.e., \$400,000 x \$250,000 /\$1,000,000). Therefore Landowner Bob's basis in this property would be \$300,000 (i.e. \$400,000 - \$100,000).

Importance of Qualified Appraiser: It is important to recognize that there are numerous pitfalls to be avoided in creating and performing conservation easements. None of these steps, including the appraisal process, should be taken lightly or considered an opportunity to cut corners. Obtaining and adhering to the advice of qualified professionals is essential at each step of the easement procurement process.

Examples of Conservation Easement Projects and Partnerships

The following news articles and press releases give an indication of the complexity and high cost of long term conservation easement projects. While extremely worthwhile, they require patience, multiple partnerships, large funding sources, and often the cooperation of State or county governments to serve as the property's end-manager. Appendix 4 provides an example of the Minnesota 'Forests for the Future Program's' (formerly Forest Legacy Partnership) authorizing legislation which is featured in the examples.

SNOWMOBILE ENTHUSIASTS CELEBRATE EXPANDED TRAIL ACCESS IN NORTHERN MN (Northland News Story – February 5, 2008)

A number of public and private entities celebrated their partnership in Itasca County over the weekend.

Landowner Forest Capital Partners has been working with the Minnesota Forest Legacy Partnership and the Itasca County Snowmobile Alliance on a conservation easement project on 80 square miles of forestland in the Koochiching-Washington forest.

Saturday morning the snowmobile club showed riders the miles of trails the public will now have permanent access to, thanks to an agreement with landowner Forest Capital Partners, and several state agencies.

"It's 300-thousand acres that we bought in 2005, and we just decided this was a good partnership between the DNR and the forest legacy group."

"They've agreed to work with this concept of a working forest, so they retain ownership of the land, and for a price, which is what the state and the private entities have come up with money for, to purchase away the right to development, so these lands will never be developed and can be used for hunting, hiking, berry picking, and it's good for wildlife."

"Our goal is to get forestland protected in Northern Minnesota, so we can all enjoy it, use it for recreational purposes, make sure we're pulling timber off it, and protect the habitat at the same time." Snowmobile alliance founder Elmer Cone organized the ride to celebrate the partnership and Arctic Cat provided additional sleds and gear.

"We've always looked at how are we going to protect our trail system, so they don't get taken away when there's a sale, and what's really amazing is this agreement is forever."

"We're here to support the snowmobile club, because without them the trails wouldn't be here, so we try to help them out as much as possible."

The hope is to keep protecting the state's one million plus acres of commercial forestland.

"We've been working together in a public/private partnership to raise 26 million dollars to protect up to 75-thousand acres just as an initial project."

PURCHASE PROTECTS 18,500 ACRES (AP / St. Paul Pioneer Press – September 26, 2006)

A Seattle-based timber producer has completed an agreement to preserve more than 18,000 acres near the Wolf River in northern Wisconsin.

Although Plum Creek Timber will own and manage the timber on the land, the state Department of Natural Resources is purchasing the 18,511-acre area that borders the Nicolet National Forest and the Upper Wolf River Fishery as well as Langlade County forestland.

The DNR is buying the land to ensure it always remains open for public and recreational access.

The area covers more than 29 square miles, and includes frontage land on Nine Mile Creek, the Lily River, and Tyra Lake. It also borders a six-mile portion of the Ice Age Trail.

State Stewardship funds and Federal Forest Legacy funds will provide DNR with \$9.1 million to purchase the land. That works out to just under \$500 an acre, said Dick Steffes, real estate director for the DNR. The public will be able to hunt, fish, hike, snowmobile, and enjoy wildlife in its natural environment, he said.

“We got a good bang for our buck,” Steffes said.

The land is the fifth- or sixth-largest tract protected by the state.

The largest is a 64,633-acre area of conserved forest, lakes, and rivers in Florence, Forest, and Marinette counties. The DNR and The Nature Conservancy purchased that land for \$83.6 million in March.

Dave Peterson, director of the Association of Wisconsin Snowmobile Clubs, said the purchase comes at a time when Wisconsin’s land is being fragmented by businesses and private landowners.

“With this (the purchase), we have free access and a very large tract of land,” Peterson said. “One has to go there to realize it, but this is a very beautiful area.”

Plum Creek also recently announced that it will partner with the State, Federal government, local organizations, and individuals to conserve 400 acres of forest in Bayfield County.

DEAL SHIELDS 6,200 ACRES OF FOREST FROM DEVELOPERS (St. Paul Pioneer Press – October 13, 2006)

More than 6,200 acres of forest in Minnesota’s Arrowhead region will be protected from development and maintained for timber production, public use, and wildlife habitat under a deal completed Thursday.

The arrangement prohibits all types of development, ensures the forest will be cut in a sustainable way, and opens the land to such public uses as hunting, fishing, hiking, dog sledding, and snowmobiling. It’s part of a broader effort to protect large blocks of forest that are being sold off and opened up to development because of shifting economics in the timber industry.

Under terms of the complex transaction, Lake County bought the property from the Conservation Fund for \$2.2 million and the Nature Conservancy paid an additional \$1.1 million for a protective conservation easement, the second-largest one it’s done in the state. Eventually, that easement will be transferred to the Minnesota Department of Natural Resources for long-term management.

The area is 25 miles north of Silver Bay and 25 miles south of the Boundary Waters Canoe Area Wilderness. Besides holding such wildlife as ruffed grouse, deer, timber wolves, and moose, it includes the headwaters of the north branch of the Manitou River, a prime trout stream.

Since 1999, more than 400,000 acres of Minnesota forestland considered more valuable for development than timber production have been sold and subdivided, much of it for seasonal-home development.

“This fragmentation of the forest threatens wildlife habitat, timber-related jobs, and recreational opportunities like hunting and birding,” DNR Commissioner Gene Merriam said.

To offset the loss of taxable property, Lake County plans to sell a comparable value of tax-forfeited land that is more accessible and is closer to utility services.

The following press release from The Nature Conservancy expands on their partnership in this arrangement:

PARTNERS ENSURE SUSTAINABLE FORESTRY ON MORE THAN 6,200 ACRES IN LAKE COUNTY *Agreement also guarantees public access and protects wildlife habitat*

DULUTH, MN—October 12, 2006—More than 6,200 acres north of Silver Bay in Lake County will be conserved for forest production, public access and wildlife habitat, a coalition of partners announced today. The agreement ensures the forestland will continue to be harvested sustainably, providing jobs for the local community and wood supply to the mills. At the same time, it guarantees public access, including hunting, fishing, hiking, dog sledding, and snowmobiling and protects important habitat for a wide variety of wildlife species. The partnership is comprised of Lake County, the Department of Natural Resources, The Conservation Fund, The Nature Conservancy, and Minnesota Power.

“The Lake County Board of Commissioners realized from past experiences that purchasing the land now, would be far less expensive in the long run,” said Lake County Board Chairman Clair Nelson. “Long term planning eliminates a tremendous amount of potential expenditures from smaller land purchases to protect recreational facilities such as trails, and eliminates staff time and service costs from development occurring within public lands. It is more efficient and less costly to manage our county lands when they are consolidated. An equal value of tax forfeit land will be sold to offset the loss of private lands in Lake County. The tax forfeit land to be sold will be more accessible and located closer to utilities and other services.”

Under the terms of the agreement, Lake County purchased the property from The Conservation Fund to manage it for forest products. The Nature Conservancy purchased a conservation easement on the property, ensuring sustainable forest management, wildlife habitat, and opportunities for public recreation. In the coming months, the Conservancy intends to transfer the easement to the Department of Natural Resources for long-term management. The Conservancy is also purchasing a 220-acre in-holding from Minnesota Power and donating it to the County, subject to a conservation easement, as part of the transaction.

“Because of changes in the forest products industry and increases in real estate values, we are seeing a move from large industrial ownership of forestlands to smaller-parcel private ownership. This fragmentation of the forest threatens wildlife habitat, timber-related jobs, and recreational opportunities like hunting and birding,” said DNR Commissioner Gene Merriam. “The DNR is pleased to be a part of this cooperative effort to conserve this large tract of forest land.”

Aside from supplying local mills with timber, the property provides important habitat for migratory songbirds, ruffed grouse, deer, timber wolf, and moose. The land also encompasses the headwaters of the north branch of the Manitou River, a prime trout stream in the region.

“This project would not have been possible without the great cooperation of Lake County, the Minnesota Department of Natural Resources, and The Conservation Fund,” said Peggy Ladner, State Director of The Nature Conservancy. “They worked to find a creative solution to permanently conserve the property and ensure continued forest management and public access. The involvement of The Conservation Fund was critical in that it took a significant risk in purchasing the land and holding it until the final details could be worked out.”

Across the U.S., and now in Minnesota, the shifting economics of the forest products industry and real estate values have forced unprecedented changes in timberland ownership. Forestland has become increasingly susceptible to seasonal home development rather than sustainable timber production. Large expanses of forests that people thought were protected are now being converted to small lot subdivisions resulting in degradation of habitat, loss of productive timberland, and reduced public recreational access. There is a short window of opportunity in Minnesota to guide this development and protect specific large blocks of forest for continued forest products uses and public recreation.

“The Manitou Forest and the coastal watersheds along Lake Superior are among the last pristine lands in the Great Lakes region, yet they are increasingly threatened by subdivision and changing ownership patterns,” said The Conservation Fund’s state director, Tom Duffus. “Thanks to the support of the Charles Stewart Mott Foundation and the Butler Family Foundation, the leadership of Lake County, and the dedication of the state and The Nature Conservancy, we are demonstrating the extraordinary results that can be achieved through balanced conservation solutions.”

The fragmentation of forestland ownership is among the greatest threats faced by wildlife and it further threatens timber-related jobs. Since 1999, more than 400,000 acres of Minnesota’s industrial forestland has been subdivided and sold. As much of this is sold for second-home development, it is lost to forestry purposes and public recreation.

LANDOWNER MOTIVATIONS AND INCENTIVES

Some landowners are more easily motivated to allow trail access across their properties than others. For all, it is a personal/individual decision based upon various factors and incentives. Generally, landowners make their decisions based upon one, several, or all of the following factors:

- ◇ Favorable risk management and their protection from liability.
- ◇ Community goodwill.
- ◇ Political support for their activities.
- ◇ Money: incentive payments and/or property tax relief or payments.
- ◇ Responsible and responsive management of the permitted activity (snowmobiling).

Favorable Risk Management and Their Protection from Liability

As was discussed earlier in the Private Landowner Liability and Recreational Use Statutes section, private landowners are often hesitant or unwilling to open their lands to public uses because they are concerned about their liabilities in the event someone gets injured on their properties. This is a valid concern and as a result every State has passed legislation that offers landowners some protection from liability when their properties are used by others for recreation. These State laws are critically important and are the cornerstone for recreational access to private lands across the country.

Additionally, trail managers must ensure they place a high emphasis on safety, follow best management practices for their trails, and make good decisions that help properly manage their and landowners’ risks. If landowners are not assured that their risks are minimized with good management practices – in both the short and long terms – they most likely will choose to not allow access across their properties. Likewise, if landowners have permitted access and then become uncomfortable with risk management practices of

trail managers – or behaviors of trail users that they feel increase their liability – they will not hesitate to quickly cancel any and all permitted uses of their properties. Therefore, more than any other factor, landowners must receive continuing assurances that their risks are properly minimized with good risk management – or there will be no access across their properties.

Community Goodwill

Oftentimes community goodwill can be a strong motivator for civic minded private landowners, particularly in rural areas or smaller communities where many people know one another. However if landowners do not live in the local community, but instead live in different regions of the State or in other areas of the country, community goodwill will likely not be a large motivator for them. The same may be true when trails are located near urban areas.

The best chance of playing on private landowners' 'sense of goodwill' is when local club members know their landowners or if landowners or someone in their families also snowmobiles. While it may be helpful to play up the importance of trails to local economies, this approach can sometimes backfire when landowners are less civic minded and more concerned about "what's in it for me." In this case, landowners may be irritated that local motels, bars, restaurants, shops, etc. stand to make money off trail visitors while they gain nothing. In this situation discussions regarding access will undoubtedly turn to 'what payments are available for landowners.'

Some, but certainly not all, corporate landowners may also be motivated by community goodwill. This will often depend upon their history in and ties to the area, whether their activities on their properties can easily coexist with snowmobiling activities, and if their companies are involved in controversial local issues where they are looking to gather supporters. In such situations, timing is everything. As with individual private landowners, the odds for cooperation increases when employees of landowning companies are also snowmobilers.

Political Support for Their Activities

This can be a particularly strong motivator for corporate landowners, irrespective of whether they are involved in agriculture, timber, conservation, development, or otherwise, and particularly if their companies are in need of positive public relations (PR). While this is somewhat tied to a sense of community goodwill, it goes beyond that motivator since these companies make conscious decisions to provide access to their properties as a PR investment – hoping that local communities and trail users will in turn support their corporate ventures. Individual private landowners like farmers and ranchers also often desire similar support for their activities.

For certain, if snowmobilers hope to have and keep access across private lands, they need to be supportive of the farmers, ranchers, timber and mining companies, developers, and other landowners who provide their riding areas. While snowmobilers and other recreationists may not agree with every perspective of what landowners do with or on their properties – the fact remains that it is their property. Therefore it is important to look for ways to work with and support your local landowners wherever possible.

Money: Incentive Payments and/or Property Tax Relief or Payments

First, check to see if (1) your State's laws allow incentive payments to be made to landowners without jeopardizing their immunity from liability (as offered by your State's Recreational Use Statutes – see Table 1 on pages 8 and 9), and (2) whether incentive payments must be channeled through governmental agencies or whether they could come directly from clubs or associations. If allowed in your State, money can be one of the greatest motivators to help gain access from private landowners. The question then becomes 'how important is this particular trail connection and how much is it worth to keep the route intact if there are no other alternatives.'

While landowners will never get rich from incentive payments, this financial compensation can help agricultural landowners in particular even out their incomes and may tip the scale in favor of them allowing access to their properties. It also helps dispel ill feelings that ‘just the folks in town are making money from all these snowmobilers running across our properties.’

Some areas offer incentive payments based upon a ‘per mile of trail’ or ‘per acre’ open to snowmobiling; other areas offer to pay property taxes on parcels being used for snowmobiling. Either approach can cost as little as a hundred dollars or as much as several thousand dollars – but from the perspective of landowners, the amount paid is often not the greatest factor. Rather it is important to many simply that some token of appreciation is paid for their troubles of hosting trails. The other issue is consistency – if you pay one, you need to pay them all, and the rate of payment needs to be consistent from one to another. Thus a per-mile, per-acre, or property-tax-rate standard helps treat everyone fairly and consistently.

Property tax relief means that the State legislature, county, town board, or other taxing authorities have taken action to reduce property taxes for landowners who allow recreational access to their lands. While this is a good concept, it is fairly rare in practice since it means taxing authorities have to make up lost revenues elsewhere. Certainly positive economic impacts from snowmobiling in local areas – and the number of jobs created and sales and use taxes generated – are valid reasons for communities to support such incentive programs. However it takes long and persistent efforts from local snowmobilers to make this happen at local levels.

Responsible and Responsive Management of the Permitted Activity (Snowmobiling)

The quickest way to lose access is to not follow through with responsible and responsive management of snowmobile trails across landowners’ properties. You must always ‘do as you say you will do’ – and be as responsive as possible to *all* landowners’ concerns. If issues arise that are contrary to how written agreements say trails are to be managed, you must quickly resolve the problems – as soon as possible versus next week or next month.

Landowners are often neighbors who talk amongst themselves on a regular basis – so problems on one landowner’s property could quickly become problems with several landowners if the initial problems are not satisfactorily resolved. If landowners know their neighbors have not been satisfied with snowmobile trails across their properties, they are likely to be reluctant to grant you access. And sometimes what may appear to be irrelevant issues – such as trespass by snowmobilers onto other landowners’ properties in the area that aren’t even directly connected to trails – can threaten cooperation from landowners whose properties trails do need to cross. If trail landowners’ concerns are for their neighborhood, then you may need to address overall neighborhood issues the best you can to gain or keep your access. Every effort needs to be made – over and over again – to show that snowmobiling is a responsible activity and that trail managers are responsible and responsive to landowners’ concerns.

SAMPLE LANDOWNER BROCHURES

It can be helpful to prepare a brochure that answers common questions that landowners and local club members may have about landowners’ liability, any incentives that may be available to help entice landowners to offer access to their properties, and other issues that may be common in areas. This helps ensure that everyone has the right information and hears a consistent message. Two examples of good landowner brochures are shown below in Exhibits 4 and 6:

Exhibit 4: Example of Minnesota brochure for working with landowners

The text that follows is from *This Land is Your Land*, a brochure produced by the Minnesota United Snowmobilers Association (MnUSA) to help local clubs work with their landowners to obtain permission for snowmobile trail routes across private property. It provides a brief rundown as to why landowners are

important to snowmobiling and answers ten common questions that landowners have about providing snowmobiling access across their properties. While this brochure is specific to Minnesota laws and procedures, it can be easily adapted to situations and laws in other States. While the answers to the questions may vary from State to State, the questions are typical of those landowners have regardless where they live. The contents of this example brochure are as follows:

This Land is Your Land...

Dear Landowner:

For over 20 years, Minnesota's 300 nonprofit snowmobile clubs and their local volunteers have depended on the generosity and cooperation of many landowners, just like you, who volunteer their land for snowmobile trails. This ongoing partnership between local snowmobile clubs and private property owners has resulted in irreplaceable social, economic, and recreational benefits to communities, just like yours, across our rural Snowbelt. Thanks to you and thousands of other landowners, there are 20,000 miles of snowmobile trails in Minnesota, the second longest integrated snowmobile trail system in the United States!

These trails, and the benefits they generate, foster substantial new opportunities, prosperity, enjoyment, and well-being for you, and your family, friends, and neighbors, during a winter season that has been traditionally dormant and stagnant. Many of these same relatives, friends, and neighbors also depend on the use of your land each winter for their family snowmobiling pleasure. It's a classic Minnesota example of the caring neighbors volunteering to help each other for the overall betterment of their community and their lifestyle. Ultimately, through giving generously of their time and resources, everyone wins.

Those of us associated with organized snowmobiling know that the voluntary use of your land each winter is a privilege, not a right – a privilege that we have to earn continuously through our diligent care of, and respect for, your land and property. Our commitment to your land starts at the grassroots, with our volunteers and clubs. It continues to the highest levels of our state organization, Minnesota United Snowmobilers Association (MnUSA).

That's why MnUSA, in cooperation with your local snowmobile club and its community volunteers, has developed this brochure. It is intended to answer many of your questions about volunteering the use of a portion of your land for a snowmobile trail.

As you will see, the information is presented in a user friendly, question and answer format. This brochure also contains the contact person for your community snowmobile club, MnUSA contact information, and a copy of the official Minnesota Landowner Trail Permit.

Yours truly,
Minnesota United Snowmobilers Association, Inc.

1. Question: liability coverage

If I give land use permission to my local snowmobile club, is there any liability coverage?

Answer: Yes. By signing the Landowner Trail Permit you automatically become covered under Minnesota Statutes 604A.20 to 604A.27 which were enacted to encourage and promote the use of privately owned lands for beneficial recreational purposes. Under the statute, snowmobiling is a recreational purpose.

In addition, your local snowmobile club maintains trail liability insurance which covers the private landowners as additional insured's under the policy. A copy of the policy is available from your local club or from Minnesota United Snowmobilers Association.

You are still responsible for carrying the usual liability coverage to cover any other non-snowmobile related occurrences on your land, including liability coverage for any equipment, automobiles, and snowmobiles you may own.

2. Question: official form

Is there a reason I should sign the Landowner Trail Permit?

Answer: Yes. The Landowner Trail Permit has been developed by the State of Minnesota to ensure that it complies with the terms and conditions of Minnesota Statutes. For you, this means the certainty of knowing you are covered in the unlikely event of a claim resulting from the snowmobile trail on your land. By not signing this official form, or by altering it in any way, you may place your coverage under Minnesota Statutes 604A.22 to 604A.27 in jeopardy.

3. Question: ownership

By giving land use permission to my local snowmobile club, do I lose any ownership rights to my land?

Answer: No. All you are doing is allowing the local club seasonal use of a specific portion of your land for a snowmobile trail. The trail is not for any purpose other than snowmobile. We do not want to use all of your land, to prevent you from using any of it, or even to use the designated trail corridor in any other season. The land is always yours to own and control, and ultimately you may revoke the land use permission if you choose to terminate the partnership. You also retain your full rights throughout the balance of the year.

4. Question: trail use

When I give land use permission to my local snowmobile club, can anything be done to stop others from using this trail?

Answer: Yes. The land use permission you give to your local snowmobile club is for winter use only as a snowmobile trail for snowmobiles displaying valid Minnesota snowmobile registration. Under the law, no other trail users are allowed on this trail or any other part of your property at any time of the year without your specific permission. Your local club is responsible for maintaining the trail regularly during the winter, and for opening at the beginning of the season and closing at the end of the season any applicable, existing gates/barriers, etc., as agreed upon pursuant to the agreement between you and your local club. The club will also sign the trail to indicate that it is exclusively for snowmobile use, including a trespass warning.

5. Question: prior approval

Can I ensure that my land will be used in accordance with my wishes?

Answer: Yes. Before signing the Landowner Trail Permit, talk to your club contact about any specific needs, concerns, or considerations you may have. It is strongly recommended that the landowner and the club contact walk the proposed trail site together, specifying the exact layout, permitted width, and signage requirement, as well as such diverse items as noting to be/not be allowed, listing gates and fences that need attention, designating fields that need to be staked, crops that need protection, and agreeing on methods for water crossings. If you are planning to do any winter work that might impact the snowmobile trail, this is also a good time to discuss it. These items should be placed on a site map and/or in writing and attached to the Landowner Trail Permit as an addendum and initialed by both parties.

6. Question: satisfaction

Is there any remedy if I am dissatisfied later on?

Answer: Yes. Should you have any concerns throughout the snowmobiling season, we urge you to contact your club representative immediately and advise him/her of the exact details of the matter. Often,

small irritations, when left to fester, can grow into larger difficulties that could have been easily resolved with an initial phone call.

If necessary, you can call the president of your local club to explain your problem. These contact names and phone numbers are included in this brochure.

If your concerns are still not satisfied within a reasonable time, the bottom line is that you have every right to revoke the Landowner Trail Permit by giving advance written notice as specified in the permit. If revoking a Landowner Trail Permit appears to be the only remedy to an unresolved problem, please consider making it effective only after the end of a current season. That way, most difficulties and inconveniences can normally be avoided and a clean transition put in place.

7. Question: benefits

Will I benefit from this winter use of my land?

Answer: Yes. If you are a snowmobiler, you will have a groomed trail almost to your door! Besides, the presence of a snowmobile trail often adds value to your land through the improvements made by your local club at no cost to you. Such landowner approved, club implemented, measures as grading, widening, bridging, or adding culverts can enhance your own use of your land in other seasons too.

Remember, your local snowmobile club is a nonprofit association that covers the considerable cost of operating snowmobile trails through various community fundraisers, volunteer labor, and a partial reimbursement of expenses from the grant funds provided by snowmobilers across the state. For the greater good of the community, many volunteers donate thousands of hours to your snowmobile club to enable it to make ends meet. Your voluntary contribution of land adds significant support to their good work at no out of pocket cost to you! By donating the use of your land, you also avoid the acceptance of liability which could be incurred if you received any compensation for the use of your property.

8. Question: duration

Is my permission ongoing?

Answer: Yes. This Landowner Permit remains in force until revoked or until your property is transferred to a new owner.

9. Question: organized snowmobiling

Is there a state body involved?

Answer: Yes. Twenty-five years ago, local snowmobile clubs saw the need to form a state association to represent their broader interests and to help coordinate, promote, and integrate trail development. This was the beginning of organized snowmobiling in Minnesota.

Today, MnUSA is a volunteer driven, nonprofit, grassroots organization that operates according to mandates set by its membership at the Annual Meeting, and under the immediate direction of a Board of Directors elected by the clubs and membership from nine regions across the state. The officers of MnUSA are elected annually by the membership. Each community-based snowmobile club retains its own autonomy and continues to function independently, to best serve the needs of its own community. With a permanent staff in Brooklyn Park, MnUSA has a paid staff who works in close cooperation with the Executive Board, chairs of major committees, and other MnUSA volunteers.

Thanks to MnUSA, organized snowmobiling has a proven track record in Minnesota. As a landowner, you are dealing with a local club backed by a professional, effective association. No other trail user group in Minnesota can offer you the stability and consistency of organized snowmobiling. No other group has such a longstanding, successful, and amicable relationship with Minnesota's private land owners.

10. Question: property rights

Is there legislation covering this kind of land use?

Answer: Yes. Laws exist in Minnesota to protect the property rights of landowners and at the same time, encourage owners of land to make their land available for a variety of recreational activities.

The Landowner Liability Act: A series of laws are in place in Minnesota to protect landowners permitting snowmobile riders access to a snowmobile trail on their property. The provisions of Minnesota Statutes Chapter 604A are intended to protect landowners providing such access by eliminating legal duties of care that an injured ride could argue are owed to him by the landowner.

The laws provide that landowners that have given written or oral permission to others to use their land for recreational purposes such as snowmobiling “without charge” do not owe a legal duty of care to trail users to maintain the land safe, warn persons of dangerous conditions, or curtail use of the land [Minn. Stat. 604A.22]. Permitting persons to use one’s land “without charge” is defined to include situations in which a landowner has received compensation from the State or a political subdivision for a lease or dedication of land for recreational purposes [Minn. Stat. 604A.25]. The only exceptions are situations in which even a trespasser could maintain a legal action, or when the landowner has charged the trail user an admission charge for use of the landowner’s property [Minn. Stat. 604A.25].

The laws further provide that landowners granting written or oral permission to others to use their property for snowmobiling “without charge” are not to be interpreted by their mere act of granting such permission to have any assurances that the land is safe for any purpose or that that landowner will assume responsibility for or incur liability for any injury to the snowmobile trail user, or conferred upon the trail user the legal status of an “invitee” or “licensee” [Minn. Stat. 604A.23].

Chapter 604A addresses situations that may occur outside of the specific trail areas for which a landowner has granted an easement or otherwise authorized use. Persons who are using a snowmobile trail but then end up entering onto other property outside the easement are restricted in their ability to successfully sue a landowner for injuries sustained while on that other property. With the exception of willful actions taken by the landowner, trespassers may not recover against the landowner for injury if the entry upon the landowner’s land at issue was “incidental to or arises from” access granted for the recreational use of trail land on the landowner’s property [Minn. Stat. 604A.25].

Persons interested in more details on Minnesota’s laws protecting land owners providing access to snowmobile trails on their property should refer to Minnesota Statutes 604A.20-27.

Minnesota has trespass statutes which protect the landowner from entry onto the property by anyone other than snowmobile riders. The law provides that outside the Twin Cities metropolitan area, no person shall enter onto another’s land for the purpose of operating a motorized recreational vehicle after being notified not to do so. If a landowner has posted signs that meet certain basic criteria at corners and ordinary ingress and egress points to the property advising that recreational vehicle use is prohibited, a “conclusive presumption” is created that the trespasser knew his entry onto the land was not authorized [Minn. Stat. 84.90].

A similar law prevents trespass by unauthorized recreational vehicle riders on agricultural lands. Except for minor exceptions permitting hunters to retrieve wounded game or hunting dogs, persons may not enter onto agricultural land for outdoor recreational purposes without permission of the owner, occupant, or lessee. A person may not enter another’s agricultural land if signs meeting basic criteria along the property designate the land as off-limits to outdoor recreationists [Minn. Stat. 97B.001].

