



Minnesotans for Responsible Recreation

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Kathy Docter and Katherine Engler:

Minnesotans for Responsible Recreation, MRR, was founded to give an active voice to those concerned about the unwanted impacts of motorized recreation. We have an eight-year history of working to include the public in motorized recreation decisions involving public funds and public land. Since our 1999 publication of a nationally recognized report "*Off-Highway Vehicles in Minnesota*", MRR has recommended that public review of proposed ATV projects is of number one importance in locating ATV routes acceptable to the public (p 47). This recommendation was recently corroborated in a 2003 Office of the Legislative Auditor *Program Evaluation Report: State Funded Trails for Motorized Recreation* recommending that "Environmental Assessment Worksheets [i.e., public review] be prepared for many types of OHV [off-highway vehicle] projects" in order to "make environmental assessment more transparent to the public." (pp ix, 30.)

After repeated but unsuccessful attempts to gain public information and to participate in motorized recreation decisions in St. Louis County, Minnesotans for Responsible Recreation requests an investigation of St. Louis County regarding the following concerns:

- 1. Ongoing and systematic withholding of public information to prevent public participation and potential opposition to proposed controversial motorized recreation projects**
- 2. Violation of the spirit of open government by pursuing ongoing private conversations and relationships with motorized advocates while withholding information from the public**
- 3. Disbursement of state trail funds for motorized recreation projects without required landowner permits, and**
- 4. Conflicts of interest in the disbursement of state and county funds and use of public land.**

Evidence supporting each of the above concerns is provided and discussed below.

1 & 2. Over the past ~ 12 months, St. Louis County and County Commissioners have violated the spirit of open government with on-going private conversations with motorized recreation advocates regarding use of public funds and public land while systematically and repeatedly withholding information, despite several formal requests for information, from the public to prevent public participation and anticipated public opposition to controversial ATV/dirt-bike motorcycle projects sponsored by commissioners, the county, and motorized recreation advocates.

Factual Background, Chronological History and Documentary Evidence Supporting Complaint

September 15, 2003

Beginning what was at least to date a three month private conversation with ATV advocates, **Commissioner Peg Sweeney receives letter from John Knutson, President and Ronald H. Sluka, Trail Administrator; North Shore ATV Club “asking for resolution supporting use of the North Shore State Trail for ATV usage in St. Louis County.”** It appears county had been receiving supporting documents leading to request for board resolution since May and August, 2003.

Evidence attached:

- **Exhibit A:** 9/15/03 letter and attachments including grant request to Commissioner Peg Sweeney

December 1, 2003

Letter to St. Louis County Commissioners from Minnesota United Snowmobilers Association supporting resolution to convert North Shore State Trail to ATV use

Evidence attached

- **Exhibit B :**December 1, 2003 letter from Minnesota United Snowmobilers Association

December 19, 2003

Commissioner Joanne Fay receives e-mail sent to Land Commissioner Dave Epperly by Deputy County Administrator Gary Eckenberg and noting that Ronald Sluka, Trail Administrator, North Shore ATV Club “will be in attendance to speak to the resolution for the club”.

Evidence attached

- **Exhibit C:** 12/19/03 e-mail to Commissioner Joanne Fay

December 23, 2003

Off their meeting agenda and without any public notification or comment St. Louis County Board passes resolution recommending the state convert the North Shore State Trail to ATV use.

Evidence attached:

- **Exhibit D:** December 23, 2003 Agenda, St. Louis County Commissioners
- **Exhibit E:** Resolution of the Board of St. Louis County Commissioners, Resolution No. 785 offered by Commissioner Peg Sweeney and unanimously adopted

December 29, 2003

Jeff Brown, Executive Director, **MRR** goes to County Commissioners office in St. Louis County Courthouse to make inquiry and is **told by staff that commissioners have been receiving lots of calls from advocates of resolution for many months.**

January 5, 2004

- **Deputy County Administrator Gary Eckenberg, informs Jeff Brown that Resolution 785 and ATV issue NOT on following day's board meeting agenda and NO DISCUSSION EXPECTED**
- Minnesota State Representative Alice Hausman informs Jeff Brown latter in evening that DNR Trails and Waterways Division Director says ATV issue will be discussed at following day's board meeting

