



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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February 20, 2007

SUBJECT: Amery to Dresser State Trail Environmental Assessment

Dear Interested Participant:

We have now completed the Environmental Assessment process for the proposed Amery to Dresser trail. The Environmental Assessment (EA) has been certified to be in compliance with s 1.11 Wis. Stats. and s NR 150 Wis. Adm. Code. The purpose of this letter is to announce our decision to certify the EA.

The EA was released for public review with a news release on 02/17/2006. A public hearing on the EA was held at Unity High School in Balsam Lake, WI on 03/09/2006. The public review period ended on 03/24/2006. During the public review period on the EA, the Department received comments from more than 100 people. In addition to responding to public comments, the Department had additional soil sampling and analysis done in order to address concerns about soil contamination in the trail bed and associated public health concerns. We have prepared a comment response document that includes the Department's response to all public comments, as well as the soil analysis and any other necessary amendments to the Environmental Assessment where noted.

The certification of the EA formally completes the process. If you believe you have a right to challenge this decision made by the Department, you should know that Wisconsin statutes, administrative codes and case law establish time periods and requirements for reviewing Department decisions. To seek judicial review of the Department's decision, ss. 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. Such a petition shall be filed with the appropriate circuit court and shall be served on the Department. The petition shall name the Department of Natural Resources as the respondent.

The certified Environmental Assessment and the Department's response to public comments document are available on the Department's website at: www.wiparks.net/amd_ea. If you would like a CD with these documents, or printed copies of these documents please contact Mr. Terry Jordan at the above address and he will send them to you.

Thank you for your interest in this proposed project and the Environmental Assessment.

Sincerely,

Timothy Miller
Bureau Director, Parks and Recreation (Acting)

Enclosures

Cc: Laurie Ostendorf - AD/5
Amy Smith - AD/5
John Gozdziwski - NOR/Spooner
Michael Lutz - LC/5
William Clark - NOR/Spooner
James Pardee - OE/G3

DEPARTMENT OF NATURAL RESOURCES
SUMMARY OF PUBLIC COMMENTS & DEPARTMENT RESPONSES
on the
ENVIRONMENTAL ASSESSMENT
of the
PROPOSED AMERY to DRESSER STATE RECREATIONAL TRAIL

February 19, 2007

INTRODUCTION

The Environmental Assessment on the proposed Amery to Dresser State Recreational Trail was released for public review on February 17, 2006. Copies of the news release were provided to the local media for publication. Hard copies of the Environmental Assessment were provided to all individuals who requested a copy.

The formal public comment period for the Environmental Assessment ended on March 24, 2006. The Department received 113 comment responses from 111 people in addition to statements made by 28 people during the March 9, 2006 public hearing.

This summary document includes public comments received on the EA and at the public hearing, and the Department's response to those comments. This document also includes, where noted, any and all formal amendments to the Environmental Assessment that was published for public review. Copies of this summary will be provided to members of the public who commented on the EA and at the public hearing, as well as the Polk County Parks, Buildings and Solid Waste Management Department. It will also be available for review at the Department of Natural Resources Ladysmith Service Center, Interstate Park Headquarters and libraries in Amery and Osceola. A copy will also be provided to anyone who requests one from Tim Miller, DNR Service Center, N4103 HWY 27, Ladysmith, WI 54848. Phone (715)532-3911. Fax (715)532-4901.

RESPONSE TO COMMENTS

Air Quality

Comment

Eleven people provided comments related to air quality. Four people noted that recreational vehicles must meet standards and air quality impacts will continue to be reduced in the future as newer machines replace older ones. One notes that EPA data cited may not be current, as these improvements are ongoing.

Response

Comments are noted. Regulation of the emission standards for vehicles is outside the authority of the State. The data used in the EA was the best available at the time.

Comment

One comment suggests we acknowledge that encouraging recreational use of ATVs does not promote good air quality, and relates that to other DNR initiatives to promote healthy, clean air.

Response

Comment is noted.

Comment

One comment suggests statements that compare recreational vehicles to the lowest emitting automobiles accurately reflect information in the referenced EPA document, but in this case EPA was making the most extreme possible comparisons for emphasis in a non-technical pamphlet. Since there is no quantitative information that explains the impact of an individual automobile's emissions, it is not possible to make relevant use of the information cited. The statements do not add substantive value and consideration should be given to removing them. Much of the information in the EPA pamphlet is general information about exhaust and the text should be modified so as not to take EPA's text out of context. The sentence, "There are health concerns associated with these emissions" would be more fairly worded as "There are health concerns associated with emissions from combustion engines, including emissions from cars, industrial engines, recreational vehicles, and other motor vehicles."

Response

Although the suggested wording change would be more completely accurate, it does not substantively add to the EA. The point being made is that motorized recreational vehicles do have emissions and any emissions may be a cause for health concerns.

Comment

One comment discussed air monitoring near the Eagle River Snowmobile Derby racetrack. It states, regarding Northland Pines School District data, 1,1,1 trichloroethane is not a gasoline constituent and is not produced as a bi-product of gasoline combustion. It is unlikely that the presence of this compound had anything to do with the operation of snowmobiles. That should be made clear. Toluene was reported to be present at higher concentrations than at other Wisconsin monitoring locations. Measured values should be compared to applicable thresholds such as those in NR 445, to provide a basis for judging significance. As snowmobile use is intermittent, the 24-hour average ambient air standard of 4522 ug/cubic meter would be a very conservative benchmark.

Response

NR 445 hazardous air pollutant limitations apply to stationary sources of air pollution. The Eagle River monitoring was a screening to see what pollutants were present and if any concentrations, in particular carbon monoxide, were at a level of potential health concern. There were no significant levels so there was no reason to discuss health concerns or do additional monitoring.

Comment

This commenter also suggests there is no quantitative analysis in the document to support the wording of the statement, "Since concentrations of emissions are likely to be high enough to be a health issue only very close to the trail, it may be prudent to conduct air monitoring in some homes where odor issues suggest a potential for health concerns." If there are odor-related complaints, it would be appropriate to first consider air monitoring at the trail fence line. Measurement inside homes would be complicated by the potential presence of other sources inside the home(s). Suggested language: "Since concentrations of emission constituents related to motorized trail use would be highest near the trail, it may be appropriate to conduct air monitoring at the trail fence line near homes experiencing potentially related odor impacts. If such monitoring indicates the potential for health concerns based on accepted state standards, further investigation may be appropriate inside the homes."

Response

We agree. The suggested language is added to Section 25, page 22. There is no evidence or data to support that emissions are likely to be high enough to be a health issue.

Archeological

Comment

Three comments related to archeological review and protective measures. One commenter asked what plans exist for protecting Indian burial mounds and two suggest Indian burial sites will not be adequately protected with the proposed plan. One suggests other trail development options, such as limiting motorized use, would reduce or virtually eliminate the threat to this historic resource.

Response

Potential impacts are briefly described in Section 17 and mitigation measures in Section 25. Through a separate effort, the Department is developing methods for "mound management," to best protect these valuable historic resources. This new guidance would need to be followed. Specific design to best protect the Nye mound and lithic scatter sites will be addressed at the design stage of trail development. The EA hereby amended to include this information.