Trespass onto another’s property by unauthorized trail riders is punishable as a criminal misdemeanor [Minn. Stat. 84.90, 97A.315]. Persons knowingly disregarding signs prohibiting trespass or other

notification from the landowner are guilty of a gross misdemeanor and subject to forfeiture of their fishing and gaming licenses [Minn. Stat. 97A.315].

Together, these statutes outline the rights and responsibilities of landowners and visitors and are designed to encourage continued cooperation between them.

Disclaimer: While this information is believed to be correct at the time of writing, the materials are provided for awareness purposes only and do not purport to provide legal advice. If you require legal advice, you should consult with an attorney.

Editor's Note: The brochure includes a flap intended as a place to insert additional information, along with a blank space stating: Here is your club and local contact information: (so local information can be added to the brochure).

Minnesota United Snowmobilers Association
7040 Lakeland Ave. N. #212, Brooklyn Park, MN 55428
Phone: 763-577-0185 Fax: 763-577-0186 www.mnsnowmobiler.org

Exhibit 5: Example of the Minnesota Landowner Trail Permit

MINNESOTA LANDOWNER TRAIL PERMIT

THIS PERMIT is granted on _____, by _____
the Landowner(s) to _____ the Sponsor to establish and/or maintain the
_____ Snowmobile Trail.

That _____, the (record owners, contract for deed purchasers,
lessees)

in consideration of _____, grants this permit
over and upon the following described premises situated in the County of _____, State of
Minnesota,

to wit: (complete land description)

SUBJECT TO:

1. This permit shall be continuous and will terminate upon sale of the land, or upon notification in writing to the Sponsor six (6) months prior to termination by the Landowner(s).
2. The right-of-way shall be open to the general public for snowmobile use.
3. The Sponsor shall at all times have the right to enter upon said right-of-way for any purpose necessary to the performance of lawful powers and duties.
4. The Landowner(s) shall have the right to close said right-of-way during any emergency, with the approval of the Sponsor.
5. The permit is for a _____ foot width over the route to be used.

DATE: _____
_____ (Landowner Signature)

(Address and Phone Number)

(Club Representative)

NOTE: All Trail Permits are to be made out to the **Sponsor** not the club. Permits can be made out to club only if the Sponsor has specifically given written permission and authority to the club and the club has been incorporated.

Exhibit 6: Example of Massachusetts brochure for working with landowners

The text that follows is from a Massachusetts Department of Conservation and Recreation (DCR) brochure distributed by the Massachusetts DCR Trails Program (1989). While it was created primarily to address long distance greenways, it is also applicable to snowmobile trails. The contents of this example brochure are as follows:

Access to the Countryside: A Guide for Massachusetts Landowners and Trail Groups

The goodwill and cooperation between private landowners and trail groups is a vital link in the development and continued existence of long distance trails. Although most trail groups attempt to take advantage of natural areas under public ownership, inevitably a trail of any substantial length will have to cross private land. In negotiating with landowners for permission, licenses, or easements to cross private land, a number of questions and concerns commonly arise. The Massachusetts Department of Environmental Management (DEM – *now the DCR*) has prepared this brochure to address some of the frequently raised concerns, and to offer information to assist relations between trail users and landowners. This information is intended to be general in nature, and specific cases may require further legal counsel.

If landowners allow access across their property will they become exposed to liability suits for injuries suffered on their property? Trail users can sue a landowner but liability is limited by law to circumstances of unlawful, wanton, and reckless conduct. The standard definition for this willful conduct is: an intentional act or failure to act with knowledge (or knowledge of facts that would lead a reasonable person to know) that such conduct not only creates unreasonable risk of bodily harm to another, but also involves a high degree of probability that substantial harm will result.

Massachusetts General Laws (MGL) Chapter 21, Section 17C, which limits a landowner's vulnerability to suits by reducing the duty of care, reads as follows: *17C Public use of land for recreation purposes; landowner's liability limited; exception: An owner of land who permits the public to use such land for recreation purposes without imposing a charge or fee therefore, or who leases his land for said purposes to the commonwealth or any political subdivision thereof shall not be liable to any member of the public who uses said land for the aforesaid purposes for injuries to person or property sustained by him while on said land in the absence of willful, wanton or reckless conduct by such owner, nor shall such permission be deemed to confer upon any person so using said land the status of an invitee or licensee to whom any duty would be owed by said owner. The liability of an owner who imposes a charge or fee for the use of his land by the public for recreation purposes shall not be limited by any provision of this section. (Emphasis added)*

Any landowner with a hazard such as an open pit or unsafe structure on his or her property should repair or remove it. Whether or not a trail exists on the property, an owner could be liable for injuries sustained by a legitimate user or even a trespasser, particularly if the injured party is a minor.

If a landowner grants access through permission or license, will this lead to permanent access? Would continued use lead to loss of control or permanent easement through adverse possession? Continuous use of private property under permission or license from the property owner does not ripen into an easement. See MGL Chapter 187, Section 2. If permission is given for trail use, then that use is not adverse to the rights of the owner and cannot lead to claims of adverse possession.

How can a landowner control what happens on the trail that he or she has allowed across the property? The landowners may, and should, propose conditions of use to the trail organization. These conditions can be written into the license agreement or the easement. The owner or trail group might also want to erect signs reminding users that they are on private land and should refrain from certain proscribed activities. Examples of traditional restrictions prohibit lighting fires, camping, leaving trash,

operating motorized vehicles, or access after sunset. A farmer might want to stipulate that no produce be picked, or that dogs must be leashed. These signs can be designed to meet the concerns of the landowner.

What is a trail easement? In Massachusetts, the instrument for legal access for trails is called a "conservation easement" or more strictly a "conservation restriction." These are legally enforceable agreements between a landowner and a trail organization or local or State agency, under MGL Chapter 184, Section 31-33 by which the owner of open land promises to preserve its natural state and keep it substantially free of future development. For trail purposes, such an agreement should include language stipulating public access for trail use. Such a restriction constitutes an "interest in land" that runs with the land and is binding on future owners. The trail corridor remains the property of the owner and can be sold or disposed of, but the trail easement is in perpetuity.

This agreement to preserve the land and allow trail access can be donated or sold for its appraised value to a trail group, town, or public agency. Donations of land or conservation restrictions are tax deductible in most instances, with the amount of the deduction depending on the individual circumstances of the owner.

Conservation restrictions are the best tool for permanent trail protection, short of outright acquisition of the property by a non-profit or government agency. They are permanent and appear on the title of the property. They also can provide a useful tool for landowners who are eager to preserve the natural quality of their open land.

What other financial incentives are available for landowners who allow public trail access? Owners who sell or donate conservation restrictions may apply for abatements in property tax assessments to reflect the reduction of value of their property after foregoing the development rights.

MGL Chapter 61B provides local property tax abatement for owners who open up their land for public recreation without charging a fee. This is administered through town tax assessors.

What is a license? Unlike an easement, a "license" is a revocable agreement between an owner and a trail group that permits trail access. It is a useful tool and superior to verbal and written permission in that it can be used to stipulate conditions of use and management agreements. Model formats are available from DCR's Trails Program.

Who is responsible for maintaining the trail on private land? The trail organization or whoever accepted the easement or license is responsible for the care of the trail, in cooperation with the landowner. The trail organization should layout, cut, and blaze the trail to its standards. The landowner should always be consulted concerning major modifications, such as cutting large trees, opening walls or fences, or building bridges. Routine maintenance and clean-up are the responsibilities of the trail group. It is a courtesy to notify the landowner prior to embarking on any trail working party.

Whom can the landowner contact if there is inappropriate use or other problems with the trail?

A local trail representative from the trail maintainer group should be identified and should be available to owners to assist with problems. Trouble shooting and quick response to landowner concerns will help prevent loss of access.

If landowners open their land for a foot trail how can they prevent unauthorized motorized use?

If the license or easement stipulates foot travel only, this should appear on signs at the entrance to the property. There are penalties for operating motorized vehicles on private land, and landowners and trail groups can work together by informing local police of violations. MGL Chapter 266, Section 121A makes it an offense punishable by a fine of \$250 to enter onto private land, whether or not posted against trespass, with a motorized vehicle or powered device.

If a trail group wishes to establish a trail on public land, does it need permission?

Yes, permission is needed from the local park or forest supervisor prior to cutting a trail in a state park or forest. Trail use can sometimes conflict with other management goals such as forest or wildlife management or water supply. The supervisor must be informed of the route of the trail and consulted on major changes involving cutting of trees or construction of bridges. Public land managers should be treated with the same courtesy as private landowners.

For more information contact: MA DCR Greenways and Trails,
136 Damon Road, Northampton, MA 01060. (413) 586-8706 ext. 20.

RAIL TRAILS

What is a rail trail? Rail trails are multipurpose public paths created from former railroad corridors – which are in a sense corporate lands or former corporate lands. They are typically flat or follow very gentle grades (3% or less) and traverse urban, suburban, and rural properties – which can make them extremely important linkages for snowmobile trail systems. They are ideal for many uses and are most often used for nonmotorized trail activities like bicycling, walking, inline skating, cross-country skiing, equestrian, and wheelchair use. Snowmobiling is allowed on rail trails in some areas and, less often, rail trails are open for ATV use.

Rail trails are extremely popular and very useful as recreation and transportation corridors. However, they are also often very controversial with adjacent landowners since the railroad transfers whatever interest they had in title, easement, or right-of-way of the corridor to the rail trail’s manager – when oftentimes adjacent landowners believe the abandoned right-of-way should instead revert to their ownership and/or use. Opposition from adjacent landowners can be extremely strong and their well organized opposition has successfully killed many rail trail proposals at local levels. The National Association of Reversionary Property Owners (NARPO) represents anti rail trail landowners. More information about its positions can be found at <http://www.home.earthlink.net/~dick156/>.

Developing rail trails on old railroad grades can be a time consuming, lengthy process. Therefore it is critical that partnerships and broad coalitions be formed early to help sustain efforts over the long time periods typically required to bring rail trail projects to completion. Development of these trails can also be expensive, so funding partnerships are almost always required. While rail trails are often managed as nonmotorized-only trails, snowmobilers often have funding when other recreationists do not – so if supporters in coalitions are approached early in the project and in a positive manner, snowmobilers can sometimes ‘buy’ a share in rail trail projects.

Why are rail trails important for snowmobiling access? Railroad corridors were built to connect communities at regular and frequent intervals. Similarly, connecting communities together is also a primary goal of many snowmobile trail systems. Using old railroad corridors for snowmobile trails or multiple use trails helps minimize the number of landowner permits needed for trails, even though it is still important to be a ‘good neighbor’ to the numerous landowners who may have properties along former railroad right-of-ways.

Railroad corridors also typically followed routes right through the heart of communities – places that are often difficult to access today, near businesses and services needed by snowmobilers, since communities have built up and out since railroad corridors were initially established. Oftentimes former railroad corridors may be the most reasonable access available to reach services located within the interior of communities. Old railroad corridors also provide access that is much safer for both snowmobilers and motorists since oftentimes the only other alternative for snowmobilers is to operate on the shoulder of plowed roadways or on streets for ingress and egress to community services and attractions.

Another advantage of using old railroad grades for snowmobile trails is that they are often wide with a flat, firm base that provides a good location for trail grooming. This wide template also provides a safe location for multiple use recreation.

Where are existing rail trails located? According to the Rails-to-Trails Conservancy (RTC), since the 1960s over 1,400 rail trails totaling over 13,500 miles have been created across the United States (there is at least one in every State). Table 3 below shows that rail trails are a heavily northern occurrence, with over 1,000 of these trails (83.6%) being located in Snowbelt States. Table 4 shows a State-by-State breakdown.

While only 234 (16.6%) rail trails allow any level of snowmobile use on them, this equals over 4,800 miles of rail trails open to snowmobiling use – which is almost 36% of the rail trail miles in the country. This is significant to snowmobiling access given the more than 6,000 miles of rail trails that exist today where snowmobiling is not allowed – but perhaps could in certain areas with the right focus, and persistence, in trying to enhance multiple use partnerships.

Table 3: Comparison of Snowbelt State Rail Trails to total U.S. Rail Trails (RTC 12/2006)

	Total Number	% of U.S. Total	Total Miles	% of U.S. Total
Rail Trails Open to Snowmobiles	234	16.6	4,827.8	35.7
Snowbelt State Rail Trails	1,054	74.8	11,293	83.6
Rail Trails Open in the U.S.	1,409	100	13,505	100

Table 4: Comparison of Rail Trails (RT) open to snowmobile use in Snowbelt States

State	Number of Rail Trails Open to Snowmobiles	Total Number of Rail Trails	% of State RT Open	Miles of RT Open to Snowmobiles*	Total State RT Miles	% of State RT Miles Open
Alaska	1	3	33.3	5	20	25.0
California	2	74	2.7	30	293	10.2
Colorado	5	30	16.7	33.7	162	20.8
Connecticut	1	20	5.0	27	140	19.3
Idaho	1	14	7.1	34	234	14.5
Illinois	6	47	12.8	75.3	549	13.7
Indiana	1	32	3.1	4	122	3.3
Iowa	18	57	31.6	245.5	557	44.1
Maine	12	22	54.5	278.4	294	94.7
Massachusetts	2	28	7.1	36	155	23.2
Michigan	46	131	35.1	1,089	1,398	77.9
Minnesota	37	62	59.7	1,093.3	1,327	82.4
Montana	1	13	7.7	12.1	58	20.9
Nebraska	1	17	5.9	2.1	264	0.8
New Hampshire	25	54	46.3	243.9	306	79.7
New York	12	76	15.8	274.7	805	34.1
North Dakota	0	2	0	0	17	0
Ohio	1	76	1.3	43	744	5.8
Oregon	1	14	7.1	12.5	209	6.0
Pennsylvania	8	116	6.9	118.4	1,130	10.5
South Dakota	1	2	50.0	10	112	8.9
Utah	1	5	20.0	28	58	48.3
Vermont	8	16	50.0	109.8	147	74.7
Washington	1	65	1.5	2.5	634	0.4
Wisconsin	41	76	53.9	997.6	1,533	65.1
Wyoming	1	2	50.0	22	25	88.0
Total	234	1,054	22.2	4,827.8	11,293	42.8

** Note: the 'Miles of RT Open to Snowmobiles' listed in Table 4 (as reported by RTC December 2006) are likely higher than what are actually available on-the-ground in each State. This could be because not all of the trail may be open to snowmobiles – even though the overall trail is classified as 'open' to snowmobiles by RTC, or because parts of the trail may have low snowfall or no snowfall and therefore does not provide dependable snowmobiling opportunities.*

What are the first steps in developing rail trails? First, determine if the corridor is actually inactive and will no longer be used for rail service. A railroad corridor is generally considered inactive when: 1) rail service is discontinued, 2) the Surface Transportation Board (STB) officially approves the abandonment, and 3) tariffs (pay schedules) are canceled. Status of abandonment can be determined through the rail office of your State department of transportation or by contacting the railroad company directly.

Some rail trails are railbanked under Section 8(d) of the National Trails System Act (16 U.S.C. 1247(d), see www.nps.gov/nts/legislation.html), meaning they are not legally abandoned, but may be held in interim trail use pending a railroad's possible return to service. Additional information regarding the abandonment process can be found at: www.stb.dot.gov/stb/public/resources_railstrails.html and www.stb.dot.gov/stb/public/resources_abandonment.html.

After abandonment has been approved, the railroad company usually removes the tracks and ties for salvage and regrades the corridor with original ballast left by the railroad. Many trails are later surfaced with asphalt, crushed stone, wood chips, or another material appropriate for the intended trail uses. Ideally, bridges and tunnels are left intact so trail managers need only add wood decking, appropriate railings, and other safety features. Road crossings must be properly striped and signed for both trail and road users.

Who builds and manages rail trails? In most cases the local, State, or Federal government agency that buys the corridor builds the trail as well. In a few cases, groups of citizen volunteers have constructed trails. Rail trails are generally managed by public agencies, but some are operated by other types of organizations, including nonprofit 'friends of the trail' citizen groups, land trusts, and community foundations.

What is the Rails-to-Trails Conservancy? The Rails-to-Trails Conservancy (RTC) is a nonprofit advocacy organization that works to convert unused rail corridors into trails. RTC also provides resources through its web site at www.railstotrails.org including trail building information, rail trail statistics, and a listserv to post information and share discussions with other rail trail advocates and builders. It also provides reports and fact sheets on topics such as railbanking, rails-with-trails, liability, safety, management, and maintenance. RTC is not a manager of rail trails, although in limited situations it has purchased and held title to rail corridors for a short time until public agencies were able to take over ownership and management of the corridors.

LAWS AND PERMITS APPLICABLE TO TRAIL ACQUISITION AND DEVELOPMENT

There are several Federal laws which may apply to trail acquisition and development projects. States also often have their own environmental laws and permitting requirements. Therefore it is important to consult State and local environmental agencies early in your planning process to determine exact local requirements prior to the start of any work. The most common Federal requirements include:

Private Property Acquisition: Uniform Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) [<http://www.fhwa.dot.gov/REALESTATE/ua/index.htm>] sets a minimum standard of performance for all Federally funded projects with regard to the acquisition of real property and the relocation of persons displaced by the acquisition of such property. The Uniform Act applies if there are:

- (a) *Direct Federal program or project funds* involved for any acquisitions (Examples: Federal RTP grant funds are used to purchase an easement from willing sellers; or a land trust uses Federal grant monies to wholly or partially purchase a conservation easement.), or
- (b) *Programs and projects receiving Federal financial assistance* that have any part in an overall trail acquisition and development project (Examples: Federal RTP grant funds are used for the construction or development of a trail even though the trail's easement or land was purchased with nonfederal funds; or Federal wildlife funds are used to develop interpretive displays on a new trail acquired from private property owners.).

This Act applies to voluntary acquisitions from willing sellers, as well as situations where agencies use condemnation procedures to acquire lands.

Section 102 of the Uniform Act establishes basic acquisition policies, summarized as follows:

- (a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.
- (b) *Notice to owner.* As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part.
- (c) *Appraisal, waiver thereof, and invitation to owner.* Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in §24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.
- (d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property.
- (e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation.
- (f) *Basic negotiation procedures.* The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with §24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.
- (g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.
- (h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.
- (i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement.
- (j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the

Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner.

- (k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project.
- (l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.
- (m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.
- (n) *Conflict of interest.* The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

Work in Wetlands/Rivers/Streams/Lakes and Ponds: Clean Water Act

Section 404 Permits: Section 404 of the Clean Water Act (CWA) regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities regulated under this program include fill for developments and infrastructure development projects such as highways and trails; this can sometimes also include the installation of culverts and drainage ways along trails. Impacts subject to Federal review include not only the area of wetlands directly filled, but also any inundation or drainage of wetlands caused by the placement of fill or mechanized land clearing. See

<http://www.epa.gov/OWOW/wetlands/regs/sec404.html> or

http://www.epa.gov/owow/wetlands/pdf/reg_authority_pr.pdf for more information.

DEFINITION OF "WETLAND": The term "wetland" is defined by Federal regulations to mean "...those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions..." Wetlands generally include swamps, bogs, and similar areas.

DEFINITION OF "FILL": The term "fill material" is defined by Federal regulations to mean "...any material used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a water body. The term does not include any pollutant discharged into the water primarily to dispose of waste..."

Permits are administered by the U.S. Army Corps of Engineers; applications can be downloaded at <http://www.spn.usace.army.mil/regulatory/applic.html>.

Work in Rivers, Streams, Lakes, and Ponds: Rivers and Harbors Act

Section 10 Permits: Section 10 of the Rivers and Harbors Act regulates the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States. See <http://www.epa.gov/OWOW/wetlands/regs/sect10.html> and <http://www.usace.army.mil/cw/cecwo/reg/oceover.htm> for additional information. This Act applies to all structures or work below the ordinary high water mark in all navigable waters; applicable projects include but are not limited to bridge construction and placing rip rap along streams or river banks. Section 404 Permit requirements also typically pertain and are administered concurrently with projects in these areas.

Permits are administered by the U.S. Army Corps of Engineers; applications can be downloaded at <http://www.spn.usace.army.mil/regulatory/applic.html>.

National Historic Preservation Act

Section 106: Section 106 of the National Historic Preservation Act requires that all Federal agencies take into account the effects of any undertaking they fund, assist, permit, or license on historic properties. Historic properties typically include any building, structure, object, prehistoric or historic district, and prehistoric or historic archeological sites included in or eligible for inclusion in the National Registry of Historic Places. See <http://www.nps.gov/phso/archeology/sec106.html> for additional information.

Administration of the Act is typically delegated to State Historic Preservation Offices (SHPO). The Section 106 process does not ordain an outcome, but it does require consultation with SHPO to determine potential effects, avoidance, and/or mitigation.

CHAPTER TWO – Access to Public Lands

Access to public lands for snowmobiling typically requires participation in complex, cumbersome, and oftentimes lengthy agency rulemaking and planning processes. On Federal lands, these planning processes are driven by the National Environmental Policy Act (NEPA) along with a host of other Federal laws specific to the applicable public land managing agencies. State and local governments also often have their own environmental planning laws that govern how they make decisions on appropriate uses for the lands they manage. These laws spell out the ‘rules of the game,’ so it is important that snowmobilers learn what they are and how to participate in public agency planning processes to retain and enhance snowmobiling access.

Access to public lands also requires establishing good working relationships with on-the-ground managers in these agencies. Your role is to educate land managers about your needs for snowmobiling access and to work with them within the bounds of the many laws and regulations which constrain their management decisions.

Additionally, access to public lands oftentimes depends upon funding partnerships between land managing agencies, snowmobilers, and other recreationists. To a great extent, these partnerships help to ‘buy’ continued access for snowmobiling and other recreation activities since most public agencies’ recreation budgets continue to decline. As a result, recreation opportunities on public lands may potentially decrease if snowmobilers and others don’t continue to bring money and in-kind resources (volunteer labor, donated materials, etc.) to the table to help agencies.

WORKING WITH LAND MANAGERS

It is important for snowmobilers to build positive working relationships with land managers to help facilitate effective communications that lead to keeping and enhancing access for snowmobiling. It is also important to understand that decisions about the use of public lands do not typically happen overnight – so it requires patience with the process and long term commitments to working with agencies.

Building good working relationships with land managers takes time. When dealing with one another, it is helpful when both sides are:

- ◇ Honest,
- ◇ Credible,
- ◇ Trustworthy,
- ◇ Fair,
- ◇ Knowledgeable about the subject of interest,
- ◇ Open minded,
- ◇ Willing to learn and share, and
- ◇ Understanding of others’ needs and constraints.

While you can’t control how land managers approach working with snowmobilers, you can control your approach to working with agencies. If you follow the above principles, you will get farther quicker and have stronger, longer lasting partnerships than if you approach working relationships with negativism, hostility, and combativeness.

Always remember that agency working relationships need to span years, not just weeks or months. You need to identify representatives (club members or otherwise) who are willing to take the lead as well as commit the time required to make your relationships successful. Your representatives should understand your partner agencies and how their policies work. They should get themselves included on agencies’ mailing lists and try to establish conduits to offer assistance and supply information to agency staff

members. And they must also understand that staff members can turn over – and over and over – due to transfers, promotions, and retirements. So they need to be prepared to start building new relationships with new staff members over and over again.

Tips for Dealing with Issues

- ✓ Try to be part of a solution and not just a problem for agencies.
- ✓ Try to understand both sides of issues because that is what agencies must do.
- ✓ Understand the rules (laws, regulations, policies, politics, etc.) land managers must work within.
- ✓ Try to find “Win-Win” solutions.
- ✓ Tell land managers what it is you want or would like them to do, but also try to give them options.
- ✓ Be persistent, but always be professional.

Tips for Dealing with Disagreements

- ✓ Remember that agencies’ decisions are professional – not personal.
- ✓ If decisions don’t go your way, look for ways to improve your messages so future decisions might become more favorable to your positions.
- ✓ Just because land managers don’t agree with you doesn’t make them an enemy; they will continue being the decision makers, so look for ways to build and improve working relationships with them.
- ✓ Be willing to move up agencies’ chain-of-command if necessary; however weigh your options and actions carefully considering your need for future working relationships with on-the-ground staff.
- ✓ Avoid burning bridges because you often need to cross them again before your journey ends.

FEDERAL LAND USE PLANNING

A three-tiered hierarchy of guidance directs the activities of any Federal agency. At the highest level, Congress establishes *law*, which provides mandatory direction to agencies. Because laws are often very broad, agencies generate more specific direction by creating regulations and policies to further define and implement laws. Two key laws typically influence every Federal agency’s planning efforts: the National Environmental Policy Act of 1969 (NEPA, 42 USC 4321 et seq.) and a land management act specific to each agency. The two most common Federal agencies which provide snowmobiling access are the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM). Their respective land management acts are the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976, (NFMA, Section 6, 16 USC 1600), and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 USC 1701 et seq.).

The NFMA establishes the USFS’s land use planning requirements while sections 201 and 202 of the FLPMA establish the BLM’s land use planning requirements. Section 102 of the FLPMA also sets forth the policy of periodically projecting the present and future use of public lands, as well as their resources, using the land use planning process. These laws result in the Forest Service preparing a Land Management Plan (LMP) and the BLM preparing a Resource Management Plan (RMP) to ensure that USFS- and BLM-administered lands are managed in accordance with requirements of NFMA, FLPMA, and NEPA; as well as with the principles of multiple use and sustained yield. The purpose and goals of these planning processes are to provide integrated plans that will guide future land use decisions and project-specific analyses for public lands under the care and management of both agencies.

Specifically, the purpose of a Forest Service LMP is to:

1. Describe the strategic guidance for forest management, including desired conditions, objectives, strategies, and guidance; and
2. Determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management (36 CFR 219.1(b)).

The specific purpose of a BLM RMP is to:

1. Provide an overview of goals, objectives, and needs associated with public land management; and

2. Resolve multiple use conflicts and/or issues associated with those requirements that drive the preparation of the RMP.

Regulations are the second highest level of direction. When an agency creates new or revises existing regulations, other agencies and the public must review them. Agencies publish their finalized regulations in the Code of Federal Regulations (CFR) and in the Federal Register.

Agencies also issue **policy**, the third level of direction, to provide even more detail to complement laws and regulations. Policies are internal documents that historically had no external review requirements. However effective January 2007 new policies which do not merely interpret existing laws and regulations or announce tentative policy positions – but which rather establish new policy positions that agencies treat as binding – must comply with public notice and comment requirements. Each Federal agency has its own Planning Handbook that spells out in policy how the agency will carry out the requirements of NEPA, its land management policy act, and its applicable planning regulations.

Relationship between Programmatic and Site-Specific Analysis and Tiering

LMPs and RMPs are programmatic documents that discuss environmental effects on a broad scale. Over the lifetime of a LMP or RMP, the selected alternative and the accompanying area-wide guidelines and design criteria set management directions by establishing and affirming rules and policies for use of natural resources.

LMPs, RMPs, and other federal agency land management plans look at a ‘planning area-wide’ (entire national forest, national park, BLM unit, etc.) level of analysis; therefore, they do not predict what will happen when such broad based standards and guidelines are implemented on individual, site-specific projects. Nor do they convey the long term environmental consequences of any site-specific project. The actual effects (impacts) will depend on the extent of each project, the environmental conditions at the site (which can vary widely across the public lands), and the mitigation measures and their effectiveness.