January 6, 2004

Annual organizational meeting of St. Louis County Board. Half of board room is filled with ATV advocates including Rep. Dave Dill

January 10, 2004

MRR downloads forwarded January 3, 2004 e-mail **ATVAM (All-terrain Vehicle Association of Minnesota) ALERT that ATV issue would be discussed at January 6 board meeting**

“ATVAM Members:

On Tuesday, Jan 6, 2004 there will be a St Louis County Board of Commissioners meeting at 9:00 am at the Duluth Courthouse. On the agenda will be discussion regarding the use of ATV's on the North Shore Trail.

Let's pack the board room with friendly ATVer's. Arrive early! MRR will certainly be in attendance. If you cannot make it to the meeting contact the commissioners at the link below.

St. Louis County Courthouse

100 North 5th Avenue West, Room 208

Duluth, MN 55802

<http://www.co.st-louis.mn.us/Commissioners.htm>

Dustin Young

President”

Evidence attached:

- **Exhibit F:** January 3, 2004 ATVAM ALERT e-mail

January 11, 2004

Sam Cook, national recognized and respected and conservative outdoor writer for Duluth News Tribune prints column “*State trail should remain closed to ATVs*”. In the article Cook quotes “*Andy Holak, forest recreation specialist for the St. Louis County Land Department, has similar concerns. ‘We have some concerns regarding the amount of wetland areas involved where the North Shore Trail goes through St. Louis Count,’ Holak said. ‘It may be a significant issue...There already is rutting on the trail from illegal ATV use in the summertime’.*”

Evidence attached:

Exhibit G: January 11, 2004 News Tribune article by Sam Cook

January 12, 2004

St. Louis County Forest Recreation Specialist, Andy Holak, “gagged” by St. Louis County Commissioners. No longer available to talk with MRR members or the press while county conversations with motorized recreation advocates encouraged and continue behind the scenes to date of this complaint.

January 16, 2004

Minnesotans for Responsible Recreation initiates requests for public information regarding communications “between citizens, advocacy groups and commissioners from the past six months regarding ATV use on the North Shore State Trail”

Evidence attached:

- **Exhibit H:** January 16, 2004 MRR request for information

January 15 & 22, 2004

Despite the public outcry following the board’s December 23, 2003 surreptitious decision, Commissioner Fay maintains a “FYI folder” for John Knutson, President, North Shore ATV Club and directly seeks from him “what he needs” without providing the same level of information and input to her other constituents.

Evidence attached

- **Exhibit I:** January 15 and 22, 2004 e-mails from Joanne Fay to Rani Douville

February 20, 2004

In face to face conversation between Interim County Administrator, Ann Busche and MRR’s Jeff Brown in Ms. Busche’s office Ms. Busche acknowledges that (in MRR’s words and record) “some of the documents we have requested are not on file in your office or the county land department. I believe you noted that motorized recreation grant-in-aid requests are initially reviewed by a staff person with the Iron Range Resources and Rehabilitation Agency and that requested documents involved in this review process, such as grant requests, permits, and requests for reimbursements, may be on file in the IRRR office in Eveleth. You suggested that we make a request for information to the IRRR to track down those documents not housed in your office.”

Evidence attached

- **Exhibit J:** February 25, 2003 letter to St. Louis County from MRR

February 25, 2004

MRR reiterates request for grant-in-aid documents “local government sponsors” are required by law to have on file;

“As you may recall, I expressed concern during our February 20 conversation that it should not be our responsibility to determine in what physical office the documents we have requested are stored. We are concerned that making a duplicate request to the IRRR will result in our paying for duplicate information without insuring that the documents we have requested are complete. As local government sponsor for snowmobile and ATV clubs receiving grant-in-aid funds it is the county’s responsibility to have requested documents on file. We expect that required documents related to each

grant-in-aid request and board resolution should be provided attached to these requests for verification that required documents are on file. It should not be our role to sort through various files in various locations to do this for the county.”