Comment

One comment suggests that adequate information about the proposed trail project has not been made available to affected Tribes.

Response

Department staff met with representatives of the St. Croix Band of Chippewa Indians on-site early in the project and have consulted with them on protective measures. A copy of the Draft EA was provided to St. Croix Tribal representatives prior to release to the public. It is normal practice to consult with local tribal representatives but not necessarily to include all tribes in the ceded territory.

Cost and Funding Sources

Comment

Sixteen comments address cost and funding sources. One asks what it would cost to blacktop the trail.

Response

Blacktop cost averages approximately \$50,000 per mile for an 8-10 foot trail. The EA is hereby amended to reflect this information.

Comment

One comment asks how costs differ to establish a bike trail, snowmobile trail, ATV trail or hiking trail.

Response

Initial construction costs are the same, depending on surface material chosen. Widening the trail surface for a dual tread substantially increases costs. The EA is hereby amended to reflect this information.

Comment

One suggests that ATV and snowmobile funds would go a long way to building and upkeep of this trail, and one that Clubs can be more active in funding.

Response

Local volunteer efforts and fundraising are a critical component of the system of state trails. The EA is hereby amended to reflect this information.

Comment

Seven comments deal with funding sources, with several pointing out that the proposed action would not be eligible for Transportation Enhancement funding. There is interest in knowing how available funding sources would compliment one another for a variety of potential projects. One suggests there are no grant funds available that could be used in any combination that would even come close to constructing this trail, leaving Polk County with most of the bill. Four comments note that the Transportation Enhancement Program offers funding for non-motorized projects and are not available if ATVs will be in close proximity to non-motorized uses.

Response

Section 8 in the EA states that funding is anticipated under a variety of programs with eligibility based on planned trail use. Comments that a dual-use motorized and non-motorized trail would not be eligible for Transportation Enhancement funding are correct. Section 8 is amended to state that, if a use alternative is selected that does not involve summer motorized use, it would be anticipated to be eligible for Transportation Enhancement funding.

Comment

Four comments ask about maintenance costs and who will cover these costs. One states that Polk County does not have the resources to manage the Cattail Trail now and would face an even greater deficit by attempting to maintain an additional trail. One suggests that consideration of maintenance costs is important considering the proposal's relative degree of complexity, which includes landscaping, fencing, raised plank decking, dust suppressants, run-off channels and catchment basins. This person also suggests that since off-trail ATV activity is virtually guaranteed, costs associated with restoration, signage, additional enforcement and fencing should be included. Two people suggest that maintenance costs should be estimated for all trail development options. One suggests that maintenance costs on the Cattail trail are a poor comparison, because trail damage is ignored.

Response

Annual maintenance costs for state-operated trails average \$2,000 per mile. Though specific figures are not available for County operated trails, we expect they average about \$1,500 per mile. Grants available for maintenance include \$250 per mile for snowmobile use, \$450 per mile for summer ATV use and \$100 per mile for winter ATV use. Volunteer labor makes up for some costs not covered by grants. It is not normal procedure to cost out all alternatives in an EA. Cost estimating for greater detail would be done subsequent to trail design. Damage to adjacent properties is not eligible for state maintenance funding grants. The EA is hereby amended to include this information.

Comment

Three people considered cost estimates to be incomplete as they do not include cost for engineering, or building a bridge/log road to widen the trail in several places.

Response

Cost estimating at the EA stage provides general ballpark figures. More specific cost estimating is done as part of the design process.

Comment

When or if this trail is approved as a multi-use trail, there should be no reason why snowmobiles, which have the funding, should have to wait for both sides of the trail to be completed before it can be opened to snowmobiles.

Response

Comment noted.

Cumulative Impact

Comment

Two comments ask about impact of eventual increased use. One notes the EA indicates the trail will connect to existing trail systems and has the potential to connect to many more. However, cumulative impact is not adequately addressed.

Response

Cumulative impacts outlined in Section 21 briefly describe the effects that we would expect from increased connectivity of trails. However, we expect that most trail use will be local and that cumulative impacts from development of a more extensive trail system will be limited. Additional planning for the overall rails to trails system is planned for the near future and will include analysis of overall system impacts. We believe Section 21 adequately outlines potential cumulative impacts of this trail development proposal.

Design and Engineering

Comment

Thirteen comments address trail design and engineering. Three ask whether trail widening and fill will be needed, particularly considering that there are steep slopes and adjacent wetlands.

Response

In select areas (not wetlands) fill will be required to provide adequate elevation for drainage from the trail, and to widen the elevated portion of the bed. In addition, gravel trail surfacing (4 inch lift) is proposed. Fill would not be allowed in wetlands or surface waters. The EA is hereby amended to include this information.

Comment

One comment asks if the trail will be ADA accessible and can it support a 4-wheeler with a handicapped/differently abled person?

Response

The trail will be surfaced with a gravel road-base fill that is as stable as a properly made county road surface (gravel road), and maintained to trail standards. State trail facilities are required to be handicap accessible. The EA is hereby amended to include this information.

Comment

One person notes the trail will pass by many homes. Noise and dust are a concern. Is there potential for screening? (Trees, fences)

Response

Trees can be planted and some fence is a possibility. From an engineering standpoint, they do work. Implementation will depend on final trail use, public input, aesthetics, funding and trail management decisions. The EA is hereby amended to include this information.

Comment

One person asks where the 13.48 miles to be developed is in relation to the 14 miles purchased.

Response

Purchase was 13.48 miles. Some reports quoted rounded this figure to 14 miles.

Comment

One person suggests rather than grade the trail out to 20 feet, why not look at separate paths within the total right of way, separated by natural vegetation, converging only where necessary?

Response

This would be difficult given the physical characteristics of much of this trail corridor. Many miles of the corridor are elevated high above the surrounding landscape with steep slopes on the side banks. In those stretches where this is not the case, design could include a greater separation of the two tracks.

Comment

Four comments address trail design standards. One relates discussion with WDOT staff, stating there would need to some separation between two facilities using Transportation Enhancement funding. The AASHTO Guide and Bike Facilities Handbook support this. The standard for a bike/ped path is 10' and we need a 2' shy distance from obstructions such as rocks, signs and posts, with 3' recommended. When we build a path next to a street we need a minimum 5' separation and recommend a much wider separation. When we separate pedestrians from bicyclists on trails, we like to have 4 or 5' minimum of green between the two. DOT would look to DNR for some guidance on this where an ATV path was running next to a bike/ped trail. There would be design issues for a parallel use trail. Ideally, the Transportation Enhancement segment would exclude ATV use altogether. There is also the issue of how to separate out costs if the parallel use trail is pursued. One comment notes the current EA envisions a 12-foot strip for motorized and 8-foot strip for non-motorized and suggests this does not provide adequate space for the bike portion.