Completion of programmatic land management plans has historically involved the preparation of Environmental Impact Statements (EISs) which identify and analyze which consequences are most likely to occur under each EIS alternative in relation to different resources, and why they are likely to occur. Combining this broad based assessment later with site-specific information then helps managers and the interested publics make reasonable predictions about the kinds of environmental effects that could result from specific projects.

Given the complexity of natural systems, an EIS does not describe every environmental process or condition since this would be an impractical, if not impossible, undertaking. Rather, the purpose of a plan’s EIS is to provide a survey of the broader environmental, social, and economic factors that are relevant to the programmatic planning process.

After the agency’s final land management plan is approved, the analysis presented in the EIS is used in “tiering.” (NEPA defines “tiering” as the coverage of general matters in broader EISs with subsequent narrower statements or environmental analyses that incorporate by reference the general discussions, allowing discussions to then concentrate solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when it helps the lead agency focus on the new issues and exclude from consideration issues already decided). Thus, the broader analysis and conclusions analyzed in development of land management plans can then be used as a starting point for future site-specific project planning within planning areas. Each future project’s environmental effects analysis document incorporates, by reference, the information found in the LMP/RMP’s EIS without the need to repeat the broader analysis process.

It is important to note that a new process has been introduced into LMP planning with issuance of the 2008 USFS Planning Rule (this change actually started with its predecessor, the 2005 USFS Planning Rule). Under the new 2008 Rule, the Forest Service no longer intends to complete an EIS when it updates LMPs. Rather, its intent is to defer detailed impacts analysis to future site-specific planning processes. Under this new process LMPs will be produced through the preparation of either a Categorical Exclusion (CE) or an Environmental Assessment (EA); both are far less costly and less time consuming to produce. It is too early to tell if this change in process will withstand the court challenges which have been filed against the new Rule. However, if it does it will simplify forest planning while at the same time making it even more important for close public participation and scrutiny when site-specific planning is done.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

The National Environmental Policy Act of 1969 (NEPA) is the cornerstone of Federal environmental policy in the United States. It became law on January 1, 1970 and has been amended three times: in 1975, 1975, and 1982. NEPA is clearly the overarching guiding process by which access and use decisions on Federal lands must be made by land managers. NEPA defines the ‘rules of the game’ regarding access to public lands, so it is important that those working for snowmobiling access on Federal lands understand NEPA and work the process correctly to be effective.

The purposes of this Act as stated by Congress include: “to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.” See Appendix 5 for the full NEPA Act.

NEPA requires that all Federal agencies give ‘appropriate’ consideration of all potential environmental impacts of proposed actions as part of all agency planning and decision making. It also defines nine procedures in Section 102 by which all Federal agencies must work to achieve six goals listed in Section 101 to ‘prevent damage to the environment.’ Additionally, agencies must tier their consideration to other specific resource laws such as the Endangered Species Act, the Clean Air Act, the Clean Water Act, etc.

NEPA also established a Federal agency, the Council on Environmental Quality (CEQ), to advise the President and to oversee NEPA compliance. As part of these oversight duties, CEQ published Regulations for Implementing NEPA (40 CFR Parts 1500 – 1508) in 1978. These extensive regulations were amended in 1986, reprinted in 1992, and are available at www.nepa.gov/nepa/regs/ceq/toc_ceq.htm . These regulations require each Federal agency or department to also prepare their own set of implementing procedures to outline how they will comply with NEPA within their agency or department. CEQ has also offered extensive guidance on specific NEPA topics over the years. CEQ’s NEPA Guidance is available at www.nepa.gov/nepa/regs/guidance.html .

What triggers NEPA? Essentially, proposing *any* Federal action triggers NEPA. Whenever an agency proposes any action, the decision maker must answer the following question: ***Might this proposed action be a ‘Major Federal Action’ significantly affecting the quality of the human environment?***

The agency is required by NEPA to answer the question using one of four methods and levels of documentation:

1. Prepare an **Environmental Impact Statement (EIS)** and a **Record of Decision (ROD)**;
2. Prepare an **Environmental Assessment (EA)** and a **Finding of No Significant Impact (FONSI)**. However, if a FONSI is not possible (meaning the EA determined there will be *some* level of significant impact), the agency must then prepare an EIS and a ROD in order to proceed with the proposed action;
3. Document that the proposed action meets a **Categorical Exclusion (CE)**; or

4. Prepare no environmental documents but still have a CE on file for the action (essentially means having a 'letter to the file' which documents the thought process as to why it is okay to proceed with the action without further analysis).

What is a 'Major Federal Action' significantly affecting the quality of the human environment?

NEPA applies to all actions taken by a federal agency. **Federal** means that one of the following is involved with the action:

- Federal jurisdiction (lands, programs, etc.).
- Federal money involved.
- Federal employees involved.

Action is defined in 40 CFR 1508.18 as approving, undertaking, or funding in whole or part:

- New and continuing activities.
- Projects or programs funded or conducted by agencies.
- New or revised agency rules, regulations, plans, policies, or procedures.
- Legislative proposals.

Human Environment is defined in 40 CFR 1508.14 to comprehensively include the natural and physical environment.

Significantly is defined in 40 CFR 1508.27 as it applies to NEPA and is a complex and subjective term which has two parts:

- A. **Context** (where) requires analysis and evaluation of the impacts from several aspects, including: society as a whole, the affected region, the affected interests, and local situations. Both short term and long term impacts are relevant.
- B. **Intensity** is the "severity of the impacts" and has ten specific aspects relative to NEPA:
 1. Beneficial and adverse.
 2. Public health and safety.
 3. Unique characteristics and ecologically critical areas.
 4. Highly controversial impacts.
 5. Uncertain impacts.
 6. Precedent-setting actions.
 7. Cumulative actions and impacts.
 8. National Register of Historic Places.
 9. Endangered or threatened species or habitat.
 10. Violation of Federal, State, or local law.

NEPA Compliance Requirements and Decision Factors

NEPA has two Compliance Requirements:

1. Agencies must make informed decisions. In respect to NEPA, **informed** means a candid and factual presentation of all potential environmental impacts. This means a range of 'reasonable alternatives' (not just one proposed action) must be available and duly considered by the decision maker before making a commitment of the agency's resources to carry out the proposed action.
2. Agencies must make diligent efforts to involve the public in their NEPA process. In this case, **diligent** is defined at the agency's discretion depending upon how they interpret the severity of potential impacts. Ultimately if there is a dispute, a court will rule as to whether or not public involvement was 'appropriate' for the circumstances, which then shapes the agency's 'public involvement' for their subsequent NEPA processes. The intent of this requirement is that **public involvement** should mean that the agency listens to the public's concerns early in their NEPA process and provides the public with environmental documents that are reasonably written.

Ultimately, the final decision regarding any proposed action includes many relevant factors:

- ✓ The agency's mission, goals, and objectives.
- ✓ Technical requirements for analyzing and/or implementing the action.
- ✓ Mandated (perhaps court-imposed) or planned schedule for a decision.
- ✓ Economics (funds available to analyze and/or implement the action).
- ✓ Other Federal environmental laws and regulations which include: Clean Water Act, Clean Air Act, Endangered Species Act, National Historic Preservation Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, etc.
- ✓ Local environmental laws, regulations, and values.
- ✓ Social impacts.

An "EIS" Versus an "EA" Versus a "CE": What are They?

Environmental Impact Statement (EIS)

- ◇ Any action that might have significant impacts upon the quality of the human environment requires an EIS. Since the ultimate judgment as to whether an impact may be *significant* rests with the local decision maker (with public scrutiny), this judgment is typically subjective versus being scientific.
- ◇ Extensive, formalized public involvement is mandatory, including: publishing a Notice of Intent to prepare an EIS in the *Federal Register*, holding appropriate public meetings or hearings; release of a Draft EIS for a minimum 45-day (or longer at the discretion of the decision maker) public comment period; and a Final EIS that addresses comments and/or makes changes in the draft, with a minimum 30-day public comment period.
- ◇ Can be avoided if mitigation actions would reduce the impacts below the level of being significant (to a point where an EA's FONSI fulfills NEPA's requirements).

Environmental Assessment (EA)

- ◇ Any action with the potential for significant environmental impacts but not on the list of categorical exclusions requires at least an EA.
- ◇ Public involvement is encouraged 'to the extent practicable' – but is not required.
- ◇ Through mitigation measures, an agency can reduce impacts below a 'significant level' and thereby prepare an EA versus an EIS. CEQ Regulations define five types of mitigation measures:
 1. Avoid the adverse condition.
 2. Minimize impacts by limiting degree or magnitude.
 3. Rectify the impact.
 4. Reduce or eliminate the impact over time.
 5. Compensate for the impact.

Categorical Exclusion (CE)

- ◇ Applies to actions which do not individually or cumulatively have a significant effect on the human environment.
- ◇ Generally there is no public involvement in the decision.
- ◇ Every agency has a published list of routine actions it has deemed to qualify as a CE (typically routine things like everyday maintenance, repetitive actions which have already had prior NEPA analysis, etc.).
- ◇ All CE actions on an agency's list must first pass "extraordinary circumstances" criteria before they can be categorically excluded. This means that if any of the following apply, the action cannot be categorically excluded and an EA must be prepared:
 1. Action has a greater scope or size than generally expected.
 2. Action has potential to further degrade already poor environmental conditions.
 3. Action has potential to adversely affect threatened or endangered species, archeological remains, historical sites, or other protected resources.
 4. Action employs unproven technology.

5. Action involves critical environmental areas including: prime or unique farm lands, wetlands, coastal zones, wilderness areas, floodplains, or wild and scenic river areas.

An EIS and an EA both analyze the potential environmental impacts of the proposed action and alternative actions (alternatives). Differences between the two methods include:

- A standardized format for an EIS is recommended by CEQ regulations, whereas an EA’s format can vary by agency or issue.
- EAs can cost between \$30,000 and \$200,000 to prepare if contracted out by the agency (although many are done in-house with agency staff), while an EIS is often (but not always) contracted out by the agency and can cost \$250,000 to well over \$1 million to complete.
- EAs typically take from three months to one year to complete, whereas an EIS can take one to three years to complete.
- If an EA is prepared and no significant impacts are found, the finding is filed as a Finding of No Significant Impact (FONSI). If an EIS is prepared, the choice of action/alternatives, and any associated mitigation action, is filed as the Record of Decision (ROD).

Typically, the purpose of an EA is to support a Finding of No Significant Impact for a proposed action. However, if the analysis in the EA cannot support a FONSI, then an EIS becomes necessary if the agency still wants to proceed with the proposed action. If any reasonable alternative actions exist, they must be examined in an EA, thus a ‘Range of Alternatives’ is common to most EAs. However in an EA, the focus is on the agency’s proposed action, its impacts, and any potential mitigation measures the agency is analyzing. Comparatively, the purpose of an EIS is to disclose all potential impacts from a range of actions and to guide the agency in choosing between all potential action alternatives or a blend of the alternatives. Therefore an EIS will be much lengthier and very complex.

Figure 1: Typical steps in a NEPA analysis process

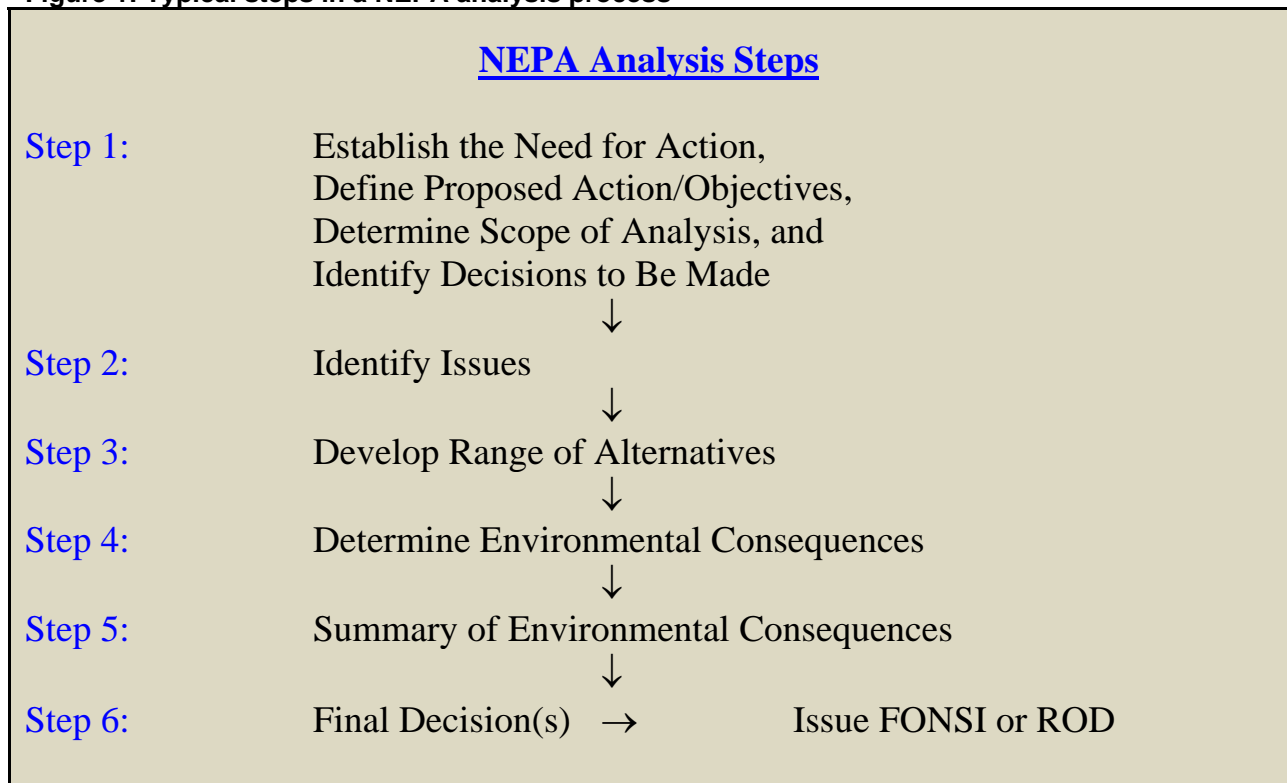
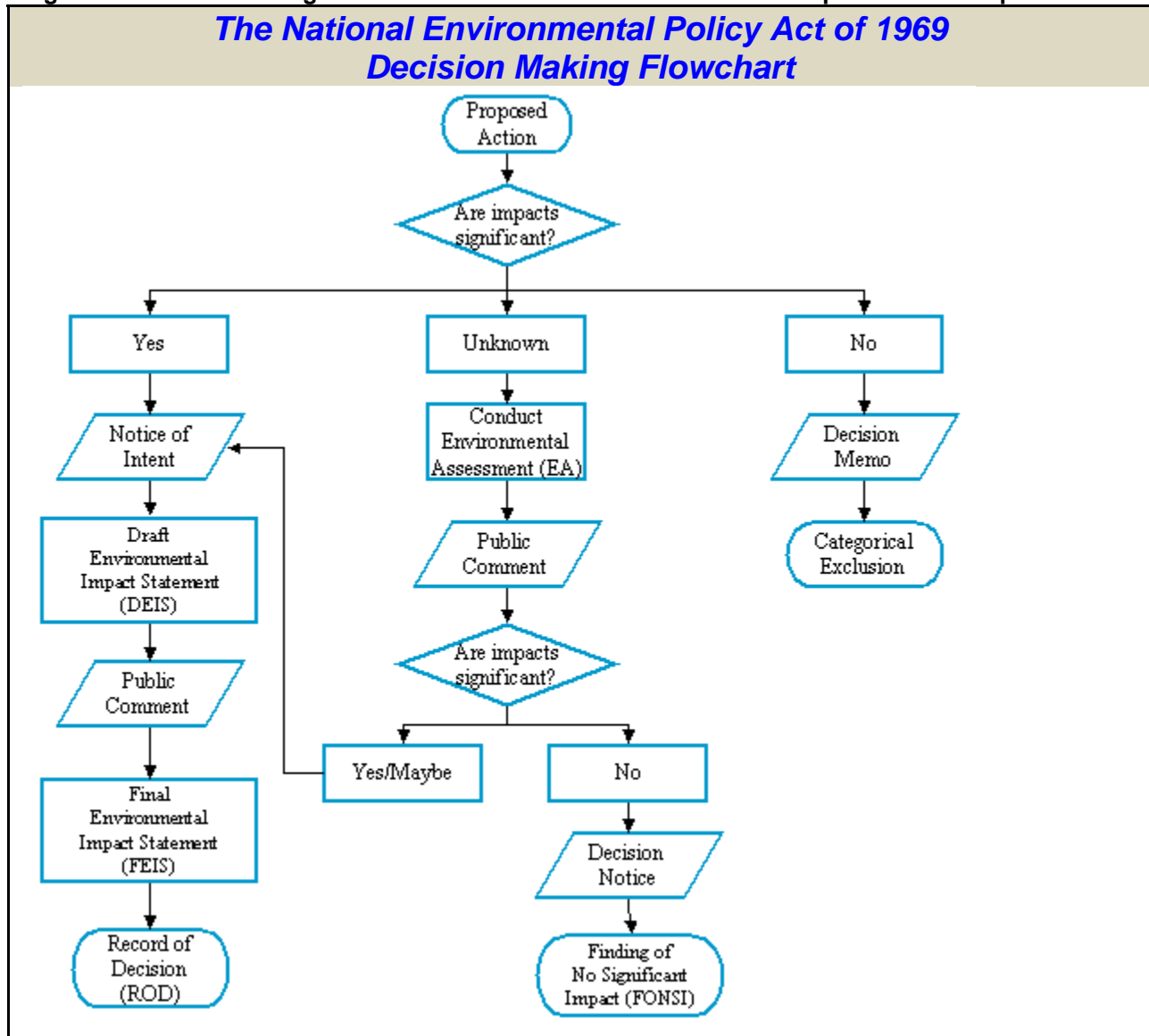


Figure 2: Decision Making Flowchart that summarizes the essential steps in the NEPA process.



Typical EA/EIS Document Outline and Contents

EAs and EISs generally cover similar topics in each analysis even though an EIS will be much more detailed than an EA. Still, their contents as well as how those topics are organized in the documents are very similar. A typical outline for an EA or an EIS is as follows:

Introductory Sections

- Cover Sheet (Abstract).
- Summary.
- Table of Contents.
- Chart or Matrix of Issues.

Chapter 1: Purpose of and Need for Action

- Explains **who** wants to do **what**; **where** and **when** they want to do it; and also **why** they want to do it (their objectives).
- Explains any other EAs/EISs (previous or current on this topic or a related topic) that may influence the scope of this particular EA/EIS.

- Explains the decision(s) that must be made by this process and identifies any other agencies involved in this NEPA analysis.
- Summarizes the scoping (preliminary information gathering) for the process and explains significant issues that were identified. If applicable, it also identifies issues considered but eliminated from detailed analysis by this process.
- Lists all applicable Federal licenses, permits, and entitlements necessary to implement the project.
- Previews the remaining chapters of the document.

Chapter 2: Alternatives

- Describes the alternatives (potential actions) proposed by the analysis process.
- Explains how the alternatives represent a range of reasonable alternatives, including the proposed action and no action.
- If applicable, briefly describes any alternatives eliminated from detailed study and why they were eliminated.
- Summarizes the environmental consequences of the alternatives based upon outputs from potential actions.
- Provides a matrix that compares the alternatives by summarizing their environmental consequences.
- Often identifies the agency's preferred alternative.

Chapter 3: Affected Environment

- Presents the existing environment (baseline environmental conditions).
- Presents resources (issues) covered by the analysis. "Resources" includes all physical, biological, social, and economic features of the human environment.
- Relevant issues are more extensively discussed than non-relevant issues.

Chapter 4: Environmental Consequences

- This chapter is organized by resources (issues) which may include: Air Quality, Water Quality, Habitat/Vegetation/Timber, Wildlife, Natural Soundscapes, Socioeconomics, Health and Safety, Visitor Experience, etc.
- Details effects on each resource/issue (issue A, B, C, D, etc.) by alternative.
- Identifies cumulative impacts.
- Identifies any adverse effects that cannot be avoided.
- Identifies the relationship of short-term uses and long-term productivity.
- Identifies any irreversible and irretrievable commitment of resources.

Closing Sections

- List of Preparers.
- List of Agencies, Organizations, and Persons to Whom Copies of the document are sent to (also may be called the List of Agencies and Persons Consulted).
- Index.
- Appendixes.
- Scoping Information/ Public Input to the planning process.
- Bibliography and Cited References.
- Glossary of terms, acronyms, and abbreviations.
- Maps.

Interdisciplinary (ID) Team

Qualified experts must be used to conduct the environmental analysis required for a proper EIS or EA. This is done by using a team of specialists with expertise in pertinent topic areas (disciplines) and the work group is called the Interdisciplinary (ID) Team. The ID Team typically has representatives with expertise in air quality, water quality, wildlife, recreation, soils, vegetation, social science, economics, etc.

This is the group that writes the various pieces of the document that ultimately end up as the EIS or EA. It is important that trail advocates get to know who these players are and to interact/communicate with them regularly, to both relay information you believe is important to the planning process and also to monitor what issues appear to be driving the document as it is being developed. Get involved with ID Team members early on and stay engaged with them throughout the process.

RECREATION OPPORTUNITY SPECTRUM

What is the Recreation Opportunity Spectrum (ROS)? ROS is a recreation management tool developed by the USDA – Forest Service in the early 1980s to manage and administer natural settings for specific visitor experiences. Since that time other Federal agencies, as well as some States, have also adopted this system. The ROS system focuses on the identification and management of what land managers can provide in regard to space, facilities, and social and ecological conditions. Its main objective is to attain consistency in the management of recreation through the integration of recreation and resource management planning. ROS does not dictate resource management decisions but rather supports proactive and constructive integration of both recreational experience and opportunity considerations with the ecological considerations necessary for sustainable natural resource management.

The range of recreational experiences, opportunities, and settings available on a given area of land are classified through the ROS and can be divided into as many as six classes, depending on the geography and development of the location. ROS classifications range from essentially natural, low-use areas (resource-dependent recreational opportunities) to highly developed, intensive-use areas (facility/vehicle-dependent recreational opportunities) and typically include: Primitive, Semiprimitive Nonmotorized, Semiprimitive Motorized, Roaded Natural, Rural, and Urban.

ROS is a framework for inventorying, planning, and managing the recreational experience and setting. Each class is defined in terms of three principal components: the environmental setting, the activities possible, and the experiences that can be achieved. The goal of recreationists is to have satisfying leisure experiences by participating in their preferred activities in favorable environmental settings. Opportunities for them achieving satisfying experiences depends on natural elements such as vegetation, landscape and scenery, and conditions controlled by land management agencies, such as developed sites, roads, and regulations. The goal of agencies then becomes to provide the range of opportunities to obtain such experiences by managing the natural setting of their lands and the activities within it.

The most important factor in determining ROS classes is the **Setting**. This describes the overall outdoor environment in which activities occur, influences the types of activities, and ultimately determines the types of recreation that can be achieved. For individual recreationists, her/his recreational experience depends on the environmental setting and is often also influenced by recreationists' differences based on their background, education, sex, age, and place of residence.

The Recreation **Opportunity Class** and accompanying **Management Objectives** assigned to an area determine which recreational activities (snowmobiling) may be allowed in that area. While activities are not completely dependent on the Opportunity Class, and most can take place in some form throughout the spectrum, general activities can be characterized for each ROS class. Generally, snowmobiling could occur in any Opportunity Class except Primitive.

Recreation Opportunity Settings

The ROS encompasses a variety of recreational settings under which certain experiences are possible. Seven elements provide the basis to inventory and delineate recreational settings. They include:

Access: Includes the mode of travel used within the area and influences both the level and type of recreational use an area receives.

- Remoteness:** Concerns the extent to which individuals perceive themselves removed from human activity. Vegetation or topographic variation can increase this sense of remoteness. Remoteness (or the lack of remoteness) is important for some recreational experiences.
- Naturalness:** Concerns the varying degrees of human modification of the environment. Often is described in terms of scenic quality influenced by the degree of alteration of the natural landscape.
- Site Management:** Refers to the level of site development. Lack of site modifications can facilitate feelings of self-reliance and naturalness, while highly developed facilities can enhance comfort and increase the opportunity to meet and interact with others.
- Visitor Management:** Includes both regulation and control of visitors as well as providing them with information and services. A continuum of visitor management can be described, ranging from subtle techniques such as site design, to strict rules and regulations. In some recreational settings controls are expected and appropriate; in others, on-site controls detract from the desired experience.
- Social Encounters:** Involves the number and type of others met in the recreation area. Also measures the extent to which an area provides experiences for solitude or social interaction.
- Visitor Impacts:** Affects natural resources such as soil, vegetation, air, water, and wildlife. Even low levels of use can produce significant ecological impacts, and these impacts can influence the visitor's experience.

Recreation Opportunity Classes

Six Recreation Opportunity Classes were developed based on the seven elements described above. Essentially each Class represents a different place on the scale between 'natural, low-use areas' and 'highly developed intensive-use areas,' as determined by the sum of answers derived from assessing the seven Settings elements. At times these classifications can overlap. It is important to note that reclassification of an area typically only occurs through a NEPA-type evaluation process. The Recreation Opportunity Classes include:

Primitive: This setting is characterized by a large-sized area of about 5,000 acres or more, lying at least 3 miles from the nearest point of motor vehicle access. It is essentially an unmodified natural landscape, with little evidence of others and almost no on-site management controls. Activities include overnight backpack camping, nature study and photography, backcountry hunting, horseback riding, and hiking. The experience provides visitors with a chance to achieve solitude and isolation from human civilization, feel close to nature, and encounter a greater degree of personal risk and challenge.

Semi-Primitive Non-Motorized: This setting consists of about 2,500 acres lying at least ½ mile from the nearest point of motor vehicle access. The area is predominantly a natural landscape. Where there is evidence of others, interaction is low, and few management controls exist. Activities include backpack camping, nature viewing, backcountry hunting (big game, small game, and upland birds), climbing, hiking, and cross-country skiing. The experience provides for minimal contact with others, a high degree of interaction with nature, and a great deal of personal risk and challenge.

Semi-Primitive Motorized: This setting consists of about 2,500 acres within ½ mile of primitive roads and two-track vehicle trails. The area has a mostly natural landscape with some evidence of others (but numbers and frequency of contact seem to remain low) and few management controls. Activities include hunting, climbing, vehicle trail riding, backcountry driving, mountain biking, hiking, and snowmobiling.

The experience provides for isolation from human civilization, a high degree of interaction with the natural environment, and a moderate degree of personal risk and challenge.

Roaded Natural: This setting consists of areas near improved and maintained roads. While these areas are mostly natural in appearance, some human modifications are evident, with moderate numbers of people, visible management controls, and developments. Activities include wood gathering, downhill skiing, fishing, off-highway vehicle driving, interpretive uses, picnicking, and vehicle camping. The experience provides for a sense of security through the moderate number of visitors and developments, but with some personal risk-taking and challenges.

Rural: This setting is characterized by a substantially modified natural environment. Resource modification, development, and use are obvious. Human presence is readily evident, and interaction between users is often moderate to high. Activities consist mostly of facility/vehicle-dependent recreation and generally include vehicle sightseeing, horseback riding, on-road biking, golf, swimming, picnicking, and outdoor games. The experience provides for modern visitor conveniences, moderate to high levels of interactions with others, and a feeling of security from personal risk.