Evidence Attached:

- **Exhibit J:** February 25, 2003 Letter to St. Louis County from MRR

February 27, 2004

St. Louis County refuses to provide communications re December 23, 2003 decision St. Louis County refuses to provide landowner permits, water permits, requests for reimbursements on file in the IRRR office in Eveleth

Evidence attached:

- **Exhibit K:** February 27, 2004 letter from St. Louis County to MRR

May 12, 2004

Minnesotans for Responsible Recreation requests information from St. Louis County:

“To insure our informed participation in decisions regarding such trails please provide us with the following information:

- **A list of all ATV, dirt-bike motorcycle, four-wheel drive truck, and snowmobile trails currently being discussed, considered, proposed, funded, or developed,**
- **Names and contact information for individuals and clubs in communication with the county about such trails, and**
- **Maps of motorized trails being discussed, considered, proposed, funded, or developed.**

Looking to the future please also provide us:

- **Notification of all meetings between county staff and/or elected officials and any individuals and/or clubs regarding motorized trails,**
- **Notification of any related internal meetings between county staff and/or elected officials, and**
- **Notification of any proposed county board resolutions regarding sponsorship of motorized trails.”**

Evidence

- **Exhibit L:** May 12, 2004 letter to St. Louis County from MRR attached

June 4, 2004

St. Louis County Administrator, Dana Frey responds to MRR’s May 12 request “asking for information relative to any ATV, dirt-bike motorcycle, four-wheel drive truck, and snowmobile trails currently being discussed, considered, proposed, funded or developed...” stating “...to the best of my knowledge, there are not trails being discussed, considered or proposed at this time.”

Evidence attached;

- **Exhibit M:** June 4, 2004 letter to MRR from St. Louis County Administrator, Dana Frey

June 7, 2004

Contradicting above June 4, 2004 St. Louis County statements, MRR discovers through phone conversations initiated by MRR with Bob Manzoline, Executive Director, St. Louis and Lake Counties Regional Railroad Authority (Mesabi State Trail coordinator) and Tiffany Anderson, Executive Director, Eveleth Economic Development Authority that:

- **For past several months and in a more accelerated fashion, for the past two weeks or more, St. Louis County staff have been actively working with the Eveleth/Gilbert ATV/OHM [Off-Highway Motorcycle] Joint Powers Board, Minnesota Department of Natural Resources, Iron Range Redevelopment and Rehabilitation agency ATV grant-in-aid administrator and Power Sports OHV [off-highway vehicle] Club, to develop a “connecting ATV/off-highway motorcycle trail between the Gilbert DNR Off-Highway Vehicle Park and motels in the City of Eveleth (See project description in attached Exhibit S April 10, 2003 Joint Powers Board Resolution, Eveleth/Gilbert ATV/OHM Trail Board)**
- **In past two weeks St. Louis County Commissioner Mike Forsman has played an active role in overseeing county’s work with advocates of proposed trail**
- **Tiffany Anderson states she talked on phone with St. Louis County Forest Recreation Specialist Andy Holak in “past few days” and has had several phone conversations with him recently regarding drafting of St. Louis County Board Resolution to gain easement across county tax-forfeit land and funds to complement state grant-in-aid funds to be presented at June 22 county board meeting (see below)**
- **Len Hardy, Regional Representative of the All Terrain Vehicle Association of Minnesota recently flagged proposed ATV/dirt-bike motorcycle trail and coordinated with St. Louis County Forest Recreation Specialist, Andy Holak. County staff walked proposed trail with ATV/OHM Joint Powers Board members and DNR staff ~four weeks ago**
- **ATV/OHM Joint Powers Board is pursuing easement agreements from the four primary land-owners, RGGGS Steel, City of Eveleth, City of Gilbert, and St. Louis County**
- **ATV trail is to cross a 40-acre section of county tax-forfeit land (Attached Exhibit N, September 4, 2003 “Easement Description”). No formal easement agreement is in place. Attached Exhibit O, “Application for Access Across Tax-Forfeited Lands” completed by Eveleth-Gilbert ATV/OHM Board but unsigned by St. Louis County with board vote expected on easement resolution June 22**
- **Witnesses report DNR is already developing trail on both sides of county parcel without signed easement agreement with St. Louis County**
- **Proposed ATV/dirt-bike motorcycle trail will cross Mesabi State Bicycle Trail, the nation’s longest contiguous bicycle trail, in three places and will parallel the state trail within 20’ for 3.4 miles**
- **Regional Railroad Authority originally aligned and constructed Mesabi State Trail to avoid existing non-designated ATV route. Since construction of Mesabi State Trail landowners have shifted informal route to be adjacent to Mesabi State Trail**