Response

Design standards that WDOT staff refer to is the Wisconsin version of AASHTO, which outlines professional engineering standards for design of pedestrian and bicycle trails associated with roads and streets. While these design standards offer valued guidance, we have a somewhat different situation with limestone covered trails located away from roadways and streets. Wisconsin Trail Design Standards (DNR Design Standards Handbook 8605.1) are applied in construction of trails. The point about required separation of uses for Transportation Enhancement funding eligibility is correct. As noted above, if a dual-use design with summer motorized use is pursued, the project will not be eligible for this funding. Any future MOU and easement with Polk County would require that the trail be designed and constructed in accordance with the appropriate standard. The EA is hereby amended to include this information.

Comment

It was stated that DNR would not allow filling of wetlands to widen the trail. An at-grade log road or raised deck type trail would be built over sensitive sites such as wetlands, lake

shore and Native American burial grounds. The EA does not say whether this would be accepted by the DNR or Native Americans. This would cause a lot of disturbance and be very expensive. Something like this needs much more study probably nothing short of an EIS will do.

Response

This mitigation measure is proposed by DNR in consultation with representatives of the St. Croix Band of Chippewa Indians. Such structures are commonly built as they are necessary to protect archeological resources. Use of structures over one large expanse of wetland will be required for a dual-track trail but would not be required if a single track option is selected. There is no content difference between EAs and EISs under Chapter NR 150, Wis. Adm. Code.

Economic Impact

Comment

One comment states information on economic impacts of various uses is adequate.

Response

We agree.

Comment

Three comments suggest information on economic impact is not complete or adequate. One states, although references to economic impact of bicycling alluded to in the EA are impressive, many facts and letters made available during the initial planning process (2004-2005) should have been included. One states, statistics on moneys spent in communities by types of trail users are not complete and clearly not accurate. This information should have been left out.

One comment advises that economic impact numbers listed in the EA are fallacious and misleading. There is no way an average user on the current Cattail Trail spends anything like \$500 on an outing. Further, the report states that 86% of ATV trail users in Wisconsin are from Wisconsin, so they are not traveling from afar or need to stay in motels. Gas and transportation expenses are now the second largest expense in an ATV user's budget. These costs will continue to grow. Continued consumption of fossil fuels negatively impacts America's ability to meet transportation needs and provide for security.

Response

We acknowledge that other economic impacts may exist. However, those cited in Section 17 b. are from credible sources and provide appropriate information to inform at the level of detail normally provided in an EA.

Comment

Ten comments deal with positive economic impact of trails. Four comments state in general terms that the trail will be good for the local economy. Two describe economic

benefits of bicycle trails, one citing Elroy-Sparta as an example and one citing trail development in Vermont. Four cite economic benefits of motorized recreation, one noting that ATVs can help replace revenues lost due to lack of snow and one citing the importance of keeping economic activity in Polk County rather than have people trailer machines elsewhere.

Response

These points are noted. Many examples are available that demonstrate the economic value of trails.

Comment

Two responses describe the importance of Polaris Industries to the local economy. Polaris' second largest operation world-wide is in Polk County, employs more than 680 full and part time associates with payroll and benefits of \$28 million in 2006, including profit sharing. Polaris buys materials world-wide, bringing over 6,000 visitors per year to Polk County. The Company spends over \$700,000 annually doing business with more than 2 dozen companies in the area.

Response

These comments are noted. The recreational vehicle industry is important to Wisconsin and the region.

Comment

One commenter finds the information presented to be misleading, stating the EA and appendix has very good information on the way a greenway or bike trail adds value and is desirable to have in a neighborhood. The problem is this is not what is being proposed for Amery-Dresser. These examples should be of noisy trails allowing motorized travel 24/7, 365 days a year. City officials along the Wobegon Trail in Minnesota indicate snowmobile traffic would be acceptable but other motorized traffic would eliminate use by other user groups.

Response

This comment is noted. We believe the context of the materials provided in Appendix 14 is clear. There will be different economic benefits depending on which use alternative is ultimately selected for this trail.

Endangered Resources

Comment

One commenter suggests we need to develop a clear schedule and plan on how to keep from impacting endangered resources.

Response

Comment is noted. Establishing a regular monitoring program is a good idea and should involve local volunteers. This will be the responsibility of the property manager. Such a program could be used to evaluate the trail's condition and identify areas to be repaired

or restored. It could also be used to identify and properly document the presence of new or previously unknown rare plants and animals or unique natural communities along the trail.

Comment

Seven comments address spread of invasive exotic plants. The EA fails to mention that ATVs are notorious weed spreaders. ATVs and horses are weed spreaders. Prairie remnants and endangered species are at risk. Describe the role of ATVs and show how ATV use will prevent dispersion of invasive species. ATVs (and horses) are notorious weed seed spreaders. This happens in two ways: by carrying seeds of exotic species on machines and by changing habitats and soil conditions in ways that favor invasion. Weeds can be transferred by a bike, horse, tennis shoe or ATV. That would also apply to dogs, squirrels, chipmunks, rabbits, deer, birds, etc. so we don't believe this is a viable issue.

Response

We believe that the issue of weed seed spreading is adequately covered in the EA. Cleaning recreational equipment after use is an important practice to reduce spread of invasive species. It is also important for trail users to stay on the trail. The Department is developing educational programs to raise awareness of measures needed to prevent spread of invasive species and is working with counties on maintenance procedures to reduce their spread.

ATVs, pets, horses, lawn mowers, bicycles, people, birds, and other animals are all known to be vectors that introduce and spread non-native invasive weeds. But invasive weeds are already well-established there, so the challenge now is to address the problem that already exists. A way to do that is to develop an invasive weed management plan for the trail. A combination of chemical (herbicides), mechanical (hand-pulling, cutting), and biological (spot burning, biocontrol) methods can be used, as well as preventative techniques such as washing mowers, ATVs, and other vehicles before and after being taken on the trail. (Washing beforehand prevents the introduction of weeds from wherever the vehicle was prior to coming to the trail.) With the proper training and tools, citizen volunteers could assist in a lot of this work. The EA is hereby amended to include this information.

Comment

Discussion in the EA text of identification of Special Natural Resources is inadequate. There is no documentation that rare species searches were made at the correct time or that personnel were adequately trained. Appendix 9 cites Henderson 1995 as source list for prairie plant species. The correct citation should be the DNR publication DNR Tech. Bulletin 191 by Cochrane & Iltis 2000. I am not confident that rare plant species were properly searched for. There is no documentation that rare/sensitive native plant communities were identified and located along the entire corridor. Mention was made of some prairie species but no documentation was provided to show where or if rare/sens. Habitats occur and whether they would be impacted by trail development. No mention is made of managing the trail to enhance existing native plant communities. For example,

no mention is made of how herbicide use will impact desired native plant and animal species.

Response

The two visits were made at the most appropriate time based on the optimum viewing period for the majority of the plants and animals in question. Multiple, more intensive surveys would be spread out over the spring and summer, but such surveys are unwarranted because of the significant disturbance that has already occurred. This does not discount the potential benefits of restoring and/or enhancing native plant communities along the trail, but this can be done in conjunction with developing the recreational uses of the trail. The drafting of a comprehensive management plan for the trail could include native plant community management, invasive species management, and recreational use management goals. The invasive species management section would include an evaluation of all the weed control techniques and determine which are most appropriate for the site. The Natural Heritage Inventory Review and related field work were appropriately done by the Regional Ecologist. The EA is hereby amended to include this information.