Urban: This setting consists of areas near paved highways, where the natural landscape is dominated by human modifications. Large numbers of users can be expected. Sights and sounds of others dominate, while management controls are numerous. Activities are facility/vehicle-dependent and include concerts, wave pools, amusement parks, zoos, vehicle racing facilities, spectator sports, and indoor games. The experience provides for numerous modern conveniences, large numbers of people, interaction with an exotic and manicured environment, and a feeling of high personal security.

Management Objectives for ROS Classes

Objectives (sometimes also referred to as ‘prescriptions’) for a specific ROS class contain minimum guidelines and standards, as well as directions concerning the type of activities, physical and social settings, and recreational opportunities to be managed for. It is important to note that snowmobiling can potentially be allowed in all ROS classes except Primitive. The objectives for each ROS class include:

Primitive: The primitive class is managed to be essentially free from evidence of humans and on-site controls. Motor vehicle use within the area is not permitted. The area is managed to maintain an extremely high probability of experiencing isolation from others (not more than three to six encounters per day) and little to no managerial contact. Independence, closeness to nature, self-reliance, and an environment that offers a high degree of challenge and risk characterize this class. Backcountry use and management of renewable resources is subject to the protection of backcountry recreational values.

Semi-Primitive Non-Motorized: Semi-primitive non-motorized areas are managed to be largely free from the evidence of humans and onsite controls. Motor vehicle use is not permitted (**except as authorized** – which is often for administrative use and sometimes for winter snowmobiling use. *Example: a semi-primitive nonmotorized area can be designated as “open to over-the-snow vehicles from (date) to (date)” [or when adequate snow cover exists].* Facilities for the administration of livestock and for visitor use are allowed but limited. Project designs stress the protection of natural values and maintenance of the predominantly natural environment. Areas are managed to maintain a good probability of experiencing minimum contact with others, self-reliance through the application of backcountry skills, and an environment that offers a high degree of risk and challenge.

Backcountry use and management of renewable resources are dependent on maintaining naturally occurring ecosystems. The consumption of renewable resources is subject to the protection of backcountry recreational values.

Semi-Primitive Motorized: These areas are managed to provide a natural-appearing environment. Evidence of humans and management controls are present but subtle.

Motor vehicle use is allowed, but the concentration of users should be low. On-site interpretive facilities, low-standard roads and trails, trailheads, and signs should stress the natural environment and be the minimum necessary to achieve objectives.

The consumption of natural resources is allowed. Effort is taken to reduce the impact of utility corridors, rights-of-way, and other surface-disturbing projects on the natural environment. Frequency of managerial contact with visitors is low to moderate.

Roaded Natural: Roaded natural areas are managed to provide a natural-appearing environment with moderate evidence of humans. Motor vehicle use is permitted and facilities for this use are provided. Concentration of users is moderate with evidence of others prevalent. Resource modification and use practices are evident but harmonize with the natural environment. Placement of rights-of-way, utility corridors, management facilities, and other surface-disturbing activities would be favored here over placement in semi-primitive non-motorized and semi-primitive motorized areas. The consumption of natural resources is allowed except at developed trailheads, developed recreational areas and sites, and where geological, cultural, or natural interests prevail. Frequency of managerial contact with visitors is moderate.

Rural: Rural areas are managed to provide a setting that is substantially modified with moderate to high evidence of civilization. Motor vehicle use is permitted. Concentration of users is often high with substantial evidence of others. Resource modification and use practices are mostly dominant in a somewhat manicured environment. Standards for road, highway, and facility development are high for user convenience. Frequency of managerial contact with visitors is moderate to high.

Urban: Urban areas are managed to provide a setting that is largely modified. Large numbers of users can be expected, and vegetation cover is often exotic and manicured. Facilities for highly intensified motor vehicle use and parking are available, with mass transit often included to carry people throughout the site. The probability for encountering other individuals and groups is prevalent, as is the convenience of recreational opportunities. Experiencing natural environments and their challenges and risks is relatively unimportant. Opportunities for competitive and spectator sports are common.

MANAGEMENT AREAS

ROS classifications are generally used to develop a range of Management Areas (MA) [zones] which differentiate between management emphasis, the desired level of development, and the suitability for different resource uses and activities from location to location across the agency's planning area. Areas within the planning area are typically allocated to one of eight management areas (MAs). These MAs range from areas where natural processes dominate and shape the landscape to areas that are intensely managed. MAs are intended to describe the overall appearance desired within the area, as well as the uses and activities that may occur. Snowmobiling is generally prohibited in MA 1s and often not allowed in MA 2s. While it could generally be allowed in all other MAs, it would most commonly occur in MAs 3, 4, or 5. The eight typical MAs are described generally as follows:

MA 1 - Natural Processes Dominate: Areas allocated under this MA include relatively pristine lands where natural ecological processes operate free from human influences. Succession, fire, insects, disease, floods, and other natural processes and disturbance events shape the composition, structure, and landscape pattern of the vegetation. These areas would continue to contribute significantly to ecosystem and species diversity and sustainability. They would also continue to serve as habitat for fauna and flora, wildlife corridors, reference areas, primitive recreation sites, and places for people seeking natural scenery and solitude. Roads and human structures would be absent and management activities would be limited on

MA 1 lands. In most cases, motorized travel and equipment would be prohibited. MA 1s would include designated Wilderness, Wilderness Study Areas, and other non-designated lands where the desired condition would be to maintain the undeveloped natural character of the landscape.

MA 2 - Special Areas and Unique Landscapes: Areas allocated under this MA include areas possessing one or more special feature, or characteristic, which make them and their management unique from other areas within the planning area. MA 2s typically include Research Natural Areas (RNAs), Areas of Critical Environmental Concern (ACECs), Wild Horse Herd Management Areas, Archaeological Areas, Habitat Management Areas (HMAs), Botanical Areas, or other unique areas that have a mix of special features and uses. In general, MA 2s are managed in order to protect and/or enhance their unique characteristics and, as such, management intensity and suitability would vary by each area.

MA 3 - Natural Landscapes with Limited Management: Areas allocated under this MA typically include relatively unaltered lands where natural ecological processes operate mostly free from human influences. Succession, fire, insects, disease, floods, and other natural processes and disturbance events would continue to predominantly shape the composition, structure, and landscape pattern of the vegetation (although management activities might also have an influence). These areas would continue to contribute to ecosystem and species diversity and sustainability, and to serve as habitat for fauna and flora, wildlife corridors, reference areas, primitive and semi-primitive recreation sites, and places for people seeking natural scenery and solitude. Roads and human structures would be present, although uncommon.

Management activities would be allowed, but would be limited in MA 3s. They would be reserved primarily for restoration purposes brought about by natural disturbance events and/or by past management actions. Management activities could include restoration of ecological conditions or habitat components; prescribed fire; wildland fire use; salvage logging following fire, insect epidemics, or a wind event; hazardous fuels reduction; invasive species reduction; etc. Temporary road construction and motorized equipment could be used in order to achieve desired conditions; however, most roads would be closed upon project completion. Motorized and nonmotorized recreation opportunities would exist, and livestock grazing would occur on many of these lands.

MA 4 - High-Use Recreation Emphasis: Areas allocated under this MA include places where recreation would be managed in order to provide a wide variety of opportunities and experiences to a broad spectrum of visitors. The area allocations would be associated with, and would often provide access to, popular destinations, transportation corridors, scenic byways, scenic vistas, lakes, and/or streams. These areas tend to be altered, but would also include some more undeveloped places, such as backcountry travel corridors. In MA 4s, visitors could expect to see a wide range of human activities and development including roads, trails, interpretive sites, campgrounds, trailheads, fences, mountain bikes, and day-use facilities. Motorized and nonmotorized activity would be common. Natural ecological processes and disturbance agents, including succession and fire, would often be influenced by humans on most of these lands. Resource uses (such as livestock grazing, timber management, wildlife management, etc.) might occur in conjunction with surrounding recreation and scenic objectives.

MA 5 - Active Management (commodity production to meet multiple use goals): Areas allocated under this MA would include multiple use areas where active management would occur in order to meet a variety of social, economic, and/or ecological objectives. These areas would be easily accessible, occurring mostly on roaded landscapes and on gentle terrain. These would include lands where timber harvesting, oil and gas activities, and intensive livestock grazing would occur, and would, as a result, influence the composition, structure, and landscape pattern of the vegetation. Natural ecological processes and disturbance agents, including succession and fire, would be influenced by humans on many of these lands. A mosaic of vegetation conditions would often be present, with some showing the effects (impacts) of past management activities, and others appearing predominantly natural. These areas would continue to contribute to ecosystem and species diversity, and to serve as habitat for fauna and flora.

Visitors in MA 5s could expect to see a wide range of human activities, development, and management investments (including roads, trails, fences, corrals, stock ponds, timber harvesting equipment, oil and gas wells, mountain bikes, and/or livestock). Maintenance of past and current investments is anticipated to be continued for future management opportunities. Motorized and nonmotorized recreation opportunities would be easily accessed by the relatively dense network of roads found on these lands. Hiking trails would provide access for visitors who could expect contact with others. Developed recreational facilities that provide user comfort, and resource protection would be present.

MA 6 - Grasslands: Areas allocated under this MA are primarily non-forested ecosystems that are managed to meet a variety of ecological and human needs. Ecological conditions will be maintained while emphasizing selected biological (grasses and other vegetation) structures and compositions which consider the range of natural variability. These lands often display high levels of investment, use, and activity; density of facilities; and evidence of vegetative manipulation. Users expect to see other people and evidence of human activities. Facilities supporting the various resource uses are common. Motorized transportation is common.

MA 7 - Public and Private Lands Intermix: Areas allocated under this MA include places where public lands are near private lands (in such a manner that coordination with communities and local governments would be essential in order to balance the needs of both parties). MA 7s would often be associated with towns and cities, as well as with the houses, structures, people, and values associated with them. Visitors in MA 7s could expect to see a wide range of human activities and development (including roads, trails, fences, signs, mountain bikes, ATVs, pets, and/or livestock).

The nearness of these areas to private lands would make them a priority for fuels and vegetation treatments in order to reduce wildfire hazards. The “backyard” or rural recreation setting provided by many of these lands would be an amenity to the active lifestyles and quality of life for local residents. Hiking and biking could be common activities. These areas would continue to contribute to ecosystem and species diversity, and to serve as habitat for fauna and flora. Winter range for deer and elk would continue to be a common component of MA 7s, as would seasonal closures in order to reduce animal disturbance. Natural ecological processes and/or disturbance agents, including succession and fire, would be influenced by humans on most of these lands.

Land exchanges, acquisitions, and/or land disposals could be used in order to improve the intermingled land ownership patterns that are common in MA 7s. Cooperation with adjacent landowners and local governments would continue to be necessary in order to improve access and to convey roads to county jurisdictions, where appropriate. Such cooperation would also be necessary in order to improve the transportation network, protect resources, and allow authorized legitimate access to public lands. Utility and communication distribution lines would tend to be more common in these areas.

MA 8 - Highly Developed Areas: Areas allocated under this MA include places where human activities have permanently changed the planning area, and have, in most cases, completely altered the composition, structure, and function (ecological processes and disturbance agents) of the associated ecosystems. These areas, which often provide large socioeconomic benefits, include downhill ski areas, marinas, and other recreation developments.

WORKING WITH THE U.S. FOREST SERVICE

Understanding the Forest Service Structure

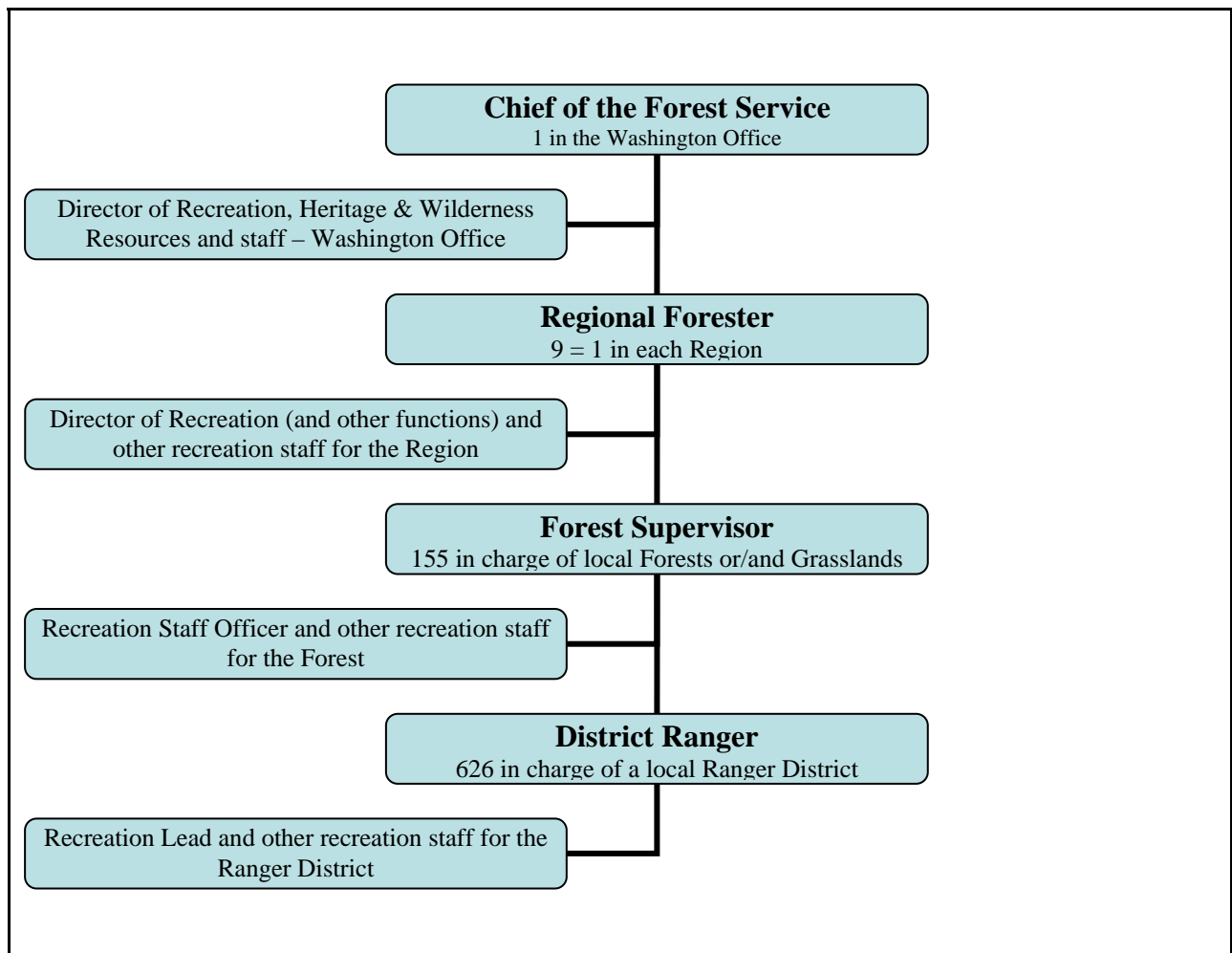
The Forest Service (www.fs.fed.us) is part of the U. S. Department of Agriculture (USDA) with its national headquarters in Washington, D.C. It manages 193 million acres of land with oversight from a structure that includes nine Regional Offices, 155 National Forests and 20 National Grasslands, and 626

Ranger Districts at the local level within those forests and grasslands. It is, by far, the largest provider of snowmobiling opportunities on public lands within the United States.

In recognition of the importance of providing snowmobiling on its lands, the Forest Service entered into a Service-wide Memorandum of Understanding (MOU) in 2005 with the American Council of Snowmobile Associations (ACSA), International Association of Snowmobile Administrators (IASA), and the International Snowmobile Manufacturers Association (ISMA). The purpose of this MOU was to “establish a general framework of cooperation upon which mutually beneficial programs, work projects, and snowmobile activities may be planned and accomplished on National Forest System lands.” The MOU further states that, “Such programs, projects, and activities complement the Forest Service mission and are in the best interests of the public.” A copy of this MOU can be found in Appendix 6.

The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations. Its motto, "CARING FOR THE LAND AND SERVING PEOPLE," captures this mission which emphasizes quality, multiple use land management to meet the diverse needs of people. It is this multiple use mandate that helps provide a diversity of recreation opportunities, including snowmobiling, on national forest lands. However at the same time there are extreme demands for the use of these lands by diverse and competing interests. Therefore, it is critical that snowmobilers understand how the Forest Service works and engage in its planning and management processes.

Figure 3: Forest Service Organizational Chart from the ‘Recreation Perspective’



The positions on the right side (in bold) of the Forest Service Organizational Chart in Figure 3 above are known as the ‘line officers’ (those with decision making authority) within the Forest Service. The recreation positions shown on the left side of the chart are ‘staff officers’ or ‘recreation staff’ and – while important – have no authority to make decisions.

It is important to note that the Forest Service follows a ‘decentralized’ decision making process – so most decisions are left to the lower levels with ‘guidance’ from the upper level line officers and from staff positions (left side of chart). This means that the District Ranger makes most decisions at the local level. As an issue raises in importance or controversy, or crosses administrative boundaries, the point of decision may (or may not) advance up the ladder of line officers – from District Ranger to the Forest Supervisor to the Regional Forester and, ultimately, to the Chief. It is therefore critical to work most issues from the bottom (district level) up since the District Ranger is ‘king’ (even though it appears on paper they are at the bottom of the totem pole). Exceptions to this would be when processes are initiated at the forest, region, or national levels (revision of a forest’s management plan or implementation of a national travel policy, for instance). In such cases you must work the process through the forest-wide (or higher) planning team versus isolating your input only through a single local district office.

While it is extremely important to get to know and to work with recreation staff at various levels of the Forest Service – because they are the primary advisers to the line officers – it can be a mistake to work solely with them. It is critical that decision makers (the line officers) know who you (snowmobilers) are and have first-hand familiarity with your issues. Reach out to them, feed them information, get to know them, and invite them to go snowmobiling with you so they can view your issues first-hand.

Another thing to keep in mind in respect to recreation staff (the left side of the chart) is that they typically have many and varied “other duties.” In the Washington Office, the title of the staff position is “Director of Recreation, Heritage, and Wilderness.” This is often true with similar positions at the Region, Forest, and sometimes even District levels. “Recreation” means all types of recreation including motorized and nonmotorized activities as well as diverse things like campgrounds, marinas, and downhill ski areas. “Heritage” refers to historic preservation, cultural resources, tourism, etc. and “Wilderness” is just that – Wilderness with no motorized use. Therefore “recreation staff” may or may not have a strong (or any) background with snowmobiling. It is imperative that you make concerted efforts to help educate them as to your needs and priorities because, if you don’t, they most likely will not know or understand. On the other hand, if they have ‘wilderness’ in their title, it’s a sure bet that person has had experience with it at some point during their career – so they do know nonmotorized recreation. Again, it will be far less likely that they have experience with snowmobiling management, so their education about snowmobiling is vital and most likely your responsibility if it’s going to happen.

Forest Service Planning Process Overview

1. The “decision authority” for most actions is placed at the lowest level of the agency (Ranger District).
2. Planning decisions are always subject to NEPA.
3. The Forest Service uses a “tiered” system of planning with two levels:
 - **Strategic/Programmatic:** provides overall strategic guidance for the sustainable management of the National Forest (*example:* a Forest Land and Resource Management Plan).
 - **Site Specific Projects:** provides analysis of the effects of a site-specific on-the-ground Federal action (*example:* trail construction project or other ground disturbing actions) or establishes direction for a specific program or identifies and designates specific uses on specific routes (*example:* a Travel Management Plan).

When developing alternative actions for their plan, the agency must:

- ✓ Evaluate reasonable alternatives and explain reasons for eliminating others.
- ✓ Give substantive treatment to all alternatives which are considered in detail.

- ✓ Reasonable alternatives must meet the Purpose and Need and address one or more of the significant issues identified for (why) the planning process.

When evaluating Alternatives for their plan:

- ✓ The agency’s field specialists gather data, conduct required surveys, and evaluate information; this is a great opportunity for snowmobilers to help the various specialists collect information.
- ✓ The agency’s field specialists analyze the effects of various proposed actions within various alternatives.
- ✓ Based upon the analysis, the agency develops findings and recommendations between various aspects of the alternatives.

Public Review of the Environmental Document:

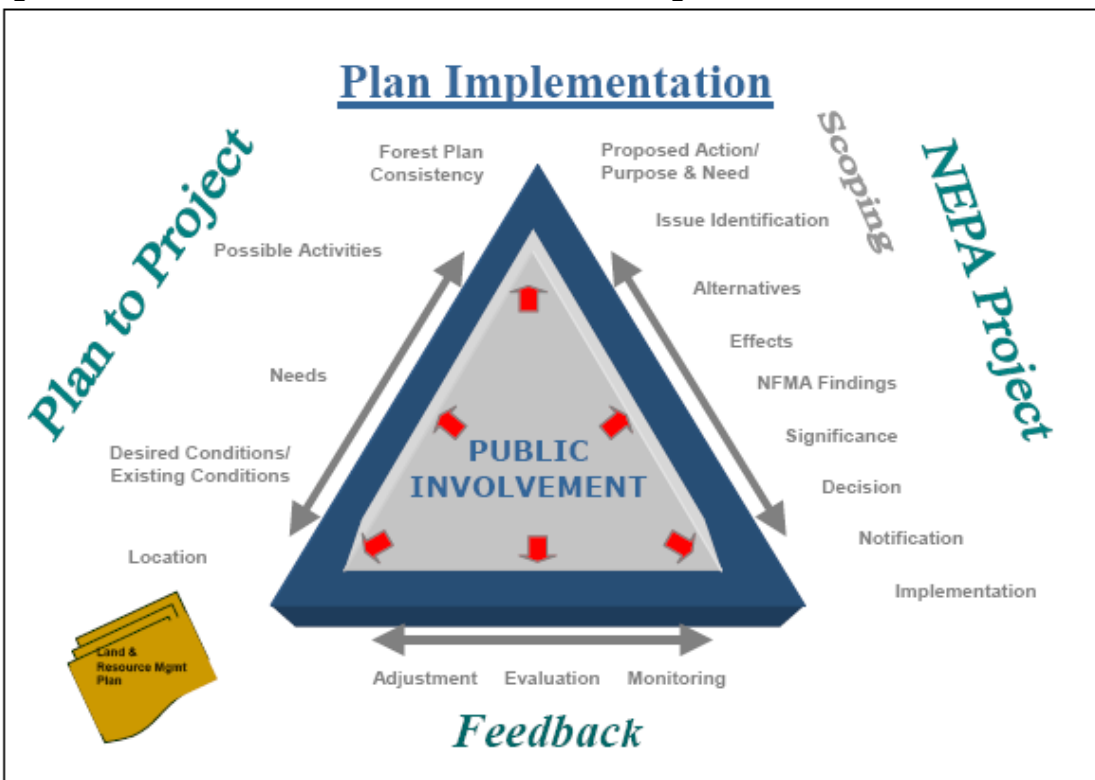
EIS: The first required opportunity for public review of the document is upon release of the Draft EIS, which is midway to three-fourths of the way through the process; the agency may add more opportunities earlier in the process, entirely at their discretion.

EA: The analysis is released for a 30-day (or sometimes longer) public review before the final decision is made, which is very near to the end of the process.

It is important that the public base their comments on a review of the information presented in the document versus going off on tangents about issues that are outside the scope of issues being considered by the document. They should also address information submitted earlier in the process, particularly if the agency did not use it in the document’s analysis or failed to use it in its proper context.

Figure 4 below illustrates the numerous steps in the Forest Service planning process – from developing an idea into a plan to implementation of the idea as a project. Public involvement is central to all steps of the process, so snowmobilers need to ensure they take advantage and participate from beginning to end.

Figure 4: The Forest Service Public Involvement Triangle



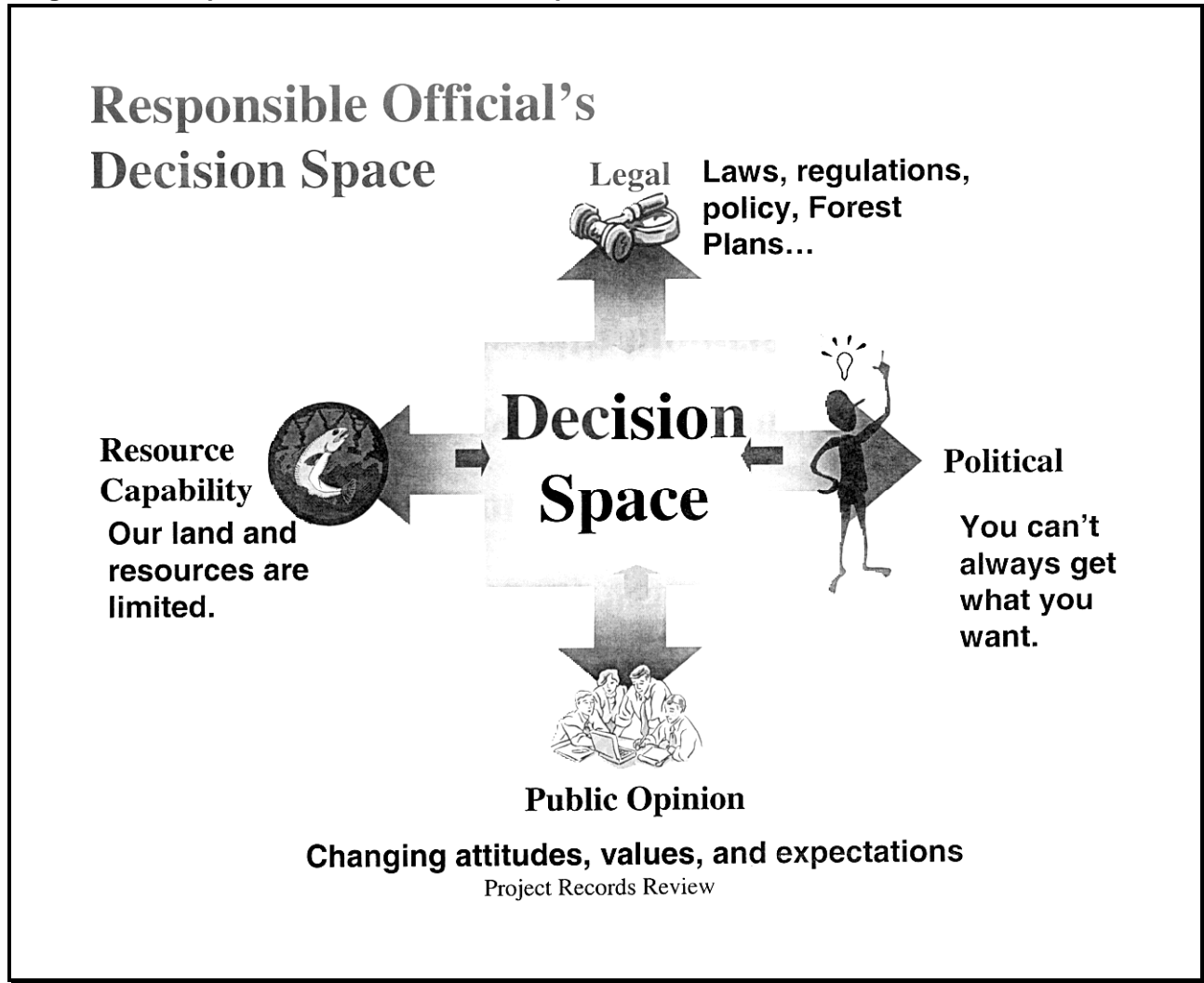
An Official's Decision Space

Figure 5 below illustrates the “space” and four factors/pressures within which responsible officials must make their decisions. These four factors include:

1. Legal Constraints,
2. Resource Capability,
3. Public Opinion, and
4. Political Pressures.

Decision making officials often have little flexibility within their Legal Constraints; additionally, their Resource Capability is also often limited, so they ultimately can be quite limited on two sides of their decision making space. It is therefore important that snowmobilers weigh in on the Public Opinion front – so officials clearly understand the importance of their decisions in respect to snowmobiling. Likewise, Public Opinion can help sway the Political side of issues – so if you don't apply pressure to politicians, you likely may not have support from that side of the process. The bottom line is that if you don't participate and apply pressure to the two sides where decision makers may have options, positive decisions will be less likely to come your way.