- **Regional Railroad Authority has in the past opposed the close proximity of the proposed ATV/dirt-bike motorcycle trail. Regional Railroad Authority has had persistent problems with ATVers riding in Mesabi State Trail corridor. While permission to cross trail must be granted by Regional Railroad Authority Board, no official plan has been presented by ATV/dirt-bike motorcycle trail sponsors to the Regional Railroad Authority**
- **Unprecedented St. Louis County Board Resolution committing \$35,000 in county funds and easement to develop proposed ATV/dirt-bike motorcycle trail expected to be reviewed on June 15 (no board meeting that date, “Reserved for Workshops”, thus precluding public review) with vote in Ely at June 22 meeting**

References:

- **Bob Manzoline, Executive Director
St. Louis and Lake Counties Regional Railroad Authority
801 SW Hwy 169, Suite #4
Chisholm, Mn 55719
218-254-2575**
- **Tiffany Anderson, Executive Director
Eveleth Economic Development Authority
413 Pierce Street
P.O. Box 401
Eveleth, MN 55734
218-744-2501**

Given the above discovery, St. Louis County statements from June 4, 2004 that “there are not trails being discussed, considered or proposed at this time” is a blatant misrepresentation of the facts, a purposeful withholding of requested public information, and yet another attempt by St. Louis County to preclude public participation and potential public opposition to motorized recreation projects surreptitiously supported by the county. Despite the county’s claim to the contrary, MRR has also discovered that the St. Louis County has also recently engaged in other ATV trail discussions regarding proposed ATV trails elsewhere in the county.

2. St. Louis County Disburses State Trail Funds, Snowmobile Club Bulldozes Trail With Public Funds Without Required Written Landowner Permits

“Minnesota Trail Assistance Grant Agreements as described on Page 50, Minnesota Snowmobile Trails Assistance Program Instruction Manual, 2001 – 2002, require local government sponsors to obtain written permission from property owners before disbursing public trail funds to snowmobile and ATV clubs.

The 2003 Office of the Legislative Auditor’s *Program Evaluation Report: State Funded Trails for Motorized Recreation* found that snowmobile and ATV “grant-in-aid clubs have been left to operate largely on their own” (p. xi) and that “violations of landowner permission have been

the primary trail infraction” (p. 52). The current case involves disbursement of public trail funds without required landowner permits by St. Louis County for development of a controversial state snowmobile trail on private property. St. Louis County is the “local government sponsor” of the Hermantown Snowmobile Club which received the funds.

On September 10, 2003 Commissioner Dennis Fink, then Chair, St. Louis County Board of Commissioners provided signed approval without required landowner permits of a \$66,930 state trail grant to Glen Leibel, Trail Administrator, Hermantown Snowmobile Club for development of the controversial Missing Link State Snowmobile Trail

Since 1998 Minnesotans for Responsible Recreation has supported local property owners in Hermantown opposed to development of a permanent state snowmobile trail on their private land and in their neighborhoods. The proposed state snowmobile trail is connect the Munger State Trail to the “south” and North Shore State Trail to the “north” of Hermantown. A 1998 allocation of \$200,000 in public funds was insufficient to acquire necessary easements because of property owner opposition. In 2003 an additional \$300,000 was allocated by the legislature to initiate a public review process to find an acceptable route through Hermantown and purchase remaining easements to complete the proposed trail. Undermining this process, September 10, 2003, St. Louis County illegally approved a request for public trail funds **without required landowner permits** to construct a portion of the trail in the very neighborhood that said “No!” to the trail in 1998. While the current complaint documents publicly funded and constructed trail on one property for which written easement is absent, it is MRR’s understanding that the newly constructed snowmobile trail crosses several such properties.