Comment

The EA does not adequately describe endangered resources or the potential for endangered resources to exist within the proposed trail corridor. It provides no documentation of what native habitats occur along the route. The list of rare plants and/or animals is incomplete. There is no documentation that a search was conducted that would actually detect rare species at the appropriate time. There is no indication that other resource specialists, e.g. local Land and Water Resources Department, Fish and Wildlife Service, were consulted. The Polk County Land and Water Resources Department Water Quality Specialist is quoted as saying he has seen quite a few Blandings turtles around the Amery area. Local resident Dave Clausen is quoted as saying he helped a Blandings turtle cross county road F at the junction with Hwy C.

Response

See above response to comments on timing of the surveys that were done. The normal check of the project area (*i.e.*, the Amery-to-Dresser trail) against the Natural Heritage Inventory database for potential “hits” in the project area includes an evaluation of what could potentially occur there. This is done by comparing the habitat requirements of rare plants and animals that have been observed within two miles of the project area against the habitats that actually occur within the project area. Based on that evaluation, the report and documentation given in the EA complies with the standard practice. The Amery-to-Dresser trail is a former railroad grade and consequently exhibits the effects of such disturbance. It is possible and even likely that Blanding’s Turtles and other rare plants and animals occur along the trail, and their presence there speaks to their ability to adapt to the history of disturbance and the current uses of the trail. To document the presence of these plants and animals should be a goal of the property manager so that appropriate actions can be taken to protect them. In this area, as in other aspects of monitoring, participation of citizen volunteers is crucial so that the “day-to-day” use of the trail by rare wildlife can be properly documented. Natural Heritage Inventory data is

sensitive information that is exempt from the state's open records law, and only information generalized to township or county levels may be released to the public, as in this EA.

Comment

The survey for threatened and endangered species was done once by vehicle with short stops and once on a short hike. The specialist did not find any of the principal endangered species (except an eagle's nest) known to be in the area but did note the presence of 13 non-native invasive species. What should be included in this EA is that ATV use is a more effective spreader of seeds than all other trail uses. There is ample literature on this topic and it should be included in the final EA. For purposes of the EA, one has to assume that ATVs will leave the trail bed.

Response

It is possible that trail users will have the opportunity to leave the trail for open areas adjacent to it. However, appropriate trail management should include the placement of barriers in those areas most sensitive to off-trail traffic so that this may not occur. Many areas are already steep or heavily vegetated, which will prevent any off-trail use. All forms of recreational trail use impact the land (Jordan 2000). Studies have shown off-road vehicle use (Bury *et al.* 1977 and Busack and Bury 1974, as cited by Hamilton and Wilson 2001), horseback riding (Dale and Weaver 1974, as cited by Jordan 2000), and hiking (Dale and Weaver 1974, as cited by Jordan 2000) to disturb the soil, change plant community structure, and introduce invasive, non-native plants to areas where they would not normally occur. However, no single form of recreation has been shown to have a greater impact relative to introduction of invasive non-natives. The purpose of the field sampling was for threatened and endangered resources, not invasives. The field work was in addition to the Natural Heritage Inventory review. The EA is hereby amended to include this information.

References

Jordan, M. 2000. Ecological impacts of recreational use of trails: A literature review. Unpubl. report, The Nature Conservancy, 250 Lawrence Hill Road, Cold Spring Harbor, New York. Available online at: <http://conserveonline.org/docs/2000/11/Trails.doc>

Hamilton, D., and S. Wilson. 2001. Access management in British Columbia: A provincial overview. Unpublished report prepared for the Ministry of Environment, Lands and Parks, Habitat Protection Branch, Victoria, B.C. Available online at: [http://wlapwww.gov.bc.ca/wld/documents/AccessReport\(v6\).pdf](http://wlapwww.gov.bc.ca/wld/documents/AccessReport(v6).pdf)

Enforcement

Comment

Twenty seven comments were received regarding enforcement. Two people noted in general that enforcement is important. Eight comments note that enforcement is lacking on the currently closed rail corridor. Use adds to concerns raised in the EA. Continued traffic in spite of reports to authorities illustrates the inability or unwillingness to enforce

violations. This represents motorized users' regard for rules governing trail use. What cannot be enforced now will be even more poorly enforced, and at greater cost to the public, should motorized use be allowed. Educational programs, safety training and courtesy patrols can not reach all users. Therefore, enforcement becomes an increasing need. The EA does not adequately address the apparent inability to manage existing ATV trails in accordance with local and state law. The Cattail State trail is not being managed in a manner that complies with local and State laws. Extensive environmental damage and vandalism caused by ATVs on this trail has not been addressed in a satisfactory manner. Other ATV trails managed by Polk County have been extensively damaged by ATVs even to the point of being closed. Blatant violations are evident on every mile of these trails and include wrecked wetlands, illegal stream crossings, vandalism, damaged trees and vegetation, trespass, unofficial trails, and considerable off-trail damage.

Six comments note a general lack of enforcement. Policing a trail that is motorized can be a problem. Policing is seldom a problem for quiet sports. The County does not have adequate staff. Courtesy patrol does not seem to have worked during the period of no trespassing this winter. Indicate how law enforcement will handle an increased workload if ATVs are allowed, given that enforcement has not prevented damage on other trails and cannot respond to current complaints. Trail regulations are not enforced, local city and county offers and courtesy patrols have not been effective. Enforcement funding is minimal. Violators can't be identified because registration numbers on machines are too small and obscured by riders. There is no evidence that any degree of law enforcement presence will be adequate to protect personal or public property from ATV riders who leave the improved trail surface, speed or otherwise ride irresponsibly. The Polk County Sheriff's deputies and DNR wardens are much too busy to adequately patrol this trail. Other enforcement issues are much more important. These departments have not been able to keep ATVs off the trail when closed, so how can we be assured it will be patrolled if opened? DNR and Polk County don't have the manpower and will to stop trespassing and fences are not maintained. The EA states DNR, Polk County Sheriffs Department and local clubs will do patrolling. Only once have I heard of anyone getting stopped and that was in City of Amery.

Two comments suggest that enforcement has been stepped up in response to complaints and that the closed right of way is being used by non-motorized as well as motorized users.

Response

We acknowledge that levels of enforcement are not ideal. Enforcement resources are scarce everywhere. Since this trail has been closed, it would not be reasonable to expend a great deal of limited enforcement resources monitoring it. Once open, we would expect there to be a greater enforcement presence. The number of enforcement hours available for motorized recreation has been increased and problem areas are being targeted.