Figure 5: A Responsible Official's Decision Space



National Forest Management Act (NFMA)

The National Forest Management Act (NFMA) amended the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 to require preparation of Land Management Plans for National Forests and National Grasslands. Land management plans provide guidance and direction to the agency for all resource management activities on the unit.

Under the NFMA, the Forest Service must prepare land management plans using an Interdisciplinary (ID) team and public participation. In addition, the Forest Service must comply with the National Environmental Policy Act (NEPA) in the development, review, and revision of LMPs. Permits, contracts, plans, and other instruments used in managing National Forest System lands—such as timber sale contracts, grazing permits, recreation development, and mine reclamation plans—must be consistent with land management plans.

Forest Service Travel Management Rule

The Forest Service Travel Management Rule is found in Title 36 of the Code of Federal Regulations, Part 212 – Travel Management, Subpart B Designation (36 CFR 212-B) www.fs.fed.us/recreation/programs/ohv/final.pdf . It requires that all motor vehicles operated on national forest lands be restricted to designated roads, trails, and areas. While over-snow vehicles are generally exempted from this restriction in 36 CFR 212.81, local managers can opt to include/restrict snowmobiles and other over-snow vehicles at the local level. Additionally, since the rule requires that open roads, trails, and areas be designated by both “vehicle class” and “time of year” they are open for use, snowmobilers must understand the implications of this rule and also monitor/participate in rule implementation at local levels.

Pertinent Travel Rule Definitions

Road:	A motor vehicle route over 50 inches wide, unless identified and managed as a trail.
Trail:	A route 50 inches or less in width or a route over 50 inches in width that is managed as a trail.
Area:	A discrete, specifically delineated space that is smaller, and in most cases much smaller, than a Ranger District.
Forest Road:	A road or trail wholly or partly within or adjacent to and serving the National Forest System that the Forest Service determines is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.
Designated Road, Trail, or Area:	A National Forest System road, a National Forest System trail, or an area that is designated for motor vehicle use pursuant to 36 CFR 212.51 on a motor vehicle use map.
National Forest System Road:	A forest road other than a road which has been authorized by a legally documented right-of-way held by a State, county or other public road authority.
National Forest System Trail:	A forest trail other than a trail which has been authorized by a legally documented right-of-way held by a State, county or other local public road authority.
Motor Vehicle:	Any vehicle which is self-propelled other than: 1) a vehicle on rails, and 2) any wheelchair or mobility device, including one that is battery powered, that is designed solely for use by a mobility impaired person for locomotion, and that is suitable for use in an indoor pedestrian area.
Motor Vehicle Use Map:	A map reflecting designated roads, trails, and areas on an administrative unit or Ranger District of the National Forest System (<i>black and white with limited features</i>).

Off-Highway Vehicle:

Any motor vehicle designed or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain.

Over-Snow Vehicle:

A motor vehicle that is designed for use over snow and that runs on a track or tracks and/or a ski or skis, while in use over snow.

Travel Rule: Road, Trail, and Area Designations

- Must be by “vehicle class” (motorcycle, ATV, UTV, 4x4, etc). This means the vehicle class must be listed or the route or area is not open to that type of vehicle.
- Must identify the “time of year” when the route or area is open for the specified class of vehicle (as opposed to the past when there may have been ‘seasonal closures.’ This can be important in respect to any routes which may be used as a snowmobile trail during the winter: if the desire is to *not* have wheeled vehicle traffic on groomed snowmobile trails, then the “time of year” when ATVs, for example, are allowed on the road or trail should not overlap with the snowmobile trail grooming season. At the same time, if concurrent snowmobile-ATV use is desired on the route, then the “time of year” when ATVs are allowed on the road or trail should include the snowmobiling season.
- Over-snow vehicles (OSVs), which include snowmobiles and snow cats, are exempted from the rule, meaning that they are *not* automatically restricted only to operation on designated roads, trails, and areas by the national rule. However, local decision makers (District Ranger or Forest Supervisor) may decide to include them in local restrictions – so pay close attention to all local travel management processes. If they are opted-in at the local level, then a ‘snowmobile’ must be shown as a vehicle class on that area’s motor vehicle use map.
- The Forest Service has the ability to change designations (vehicle class, time of year, and/or location) at any time as they feel is necessary. However, revisions must include public involvement and coordination with local government entities – so always keep watch, and again, pay attention.

‘Quiet-use’ nonmotorized recreation groups are not happy with this OSV ‘exemption’ to the rule and continually try to convince district rangers and forest supervisors to include snowmobiles when they conduct local travel management planning. It is therefore important for snowmobilers to recognize these efforts, work to understand their ‘objections’ to the exemption, and then provide information to local officials that defends why the exemption is appropriate and should stay in place.

Quiet-use groups argue that “Executive Order 11644 provides direction that would seem to compel forest managers to include winter travel in their forests’ travel planning, under certain circumstances” and that Section 3(a) of this executive order requires that the location of areas and trails minimize:

- Damage to soil, watershed, vegetation, or other resources;
- Harassment of wildlife or significant disruption of wildlife habitats; and
- Conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.

Winter Wildlands Alliance (WWA) is a national quiet-use group and spoke to this topic in its Spring-2008 newsletter (visit http://www.winterwildlands.org/news/newsletters/2008_spring_newsletter.pdf to view entire article). WWA’s objection to this policy is discussed at length in the lead article “Forest Planning’s Giant Loophole: Big enough to drive an “OSV” through.” This article provides important insight into its position which is summarized in Exhibit 7 below.

Exhibit 7: Winter Wildlands Alliance (WWA) Opposition to the OSV Exemption

From: *Forest Planning’s Giant Loophole: Big enough to drive an “OSV” through*

“The occurrence of any of these problems (*referring to the three bullets listed above*) during winter should compel forest managers to undertake winter travel planning. The difficulty lies in documenting damage, harassment, or conflict. Evidence is often anecdotal, giving forest managers what they may feel

is a thin thread to order an unpopular action such as limiting where and how snowmobilers can use the forest.

The social conflict dimension is easiest to document, has been studied more by academicians, but is considered more subjective in nature. The most telling characteristic of the conflict between motorized vs. quiet recreationists is that the impacts experienced fall disproportionately on one type of forest user. That is, the presence of a few skiers or snowshoers does not diminish the recreational experience of snowmobilers, while the noise, exhaust, and speed of just one snowmobiler may significantly degrade the experience of many quiet recreationists.

Given that local discretion is the rule, a forest manager must be convinced to conduct winter travel planning — and local politics plays a large role. Snowmobile clubs have been very successful at influencing local land managers and elected officials to keep areas open to motorized use.

Also at play are the forest manager's scarce resources. Agencies have been undergoing a "hollowing out" over the last two decades, which has reduced the number of scientists, law enforcement and other personnel in the field. Now, a manager must first perceive a significant need for winter travel planning, and devote scarce resources to that activity. If the need is not urgent, managers have no incentive to seek additional work and expend scarce resources by addressing winter use. Thus, the Rule itself seems biased against a local official undertaking winter travel planning.

If the local forest manager decides to take on winter travel planning, the Rule requires a process that involves the public in designating roads, trails, and areas where OSV use would be allowed, and generating a winter use map, which specifies the classes of vehicles and possibly the times of year when travel is allowed.

And, enforcing the 2005 Rule promises to be a major challenge for the Forest Service. The 2005 Rule places a much greater burden on the Forest Service to monitor and enforce travel restrictions, year-round. Rather than monitor limited closures, the agency must patrol the entire forest if enforcement is to be meaningful. In many forests, motorized groups have made it clear that their members have no intention of obeying these new rules.

WWA is working with the Forest Service at the national level to fix this planning loophole and ensure a consistent policy and more balanced approach to the management of snowmobiles on national forest lands.”

WWA is depending heavily upon “social conflict” – which oftentimes it actually helps orchestrate – in its attempts to force the Forest Service into restricting snowmobiling access. But since this ‘conflict’ is in fact very subjective, snowmobilers can help fend off these attacks by staying equally engaged with the agency. Additional information related to WWA’s efforts to restrict snowmobiling access can be found in Appendix 8 under the ‘Recreation Conflicts’ section. Knowing these various perspectives, along with staying engaged with agency officials, can help snowmobilers more effectively advocate to keep this Travel Rule exemption for OSVs intact at the national and local levels.

Forest Service Schedule of Proposed Actions (SOPA)

The Schedule of Proposed Actions (SOPA) is published by the Forest Service in January, April, July, and October and is an important tool to track agency planning initiatives. It contains a list of proposed actions that will soon begin or are currently undergoing environmental analysis and documentation. It provides information to help you become aware of and indicate your interest in specific proposals. The following national SOPA link (<http://www.fs.fed.us/sopa/>) can be used to identify and track projects at local levels. The map or drop-down lists can be used to view the SOPA for a particular National Forest, Grassland,

Scenic Area, Recreation Area, or Tall Grass Prairie. You can also track the SOPA by working directly with local Forest Service offices. Quarterly SOPA reports generally indicate the following:

- **General Information:** For general information about the SOPA, refer to the Related Information links.
- **Specific Information:** For proposal-specific information, contact the "Project Contact" listed in the SOPA.
- **Future Involvement:** To be included in future public involvement for a specific proposal, contact the "Project Contact" listed in the SOPA to indicate your interest in being involved, which will get you on the mailing list.

The Difference between ‘Designated Wilderness Areas’ and ‘Areas Recommended for Wilderness’

Designated Wilderness Areas: can only be created by an official Act of Congress. The first designated Wilderness Areas were created by the 1964 Wilderness Act and involved 54 areas (9.1 million acres) in 13 States. There are now over 700 designated Wilderness Areas totaling more than 107 million acres in 44 States. The Forest Service manages the vast majority of the Congressionally designated Wilderness areas (418 or 57% of the total), followed by BLM with 189 (26%), the Fish and Wildlife Service with 71 (9%), and the National Park Service with 56 Wilderness units (8%). In respect to total acres, the Park Service has 43.5 million acres of Wilderness (41%), the Forest Service has 35.3 million acres (33%), Fish and Wildlife has 20.7 million acres (19%), and the BLM has 7.8 million acres (7%).

Section 2 (c) of the Wilderness Act (<http://www.wilderness.net/index.cfm?fuse=NWPS&sec=legisAct>) defines “Wilderness” as follows: “A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.”

The Wilderness Act prohibits commercial enterprises, structures, roads, motorized equipment (vehicles, snowmobiles, all-terrain vehicles, chainsaws, etc.), and mechanized transportation (bicycles, baby strollers, hand carts, etc.). There is a mechanized-use exception for wheelchairs that are a ‘medically prescribed form of transportation also suitable for indoor use.’ **This motorized/mechanized use prohibition (Federal law) means that the use of a snowmobile in a Congressionally Designated Wilderness Area is strictly prohibited and must be respected.** Only Congress – not the Forest Service or any other land manager – can change the boundaries of an official Wilderness Area once it has been designated.

What makes an area suitable for consideration as a new Wilderness area? As prescribed in the Wilderness definition above, new Wilderness areas *must*:

- ✓ Be an area 5,000 acres in size or larger or be a roadless island;
- ✓ Generally appear to be natural and human presence must be relatively unnoticeable;
- ✓ Offer the opportunity for primitive and unconfined recreational activities;
- ✓ Provide opportunities for solitude; and
- ✓ Contain features of ecological, geological, scientific, educational, scenic, or historical significance.

Areas Recommended for Wilderness: the Forest Service is required to identify and evaluate potential new Wilderness areas when it's developing or revising its land management plans (the same requirement also applies to other Federal land managing agencies). If a planning process identifies an area believed to be worthy of consideration for Congressional Wilderness designation, the agency can administratively recommend the area for wilderness or wilderness study. While such an administrative action does not have the same force of law as Congressional designation, it by policy places the land into a management classification where "areas recommended for wilderness or wilderness studies are not available for any use or activity that may reduce their wilderness potential." (Forest Service Handbook 1909.12, section 71) These lands can remain in this classification for decades – ultimately until Congress acts to either approve the area as designated Wilderness or releases it from consideration as a designated Wilderness area. This policy has in essence created "de-facto" wilderness areas in some locations since use and activities have been unduly restricted without the force of Wilderness law behind the agency's management actions.

In respect to snowmobiling access to 'areas administratively recommended for Wilderness,' there are variations from one locale (Region or Forest) to another as to how these areas are managed while waiting upon Congressional action. Some areas continue to allow snowmobiling in the 'recommended areas' while others immediately prohibit snowmobiling and other activities after placing the 'recommended for Wilderness' tag on the area. Local variation seems to hinge upon local decisionmakers' perspectives as to whether or not continued snowmobiling during the interim (while waiting upon Congress) "may reduce the area's wilderness potential."

On the 'continue to allow' side of the discussion is the strong premise that 'since snowmobiling has been allowed in the area – and that existing use did not reduce its wilderness potential or disqualify the area from being recommended for Wilderness – there is no valid reason to eliminate this existing use unless and until Congress takes action.' In such cases it is important to remember that – if snowmobiling is currently allowed in the area – it is only because it was previously determined to be an acceptable use by a previous land use planning process, where the area was classified under the ROS system as 'open to snowmobiling.'

It is also important to note that Wilderness law specifically stipulates that, "Congress does not intend that the designation of wilderness areas lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within any wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area." Therefore, unless there are other factors that would clearly combine to reduce an area's potential for Wilderness designation, snowmobiling, by itself, should not be summarily eliminated simply because of the agency's administrative recommendation.

On the 'disallow now' side of the discussion is the declaration by some agency decision makers that snowmobiling *will* reduce the wilderness potential of the area, simply because it is a motorized recreational activity; there will therefore be decreased opportunities for solitude and conflicts with primitive recreation activities. This premise is fundamentally flawed since again, snowmobiling can only currently occur in these areas because previous land management planning decisions concluded snowmobiling was compatible and appropriate for the ROS classification assigned to the area.

This policy tends to suggest that blanket closures to snowmobiling access (based solely on the 'recommended for Wilderness' tag) are generally unfounded reversals of access policy, resulting in administratively (and improperly) created de-facto wilderness. In such cases, it is important to work with local officials to: (1) make them substantiate the reasons for their closure decisions, and (2) try to get them to reconsider access and management options while the area hangs in Congressional limbo – which could potentially be for decades.

Additionally, it is important to keep in mind that, in the definition of Wilderness, the term *untrammelled* does **not** mean 'untrampled.' *Trammelled* means 'catching something in a net, preventing or impeding free

play, or confine.’ Therefore, *untrammelled* means ‘unimpeded, unhindered, or free of restraint.’ Clearly, the intent of Congress when establishing the Wilderness Act was **not** to exclude or impede human use; rather its intent was to ensure human use doesn’t strangle the environment within Wilderness areas.

WORKING WITH THE BUREAU OF LAND MANAGEMENT (BLM)

Understanding the BLM Structure

The Bureau of Land Management (BLM) (www.blm.gov) is part of the U. S. Department of Interior and manages 258 million surface acres, as well as 700 million acres of subsurface mineral estate. These public lands make up about 13 percent of the total land surface of the United States and more than 40 percent of all land managed by the Federal government. Most of the BLM lands are located in the Western States and are characterized predominantly by extensive grassland, forest, high mountains, arctic tundra, and desert landscapes. The BLM manages for multiple resources and uses, including energy and minerals; timber; forage; recreation; wild horse and burro herds; fish and wildlife habitat; wilderness areas; and archaeological, paleontological, and historical sites.

The BLM’s national headquarters are in Washington, D.C. where it has staff organized into nearly forty divisions. The Division of Recreation and Visitor Services oversees most of BLM’s activities related to snowmobiling. Primary on-the-ground oversight is provided by twelve State Offices (Alaska, Arizona, California, Colorado, Idaho, Oregon, Montana, Nevada, New Mexico, Utah, Wyoming, and an Eastern States office), and 144 District or Field Offices at the local level. While BLM is not a large provider of snowmobiling opportunities, it is still an important public lands agency since its lands provide important trail linkages in many areas, particularly where BLM lands border U.S. Forest Service lands.

BLM Planning Process Overview – Resource Management Plans

Decisions regarding the establishment and management of snowmobile trails are made through the BLM planning process. It has been common for BLM to lump snowmobiles together with wheeled OHVs, so snowmobilers need to stay active in BLM planning processes to point out that there are major differences between snowmobiles and other OHVs (which their handbook states, but is often overlooked at local levels).

The BLM has 162 Resource Management Plans (RMPs) that form the basis for every action and approved use on the public lands it manages. Its planning emphasizes a collaborative environment, in which local, State, and Tribal governments, the public, local user groups, and industry work with the agency to identify appropriate multiple uses of its lands. RMPs typically are updated every 15 to 20 years to stay current with changing conditions. In addition, RMPs are often amended between major revisions to address particular issues or respond to new information. Plan amendments are written on both an Environmental Assessment and Environmental Impact Statement level of NEPA analysis, depending on the complexity of issues and level of impacts on the environment.

Before 1985, BLM’s land use plans were referred to as Management Framework Plans (MFPs). Since 1985, BLM’s land use plans are called Resource Management Plans (RMPs). RMPs are prepared for relatively large areas of public lands, called planning areas, which tend to have similar resource characteristics. The development of a RMP is guided by a framework of Federal laws, regulations, and agency policies, as outlined below:

LAW: the Federal Land Policy and Management Act of 1976 (FLPMA) [available at www.blm.gov/flpma] This BLM-specific law provides direction for land use planning, administration, range management, rights-of-way, designated management areas (including specific locations and general designation of wilderness areas), and effects on existing rights. Along with NEPA, it defines BLM direction.

Section 202 of FLPMA describes requirements for land use planning. FLPMA is fairly broad, and does not describe the steps by which BLM should generate and revise land use plans. However, FLPMA does set forth critical planning requirements such as:

- Observe principles of multiple use and sustained yield.
- Use a systematic interdisciplinary approach (physical, biological, economic, cultural).
- Give priority to the designation of areas of critical environmental concern (An Area of Critical Environmental Concern, ACEC, is an area where special management attention is required to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards).
- Rely on inventories of the public lands and their resources.
- Consider present and potential uses.
- Consider the relative scarcity of the values and alternatives for realizing those values.
- Weigh long versus short term benefits.
- Comply with pollution control laws.
- Coordinate with other Federal, State, Tribal, and local government entities.

REGULATION: 43 CFR 1601 and 1610: [available at www.access.gpo.gov/nara/cfr/waisidx_02/43cfr1600_02.html] These regulations complement FLPMA by establishing a high-level process for creating and revising BLM land use plans, and by citing the intended contents of land use plans.

- Renames FLPMA’s “land use plan” as “Resource Management Plan” (RMP).
- States that an RMP must describe the following:
 - Designation of land uses (limited vs. restricted vs. exclusive; special management; transfers).
 - Allowable resource uses and related levels of production.
 - Resource condition goals and objectives.
 - Program constraints and general management practices.
 - Need for area(s) to be covered by more detailed plan(s).
 - Support actions such as resource protection, realty, access development, etc.
 - General implementation sequences.
 - Standards for monitoring and evaluating the plan.
- Permits the Director and/or the State Director to develop additional planning guidance.
- Requires the following:
 - Completion of an Environmental Impact Statement simultaneously with the development of an RMP.
 - Consideration of impacts to local economies and nearby non-Federal lands.
 - Public participation.
 - Coordination with other governments (Federal, State, local, Tribal).
 - Consistency of the RMP with resource plans of other government entities.
- Describes the steps in the planning process as follows:
 1. Identify issues.
 2. Develop planning criteria.
 3. Inventory data and information collection.
 4. Analyze the management situation.
 5. Formulate alternatives.
 6. Estimate impacts of alternatives.
 7. Select the preferred alternative.
 8. Select the RMP.
 9. Establish monitoring and evaluation.
- Explains approval, use and modification of land use plans

POLICY: The Land Use Planning Handbook (H-1601-1). [available at http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.38665.File.dat/h1601-1.pdf] This handbook expands upon FLPMA and the regulations in 43 CFR 1600 to provide more specific direction for land use planning Bureau-wide. The land use planning handbook outlines the general process to comply with both FLPMA and NEPA for land use plans. The planning process is designed to meet requirements in both sets of laws and regulations. The handbook also gives further definition to the contents of an RMP.

Steps in the Process

The BLM uses a multi-step process when developing a land use plan. Some of the steps may occur concurrently. Some situations may require the manager to supplement previous work as additional information becomes available. These steps have been fully integrated with the NEPA process and the Council on Environmental Quality (CEQ) guidelines. The steps are:

Identification of Issues:

- Issue Notice of Intent (NOI) to begin the Scoping Process to identify issues and develop planning criteria and to begin public participation.
- Identify issues. This sets the tone and scope for the entire planning process and is done with full public participation.

Develop Planning Criteria:

- Establish constraints, guides, and determine what will or will not be done or considered during the planning process.
- Produce a scoping report for public review, including final planning criteria.

Inventory Data and Information Collection:

- Collection of inventory data and information is an ongoing activity and is not governed solely by the planning process.

Analyze the Management Situation:

- Information is gathered on the current management situation. Describes pertinent physical and biological characteristics and evaluates the capability and condition of the resources.

Formulate Alternatives:

- Alternative formulation is the step where the success of the planning effort hinges on clearly identified reasonable alternatives.

Estimate Effects of Alternatives:

- Once alternatives are developed, the next step is to estimate the impact or effects of each on the environment and management situation.

Select Preferred Alternative:

- In the judgment of management, the Preferred Alternative best resolves the planning issues and promotes balanced multiple use objectives.
- Issue a Notice of Availability (NOA) of a Draft Plan/Draft EIS; 90-day public review.

Select the Resource Management Plan:

- Public comments, opinions, suggestions, and recommendations are reviewed and analyzed and the important information/data are used in preparing the proposed RMP.
- Issue a Notice of Availability (NOA) of Proposed Plan/Final EIS; 30-day protest period; concurrent 60-day Governor's review.
- After protests are resolved, issue a Notice of Availability NOA for the ROD/Final Plan for actions of national interest.

Monitoring and Evaluation:

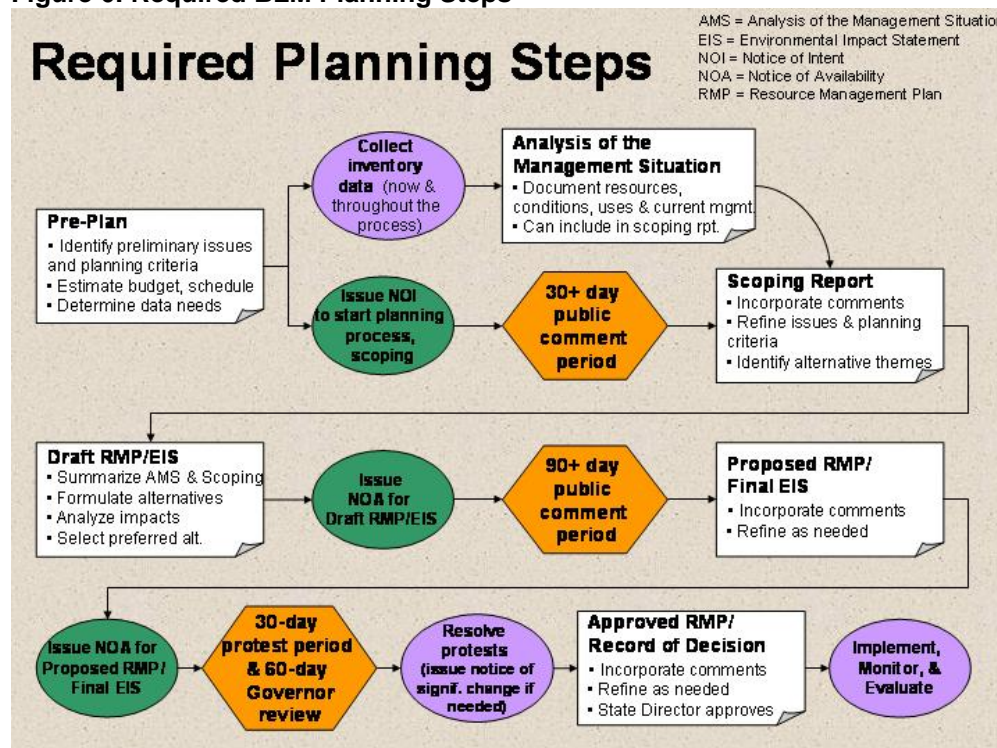
- Implement Decisions and Monitor and Evaluate the RMP (these actions - tracking changes and trends [both short and long-term] are taken to keep plans viable).

Figure 6 shows a conceptual view of the BLM planning process to show the order planning teams typically develop planning documents and complete other planning activities. The shapes in the image are minimum planning requirements. The different shapes represent different activities and documents:

- The white rectangles represent planning documents.
- The green ovals are when BLM is required to issue Federal Register Notices.
- The orange hexagons are minimum requirements for public comment and review.
- The purple ovals are other required steps.

The steps in Figure 6 are BLM’s minimum requirements. They frequently try to go above and beyond these minimum requirements by, for example, involving the public throughout the planning process – not just during the formal comment periods. Additionally, Field Offices may produce a wide variety of documents in addition to those listed. While the documents are designed to build on one another (for example, it is important to finish the Analysis of the Management Situation prior to developing alternatives for the Draft Plan/Draft EIS), in many cases a Field Office will work on parts of multiple documents at once. The Analysis of the Management Situation is sometimes included as part of the scoping report. All other documents are distinct from one another.

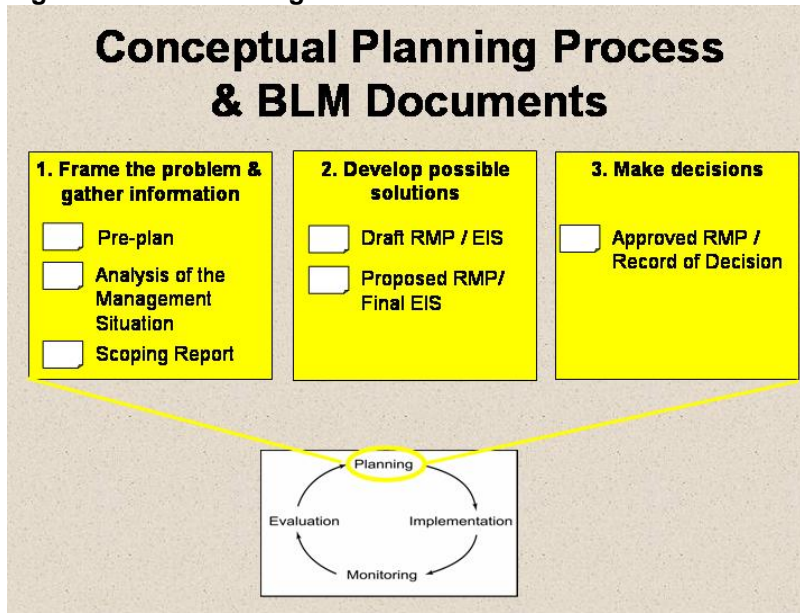
Figure 6: Required BLM Planning Steps



BLM's planning process can appear overwhelming given the many documents that are produced during the planning process. Figure 7 below shows that the planning process can be thought of in three basic steps into which the different planning documents can be grouped:

- Frame the problem and gather information – Pre-plan, AMS, and Scoping Report.
- Develop possible solutions – Draft RMP/EIS and Proposed RMP/Final EIS.
- Make decisions – Record of Decision.