Please note that the names of property owners who provided information for this complaint are not listed below. **There is a well-documented history related to the pursuit of easements across private land for this state snowmobile trail of abuse of private property owners including trespass, property damage, and threats of violence.** (Duluth News Tribune articles, March 25 and April 12, 2003) This has dampened property owner’s willingness to be identified in this complaint. Several property owners are willing to talk with the state auditor if their anonymity can be assured.

Recent Brief History of Missing Link State Snowmobile Trail

June, 2003: Minnesota legislature appropriates \$300,000 requested by Representative Mary Murphy and Senator Tom Bakk to construct the Hermantown Missing Link State Snowmobile Trail

September 10, 2003: Grant application for \$66,930 in state funds submitted by Glen Leibel, Hermantown city employee and local trail administrator **for the “Hermantown Missing Link Trail” approved by the county without required written landowner permission**

November 6, 2003: Local snowmobile clubs, City of Hermantown, DNR, and St. Louis County officials met to discuss a possible ~\$30,000 **planning contract with Arrowhead Regional Development Commission (ARDC)** creating the **appearance and expectation that public input was to be elicited** in future to select an acceptable alignment before construction of trail was to begin. ARDC staff person is quoted by meeting attendee as reporting during meeting: “Don’t worry about the opposition. It is just one person [a reference to MRR’s Jeff Brown] and we have already talked with him”.

~ December 2, 2003 and beyond: Property owner contacts MRR to say unwanted and unauthorized snowmobile trail is under construction on Hermantown Road near Ugstad Rd immediately adjacent to property owners who have repeatedly said “No” to the trail. Fill is

being dumped, trees are being cut, and a City of Hermantown front-end loader is cutting a trail along Midway Creek. City of Hermantown pick-up truck on site and city staff appear to be operating the heavy equipment. It appears that wetlands may be being filled.

No Oversight or Accountability on Hermantown Missing Link State Snowmobile Trail

Requests for information from at least one property owner who lives immediately adjacent to the above illegally funded trail were unsuccessful in obtaining any public information from St. Louis County or the City of Hermantown.

Upon making inquiries, one property owner was told by City of Hermantown that the city has no real involvement in project, despite attached photograph of city front-end loader on trail. Until MRR members expressed concern, St. Louis County, fiscal agent to the local snowmobile club, was not even aware that construction had begun

Evidence attached:

- **Exhibit P:** E-mail re November 6, 2003 planning meeting and ARDC planning proposal
- **Exhibit Q:** September 10, 2003 signed *DNR Snowmobile Assistance Program [Funding] Application*
- **Exhibit R:** December 4, 2003 photo of City of Hermantown front-end loader building unauthorized trail on private property, Hermantown and Ugstad Rds, Hermantown

3. Conflicts of Interest

The 2003 Office of the Legislative Auditor's *Program Evaluation Report: State Funded Trails for Motorized Recreation* recommends that the "DNR should prohibit the local government sponsor from assigning responsibility for overseeing trail grants to a local government official who is also an officer or bookkeeper of the club receiving the grant".

The situation to avoid and described above by the Office of the Legislative Auditor exists throughout the various governmental and non-governmental entities involved in the above projects. There is great potential for conflicts of interest among government staff and elected officials who are simultaneously officers and representatives of motorized recreation organizations advocating for state funding and local government sponsorship of motorized routes proposed by these organizations. These potential conflicts are exacerbated by the withholding of public information and attempting to remove the public funding and public land-use decisions from public view. MRR is concerned that these conflicts of interest have become deeply institutionalized over the decades of public funding of motorized recreation and have repeatedly compromised the county's ability to provide required oversight of the disbursement of public trail funds.

MRR is concerned that conflicts of interest exist among the following persons involved in the two motorized recreation projects discussed above:

Delyle Pankratz, Iron Range Resources and Rehabilitation (IRRR) agency staff who administers DNR snowmobile and ATV grant-in-aid program for St. Louis Count reviews all St. Louis County sponsored grant-in-aid requests and disburses state public trail funds. While Mr. Pankratz is charged with financial oversight of county sponsored grant-in-aid

snowmobile and ATV clubs, he is simultaneously the “Regional Representative for Minnesota United Snowmobile Association” and a member of the Power Sports Off-Highway Vehicle Club in the Gilbert/Virginia area. As the principal agent charged with oversight of public snowmobile and ATV trail funds in St. Louis County, Mr. Pankratz’s status as a representative and member of groups receiving these funds likely compromises his ability to act with objectivity in performing his duties as fiscal agent.