Comment

Two comments address costs of enforcement. Enforcement will become an increasing need but not an increasing priority, with appropriate dollars and resources available. A mixed use trail will require more enforcement. To be complete, the EA must be specific as to what is needed for all users to be accommodated in a safe manner. The EA should include a projection of costs, personnel requirements, and the impact of these costs and the resources needed for any proposed use. A minimal fee should be charged for trail use to cover costs. The EA is hereby amended to include this information.

Response

As noted above, enforcement resources for motorized recreation have been increased. The EA provides sufficient discussion of enforcement costs. Recreational vehicle fees as well as gas tax revenues are in place to cover enforcement costs, along with other costs of motorized recreation.

Comment

Three comments address off-trail use or trespass. There is no evidence that enforcement will be adequate to protect personal property or natural resources from ATV riders who leave the trail surface. It is likely enforcement when users leave the trail and go into private property will not be adequate with existing resources. Someone could easily park their ATV or snowmobile on the trail, break into my house, and run away without being seen.

Response

As noted above, we expect there will be a greater enforcement presence once the trail is open to the public. However, resource constraints will always be an issue.

Comment

Two comments emphasize available courtesy patrols. You will have cooperation of WATVA, local ATV chapter clubs, safety instructors and 25+ certified Ride Smart (Trade Mark) Trail Patrol Ambassadors of Polk County. ATV Trail Ambassadors who monitor their sport take special training. When riding in pairs, before leaving home, they contact the Sheriff's Department and local game warden to advise them of routes and trails they will be following. A cell phone is provided to handle complaints.

Response

Courtesy patrols are a valued asset supplementing available enforcement capability.

Comment

Three comments note that law breakers should be dealt with. Don't penalize others for their actions. Policing and enforcing should not be a factor, a trail should not be singled out. It is as unreasonable to assume total lawlessness as it is to assume that no-one breaks the established laws.

Response

These comments are noted.

Health Impacts

Comment

Twenty seven comments deal with potential health impacts. Twelve of these comments address exposure to dust. These comments, in summary, are as follows.

Appendix 17 states that motorized users are the most exposed parties to airborne trail dust. Except for riders in the rear of a group, the motorized user may be exposed to less dust than non-motorized users who they meet or pass. However, adjacent and nearby residents are the group most exposed. The operator is exposed to short term, acute trail dust, while nearby and adjacent residents are exposed to the cumulative, long term effects of each vehicle that goes by. Based on the Tuscobia Trail manager's use estimate, there would be one motorized visit every six minutes, 12 hours /day, 365 days a year. That level of exposure constitutes a chronic exposure to the residents. The dust and soil contaminants are a significant, cumulative effect on the human environment. The EA considered the impact on trail users and discounted the impacts on residents.

This rail corridor has been in use since 1886, so there are 120 years of materials such as creosote, coal tars, arsenic and herbicides, petroleum-derived residues, metals and polynuclear aromatic hydrocarbons. Soil contaminants are also generated by railroad and non-railroad activities located adjacent to the corridor. (Written comments provide details of soil contaminants found in railway operations.) These materials, known to have toxicological effects, are adsorbed onto soil particles that are exposed to people in the neighborhood. It's important to require that analysis of soil contaminants be conducted more extensively than the three sites reported in the environmental analysis. Until the EA contains a plan for and results of such analysis the document is incomplete and does not address the impact of soil contaminant laden respirable particulate matter on the human health environment.

For residents adjacent to the trail, a substantial portion of the dust will settle on their property and goods, including children's play areas and toys. This route of exposure to a more susceptible population should be addressed by the environmental analysis, but is not.

The public health consultation says that exposure of dust to the neighbors of the ATV trail is an indeterminate health hazard. The commenter reads this statement as presented in the EA to be a somewhat patronizing and dismissive support for the notion that there is no hazard. According to the U.S. Department of Human Services, Agency for Toxic Substances and Disease Registry the term "indeterminate health hazard" is used "when a professional judgment about the level of health hazard cannot be made because information critical to such a decision is lacking." This means that neighbor exposure to dust requires gathering additional information and making additional measurements.

There is evidence that dust from old railroad beds is loaded with pollutants, unlike everyday dirt. No-one would willingly subject themselves or their family to clouds of polluted dust.

If the trail is truly contaminated, it should be cleaned up now.

Most distressing is the information provided – and gaps in the information provided – regarding health impacts associated with motorized use of the trail. Robert Thiboldeaux’s report indicates dust created by ATVs may subject users to particle exposure in excess of the National Ambient Air Quality Standard. Exposure to neighbors and the health hazard for soil contaminants is an “indeterminate health hazard.” His report deals with particles with a diameter of 10 micrometers, but does not address smaller particles in the 1-56 micrometer range that are respirable and can carry contaminants into the blood stream. The report does not address the direct impact on objects, such as children’s play equipment and toys near the trail that would be receptors of contaminated dust. The EA does not define the term “indeterminate.” The EA recommends additional soil sampling. It would appear that the health risks are generated primarily by the proposed presence of ATVs on the trail. If motorized use continues to be a “proposed action” on the trail, I am very concerned for the health and well being of my three young children, my wife and other residents, like us, who live immediately adjacent to the trail. A motorized alternative will be a costly endeavor given analysis that must be done to define health risks. Maintenance of the trail will be a continuing and costly concern. Political will to take the required steps is questionable given that the county proceeded with development without engineering analysis required by the now void master plan. If ATV use continues to be a part of the “proposed action” the EA must be much more specific about the extent and nature of the testing to be done. I ask that you provide the nature of compounds to be tested, proposed locations for tests, the particle analysis for dust, an accurate projection of the uses creating trail dust and exposing disturbed soil, cost projections for study, remediation, dust suppression and monitoring, and the entity that will be responsible for the initial analysis and continuing maintenance and monitoring. Should that entity be the County, are funds available to proceed and complete necessary analysis before any development occurs? Because the Amery-Dresser trail is but a small link in a 250-mile corridor, testing cannot be limited to the Amery/Dresser portion, but must extend through a much broader EIS to cover old rail corridors being used and to be used along the entire corridor. Commenter provided information on a health study on a recreational trail in Beulah, Michigan and Massachusetts, and fact sheets on lead arsenate pesticides, creosote, arsenic, and PAHs.

We have witnessed first hand mile-high dust kicked up during a drive through Danbury. Imagine the dust kicked up from a contaminated railroad bed. Further imagine sitting on your porch and breathing this. People living near the trail will have serious health risks.

Provide the facts on the serious health concerns citizens on or near the trail will face with ATV use.

ATVs kick up a lot of dust. Railroad beds are polluted with heavy metals, arsenic, etc. Dust settles on nearby trees, yards, decks, sandboxes, etc. Studies by the Commonwealth of Massachusetts, the Rail Trail Conservancy and others warn that this is a serious health risk.

My wife and I have a large organic vegetable garden, berry patches, flower gardens and fruit trees. We are very concerned about the contaminated soil that will be disturbed as a result of ATV use. We have experienced chemical eradication of weeds by the railroad, most likely involving chemicals like DDT and 2-4D. Has this issue been addressed? My wife has chemical sensitivities and severe reactions to pesticides and herbicides. What are we to do if railbed dust contaminates our produce? Who is going to be responsible? Will it be safe for our grandchildren to play in our yard, pick berries and eat apples from our trees?