Figure 7: BLM Planning Process



Public Involvement: The RMP provides numerous opportunities for the public to be involved:

- Public scoping meetings are initially held to assist the BLM in assessing the scope of the RMP proposed actions and alternatives to be considered;
- Public meetings are held once the draft RMP/EIS is released to collect public comments on the draft; and
- A public protest period is held after the Final EIS/Proposed RMP is finished to allow for public input before the decisions are finalized in the Record of Decision (ROD).

Figure 8 below shows typical players in a RMP planning process, both those who serve as core planning participants and those who provide plan support and approval. A wide variety of individuals both internal and external to BLM participate. While most of the work occurs at the Field Office level, many people at higher levels in the agency are involved in the planning process as well. Resource Advisory Council (RAC) members can provide key input to BLM staff during the planning process, so it is important that snowmobilers work to have a representative appointed to represent their interests in local RAC areas.

Figure 8: Key BLM Roles and Responsibilities



RMP Timeframe and Costs: It typically takes three or more years to complete a Resource Management Plan. The time frame depends on the complexity of the issues and the degree of public involvement. Twenty-four months is the shortest time frame that can reasonably be expected for completion of an RMP. The estimated cost for completing a comprehensive RMP is from \$2.5 to over \$4 million depending on the complexity of the plan.

BLM Policy Regarding Off-Highway Vehicle Designations and Travel Management in the Land Use Planning Process

BLM Washington Office Instruction Memorandum No. 2004-005 (October 1, 2003), stipulates that planning areas must be divided into areas that are open, limited, or closed to off-highway vehicle (OHV) travel. Those areas that are designated limited may have seasonal restrictions or travel limitations to either existing or designated roads or vehicle routes, or any combination of these.

Road and Vehicle Route Designation Process for Limited to Designated OHV Areas

During the travel management planning period, the following will occur:

- Interim management guidelines for identification of the road and vehicle route network, including signing and maintenance, will be defined.
- Additional data needs and collection strategy will be outlined.
- A clear planning sequence, including public collaboration, criteria, and constraints for subsequent road and vehicle route selection and identification, will be established with a schedule not to exceed 5 years.
- Collaboration on designation of roads and vehicle routes will occur, consistent with the goals, objectives, and other considerations described in the Resource Management Plan (RMP), according to the above planning sequence.
- A Travel Management Implementation Plan will be written.
- Signs and barriers will be installed where needed, and reclamation according to the plan will occur.
- Desirable roads may be reopened after repairs, recovery, or adequate mitigation has occurred.

Until the designation process is completed, travel in 'limited to designated areas' (LDA) will remain limited to existing roads and vehicle routes. Some portions of LDAs may receive other designations during the planning process outlined above. Travel on parcels of public land not having legal public access will remain limited to existing roads and vehicle routes.

The LDAs will be divided into geographic sub-areas in which specific roads and vehicle routes will be designated open to OHV travel. Geographic sub-areas and their order of consideration will be determined based on criteria such as current OHV use, areas with sensitive resources, and areas with special designations (i.e., Areas of Critical Environmental Concern [ACEC], wildlife habitat management areas, and Special Management Areas [SMA]). Roads and vehicle routes that are designated as open may have further restrictions placed on their use.

During the planning process, teams made up of the BLM, cooperating agencies, and members of the public will be used to ensure resource concerns and OHV user needs are properly addressed. Maps will be available to the teams that include all known roads to aid input for additional roads and vehicle routes to be considered for designation as open to OHV use. In addition to the sub-areas in general, these teams will address roads and vehicle routes in specific areas that have ongoing resource problems.

Criteria for road closures include the following:

- OHV use is causing, or will cause, considerable adverse impacts.
- A road or vehicle route poses a threat to public safety.
- Road and vehicle route density is adversely impacting resources.

- Closure is necessary for desired future conditions for access.
- Closure is necessary for visual resource protection.
- Closure is necessary for sensitive habitat management.

Example of BLM Planning Document Definitions

Off-Highway Vehicle (OHV): Any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding (1) any non-amphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle being used for emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and (5) any combat or combat support vehicle when used in times of national defense emergencies.

Off-Highway Vehicle (OHV) Management Designations: Designations apply to all off-road vehicles (ORVs) regardless of the purposes for which they are being used. Emergency vehicles are excluded. ORV designation definitions were developed cooperatively by representatives of the U.S. Forest Service, the National Park Service, and BLM state and field office personnel. The BLM recognizes the differences between ORVs and over-snow vehicles in terms of use and impact. Therefore, travel by over-snow vehicles will be permitted off existing routes and in all open or limited areas (unless otherwise specifically limited or closed to over-snow vehicles) if they are operated in a responsible manner without damaging the vegetation or harming wildlife.

Closed: Vehicle travel is prohibited in the area. Access by means other than motorized vehicle is permitted. This designation is used if closure to all vehicular use is necessary to protect resources, to ensure visitor safety, or to reduce conflicts.

Open: Vehicle travel is permitted in the area (both on and off roads) if the vehicle is operated responsibly in a manner not causing, or unlikely to cause, significant undue damage to or disturbance of the soil, wildlife, wildlife habitats, improvements, cultural or vegetative resources, or other authorized uses of the public lands. These areas are used for intensive OHV use where there are no compelling resource needs, user conflicts, or public safety issues to warrant limiting cross-country travel.

Limited:

- a. Vehicle travel is permitted only on roads and vehicle routes which were in existence prior to the date of designation in the *Federal Register*. Vehicle travel off of existing vehicle routes is permitted only to accomplish necessary tasks and only if such travel does not result in resource damage. Random travel from existing vehicle routes is not allowed. Creation of new routes or extensions and (or) widening of existing routes are not allowed without prior written agency approval.
- b. Vehicle travel is permitted only on roads and vehicle routes designated by the BLM. In areas where final designation has not been completed, vehicle travel is limited to existing roads and vehicle routes as described above. Designations are posted as follows:
 1. Vehicle route is open to vehicular travel.
 2. Vehicle route is closed to vehicular travel.
- c. Vehicle travel is limited by number or type of vehicle. Designations are posted as follows:
 1. Vehicle route limited to four-wheel drive vehicles only.
 2. Vehicle route limited to motorbikes only.
 3. Area is closed to over-snow vehicles.
- d. Vehicle travel is limited to licensed or permitted use.
- e. Vehicle travel is limited to time or season of use.
- f. Where specialized restrictions are necessary to meet resource management objectives, other limitations also may be developed.

BLM may place other limitations, as necessary, to protect other resources, particularly in areas that motorized OHV enthusiasts use intensely or where they participate in competitive events.

WORKING WITH THE NATIONAL PARK SERVICE (NPS)

There are about 40 units of the National Park System where some level of snowmobiling is allowed. This use ranges from high-profile Yellowstone National Park where approximately 160 miles of groomed roads are open to highly regulated snowmobile use to smaller park units where as little as one mile of park roads provide a connecting link to snowmobile trails on adjacent non-park lands.

Snowmobiling must conform to NPS Management Policy 8.2.3.2, which is shown below in Exhibit 8. Each park unit must use park planning (typically through the preparation of an EA or an EIS) to determine the merits of snowmobiling on a case-by-case basis in accordance to Executive Orders 11644 and 11989, as well as 36 CFR 2.18 (continental U.S.) and 36 CFR Part 13 and 43 CFR Part 36 (Alaska) [see Appendix 7 to view the two Executive Orders and 36 CFR 2.18]. It is important to understand that snowmobiling can only be allowed on routes and water surfaces used by motor vehicles and motorboats during other seasons in national parks. Additionally, each park that allows snowmobiling promulgates park-specific regulations to regulate snowmobiles.

Exhibit 8: NPS Management Policy Regarding Snowmobiles

National Park Service Management Policies (2006)

8.2.3.2 Snowmobiles

Snowmobile use is a form of off-road vehicle use governed by [Executive Order 11644](#) (Use of Off-road Vehicles on Public Lands, as amended by [Executive Order 11989](#)), and in Alaska also by provisions of the [Alaska National Interest Lands Conservation Act \(16 USC 3121 and 3170\)](#). Implementing regulations are published at [36 CFR 2.18](#), [36 CFR Part 13](#), and [43 CFR Part 36](#). Outside Alaska, routes and areas may be designated for snowmobile and oversnow vehicle use only by special regulation after it has first been determined through park planning to be an appropriate use that will meet the requirements of [36 CFR 2.18](#) and not otherwise result in unacceptable impacts. Such designations can occur only on routes and water surfaces that are used by motor vehicles or motorboats during other seasons. In Alaska, the Alaska National Interest Lands Conservation Act provides additional authorities and requirements governing snowmobile use.

NPS administrative use of snowmobiles will be limited to what is necessary (1) to manage public use of snowmobile or oversnow vehicles routes and areas; (2) to conduct emergency operations; and (3) to accomplish essential maintenance, construction, and resource protection activities that cannot be accomplished reasonably by other means.

(Also See [Unacceptable Impacts 1.4.7.1](#); [Process for Determining New Appropriate Uses 8.1.2](#); [Visitor Use 8.2](#); [Recreational Activities 8.2.2](#); [Minimum Requirement 6.3.5](#); [Management Facilities 6.3.10](#); [General Policy 6.4.1](#))

WORKING WITH THE BUREAU OF RECLAMATION

Established in 1902, the U.S. Department of Interior – Bureau of Reclamation (<http://www.usbr.gov/>) is best known for the dams, power plants, and canals it constructed in 17 western states. These water projects led to homesteading and promoted the economic development of the West. The Bureau of Reclamation has constructed more than 600 dams and reservoirs and is the largest wholesaler of water in the country. It brings water to more than 31 million people, and provides one out of five Western farmers with



irrigation water for 10 million acres of farmland that produce 60% of the nation's vegetables and 25% of its fruits and nuts. The Bureau of Reclamation is also the second largest producer of hydroelectric power in the western United States, operating 58 power plants that produce electricity for 6 million homes.

While the mission of the Bureau of Reclamation is to “manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public,” it has a minor involvement in providing recreational opportunities (which in the Snowbelt states may include snowmobiling) on the water reservoirs it has created and the lands that surround its reservoirs and canals. Oftentimes it will enter into agreements with State park agencies or other local recreation providers to operate some of its properties as recreational areas. The Bureau of Reclamation refers to its properties as ‘projects’ and also works directly with groups to issue permits for trails across project lands. While it is a very small player in respect to snowmobiling access, its projects may provide important linkages and access points in some areas. Contact local project offices (contact information is available on its web site listed above) for more information about local opportunities.

WORKING WITH THE ARMY CORP OF ENGINEERS

The United States Army Corps of Engineers (<http://www.usace.army.mil/>) has a dual mission which includes providing engineering services for U.S. military construction projects, as well as providing engineering services to the nation for the planning, designing, building, and operation of water resources and other civil works projects (Navigation, Flood Control, Environmental Protection, Disaster Response, etc.) across the country. The Corps has also been involved in regulating activities by others in navigable waterways through the granting of permits since passage of the Rivers and Harbors Act of 1899. Passage of the Clean Water Act in 1972 greatly broadened their regulatory role by giving the Corps authority over dredging and filling in the "waters of the United States," including many wetlands (which may affect some trail construction projects). It has approximately 34,600 civilian employees and only 650 military members.

As part of its Water Resources mission, the Corps maintains direct control over 609 dams, maintains and/or operates 257 navigation locks, and operates 75 hydroelectric facilities which generate 24% of the nation's hydropower and three percent of its total electricity. Through these activities the Corps is the nation's largest provider of outdoor recreation, overseeing 5,700 recreation areas at 419 lakes in 43 states. It directly operates more than 2,500 recreation areas at 463 projects (mostly lakes), and leases an additional 1,800 sites to State or local park and recreation authorities or private interests. Since the vast majority of its recreation areas are located next to water (and many are outside the Snowbelt), the Corps is not a large provider of snowmobiling opportunities. However, its project area lands can be important to snowmobiling access and trail linkages in some local areas. Contact local Corps project offices (contact information is available on its web site listed above) for more information about local opportunities.

ACCESS TO STATE LANDS

State School Trust Lands

School Trusts Lands were granted by the United States to each State joining the union beginning with Ohio in 1803 through Alaska in 1959. These lands were granted in trust for the support of public education. Initially, each State received one square mile in each six square mile township. As western States were added, the grants expanded to two sections per township. When Utah, Arizona, and New Mexico entered the union they were granted four sections per township.

The grants were part of enabling legislation for statehood and are contained in each State's Enabling Act. The Enabling Act was a bilateral compact that enabled each State to enter the union on equal footing with those States currently in the union. Presumably, the arid western desert States were less fertile and productive and so needed more land to achieve an equal footing. Because there were insufficient funds in

the national treasury, Congress could not afford to pay taxes on the Federal domain. Thus Congress granted lands for education and other purposes to each State in exchange for an agreement that each State would not tax the Federal lands.

Because these lands were granted in trust, standard trust principles apply. This means the lands are to be managed for the support and benefit of the schools and each State owes undivided loyalty to the beneficiaries, which are the schools. Occasionally these lands are referred to as State lands or public lands. However, these lands are *not* State lands but rather are school lands managed by the State as trustee. The lands are also *not* public lands as the grant was not to the general public. Though noteworthy causes such as national parks, wilderness, open space, or other State interests may seek uncompensated uses for school trust lands, such uncompensated use is contrary to trust principles and fails to respect the beneficial owners of the lands, the schools. The legal decision related to ‘County of Skamania vs. The State of Washington’ states, “Our holding is consistent with a host of cases from other jurisdictions involving school trust lands. To our knowledge, every case that has considered similar issues has held that the State as trustee may not use trust assets to pursue other State goals.” If school lands are situated in areas that should be preserved, then by law the schools must be compensated as other private landowners would be or exchanged for other lands of comparable market value.

Despite this narrow interpretation of the ‘trust responsibilities’ associated with trust lands, snowmobiling access may be available in some States (at low or no cost) simply by establishing good working relationships with the administering agency. However many States will hold a hard line and insist on formal easements and fees that optimize revenue for their trust lands in return for consideration of granting snowmobiling access. Contact the State trust lands office in your State to determine what options, if any, may be open for your access needs on school trust lands.

Other State Lands

Other classifications of State lands which may be open to snowmobiling access include state parks and recreation areas, state forest lands, state wildlife areas, etc. Since policies and procedures vary greatly from State to State, this publication can only give general guidance as to issues and topics that are typical for access to State lands, as well as for State land planning processes. It is therefore important to research your State’s specific requirements for obtaining snowmobiling access to lands owned or managed by State departments and agencies.

Generally, the success of gaining snowmobiling access is significantly influenced by the ‘purpose’ of the State lands: if the lands are owned and managed for recreation or multiple uses (state parks, state trails, state forests, etc.), the chances of obtaining access will be greater than if the State lands are owned and managed for special (and oftentimes restrictive or conflicting) uses such as wildlife rearing, agricultural production, education funding, etc. You will need to navigate your State’s bureaucracy to determine not only the entity responsible for managing the properties you wish to cross with snowmobile trails, but also that entity’s mission and purpose for owning particular lands. As with Federal lands, establishing good working relationships with State land managers is critically important to the success of obtaining permission for snowmobile trails and snowmobiling access.

State Land Use Planning

State land use planning can also be very general or very project/site specific, similar to planning done by Federal land managers. General plans may include state park master plans or state forest resource management plans that outline general management parameters and uses that may be generally allowed or disallowed. However specific management prescriptions, specific designs, specific locations, etc. are typically deferred to project-specific decisions by State agencies. It is important that snowmobilers participate in big-picture master planning and resource planning processes if they hope to be able to have snowmobiling access considered at project-specific levels.

Many States also have their own environmental laws and permitting processes which must be followed in order to gain access to State lands. As with NEPA at the Federal level, State environmental laws stipulate very structured processes, which typically include public involvement, for State decision making regarding State lands access. These are the ‘rules of the game’ at the State level and must be followed if you wish to have requests for access approved.

Land Stewardship Guidelines

Many States emphasize “land stewardship” in their planning guidelines. Often this translates to the fact that motorized recreation is not welcomed on many categories of State-owned lands, which can create hurdles for snowmobiling access. State laws that require agencies to prepare resource management plans (RMPs) also often require that these plans include guidelines for operation and land stewardship, provide for the protection and stewardship of natural and cultural resources, and ensure consistency between recreation, resource protection, and sustainable forest management.

States sometimes develop Zoning Guidelines to provide a general land stewardship framework for RMPs. Zoning guidelines are intended to help guide the long term management of specific properties or facilities. They often define different types of management zones based generally on the sensitivity and uniqueness of the resources. The zones may be simply categorized as 1, 2, and 3 – ranging from highest to lowest levels of sensitivity and uniqueness. Significant Feature Overlays, identifying specific designated or recognized resource features (such as Forest Reserves, Areas of Critical Environmental Concern, or areas subject to historic preservation restrictions) and containing specific management requirements or recommendations, may be added to supplement these Zones.

Development of State Park or Forest Management Plans

Developing typical state comprehensive management plans can take anywhere from 12 to 24 months. Extensive input is usually sought from visitors, community stakeholders, other State agencies, and the managing agency’s staff. The steps may include:

Phase One – Establishing the park’s or forest’s “Purpose and Significance”:

- General management plan developed with 20-year goal for use.
- Careful examination of the parameters of the agency’s Missions.
- Review of directives of law, policies, procedures, mandates, agreements, and understandings that will affect the use of the park or forest.
- Review and consideration of the natural, historical, cultural, and educational resources available.
- Collection of input from stakeholders and visitors.

Phase Two – Long-Range (10 year) Action Plan

Phase Three – Five-Year Action Plan

Phase Four – Annual Performance Plan and Report

Management Zones

State plans sometimes tier to the identification and delineation of Management Zones. These are areas with defined characteristics and qualities for which there are related user expectations, management guidance, and defined levels of development.

In the order presented in Exhibit 9 below, these zones reflect a progression from that of the Environmentally Sensitive Zone, which is highly restrictive to use and wholly focused on attaining and maintaining a pristine natural resource environment, to the other end of the spectrum where the Developed Recreation Zone reflects conditions focused on development and visitor use with the natural resources still important, but secondary. Snowmobiling would typically be allowed in management zones 7 and 8 (if it is allowed at all in the park area).

Exhibit 9: Example of State Park Management Zone Objectives



Incorporated in each zone description is direct guidance as to how the four primary components of the agency’s mission statement are addressed in each zone. In this example, those components are: "Acquire, protect and preserve (1) natural resources and (2) historic and cultural resources, and provide (3) recreation opportunities and (4) educational opportunities. Additionally, for each zone there will be descriptions of (5) visitor experience, (6) management focus, and (7) development guidance.”

The general language found within these descriptions is used to establish zones of the park in Phase 1 planning. Once established, these zone descriptions are then written into the general management plan specific to the park and sensitive to the park’s significance, unique attributes, and qualities.

LOCAL LAND USE PLANNING

Local zoning laws and ordinances typically guide where snowmobiling may or may not be allowed at local levels. Since there can be extreme variability between communities, it is essential to research local rules, as well as who the decision makers are, for every different local jurisdiction your trails may cross. While this variability makes it impossible to discuss this topic in-depth in this manual, examples of various local ordinances governing snowmobiles can be found in Chapter Three.

One thing to keep in mind with local access issues is that, typically, decisions are made by local elected officials and appointed boards that may turn over in their membership on a fairly regular basis. As a result the officials who granted permission for snowmobile trails last year or five years ago are often replaced by new members – who may or may not favor continued snowmobiling access. Since local access is highly influenced by local politics, you must get engaged – and stay engaged – with local governing boards to keep them educated as to the importance of snowmobiling access to their communities.

TRAILS AND ROUTES WITHIN ROAD RIGHT-OF-WAYS

It can sometimes be desirable to locate snowmobile trails within road right-of-ways (ROWs), particularly to access businesses and services or to avoid having to cross parcels of private or public lands where there are challenges for snowmobiling access. Most often, this involves using routes within the borrow ditch of ROWs away from the main travelway/road surfaces used by wheeled vehicles. However, some States also allow snowmobiles to be operated upon the traveled portion of specially designated roads’ travelway –

jointly with wheeled motor vehicles – which are typically referred to as ‘shared use roads’ or ‘snowmobile routes.’ Some States require that snowmobiles operated within road right-of-ways carry liability insurance similar to what is required of automobiles, so be sure to check local requirements.

Both situations, as well as road crossings, require permission from the ‘agency with jurisdiction over the roadway.’ This can be the State department of transportation (DOT), county highway departments, local government street departments, or other local agencies. It will also likely require resolutions from county commissioners, city councils, town boards, and other agencies with jurisdiction over the specific roadways. In some areas permission may be fairly easy or routine to obtain while in other circumstances it may be quite difficult. Safety is always the primary consideration: will it be safe for motorists and will it be safe for snowmobilers? DOTs and other road agencies typically require that a formal application and map be submitted to document specific locations (from milepost number __ to milepost number __) where snowmobiling use will be permitted to occur. This is often called a ‘Permit to Occupy Right-of-Way.’ These permits may be annual requirements or they may be issued for a certain number of years and then be subject to review prior to renewal. Such permits must be coordinated at local levels with DOT area or district engineers, county highway superintendents, township road supervisors, etc. Important information for various types of ROW access includes:

Road Crossings

Typical factors required or considered by road agencies in respect to road crossings:

- ✓ Adequate sight distances are essential and are determined by a formula based upon highway speeds in the area.
- ✓ Flat approaches to road crossings are critical.
- ✓ Highway signing will typically be required to advise motorists of a “Snowmobile Crossing” ahead.
- ✓ “Stop” signs will be required on trails, as well as “Stop Ahead” signing on trails to advise snowmobilers of road crossings ahead.
- ✓ It is critical that trail grooming does not drag snow onto the surface of roadways or crossings may be prohibited or eliminated by road agencies.

Road Ditch Trails

Typical factors required or considered by road agencies in respect to road ditch trails:

- ✓ Exact locations of trail routes, including which side(s) of highways or roads the trails will occupy (some areas allow operation in both directions – against wheeled motor vehicle traffic, while other areas do not).
- ✓ Start and end dates of trails’ occupancy (signing, grooming, public use, etc.) / use of ROW ditches.
- ✓ Typically do not allow trails in ‘controlled access’ right-of-ways (interstates, freeways, expressways, etc.) where motor vehicle access to roadways is only from ‘on and off ramps’ and ROW boundaries are fully fenced.
- ✓ Often require snowmobile trails’ routes or groomed paths to be located at the far outside edges of borrow ditches.
- ✓ Speed limits for roadways typically also apply to snowmobiles (unless speed limits are posted lower on trails).
- ✓ May include additional specific conditions entirely at the discretion of road agencies.
- ✓ Some allow snowmobile trail signing to remain in ROWs year-round, while others require all signing materials to be removed after the snowmobiling season.

Shared Use Roads/Snowmobile Routes

Typical factors required or considered by road agencies in respect to shared use roads/snowmobile routes:

- ✓ Always requires special designation/permission by agencies with jurisdiction over the roads.

- ✓ Exact locations of open routes must be clearly stipulated.
- ✓ Speed limits may be the same or lower than what is posted for wheeled vehicles on roadways.
- ✓ Special conditions often apply and are set at the sole discretion of road agencies.

Exhibit 10: Example of a State statute regulating snowmobile operation on a public highway (Michigan law)

A snowmobile may operate on a public highway under the following conditions: A snowmobile may be operated on the right-of-way of a public highway (except a limited-access highway) if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. Snowmobiles operated on a road right-of-way must travel in single file and shall not be operated abreast except when overtaking or passing another snowmobile.

A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the operator yields the right-of-way to any approaching motor vehicle on the highway.

A snowmobile may be operated across a public highway, other than a limited access highway, at right angles to the highway for the purpose of getting from one area to another when the operation can be done safely and another vehicle is not crossing the highway at the same time in the immediate area. An operator must bring his/her snowmobile to a complete stop before proceeding across the public highway and must yield the right-of-way to all oncoming traffic.

Snowmobiles may be operated on a highway in a county road system, which is not normally snowplowed for vehicular traffic; and on the right-of-way or shoulder when no right-of-way exists on a snowplowed highway in a county road system, outside the corporate limits of a city or village, which is designated and marked for snowmobile use by the county road commission having jurisdiction.

PROVIDING EFFECTIVE AND SUBSTANTIVE COMMENTS

When working for snowmobiling access to public lands, it is critical to provide comments into the numerous types of agency planning processes that are (1) substantive and (2) effectively communicate your needs, as well as any issues you may have with the management alternatives being proposed. To do this you need to know:

1. The type of document being prepared (EA, EIS, or other),
2. The stage of the planning process (scoping, draft, final) you are commenting on, and
3. How the input will be used by the agency and the decisionmaker.

“The world is run by those who show up.”

Tom M. Crimmins – Retired USFS employee/Trails Consultant
 Author of *Management Guidelines for OHV Recreation*

Tips for Commenting

The following tips will help to effectively communicate comments that will be deemed ‘substantive’ by agencies:

Be Specific with Your Comments

- ✓ Clearly identify the decision, document, or action being addressed by your comments.
- ✓ Address specific issues, statements, and/or inconsistencies in the document.

- ✓ Describe your specific desires and clearly explain what you want.
- ✓ Indicate what you support, as well as what you oppose.
- ✓ Avoid moral and emotional appeals.
- ✓ Don't threaten, get personal, or make accusations.

Be Clear and Concise

- ✓ Isolate separate points in separate paragraphs or with bullet points.
- ✓ Identify offending statements, issues, and/or actions which are stated or proposed in the document.
- ✓ Describe the problems with the statements, issues, and/or actions.
- ✓ Keep it simple and to the point.

Provide Substantive Information

- ✓ Provide information as early in the process as possible.
- ✓ Continue to provide or reference as much information as possible throughout the process.
- ✓ Don't be afraid to develop your own alternatives and maps.
- ✓ Provide pertinent supporting studies or other independent documents that may be available to support your positions.
- ✓ Avoid the "if they don't know about it they can't close it or use it against us" trap, especially in respect to travel and route planning; being up-front and open will get you farther in the process.

Request Action

- ✓ In all cases let agency planners know what changes you want to see.
- ✓ Try to give the agency choices if possible.
- ✓ If you present 'new information,' make sure you ask the agency to include it in their analysis.

Stay Involved

- ✓ Don't wait to be asked for input – because the agency might never ask you.
- ✓ Get to know the people (agency staff, consultants, decision makers, etc.) involved in the process.
- ✓ Provide data and information whenever you get it versus waiting to provide it later in the process.
- ✓ Maintain a regular on-going dialogue with the agency's planning team.