Mike Skenzich, City of Gilbert Mayor, IRRR employee, and chair of Eveleth/Gilbert ATV/Off-Highway Motorcycle Joint Powers Board which will receive DNR grant-in-aid funds to complete the above discussed ATV/dirt-bike motorcycle trail. It is unclear whether the fiscal agent for the proposed ATV/dirt-bike motorcycle trail is the City of Gilbert (as reported by the Eveleth Economic Development Authority) or the Eveleth/Gilbert ATV/Off-Highway Motorcycle Joint Powers Board as identified on the attached August 14, 2003 Minnesota Department of Natural Resources Recreational Motor Vehicle Grant-in-aid funding application.

In the first case Mr. Skenzich is simultaneously top executive of local government sponsor/fiscal agent and chief executive of joint powers board established to receive state public trail funds. In the second case documented in the current funding request, the identified fiscal agent and receiver of public trail funds are one and the same. This is the very situation in exaggerated form which the 2003 OLA audit recommends should be prohibited.

Evidence Attached:

- **Exhibit S:** April 10, 2003 Joint Powers Board Resolution, Eveleth/Gilbert ATV/OHM Trail Board
- **Exhibit T:** August 14, 2003 Minnesota Department of Natural Resources Recreational Motor Vehicle Grant-in-aid funding application (Note two applications attached: One for ATV funding, one for dirt-bike motorcycle funding)

Mike Forsman, St. Louis County Commissioner represents constituents in the City of Ely. Approximately two years ago the Ely Igloos Snowmobile Club built an illegal snowmobile trail on county property resulting in significant timber damage. County Commissioner Mike Forsman micro-managed the county’s response to result in insignificant consequences for the club and in fact, ordered the St. Louis County Public Works department, sidestepping the County Land Department typically involved with such situations, to complete the illegal snowmobile trail causing additional damage to public land. Commissioner Forsman, is again playing an inside role in the expediting of development of the proposed ATV/dirt-bike motorcycle trail on county land and the disbursement of public funds while being party to the withholding of requested public information.

Peg Sweeney, St. Louis County Commissioner is also one of three St. Louis County members of the St. Louis and Lake Counties Railroad Authority Board. As discussed above, on September 18, 2003 Commissioner Sweeney received a request from the North Shore ATV Club asking that she sponsor a resolution recommending the North Shore State Trail be converted to ATV use. Commissioner Sweeney chose to work privately with this motorized trail organization in sponsoring the requested resolution off the county board’s meeting agenda, while keeping this request hidden from public view. This casts doubt on Commissioner Sweeney’s ability to make a decision on behalf of the Mesabi State Trail that has the public’s or the Mesabi State Trail’s best interest in mind.

Joanne Fay, St. Louis County Commissioner. It is MRR's understanding that Commissioner Fay played a leading role in expediting quiet passage of the controversial Resolution No. 785 to convert the North Shore State Trail to ATV use. It is also MRR's understanding that Commissioner Fay sought but failed to obtain a County Land Department letter of support for the resolution. Typically, resolutions sponsored by the County Administration are accompanied by such a "board letter". Commissioner's office staff, when queried on December 29, 2003 in the aftermath of the board's December 23 decision, were dumbfounded to find that no such board letter existed. It is MRR's understanding that despite the lack of official Land Department support and board letter, Commissioner Fay chose to pursue a vote on the resolution off the agenda. Despite the public outcry following the board's December 23, 2003 surreptitious decision, Commissioner Fay maintains a "FYI folder" for John Knutson, President, North Shore ATV Club and directly seeks from him "what he needs" without providing the same level of information and input to her other constituents. (See attached Exhibit I)

Thank you for your attention to these pressing matters. Please call on me at 218-740-3175 for any other information I might provide.

Sincerely,

A handwritten signature in black ink that reads "Jeff Brown". The signature is written in a cursive, flowing style.

Jeff Brown,
Executive Director

Attachments: Exhibits A – T as noted above