The negative impacts of the “proposed action” are inadequately addressed. According to the EA, noise could be reduced by imposing speed limits. However, regular enforcement of speed limits is impossible and efforts thus far have been ineffective. The EA states that exposure by dust to neighbors of the ATV trail is an indeterminate health hazard. Further testing is demanded because the available data indicates that a health risk is possible and/or probable. Reports by Commonwealth of Massachusetts and the Rails to Trails Conservancy indicate that railroad beds often harbor toxins. Exhaust fumes from ATVs and snowmobiles hang in the air long after vehicles have passed. The fumes are known environmental and public health hazards posing risks to those residing near the trail and slower-moving trail users. Consideration of moving a home is a reactive approach that would require legal action by the property owner and is not as simplistic as the author of the EA would like readers to believe.

The public health consultation states that the exposure estimate is based on 2001 aerial photographs of the project corridor. Development since 2001 must be considered and the affected population factored into the analysis. I believe the affected human environment was not correctly and completely considered.

Response

The Department agrees that additional information is needed to determine the degree of public health risks from the trail. In cooperation with the Wisconsin Department of Health and Family Services (DHFS), the Department contracted with Ayres and Associates to sample soil at a depth of 6 inches and 36 inches, one site per mile, along the proposed trail corridor. Doctor Robert Thiboldeaux, Toxicologist with the Health Hazard Evaluation Unit of DHFS evaluated the sampling information. His report is attached.

Small amounts of arsenic and lead were found in most soil samples along the trail corridor. Concentrations of arsenic found are typical background concentrations for soils in Wisconsin. In one sample, at the eastern terminus of the trail in Amery, lead was detected at levels approaching a public health concern. This sample, taken previously by DHFS in cooperation with the Polk County Health Department, was from an area just outside the trail corridor. This area is unlikely to be eroded by trail use and will be

assessed separately by DNR. Trace amounts of several herbicides were found in some samples, but concentrations in all cases were far below health-based comparison values for these compounds in soils.

Dr. Thiboldeaux notes that although studies have measured the amount of dust created directly behind vehicles on unpaved roads, more work is needed to predict dust exposure to trail neighbors. The concentration of dust diminishes with distance from the trail, and in all cases is expected to be less than the continuous exposure predicted for trail users. The effect of dust to trail neighbors, in the absence of chemical contaminants of health significance, is expected to be primarily nuisance deposition on private property. Airborne dust would be an additional stress to neighbors with preexisting lung conditions, and public comments indicate that even nuisance dust is unacceptable. Therefore the unpaved trail surface should be constructed and maintained with regard to dust factors.

Dr. Thiboldeaux concludes there is no apparent health hazard, under expected trail use, from low concentrations of lead, arsenic and pesticides found in soils along the trail corridor. He recommends:

- The trail should be regularly maintained using best practices to minimize erosion and the creation of dust that would affect both users and neighbors of the trail.
- ATV users should practice trail etiquette that minimizes creation of dust, especially when passing residences, businesses, public parks and non-motorized trail users.

Section 17 b and Section 25 of the Environmental Assessment are amended to include this information. The DHFS analysis is added to Appendix 17. Section 22 of the Environmental Assessment is amended to reflect that additional soil sampling to determine risk of human exposure has been undertaken. Section 22a is amended to indicate that additional work is needed to predict dust exposure to trail neighbors. Section 26 of the EA is amended to include listing the additional activity to complete soil samples and the health assessment.

Comment

One comment addressed potential impact of respiration of fine particulates. Public health analysis discusses particles thrown up in dust in the 10 micron range. These relatively large particles impact the upper respiratory tract but experience little to no pulmonary distribution. Dust generated by vehicles also includes a substantial fraction of particles in the 1-5 micron range. These particles are considered respirable, meaning that they are small enough to reach the second generation bronchi and alveolar levels of the lungs, where gas exchange takes place directly with blood circulation. This means that the particles themselves, as well as the soil contaminants they carry are available for direct absorption into the bloodstream. This is nearly as effective as direct intravenous injection. Chronic exposure of adjacent and nearby residents to soil contaminants adsorbed onto respirable dust particles – some known to be carcinogens - is a significant

and cumulative effect on the human environment and is a reason to require an EIS of the use of motorized vehicles. To be clear, this comment refers not to common roadway or farm dust, but respirable particles and contaminants from railroad operations that are adsorbed onto them. The EA must require a plan to evaluate and the results of evaluating the public health impact of particles in the 0.1-15 um range as well as analysis of the effect of soil contaminants adsorbed onto them. A sampling plan for including the several soils and soil contaminants found along the corridor must also be included. An example of exposure to railbed soil contaminants to residents adjacent to the trail is the Crystal Lake Bike Trail in Benzie County, Michigan. Presence of Arsenic levels were found to be above the Michigan Direct Contact Criterion. Two PAHs were also detected. Additional documentation of contamination of railbed soils is in “Best Management Practices for Controlling Exposure to Soil during the Development of Rail trails”, Commonwealth of Massachusetts, Department of Environmental Protection. The ATSDR measured arsenic and manganese concentrations higher than health guidelines in air samples taken over dusty roadways. (Public health assessment, Lewis and Clark County, Montana.)

Response

The Department of Health and Family Services report, attached and described above, addresses this comment. Appendix I of this report provides specifics of the analysis. The EA is amended as noted above to include this information.

Comment

Five comments suggest risks may be over-stated in the draft EA. Trail impact is minimal compared to the railroad burying creosote-soaked ties. Regarding comments about dirt. You need to get dirty if you're going to survive. Consider farmers. The health issue of dust being kicked up by ATVs is ludicrous because dust on the old tracks is blown around by wind anyway. The safety issues of motorized users throwing up poisonous dust is absurd. I watched the crews pull up the tracks. No-one wore a mask while handling the dusty railroad ties. The railroad people would be experts on risks, would protect their employees and avoid future lawsuits.

Response

The Department of Health and Family Services report, attached and described above, addresses these comments. The EA is amended as noted above to include this information.

Comment

Two comments emphasize health benefits of trails. Given health benefits, every community should have a non-motorized trail for enjoyment of unspoiled, quiet nature and exercise. People should be encouraged to walk and bike. Riding a machine does not qualify as exercise. Outdoor activities along with dust and toxic fumes is not inviting and may be detrimental.

More motorized recreation will lead to more obesity. Enjoying a natural trail walking, jogging, skiing, pushing a stroller is more healthful. Exercise is less harmful to the

environment and has many health benefits. Many people suffer from heart attacks, often partly due to lack of exercise. Toxic residues in the air and water cause cancers, reproductive disorders and other serious health issues affecting people, animals, birds, fish and plants. These factors should not be downplayed in trail decision considerations.

Response

These comments are noted. The EA includes information of health benefits of trails.

Comment

Two comments are from people living in the area who are concerned that they may have already been exposed.