Comments that are Effective (*in order of effectiveness*)

1. Personal letters or e-mails with specific references to the plan, document, or issue.
2. Individual letters or e-mails addressing specific talking points regarding the issue.
3. Personal visits or phone calls to an ID Team member. (It's better to put your comments in writing since, with phone calls or personal visits, you run the risk that the agency employee doesn't properly document the conversation or may misinterpret or mischaracterize your remarks.)
4. Form letters or e-mails with personal comments added.
5. Form letters or post cards.
6. Petitions are a waste of your time; they are not effective in the NEPA process.

Comment Letter Content and Format

Comment letters should contain the following information to be most effective:

- Paragraph 1: Identify: who you represent (if writing on behalf of a club, association, etc.), the document/process (by the agency's title) you are commenting on, and a brief background about yourself or the organization you're commenting on behalf of.
- Paragraphs 2 thru ? : List specific comments on the plan or process in bullet point format using the list of talking points your organization has developed or that you have made on your own.

- Last Paragraph: Thank the agency for the opportunity to comment and ask to be included on its contact list for the project.
- Contact Information: Be sure your name is written clearly (printed or typed) so the agency doesn't have to decipher your signature. Also, if your contact information (address, phone, and e-mail) is not clearly displayed at the top or bottom of your page or letterhead, add it under your signature line so the agency has it for its contact list.
- Copies: It is often good to carbon copy (cc:) others with your comments so they are aware of your positions. This can include members of your organization, politicians, and other important players within the agency.

Exhibit 11: Example Comment Letter Outline

Date	
Name of Planning Process	
Address	
Dear Planning Team <i>or</i> Dear Planners <i>or</i> Dear District Ranger _____:	
<i>Paragraph 1: Option 1 for an organization</i>	
I am writing on behalf of the _____ Snowmobile Association in regard to the _____ National Forest Land and Resource Draft Management Plan/EIS. The _____ Snowmobile Association represents over ___ individuals and families who regularly snowmobile in the ____ National Forest area. This area is very important to us and we are very concerned about continued access to these public lands for snowmobiling and other motorized recreation activities.	
<i>Paragraph 1: Option 2 for an individual</i>	
I am writing in regard to the _____ National Forest Land and Resource Draft Management Plan/EIS. I have snowmobiled in the ____ National Forest for over ___ years. This area is very important to me and I am very concerned about continued access to these public lands for snowmobiling.	
<i>Paragraph 2</i>	
We (<i>or I</i>) support the following proposals in this draft plan:	
	<ul style="list-style-type: none"> ▪ <i>List bullet points regarding what parts you support, based upon your own thoughts or from talking points developed by your organization, and why you support them or why they are important.</i> ▪
<i>Paragraph 3</i>	
We (<i>or I</i>) oppose the following proposals in this draft plan:	
	<ul style="list-style-type: none"> ▪ <i>List bullet points regarding what parts you are opposed to, based upon your own thoughts or from talking points developed by your organization, and why you do not support them or why they are a bad idea.</i> ▪
<i>Paragraph 4 (optional)</i>	
We (<i>or I</i>) have the following specific comments (<i>or questions</i>) about this document:	
	<ul style="list-style-type: none"> ▪ <i>Mention any specific problems you have found with the plan's accuracy.</i> ▪ <i>Offer any new information you may have that is pertinent to the planning process that is not mentioned in the draft plan and ask the planners to include it in the analysis.</i>
	<ul style="list-style-type: none"> ▪ <i>If there is information missing from the plan that you think is important (even if you don't know where to find it), point it out to the planning team and ask that they find it and include it in their analysis.</i> ▪

Closing Paragraph

Thank you for the opportunity to comment on this draft plan. Please include our organization (*me*) on your distribution list as you proceed with this planning process. Our (*My*) address is _____ or you may also notify us (*me*) by e-mail at _____.

Sincerely,

Joey Sledder *or*
Joan Sledder, President
_____ Snowmobile Association

cc: _____ Snowmobile Association Board of Directors
Congressional Delegation
Governor
DNR Director
Forest Supervisor
Recreation Staff Officer

Making Electronic Comments

The Internet has changed the way public comments are sought by agencies and delivered by the public. In the past, everything was done by paper – from agencies printing hundreds of copies of their thick EA and EIS documents, to their mailing letters announcing public meetings, to the public mailing their comment letters back to agencies. While it can still happen that way, the mailing of hard copies of documents and letters is done on a very limited basis today. Electronic copies have largely replaced printed copies of these thick documents; additionally e-mail is routinely used for meeting notifications from agencies and comments on plans by the public back to agencies.

While agencies always state that the public comment process in respect to NEPA “is not a vote,” you can be assured that decision makers are aware of the ‘body count’ and can be swayed by public opinion, particularly when issues are ‘on the bubble’ and could go either way. The Electronic Age has greatly changed the NEPA process, particularly in respect to public participation and commenting. It is therefore critical that snowmobilers participate effectively in this electronic world if they hope to retain access.

One challenge is that environmental and anti-motorized groups have demonstrated they are extremely adept at stuffing the NEPA process with electronic comments – so they can tout that they ‘represent the majority’ of the public’s opinion. But the process really isn’t (or supposed to be) about ‘the numbers,’ so the best strategy for snowmobilers is to ensure they’ve offered “substantive comments” into the process versus the large number of typically moral and emotional pleas generated by ‘anti’ groups.

Using e-mail more effectively can help snowmobilers gain ground in the commenting process. First of all it is instantaneous and can immediately enter into and impact processes. Second, by copying others within agencies, politicians, and others within your own organization or support networks, you can have everyone on the same page and up to speed with your positions – immediately. This then allows others within your networks to copy or build upon your messages and positions.

Additionally, comment letters that are snail-mailed or e-mailed to agencies at their stipulated ‘comment address’ (planrevision@fs.fed.us for example) are nearly always batched for ‘summary and analysis’ by a ‘comment analysis team’ – oftentimes consultants outside the agencies – so decision makers never actually see them but rather are given summaries at the end of comment periods that categorize all comments into bullet points. So by including decision makers and key members of planning teams in your e-mail (in addition to the agency-designated comment e-mail address), you increase the odds that they

will see your comments or at least become aware of the volume of comments that are coming in on topics – even if they choose to delete e-mail messages without ever opening them.

Tips to Increase the Effectiveness of E-Mail Comments

- Clearly identify the subject, as well as your positions (oppose or support), in the “Subject” block of your e-mail (examples: Forest Plan Scoping Comments; Support Alternative 2; Oppose Big Park Snowmobile Closure; etc.) This shows decision makers what you are advocating for, even if they never open your message.
- Most Internet companies allow you to have multiple e-mail “screen names” at no extra cost. If the screen name you commonly use does not readily identify you, your company, or your organization (examples: skidoogal@wild.net or powderking@snow.org , etc.), consider establishing an alternate screen name that is either your complete name or initials with your full last name – just for commenting to agencies and politicians. This will help them to easily recognize your name (because they have hopefully met you by this point in the process) versus wondering who the heck ‘skidoogal’ is and what she wants. If they recognize the sender, the odds of their opening a message increase. But if they don’t readily recognize the sender – since public employees and politicians are often flooded with e-mails – the odds that the message is either deleted or passed off to an underling without being opened are greatly increased.
- Put your message in the body of the e-mail versus having it as an attachment they will have to download and open (chances are slim they will take the time to open and read an attachment unless they know you – and even then, these folks are often inundated – so make it easy and simple for them to get your message). The best option is always to write your own message in your own words. Or if you have a form letter, position paper, or bullet points your network is using, you can also copy and paste that message directly into the body/message section of your e-mail. You can still attach the message (Word document file, etc.) to your e-mail, but it is not required.

To transfer a Word document to your e-mail message, with the document open in the Word program: click on “Edit” on the top toolbar menu, scroll down and click on “Select All,” then either click on “Copy” on the toolbar or click on “Edit” again and scroll down to “Copy” and click on it. Then go to your e-mail program/message. Place the cursor in your message/body section and click on it. Then go to “Edit” on the e-mail program’s toolbar, click on it, scroll down to “Paste” and click on it. The message from the Word document should now be in the body of your e-mail message. Finally, go through the message in the e-mail to make sure formatting transferred okay; if not, edit the spacing, etc. as needed to ensure the message is clear and not garbled.

- Copy lots of people on your message to maximize distribution and impact. In the “Send To” section, include the designated comment address (example: plan@agency.com) as well as e-mail addresses that go directly to decision makers and key members of the agency’s planning team (because sending it just to plan@agency.com dumps it into the big ‘official comment basket’ where they may never directly see your message – just a summary of everyone’s comments). In the “Copies To” section, include the e-mail addresses of politicians, members of your networks, and other key individuals you want to see your message and positions.

Sometimes it may be desirable to “blind copy” some on this list if you want them to see your information but don’t necessarily want everyone on the list (which means potentially ‘the whole world’ given the ease and propensity for forwarding e-mail messages...) to know that you’re working with them behind the scenes. Broad distribution on the “Copies To” list helps make it easy for others to copy and forward your comments, therefore broadening and enhancing your comment efforts.

- Use your group's web site to post your 'official' comments. This helps educate others regarding the issues and also shows what the organization is doing to work for their interests. Also use your web site to make comment information (addresses, deadlines, background information, form letters, talking points, etc.) available to help rally more public comments that support your positions.
- Develop your comments early in the comment process to maximize support from individuals and other organizations. If you wait until the last day or last hour to distribute your comments you lose all opportunities for others to echo or expand upon your comments. If 'other comments' emerge during the process, they can still be submitted near the end of the comment period as 'supplemental comments.'

Get involved early – comment often – and stay in the process until the end.

CHAPTER THREE – Tools for Improving and Retaining Access

As mentioned in the Introduction, the placement of any trails (snowmobile or otherwise) on the landscape has the potential to create some level of environmental or social impacts. It is therefore important that trail sponsors and managers use best management practices and consider options that help eliminate or mitigate concerns landowners and public land agencies may have with snowmobiling on the lands they own or control.

If you have access, you need to do everything possible to keep it. And if you're trying to obtain new access, it can be increasingly more difficult with each passing year. It is important to recognize changing times and the need for long term visions and sometimes even new approaches. The growth of communities and rural subdivisions makes it continually harder to find through routes for trails. Local ordinances that have been in effect for years allowing 'snowmobilers to take the most direct route out of town' can now mean having to go through several new neighborhoods versus it having been only a short distance from the rider's neighborhood to the edge of town when the ordinance was passed years ago. As neighborhoods grow there are simply many more homeowners who are apt to complain – which can quickly turn the tide against continued snowmobile access. It is extremely important to take landowners', neighborhoods', and agencies' concerns and complaints seriously and to take quick action.

It may be necessary to 'bend over backwards' and make concessions to keep or gain access, particularly when routes are needed to access fuel or other services or when trails must cross through sensitive areas and multiple use areas. Sometimes trail sponsors must even accept new routes 'on a trial basis' to prove that conflicts or issues will be minimal – and then must work like the dickens to ensure that things go well.

This chapter presents a variety of tools that have proven to help improve and retain access in various areas across the Snowbelt. Since snowmobiling occurs in a wide range of local settings, some tools may be more useful than others based upon specific local issues and complexities. Nonetheless, these tools have collectively proven to enhance access and should be considered where applicable and feasible to help solidify short and long term access partnerships.

TRAIL SYSTEM LAYOUT AND DESIGN

Where trail routes and parking areas are located in respect to topography of the land, natural features, and other activities and uses of properties can have significant impacts on gaining and retaining long term access. This can be critically important for access to private lands, as well as public lands. Try to be as flexible as possible with trail locations – without compromising for sites that don't hold snow well, create safety issues, or otherwise fail to provide good trail routes or parking. Specific trail system layout and design tools to consider include:

Residential and Occupied Areas

- Route trails behind hills or ridgelines when possible to provide a degree of sight screening as well as sound baffling. This can be particularly important if there are residences or other occupied buildings on or adjacent to properties.
- Route trails along the outer fringes of properties to provide separation between trails and other uses of properties, particularly if it helps provide separation of trail routes from landowners' buildings or other improvements. But try to avoid placement on the outer fringe of properties if it unnecessarily infringes upon the privacy or uses of other adjacent properties.

- Take advantage of existing trees and shrubs to help provide natural screening and sound buffering between trail routes and other uses on properties.
- If high speed operation is a concern, lay out trail routes so they curve or weave through trees to avoid long, straight-away sections that invite higher speeds.
- It may be a good investment for long term access to build permanent fences or plant trees in particularly sensitive areas to help control trail traffic or screen trail use and sounds from adjacent residential areas. Temporary fences can be used to help provide short term traffic control.

Agricultural and Forest Areas

- Be considerate of agricultural landowners' needs for crop production and/or rotation. This may require using field access routes, which may be less direct, to minimize interference. It may also require accepting routes that are subject to relocation each year based upon crop rotation needs. Weigh all known variables and then look for routes that may help minimize needs to relocate year after year if at all possible.
- Route trails to keep snowmobiles away from and out of unharvested fields to avoid crop damage.
- Be understanding of timber companies' requirements to reroute trails around timber sales and other harvest or thinning activities. These disruptions are generally short term and often are beneficial to snowmobiling since (1) new roads or skid trails may be constructed and (2) the forest's canopy is opened up which helps more snowfall reach the ground.
- Avoid routing trails through wetlands if at all possible. If it is necessary to cross wetlands, be certain it is agreed to by landowners and that parameters are in place to ensure routes will be used only when the areas are sufficiently frozen. There must also be controls in place (removal of trail signing, gates, barriers, etc.) to ensure snowmobiles or other vehicles do not follow these routes when the ground is not frozen.
- Avoid routing trails through creeks and streams that do not have safe and dependable crossings. While 'snow bridges' can sometimes provide acceptable crossings, they must be continually monitored to ensure they provide safe public travel. If there are no alternatives, work with landowners to install culverts or bridges – which may also benefit their use of their lands during other seasons and provides them added benefits of your partnership.

General Practices

- Ensure sight distances provide safe routes to help manage liability concerns.
- Use signing and temporary or permanent traffic control devices (gates, barriers, fences, etc.) to control winter and off-season unauthorized vehicle uses – and plan for it when laying out trail routes.
- If possible, select trail routes that minimize the need for ground disturbance (grading, dozing, etc.). However, particularly if routes will be used long term, it can be a good investment to construct good trail treads that have proper drainage and a solid base.

Multiple Use Trailheads and Parking Areas

Public land managers are sometimes reluctant to expand, grant new, or even continue snowmobiling access due to concerns about 'conflicts' between winter recreationists. Since trailheads and parking areas are where conflicts between snowmobilers and nonmotorized winter recreationists most typically begins –

if it is going to occur – addressing this issue at its origin is the single best management tool for managers and recreationists to consider.

Parking truly is *the* ‘root stressor’ for winter recreation. While a nonmotorized family of four can easily park their vehicle in about 20 feet or less, a motorized family of four will need close to 60 feet of room to park their 4-place trailer and tow vehicle – plus they need extra room for loading and unloading, as well as room to pull in and out with their extended length vehicle. Some snowmobilers travel with even longer trailers – for six or more snowmobiles – which increase their needs for adequate parking and maneuverability even more. The result is that, if parking is not designed and managed well, winter recreationists (motorized or nonmotorized) can begin to become stressed the minute they turn into poor parking areas – and their stress and ‘conflict’ builds from that point on for the remainder of their outing.

This issue is often driven by needs for ‘more and better winter parking,’ which ultimately requires project-specific NEPA analysis. It can also be addressed by separating uses for a short distance out of trailhead areas. When working with land managers to address multiple use conflict issues, consider the following:

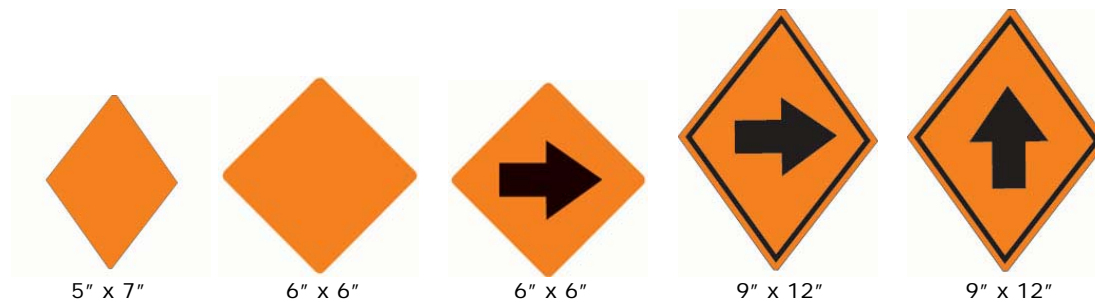
- When space allows, it can be beneficial to provide separate parking areas for motorized and nonmotorized recreationists to eliminate the necessity for interaction between the groups while loading and unloading. When this is done, good on-the-ground signing is critically important to help guide recreationists to the staging area appropriate for their recreation choice. If possible, egress and ingress routes should also have some degree of separation between user groups to minimize interaction versus immediately placing them together in the same areas or onto the same trail routes.
- If available space does not allow for separate parking areas, staging areas should be zoned for nonmotorized and motorized parking areas. Again, good on-the-ground signing is critical to help guide recreationists to their designated parking zones.
- When designing and/or zoning winter parking and staging areas, it is critical to remember that motorized users require much more room for parking and maneuvering their vehicles with trailers than what nonmotorized users require – so parking zones should be arranged and allocated accordingly.
- When staging areas must be shared, it can be helpful to provide separate egress/ingress access routes that are designated to disperse nonmotorized users and snowmobilers to recreational areas beyond staging areas. Cross-use should not be allowed on designated trail routes (No snowmobiles permitted on nonmotorized routes, as well as no nonmotorized use permitted on snowmobile routes.) and this restriction should be signed and enforced.
- If possible, have the motorized and nonmotorized egress/ingress routes depart from separate sections of parking areas, correlating to the separate parking zones. If topography or ultimate destinations for both groups make it necessary to depart staging areas from the same location, still designate separate motorized and nonmotorized routes and delineate them with on-the-ground snow poles and signing – and enforce it.
- If feasible, it is often advantageous to route nonmotorized users along or slightly into the tree line (if adjacent to open areas), while simultaneously routing snowmobile traffic either along the opposite side of openings or through the middle of open areas. If access routes must be located entirely within woods, consider cutting two trail routes with a degree of separation between them if possible.
- When designing or zoning staging areas for snowmobilers, it is important to recognize the need for snowmobile ‘warm-up’ areas close to parking areas. Oftentimes, older snowmobiles that have been hauled any distance on trailers tend to have their carburetors ‘load-up’ (flood), which requires that the machines be run a bit to clear their engines. While newer sleds with fuel injection have fewer problems with this, cold weather conditions can still create needs to warm up all snowmobiles. It is therefore important to have either open areas or extra trail space adjacent to parking areas so snowmobiles can be properly ‘warmed up’ prior to families and groups departing for their outings.

SIGNING FOR SNOWMOBILE MANAGEMENT

On-the-ground signing that clearly identifies expectations of snowmobilers is an important management tool which can be critically important when trails cross private property or are routed through or adjacent to sensitive areas such as winter wildlife ranges, designated nonmotorized areas, etc. Snowmobile regulatory and warning trail signs are typically 12" x 12" in size, although 18" x 18" or larger signs may be used for increased visibility in special circumstances. Guidelines for posting signs are available at <http://www.snowiasa.org/guidelines-resources/sign-guidelines.pdf> . There are many types of signs available from commercial sign companies that can be used to address a variety of issues; examples include:

Trail Route Markers

Snowmobile trail routes should be delineated by using either 5" x 7" or 6" x 6" Orange Trail Blazers. Sometimes a 6" x 6", 5" x 7", or 9" x 12" Blazer with Directional Arrow can also be used to both delineate trail routes and indicate changes in the direction of trail routes. These blazers can be mounted on wooden or metal posts. With landowners' permission, they may also be mounted on utility poles, existing fence posts, or trees (*Should use aluminum nails when fastening to trees.*) as long as they are within three- to eight-feet from the edge of trail routes. Be certain you have landowners' permission if you leave snowmobile trail blazers up year-round. If non-winter motorized uses (ATVs, jeeps, etc.) are not desired on snowmobile trail routes, blazers may need to be removed (or at least the ones closest to road crossings and access points) to prevent attracting unauthorized uses.



Plastic snow poles or wooden stakes can also be useful to help delineate snowmobile trail routes across open fields and meadows, particularly in deep snow areas where

permanent route markers may become buried in snow as the winter season progresses. This type of signing requires regular maintenance to ensure marker poles remain in place and are not removed or covered by snowfall, wind, or vandalism. It is also important that temporary snow poles and stakes be removed in a timely manner at the end of the season – so they don't fall over, become lost, and ultimately interfere with agricultural or other non-winter uses of properties by landowners.

Prohibitive and Permissive Signs

Prohibitive signs typically have 'red' colored text or a 'red circle with a slash' over a graphic of the prohibited use to indicate that the vehicle or use is not allowed in that area or on that trail segment. They can be important management tools when used strategically at access points. A 'green' colored text, background, or circle typically indicates the use is allowed. Sometimes it is useful to add 'plain language' signs which explain the reason uses are prohibited.



Stay on Trail

'Stay on Trail' signs can be very important on-the-ground management tools and are available in many variations. Oftentimes 'Stay on Trail' is sufficient to get the message across to riders. However if riders don't follow the short version of this message, don't be afraid to use more aggressive versions – including telling them to 'stay home' since it is far more important to keep access for trails open versus worrying about offending riders with harsh signing. It can also be helpful to identify who landowners are with special signing that incorporates the importance of staying on trails to help retain continued access.



Trespassing

Trespassing on private lands is the number one complaint against snowmobilers by private landowners. Whether intrusion occurs on properties which are directly adjacent to trails – or if it is on properties away from trails – it can result in snowmobiling access being lost. Controlling unauthorized snowmobiling on lands adjacent to trails is imperative since it quickly causes landowners to close trail routes through their properties. Controlling unauthorized snowmobiling on properties removed from trail routes can be just as important – whether they are owned by landowners who authorize snowmobile trails on other properties

they own, or whether the violated properties are owned by their friends or neighbors. Neighbors stick together and often expect trail managers to help address other snowmobiler-caused problems in exchange for granting permission for trail routes. This often requires aggressive signing and enforcement efforts. Examples of special signing, beyond the common ‘no trespassing’ signs, include:



Speed Limits

Landowners sometimes have concerns about high speed snowmobile operation across their properties – especially if trails are close to occupied buildings or high use areas. Consider using speed limit signs to help reduce speeds and control reckless snowmobile operation that can jeopardize sensitive access.



Stop or Yield Signs

‘Stop’ or ‘Yield’ signs should be used at all driveway and road crossings within landowners’ properties, based upon traffic levels or landowners’ options (Use a Yield sign, at a minimum, in low traffic areas; use a Stop sign at ‘medium to high traffic’ crossings, or if requested by landowners.) This helps ensure safety for snowmobilers and motorists, helps manage liability concerns, and reduces high speed snowmobile operation.



Multiple Use Trail Signs

When trails are shared with other recreational users, signing should be used to advise snowmobilers that other recreationists may also be present on trails. These warning and cautionary signs also serve to enhance positive working relationships amongst groups by encouraging slower and more responsible operation when in the presence of nonmotorized users. This can be particularly important when multiple use trails are located on public lands where land managers have to balance many competing multiple uses.



Special Landowner Signs

Landowners often request special signing to address what they feel are 'special circumstances' they want recreationists who access their properties to be aware of. Oftentimes extra efforts to post 'special request' informational signs for landowners can make the difference between receiving a 'yes' or 'no' from individual landowners. Examples of commercially available specialty signs include:





Farm Crossing

Livestock Crossing

Trail Closed

Whether during the off-season (non-winter) or during the snowmobiling season, trail routes sometimes need special signing to inform trail users that trail routes are not currently open to public use.



Winter Wildlife Range or Special Wildlife Management Areas

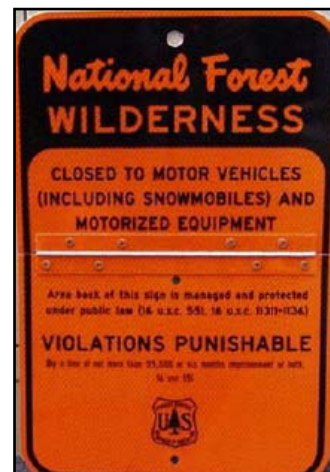
Trail routes on public lands must sometimes cross through or adjacent to wildlife winter ranges, deer yards, and other sensitive areas. It is critical that snowmobilers and other winter recreationists stay on designated routes and out of closure areas to protect wildlife and continued snowmobiling access through these areas. Signing should clearly designate open travel routes, as well as indicate closure boundaries, entry and exit points, and reasons why (interpretive signs) the closures/restrictions are important to wildlife and/or natural resources in these areas.





Wilderness Areas

Congressionally designated Wilderness Areas are closed to all mechanized and motorized access. This is a closure law which snowmobilers must respect since Wilderness trespass can harm future snowmobiling access to public lands that surround designated Wilderness areas. It can be very helpful for snowmobilers to be proactive by helping agencies post and maintain Wilderness boundary signing, particularly in known problem areas.



SOUND LAWS

Improperly modified or maintained snowmobiles can emit excessive sound levels, which can cause conflicts and ultimately result in trail and riding area closures. This 'excessive sound level' issue can have a great influence upon gaining or retaining snowmobiling access, irrespective of whether snowmobiles are operated on public lands, private lands near residences, or within communities.

A stationary sound test developed by the Society of Automotive Engineers (SAE), working in conjunction with the International Snowmobile Manufacturers Association (ISMA) and Wisconsin Department of Natural Resources, provides a new tool for sound level management. This stationary test, SAE J-2567 (order from SAE at http://www.sae.org/technical/standards/J2567_200401), allows enforcement officers to test snowmobiles in a stationary mode – as compared to older sound tests which require full-throttle snowmobile pass-bys and aren't safe for use as an on-trail enforcement tool. This new test procedure allows enforcement officers to differentiate between snowmobiles that may have been improperly modified and/or improperly maintained, and those that are compliant.

The new SAE J-2567 procedure has been adopted by several States as part of new sound laws aimed at removing noncompliant snowmobiles from riding areas to help protect future snowmobiling access. This is an important management tool for snowmobiling access that should be considered by all jurisdictions. Exhibit 12 provides the Wisconsin snowmobile sound law as an example of a sound law featuring J-2567.

Exhibit 12: State Snowmobile Sound Law (Wisconsin example)

Wisconsin Statute 350.095 Noise level requirements.

(1) NOISE LEVEL STANDARDS; TOTAL VEHICLE NOISE.

(a) Every snowmobile that is manufactured on or after July 2, 1975, and that is offered for sale or sold in this state as a new snowmobile shall be manufactured so as to limit total vehicle noise to not more than 78 decibels of (A) sound pressure, as measured by Society of Automotive Engineers standards.

(b) No snowmobile may be modified by any person in any manner that shall amplify or otherwise increase total vehicle noise above that emitted by the snowmobile as originally manufactured, regardless of date of manufacture.

(2) NOISE LEVEL STANDARDS; EXHAUST AND ENGINE NOISE.

(a) No snowmobile may be manufactured, sold, offered for sale, or operated unless it is equipped with a muffler in good working order.

(b) For snowmobiles manufactured after July 1, 1972, a muffler that is in good working order is one that blends the exhaust noise into the overall engine noise and is in constant operation to prevent exhaust and engine noise that exceeds the applicable noise level standards established under paragraphs (c) and (d).