I have lived my 80 years along the proposed trail. I have viewed numerous times that ties have been removed and replaced with black, strong preservatives. What happened to the preservatives? Every year spraying was conducted with big wide booms attached to the sides of big tank cars. Joints in the rails were regularly oiled. What happened to all those contaminants? The assessment recommends 4 foot deep soil analysis. This should be mandatory before traffic of any kind is allowed on the trail, and especially if ATVs are allowed to disturb the soil when the ground is not frozen.

I am greatly concerned with the dust issue. Having lived in this area, I have experienced high use of weed eradication chemicals by the railroad. I am concerned with the health impact of constant disturbance with ATV use. I do not want further exposure and don't want my grandchildren exposed. I have a large organic vegetable garden, berry patches and fruit trees that would be contaminated.

Response

The Department of Health and Family Services report, attached and described above, addresses these comments. The EA is amended as noted above to include this information.

Comment

One comment states, the EA is very misleading in its comments on the health benefits for users. It cites health benefits, but does not record the number of deaths that have occurred as a direct result of riding on motorized recreational vehicles. It doesn't adequately cite detrimental health effects that toxic fumes and potentially toxic dust can have on hikers/bikers lungs and health.

Response

Tragic injuries and deaths do occur from both motorized and non-motorized recreational activities. However, it is not possible to predict the occurrence on a particular trail segment. The EA does address concerns with safety and enforcement needs. The suggestion that injuries and deaths should be mentioned as potential health impacts is valid. Section 17 b of the EA is amended to include injuries and deaths associated with motorized and non-motorized recreational activities as a potential health impact.

Legal Basis

Comment

Two comments address the legal basis for authorizing trail use.

Statute permitting state trails states that they are for “equestrians, bicyclists, riders of personal assisted mobility devices, cross country skiers and hikers.” It does not include any motorized uses. DNR says they have adopted a sensible approach to the administration of that statute. Commenter provided exhibits from 3 people in DNR who administer trails, Brigit Brown, Tim Miller and Peter Biermeier, expressing the conclusion that the dominant motorized use becomes the primary and sometimes only use of a trail. The SCORP plan makes similar observations, as do studies and plans for the Madison-Freeport Trail and Gandy Dancer Trail. Given these statements, to trump non-motorized uses is not reasonable. I believe that the EA should be revised to say that the State trail statute does not allow motorized uses. The EA glosses over this issue by saying this trail would have a dual tread for motorized and non-motorized uses. It cites the Wild Goose Trail in Dodge and Fond du Lac Counties. The DNR web sites states the Wild Goose Trail in Dodge County is only open to ATVs in winter months and only when frozen. In Fond du Lac County it is not open to ATVs at all. The EA conclusion is contrary to the state statute and an unreasonable reading and interpretation of that law. The conclusion in the EA that motorized uses are permissible under the State Trails statute should be reversed.

Wisconsin courts have stated that all of the competing public rights under the public trust doctrine must be balanced with each other.

Response

The plain language of Wis. Adm. Code s 150.22(2)(f) indicates that it is applicable only where there are “multiple state or federal regulatory actions” implicated in a proposed action. The proposed action that is the subject of this EA does not so qualify as it includes no regulatory actions. The comment unduly expands the paragraph to not only include an analysis of the proposed action’s satisfaction of regulatory requirements, but its satisfaction of *all legal requirements*. While nuanced discussions of a proposed action’s compatibility with every applicable Constitution, statute, and regulation may be appropriate in other venues, it falls outside the scope of an EA as contemplated under WEPA. The purpose of the EA is to disclose information, including the legal basis for the action. The EA need not, should not, and does not attempt to justify the Department's legal reasoning. *See generally* Wis. Adm. Code s 150.22. In any case the Department is of the view that it has adequately addressed the issue of the legal basis for authorizing motorized uses on state trails. This is especially the case where the Department has traditionally interpreted state trails as potentially being open to a variety of uses not specifically listed in s. 23.175(2)(a), Wis. Stats., including skate boarding, rollerblading, jogging and snowmobiling. The Public Trust Doctrine applies only to waterways.

Comment

The EA cites increased residential property values in the Town of Clayton and concludes this “analysis” suggests the strong real estate market in the area overshadows any potential negative impact the trail may have. This statement should be deleted as being simply silly. The issue is not whether property values are going up in the vicinity, but whether they are higher or lower than they would be next to a non-motorized trail. Without a market analysis of comparable properties next to a motorized trail and next to a non-motorized trail, statements about values remain speculation. The risk in not having an answer to this question is that an adjacent property owner may have a cause of action in an inverse condemnation suit for the diminution of property value caused by designation of a State Trail as open for motorized use. Before a decision is made to put motors on the Amery/Dresser State Trail, a definitive study should address the property value implications.

Response

We believe the analysis of economic impacts in the EA is adequate.

Noise

Comment

Seventeen comments address noise. Eight comments were that noise is less of an issue than the draft EA suggests. Noise isn't as much as building a new home or railroad operation. We live on the trail and snowmobiles don't bother us. Noise and emissions from ATVs have become less and will continue to improve. Noise is becoming less of an issue with increase in 4 cycle ATV use. I live across the street from the trail in Amery and have never had a problem with noise from ATV or snowmobile activity. On a winter weekend, snow permitting, between 25 and 100 snowmobiles a day pass in the ditch 150 feet in front of my house. Most of these I never hear and I don't smell them. Snowmobiles and ATVs are becoming quieter every year. Any with modified exhaust must be fined and banned from our trails. Noise is only a problem when a small minority run with illegal exhaust. This includes cars, trucks, motorcycles, ATVs and snowmobiles.

Response

These comments are noted.

Comment

Three comments address noise enforcement. Efforts to provide law enforcement personnel with a “field friendly” testing method related to excessive sound levels emitted by modified ATVs has recently been put into action. This procedure will lessen the chance of any harmful consequences of short term exposure to excessive sound levels.

ATV noise and dust issues are huge. The EA refers to new noise restrictions. This may sound good, but the limit is on a nearly idling engine and has no maximum noise an engine can make at maximum RPMs. There are no noise meters or means to enforce this

law. There will always be older and modified machines which will far exceed noise limits. The noise of snowmobiles is an issue, but as a compromise could be tolerated.

Existing and developing noise level enforcement tools should be cited as the primary means of mitigating potential nuisance impacts. The new stationary snowmobile sound test procedure that will be incorporated in NR 6 will be available as an enforcement tool. Similar developments are underway for ATVs. Active use of these tools would be appropriate before consideration of special noise-based speed limits.

Response

The Natural Resources Board recently passed a maximum noise level standard of 88 decibels for snowmobiles and ATVs. Efforts are underway to finalize the field measurement protocol that law enforcement officials will use. The EA is hereby amended to include this information.