(c) For every snowmobile manufactured after July 1, 1972, and before July 2, 1975, the noise level standard for exhaust and engine noise shall be 90 decibels as measured in accordance with the procedures established for the measurement of exhaust sound levels of stationary snowmobiles in the January 2004 Society of Automotive Engineers Standard J2567.

(d) 1. Except as provided in subdivision 2, for every snowmobile manufactured on or after July 2, 1975, the noise level standard for exhaust and engine noise shall be 88 decibels as measured in accordance with the procedures established for the measurement of exhaust sound levels of stationary snowmobiles in the January 2004 Society of Automotive Engineers Standard J2567.

2. After consulting with the snowmobile recreational council, the department may promulgate a rule that establishes a noise level standard for exhaust and engine noise that is other than 88 decibels.

LOCAL ORDINANCES

Access to or through communities often requires special local ordinances or regulations that specifically permit generalized or route-specific snowmobile access routes. These ordinances are extremely important and should never be taken for granted. Other local ordinances often define specific places where

snowmobiles are prohibited within communities. Such ordinances help balance reasonable access with helping ensure that snowmobiles don't unduly interfere with other needs within communities. Examples of typical local ordinances and regulations include:

Snowmobile Operation Prohibited

It is common for communities to prohibit all snowmobile operation in the following areas:

- On public sidewalks or boulevards.
- In the downtown or business districts.
- Private properties without the permission of landowners or occupants.
- School grounds.
- Park properties, play grounds, recreational areas and golf courses without permission.
- Cemeteries.
- On county roads or State highways within city limits, except when no other route to city limits or to trails exist (and this exception is specifically permitted by ordinance or law).
- On city or town streets, except for using the most direct route from your residence to the nearest departure point from the city or snowmobile trail (only if this exception is specifically permitted by ordinance or law).

If snowmobilers hope to retain permission for access routes to and through communities, it is important that these types of general snowmobile prohibitions within communities be respected and are strictly enforced.

Snowmobile Operation Permitted with Restrictions

Some communities and agencies allow limited snowmobile operation with specific restrictions that may include:

- Speed limits: may be set by communities as low as only 10 or 20 miles per hour for snowmobiles, or may require snowmobiles to 'obey posted speed limits' intended for other vehicles operating on dual-use streets and roads.
- Curfews: examples include language that is as complex as not allowing snowmobile operation 'during the hours of 10 PM to 7 AM the next day following Sunday through Thursday, and midnight and 7 AM of the day following Friday and Saturday;' other communities' regulations simply 'prohibit the operation of snowmobiles between midnight and 7 AM,' or 'prohibit snowmobiling between 1 AM and 8 AM.'
- Age restrictions: examples range from 'persons under the age of 14 are banned from operating snowmobiles in the city,' to 'persons aged 14-18 must have completed a snowmobile safety certification course,' to 'snowmobilers under the age of 18 must be accompanied by parent or guardian at all times.'
- Snowmobiles 'may be operated on the outside bank of road ditches along county roads, but cannot be operated on the road except to cross at a right angle.'
- Limited access: some communities identify only very specific streets and roads through town or to services where snowmobile operation may be permitted; others regulate that snowmobile operation inside the city is prohibited except on a direct line from the operator's residence to the city limits, using the shortest route possible.
- Some communities stipulate that 'when traveling on city streets, snowmobiles should travel in single file, as close as possible to the right-hand curb or edge of the road, and at speeds no greater than 10 miles per hour.'
- County commissioners sometimes pass a resolution 'to permit snowmobiles on the non-maintained portions of specific county roads.'
- Snowmobilers 'shall observe a speed limit of 10 mph when operating a snowmobile within 100 feet of a skier or other nonmotorized (trail or road) user.'

- Ordinances affecting other vehicles also apply to snowmobiles.
- Require that there ‘must be at least three inches of snow on the ground before snowmobiles can be operated.’

OTHER MANAGEMENT TOOLS

Various other management actions and policies may be useful tools in some areas for retaining or improving snowmobile access:

Fencing

Seasonal or year-round fences can be very effective trail management tools, particularly in problem areas with high levels of trespass or unauthorized off-trail snowmobile operation. Solid fences can also be used to mitigate ‘loss of privacy’ concerns and to reduce sound levels. Since fencing (short or long term) is an ‘improvement’ to property, prior landowner permission and coordination is required. If trail routes are secure for long term use, it may be beneficial to work with landowners to install permanent fencing to reduce annual labor efforts and to ensure fencing is always in place when it’s needed to control unauthorized uses. Sometimes fencing just one side of trails provides adequate traffic control; in other situations it may be necessary to fence both sides so a confined ‘travel lane’ is established.

Plastic snow fence is often the easiest and most economical short term fencing solution for controlling unwanted traffic. At the other end of the spectrum, a solid wood or commercial synthetic fence is typically the most expensive fencing option, but can be a good investment for addressing privacy or sound issues where the goal is long term access. Other effective fencing solutions include various types of wood rail, buck and pole, or wire fences. If wire fences are built – and snowmobiles must travel close to the fence – consider using smooth wire rather than barbed wire to provide a safer, less intimidating obstruction.

In some areas, planting trees or shrubs can be used to provide a more aesthetically pleasing ‘natural fence;’ however it may require several years of growth before a screen planting is effective.

Gates and Barriers

It can be beneficial to install gates or barriers in problem areas to help control unauthorized vehicle uses on trail routes during the off-season. Since this is an ‘improvement’ on the property, prior landowner permission and coordination is required. Since a wide range of gates can be effective (steel panel, steel or pipe beam, wood beam, wire, etc.), gate type is often driven by adjacent land uses (agricultural, industrial, residential, etc.) and the desire of landowners. A reflective ‘closed’ sign (chevrons, trail closed, no trespassing, no vehicles, etc.) should be mounted in the center of gates to give warning that routes are not open.

Cables are sometimes used as closure barriers or gates. While they can be an effective control method, two-sided reflective signing should clearly mark cable closures to help prevent injuries. Thin, single strand wires without reflective signing attached should not be used as trail closure gates. When trail routes are open, ensure that cables are fully stored outside travel ways to avoid being snagged by passing snowmobiles.

Barriers such as rocks or parking bollards can sometimes provide effective off-season trail closures. Keep in mind that such closures need to be removed prior to the grooming season, before they freeze in place.

Portable barricades (saw horse type, buck and pole, etc.) can be useful for restricting unauthorized vehicles from groomed snowmobile trails during the winter season. All barricades should have reflective signs on both sides, as well as signing that advises what type of closure is intended (closed to wheeled

vehicles, etc.). Position barricades where they will be most effective while keeping in mind that groomers may need to access their trail routes in that location. Portable barricades require frequent inspections and maintenance to ensure they remain in the correct locations and are providing the intended closures or traffic controls.

Some areas use crossed wood or plastic snow poles (an X) with bright-colored flags or ribbons attached to designate driveways not to be crossed or to direct riders around locations where they may cause conflicts.

Timing or Spatial Restrictions

Timing restrictions are management policies that divide recreational use of public lands by the ‘time’ of season. One example involves allowing snowmobiles in defined areas early and late in the season, while not allowing them in those same areas during mid-winter – which means snowmobilers must recreate in different riding areas during the heart of the snow season. Another example would be allowing snowmobiling on trail routes on alternating days or alternating weeks – with the routes being open to only nonmotorized recreation on the alternate days or weeks.

Spatial restrictions segregate recreational uses by zoning public lands into separate areas for motorized and nonmotorized recreation.

Timing and spatial restrictions provide reduced recreational opportunities and should be pursued (or agreed to) only as last-resort attempts to keep some degree of (reduced) snowmobiling access open.

Inventory Trail Routes

Having good information about exactly where snowmobile trail routes are located can sometimes be a good defensive tool. GPS trail routes to have clear understandings and documentation of exactly where they are located on the ground.

Photo documentation/inventory of trail routes can also be a good defensive tool. Photograph the same segments of trails on a regular basis (pre-season, during the season, after the season, and during the summer season) to document ‘impacts’ (or the lack of impacts) from snowmobiling over a period of years.

Avoid Sensitive Areas

It is critical to keep snowmobiles out of unharvested fields to avoid crop damage. It is also important to protect areas for wintering wildlife.

If possible, avoid sensitive areas all together; otherwise ‘restrict snowmobiles to trails’ with heavy signing and enforcement. It may also require placing a curfew on trails to prohibit late night traffic.

Motorized Use on Nonmotorized Trails and Pedestrian Walkways

In general, motorized use is prohibited on nonmotorized trails and pedestrian walkways that use Federal transportation funds, except for snowmobiles. (23 U.S.C. 217(h)). The snowmobile excerpt reads: “Use of Motorized Vehicles.--Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for-- when snow conditions and State or local regulations permit, snowmobiles;

The Federal Highway Administration has a *Framework for Considering Motorized Use on Nonmotorized Trails and Pedestrian Walkways under 23 U.S.C. §217* which is available at www.fhwa.dot.gov/environment/bikeped/framework.htm.

LAW ENFORCEMENT AND EDUCATION

It is very important that laws, regulations, and ordinances be enforced at local levels to help ensure future snowmobiling access. Certainly, the enforcement of trespass laws and restrictions requiring snowmobiles to stay on trails through private property or sensitive areas have a direct impact upon landowners' and agencies' willingness to provide future access. Also, don't underestimate the indirect importance that compliance with sound laws, speed limits, curfews, responsible operation on shared use roads or trails, minimum age restrictions, etc. can also have upon continued permission for access. If agencies and landowners have a positive image of snowmobilers behaving responsibly they will be more inclined to allow access; but if they experience snowmobilers behaving badly and ignoring laws, they will quickly become inclined to eliminate access to their properties.

Snowmobile trail managers, clubs, and associations need to make funding and partnerships for law enforcement and education a high priority because, beyond its importance for public safety, it also directly affects access. Law enforcement and user ethics education can be provided by local, State, or Federal agency partnerships. Education about important rules and regulations, as well as responsible use ethics, can also be provided through volunteer trail patrols.

LANDOWNER RECOGNITION PROGRAMS

It is extremely important to recognize landowners for their support, whether by sending them simple written 'thank you' notes or cards, hosting special recognition events, inviting them to participate in club or association events at no cost to them or their families, providing them with small gifts, or presenting them with 'awards' for their partnerships. Any small tokens of appreciation will help strengthen good working relationships and demonstrate that they are important to snowmobilers – and that their support by providing access is not unnoticed or taken for granted.

Special Events

Special events like landowner dinners and picnics can be important relationship building tools. Besides showing appreciation to landowners, some events can also provide landowners with opportunities to inform riders about changes to their properties or special stipulations to the access being granted. Events can also be used to inform everyone present (landowners and riders) about changes in laws, regulations, or policies that may be important to partnerships and recreational use of their properties. More than anything, events help put faces to names and provide a forum for two-way dialogue amongst snowmobilers and their landowner hosts. It is important to invite ALL your landowners (private, corporate, and public), regardless of whether they choose to participate or not.

Keep in mind how important it is to continually show landowners and other partners that snowmobilers are responsible recreationists. Therefore ensure that activities during special events are always done in good taste and that group conduct is respectful of mixed audiences to always promote positive images of snowmobiling and snowmobilers.

Timing of events can vary based upon local situations and goals, as well as the best time to attract local landowners. Some hold dinners in the spring, right after the season ends. Others hold picnics in the summer, which also provides opportunities to get clubs together in the off-season. In other areas fall events work best to provide forums to present changes and help generate interest (and volunteer help from club members for fall trail work) just prior to the winter season. There is no right or wrong way, rather what's important is that you do *something* to show appreciation to your landowners.

Examples of successful landowner appreciation events include:

- Free meals hosted specifically just for landowners and club members: steak fries, picnics, spaghetti suppers, pancake breakfasts, banquets, garbage can or milk can dinners, fish boils, pig roasts, etc.
- Fund raising events where landowners and their families are admitted free: spaghetti suppers, pancake breakfasts, pig roasts, dances, etc.
- Special guests at statewide or local rides or snowmobiling events.

Exhibit 13: Example Invite to Landowners' Appreciation Dinner

Friends:

Wow, what a good ole snowy winter. It has provided us with much needed moisture for our soil and hopefully will raise the water table; in addition we were allowed some great snowmobiling opportunities. Through your generosity our local economy received a boost with many people spending money for fuel and food as they rode throughout the area. In appreciation of your allowing the snowmobile trails to cross your property, we invite you to share a meal with us on Saturday evening, March 29th, at the Cambria Conservation Club. We will be serving food from 5:30 until 7:30 p.m. We hope that you will be able to find time to attend.

Please call ***-***-8888 by Monday, March 24th, and let me know if you will be able to join us. You are welcome to just leave a message on the answering machine, but be sure to include your name.

We look forward to a good night of food and fellowship. Spring is on its way!

With our sincere thanks,

The Moonlighters, Inc.

D. White, Treasurer

P.S. Cambria Firemen will be sponsoring their dance and silent auction starting at 8 p.m. that evening at the fire station downtown.

Small Gifts

Small gifts can be important tokens of appreciation to private landowners, particularly in States that do not allow cash incentive payments to landowners. Oftentimes gift giving is timed to coincide with the Christmas season. Others choose to distribute gifts after the snowmobiling season or at summer picnics.

Gifts should generally not be given to employees of public land managing agencies since this often could be a violation of ethics laws that govern public employees and officials. The exception to this guideline is that small appreciation awards, plaques, or certificates can be an appropriate way to recognize public employees and officials for their partnerships.

Examples of appreciation gifts given to landowners:

- Cheese, butter, ice cream.
- Hams, frozen turkeys.
- Fruit boxes or baskets.
- Christmas gift baskets.
- Christmas wreaths.
- Gift certificates.
- Calendars.
- Easter lilies.
- Appreciation certificates or plaques.

RESEARCH INFORMATION ON IMPACT TOPICS

Concerns about impacts from snowmobiles to the environment, wildlife, other recreationists, or their local community can sometimes be a barrier to landowners granting permission for access to their lands. Appendix 8 provides an extensive list (68 pages, over 100 studies) of summaries (abstracts) from a wide range of research studies related to snowmobiling and OHV impacts. This is an important tool that all trail providers and managers should become familiar with and use in their negotiations for access. While many studies are old and some are newer, all have relevance to present day concerns and discussions about snowmobiling impacts. And while all studies will not apply to every local situation, many of them can be extrapolated for use where local situations may be similar.

Many of the research studies which exist in respect to snowmobiling impacts date back to the 1970s and 1980s – when snowmobiling was fairly new, growing rapidly in popularity, and concerns by land managers and citizens were high. Study after study either disproved many of the concerns or showed that impacts were less than had been feared. Since funding for scientific research is generally sparse and increasingly hard to come by for researchers – and previous research showed snowmobiling impacts to be minimal – the focus of scientific research in subsequent years turned to other topics which were higher concerns for society.

Renewed interest in snowmobile impacts surfaced in the late 1990s with public debate over continued snowmobiling access to Yellowstone and Grand Teton National Parks. During the same time period ATV use was exploding, which created an interest in (and subsequently funding for) ATV/OHV impact studies. While the setting for snowmobiling in Yellowstone National Park is quite different from many/most other snowmobiling areas – and ATVs/OHVs have distinctly different operational characteristics than snowmobiles – these two situations have driven most recent scientific studies regarding motorized recreation impacts. And while different, there are often enough similarities to make it acceptable to use this data to make informed inferences. The standard is referred to as “best available information” – so make use of the best information you have to combat unsubstantiated claims from opponents to snowmobiling access.

While the list of existing snowmobile related studies and information available in Appendix 8 is long, there are always needs to have more and better information available to fill information gaps and facilitate more informed decision making. Look for opportunities to invest in research partnerships that will expand upon the body of available science. Keep in mind that good scientific research can be extremely costly – so choose partnerships wisely based upon cost effective methodologies that have a high likelihood to reach favorable conclusions for snowmobiling and snowmobiling access.

WORKING WITH VIPs

What is a VIP (very important person)? It is anyone who should know about your snowmobiling organization and your goals, and who may be in a position to help you achieve those goals. This can include agency staff and decision makers, politicians, government officials, landowners, businesses, and even adversaries. Go out of your way to invite VIPs to participate in your events and outings. VIPs, particularly politicians and government officials, need to be able to put faces to the activity, so your seeking their participation in your activities provides a forum for them to become educated about your issues. When they know you, it is harder for them to vote against you. And continued successful access for snowmobiling depends upon VIPs understanding your specific access needs.

VIP Snowmobile Rides

One of the best ways to educate and establish working relationships with agency staff, decision makers, landowners, or other important people (hereafter VIPs) is to take them for snowmobile rides. For many this may be their first exposure to snowmobiling, so always make sure outings are well planned and that

attention to detail is given to ensure favorable impressions are made. It can be helpful to keep the following in mind:

Tips for Organizing VIP Rides

- ❖ Establish a steering committee of 2 to 4 people to coordinate your VIP rides.
- ❖ Develop an agenda of issues you want to highlight, both by discussions at stops and experiences you want them to have during their ride.
- ❖ Develop your list of invitees based upon what you're trying to accomplish. Discuss the VIP Ride with your VIPs prior to sending out invite letters, preferably face-to-face.
- ❖ Choose locations to host events that accommodate: 1) the total number of people you plan to have involved, 2) appropriate meeting facilities, 3) sleeping rooms, if applicable, and 4) availability of snowmobiles and related equipment.
- ❖ Determine potential routes for rides, keeping in mind: 1) distances – keep it comfortable, 2) stopping points for discussions, 3) the desired experiences and goals of the ride, and 4) stops for refreshments or meals.
- ❖ Determine costs and who will be responsible.
- ❖ Provide invitees safety education materials they can review before they arrive for their ride.
- ❖ After VIP rides, follow up with thank you notes to attendees.

Points for the Day of the Ride

- Always include appropriate instruction on snowmobile operation and safety to, above all, ensure it is a safe experience, not a nightmare. Review safety information with each guest rider immediately before you leave on the ride. It may be wise to find an area where they can ride around and become comfortable on their snowmobiles before heading for the trail.
- Quality versus Quantity: above all, ensure VIPs experience a QUALITY snowmobile outing that is fun since your goal is to impress them so they will talk and act positively for snowmobiling.
- Ensure each VIP is properly equipped: warm clothing, clean face shield, properly tuned snowmobile.
- Appoint one person to be in charge of caring for each VIP; make them all feel important.
- Set rides commensurate with experience levels: keep it to gentle terrain, stop often to assess comfort levels, and no long distance marathons; this is not the time to show them how great of a rider you are or how tough the trails can be.
- Always keep VIPs at the front of the group since this will: provide a better view and experience for them; make it easier for them to communicate with the ride leader; be a slower pace than at the rear of the group (whiplash effect); and have fewer exhaust fumes and a smoother trail.
- Plan routes that allow plenty of time for frequent stops to talk about issues and snowmobiling in general; avoid routes that are tough, rough, or in sensitive areas. Be prepared to adjust (shorten) planned routes based upon poor weather conditions, severe cold, or the group (particularly guest riders) having a slower pace than what was planned or anticipated.
- If VIP rides involve off-trail riding: keep group sizes small (preferably 10 or smaller, absolutely no larger than 20); if necessary, break into several groups who travel different routes to a central rendezvous point for a meal or event; use bibs or arm bands to identify group members. **DO NOT LOSE THE VIP!!!**
- Always focus on positives and try to showcase successes; there will be time later once working relationships become better established to tackle issues and concerns.

LOCAL EDUCATION AND PUBLIC RELATIONS

A simple yet very effective education tool can be for local clubs or individuals to submit press releases or a 'Letter to the Editor' to local newspapers expressing the importance of respecting landowners, staying on designated trails where it is required, etc. It is the responsibility of trail sponsors and local clubs to inform riders of special requirements or sensitive local issues – otherwise how can you expect them to behave as is desired to retain or improve access. Exhibit 14 shows an example Letter to the Editor that stresses important local issues.

Exhibit 14: Example Letter to the Editor expressing the importance of caring for trails

Care of Snowmobile Trails Important for Future Use of Trails

Snowmobilers beware; your time to ride snowmobile trails in _____ County may be nothing but a memory.

Lack of participation in local snowmobile clubs, lack of help in setting up trails, and a complete disregard for the rules of the trails is going to lead to the demise of our local clubs. Riding the trails is a privilege, not a right, a privilege granted to us by our generous landowners. Riding though, does come with some responsibility, which some people doesn't think apply to them?

The _____ County Snowmobile Alliance and area snowmobile clubs work hard to maintain the snowmobile trails and to work with the landowners to gain permission to put up trails every year. We set up and mark the trails for a reason, so that we stay off the areas the landowners do not want us to go. If you are going to ride on the trails, please keep in mind you are riding on private property. Riding off the trail is trespassing, and you can get a ticket.

This year has been a gift; we've actually been able to ride our own trails! Let's not ruin a great snowmobile season with careless disregard for the rules of the trail. Our landowners deserve more respect than what is being shown for them by riding all over their property. Stay on the marked trails. The club would like to extend kudos to those of you who are following the rules, who care about our trails, our clubs, and our landowners. You know who you are. Remember: United We Trail, Divided We Fail.

Signed: Your Name (or your name and title if an officer of the local club or association – *but make sure you have the authority and blessing to speak on behalf of the organization if you add your title and affiliation*)

COMMUNITY GOODWILL

Access can sometimes be increased or strengthened through goodwill efforts made by snowmobilers in their local communities. This can range from reaching out to other recreation groups to form partnerships to volunteering to assist public agencies within communities. Examples of successful goodwill efforts include:

- ◇ Grooming cross-country ski trails to help build positive working relationships.
- ◇ Building partnerships to gain support for the construction of new multi-use trails – more groups working together will have more success than a single group working by themselves.
- ◇ Providing funding and/or volunteer labor to help build, improve, and maintain multi-use trails in communities.
- ◇ Participating in Adopt-a-Trail programs.
- ◇ Providing volunteer labor to sign, clear, or maintain snowmobile trails.
- ◇ Providing snowmobile trail grooming.
- ◇ Participating in community and public agency tree planting programs.
- ◇ Providing assistance for local search and rescue efforts.
- ◇ Providing local assistance to law enforcement and medical personnel during and after blizzards.
- ◇ Participating in highway or community cleanup efforts.

Snowmobilers are well known for their generous efforts in raising money for charities. While these charitable fundraising efforts may help promote a positive image of snowmobilers to some, it's a fallacy to believe these efforts have a substantive affect upon snowmobiling access. While it may positively impact access negotiations with some private landowners, it is a small factor. And corporate lands access is driven more and more by corporate business decisions or their need to show their own goodwill within

communities. In respect to public lands access, charitable giving by snowmobilers is a non-factor given agency requirements to operate under NEPA and other guiding laws.

FUNDING FOR ACCESS

Snowmobilers have as many assets as any recreational group to bring to the table to help fund access for snowmobiling. This is important because access is often acquired or enhanced through investments of money and volunteer hours spent developing and maintaining trails and riding areas. Access can also be expensive – especially when looking at long term easements or land acquisition – so partnerships are almost always essential. Various ways to help fund access include:

Traditional State Funding Sources

Traditional State funding sources include fees paid by snowmobilers which are deposited in State accounts for the management of snowmobile trail related programs. These monies may include snowmobile registration fees, snowmobile user fees, State gas tax funds, or other tax monies depending upon the State. While these funds have historically been used to fund mainly trail grooming, signing, education, and law enforcement, spending for access is often also eligible; it just hasn't been a priority in many areas.

If there are critical needs to fund access, whether for leases (if State law permits) or acquisition, work with State snowmobile fund managers and State advisory committees to move your access-related projects up the priority list as future budget allocations are considered. This often requires long term planning and sustained efforts measured in years versus months since it can require reeducating fund managers and advisory board members about new or changing priorities in the State or your local area.

Keep in mind that acquiring funds for access from these dedicated accounts often means taking funding away from traditional spending on trail grooming, safety education, law enforcement, etc. To avoid having to rob funds from trail maintenance and other on-going efforts to instead fund access, some State and local jurisdictions have either established a 'special tax or fee' dedicated toward acquiring new lands for recreational trails or have earmarked a portion of registration or user fees increases to fund special efforts such as access and land acquisition.

Federal Recreational Trails Program (RTP) Grants

The Federal Recreational Trails Program (RTP) is the single best opportunity for grants to fund recreational trails in the United States. It is an assistance program of the Department of Transportation's Federal Highway Administration (FHWA) (<http://www.fhwa.dot.gov/environment/rectrails/>) which makes funds available to States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. One of the Federal project categories eligible for funding by RTP is "acquisition of easements or property for trails or riding areas." There is a Federal stipulation that all acquisitions must be from willing sellers (condemnation is prohibited) and must also comply with the Uniform Act (discussed at the end of Chapter One). States can also opt to not fund acquisition projects with their RTP funds.

RTP funds come from the Federal Highway Trust Fund and represent a portion of the motor fuel excise tax collected from nonhighway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. These funds are distributed to the States by legislative formula: half of the funds are distributed equally among all States, and half are distributed in proportion to the estimated amount of nonhighway recreational fuel use in each State.

While the program is administered nationally by FHWA, it is administered at the State level by a State agency designated by the Governor. Most often, RTP is operated at the State level by the State parks, recreation, or DNR agency. It may also be administered by the State transportation department. Federal guidelines also require that a State Trails Advisory Committee or Council advise the responsible State agency regarding operation of the grant program. The State agencies and advisory groups who oversee these funds set the annual application procedures, which can be stricter than the Federal rules. As a result, there can be differences from State to State as to what types of projects are ultimately funded. This requires that State-specific questions about funding for access, as well as other types of projects, must be deciphered based upon the State-specific guidelines. For example, some States may give maintenance projects higher priority than acquisition projects, while other States may treat them the same.

Grant Funding for Snowmobile Clubs and Associations – Where’s the Money is available at http://www.snowmobilers.org/docs/ACSA_GRANT_FUNDING_MANUAL.pdf and provides additional information about applying for RTP and other grants. State contacts for RTP can be found at <http://www.fhwa.dot.gov/environment/rectrails/rtpstate.htm> . Obtain your State’s RTP grant application and guidelines to see what specific rules and timelines have been set for your State in respect to access projects. If access projects have been assigned a low priority in your State’s ranking system, you’ll have to work to try to convince the agency and advisory committee to raise its importance in their project selection criteria.

Partnerships

Since long term access can be expensive, partnerships can be important to making the difference between having success or not. Successful partnerships take time, a lot of effort, and considerable trust building to bear fruit. They also often require compromise. Partners to help make an access project successful can include:

- Other recreation groups.
- Land trusts.
- Foundations.
- Communities.
- Government agencies (local, State, and Federal).
- Non-profit organizations.
- Schools.
- Corporations.
- Landowners.
- Individual benefactors.

Special Appropriations

Special appropriations are funds granted by Congress or State legislatures for special projects. This funding may come through stand-alone legislative bills or through special earmarks where funding is ‘attached’ to other bills (which may have nothing to do with the special project). Special appropriations require lots of patience, broad coalitions of support for the project, multiple legislative sponsors, and sustained long term commitments to educate and lobby politicians to support funding the project.

Volunteer Work

Snowmobilers have a long heritage of providing volunteer labor and donated materials to support their snowmobile trail systems. Oftentimes volunteer work done providing trail maintenance, signing, warming huts, or grooming, as well as improving trailheads can be packaged with access projects. These efforts are important since they often qualify as ‘noncash’ or ‘in-kind’ match for grant programs.

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