Comment

One comment addresses literature cited on noise exposure. The concern for long term exposure to noise is overstated because most studies of mental and behavioral effects of noise focus on continuous, sustained exposure. Concerns about sleep disturbance are questionable and negligible if you take into account the number of events that would exceed a very high sound pressure level and background sound levels for the short duration of time a vehicle would be within hearing distance. In field and lab experiments, Ising (1983) found no association between human blood pressure and noise exposure. "It seems that direct effects of short term exposure to loud levels of noise have little to do with long term exposure which interferes with daily life activities." (Community Noise, 1995, Berglund & Lindvall, Center for Sensory Research, Stockholm) One of the sources of information on noise, Nonoise.org, I would consider a biased source slanted against motorized sports. The fact sheet on noise effects on wildlife, under closer examination, was directed to find the effects on the breeding of various species of birds near roads with 10,000 to 60,000 cars per day. This analysis has no reference to ATVs or snowmobiles and traffic on this trail will not reach those levels. I feel information from that particular study is not relevant to the situation on the Amery-Dresser trail.

Response

The World Health Organization material was provided as an appendix as an objective source of information on noise. The references provided inform decision makers that there are issues with noise. We acknowledge that there are differences of opinion as to the degree and extent of those impacts.

Comment

Five comments address general concerns with loss of peace and quiet. The noise of ATV traffic is unbearable and was not adequately addressed in the report. What happened to mentioning the benefits of peace and quiet? Has the DNR considered how the constant noise will affect people?

I am very concerned that my rather pleasant and peaceful lifestyle would be severely jeopardized by a motorized trail so close to my property. If a motorized trail becomes a reality, I could no longer tolerate living here.

We moved to the suburbs for some peace and quiet. One of our major concerns is noise and dust. We risk destroying this beautiful land by letting ATVs drive on it.

Perhaps 45,000 ATVs per year would pass. These machines would run day and night and they average 90-100 decibels, a considerable disturbance to nearby residents and other trail users.

We are experiencing noise pollution from ATVs now, before the trail has permitted their use. The noise is so great we have to close our windows in summer and our housedog barks.

Response

We acknowledge that a motorized trail would result in noise that does not now exist. If it is considered to be at a problem level, mitigation measures could be implemented as described in the EA. The MOU and easement that the State and County eventually enter into can include required mitigation measures, as did the previous MOU. The EA is hereby amended to include this information.

Overall Acceptability of EA and Process

There were 28 general comments related to the EA process.

Comment

The EA document has lots of rhetoric and little substance. To advocate a 20 ft. wide trail is ludicrous. Expensive, no TE grants, folks in quiet sports won't want to suck up noise, dust, pollution. Evidence of trespass on the Cattail is obvious. The EA ignores this fact. The EA does not pay any attention to the wishes of Amery and others along the trail. The DNR has sold out to the loud voices of the motorized group.

Response

The EA presents extensive information and analysis on effects of the proposed project and alternatives. The EA does not advocate any proposal. Rather, the EA evaluates a proposal made by the county. All public comments have been accepted and considered.

Comment

Twelve comments were received that simply approved of the EA and/or the public meeting. These comments are as follows.

For the most part, the EA addresses issues more than adequately.

Great review. Thorough and hit home.

In general, support the analysis, with some modifications that will be sent by mail.

The study is very complete. Please move forward with the process to include all groups on the trail.

I approve of this summary.

It appears a lot of money was spent on this survey. Everything appears in order. Move ahead quickly with year round multi-use.

Trail issue should be open to anyone who would like to voice their opinion. I respect the decision to hold a hearing.

I believe the assessment has been accurately and true to best ability of the DNR.

We applaud your efforts to address recreational needs and implementation of the Wisconsin State Recreational Trails Network Plan.

I believe the EA addressed and solved most if not all concerns cited by various public interest groups.

The EA was a waste of time and money. I feel the assessment was done to the best of DNR knowledge. The train was running long before an assessment was needed.

I believe the EA was complete enough to justify going forward. An EIS would be another waste of taxpayer money.

Response

Comments noted.

Comment

Six comments reflected the sentiment that the EA was unnecessary, an undue burden on the Department, and/or a stalling tactic thwarting the will of the majority. These comments are as follows.

The EA was a huge waste of government money. Meaningless excuses and reasons. Don't see anything that says the use we agreed to will have any impact on the environment.

Citizens need to pressure lawmakers to keep a few people from maneuvering and stopping the majority.

This should have been settled and done two years ago.

It's appalling that you were forced to do the EA. It appears the lawsuit was a stalling tactic.

There is no possible way the trail can be utilized without any environmental impact. This simple fact concerns me because any group wishing to halt any use of the trail can use this to their advantage. I see this being tied up in court for eternity.

Why in a democracy, where the majority is supposed to rule, can a few people cause so many people to waste so much time, energy and money for something that has been decided over and over again?

Response

Chapter NR 150, Wis. Adm. Code requires that an EA be done for trail establishment, funding for development and operation, and agreements with local units of government. The court correctly interpreted this requirement in its decision.

Comment

Three comments were complaints about the adequacy of, or lack of a survey of residents along the trail.

No survey of residents has been done.

Appendix 23 listing adjacent landowners is inaccurate and incomplete. There are landowners on the list that have never owned land on the ROW and old landowners on the list that had changed before the 2003 plat book came out. In the Polk County planning process a survey was requested but not done. Now a list was drawn up and obviously sent out. All responses in Appendix 22 were in favor of non-motorized with some exceptions for snowmobiles. Responses from adjacent landowners are well thought out and should weigh heavily in the decision. I feel the EA's attempt to survey the adjacent landowners was weak and only cosmetic. It was a letter asking for a response only if they had new issues and I feel this was the wrong approach. We, the landowners, did surveys in 2000 and 2004. The survey and maps are provided. In summary, the 2000 survey showed 64% of landowners want non-motorized only, 21% would support some motorized use, 8% want non-motorized if development is inevitable, 7% want motorized only. In 2004 we had nearly the same results. Survey maps and surveys are provided and were previously given to Polk County Parks Dept. Whether you add it up by number of landowners or miles of adjacent land, the large majority do not want ATVs.

We were not listed as adjacent landowners on Appendix 23. With a small amount of effort, this list could have been correct. I feel asking for the concerns of adjacent landowners was all cosmetic.

Response

A survey of land owners is not required by s NR 150, Wis. Adm. Code, nor was a survey done. What was done was an optional part of a scoping effort to identify landowner issues. Any non-inclusion of landowners on the list presented in Appendix 23 was inadvertent. All members of the public were invited to review and comment on the EA,

and to participate in the public meeting. There is no weighting of comments from different groups under the EA process, nor can commenting on an EA be construed as a voting process. Motorized use was a county decision, not a DNR decision. The EA is hereby amended to include this information.

Comment

Three comments were concerned with EA public noticing, and availability of the EA and appendices.

Public notice was inadequate. No mention on the DNR web site.

Department's decision to not make the appendix available online, or to provide working copies for those who have been deeply involved in this issue is suspicious at best.

It was virtually impossible to get a copy of the appendix.

Response

The Department has rarely put environmental review documents on our web page because of the lack of personnel to manage doing so. There is no requirement to publish environmental review documents on the web under Chapter NR 150, Wis. Adm. Code. The NR 150 public noticing requirements were followed for this EA. All requests for copies of the EA and appendices were honored in a timely manner.

Comment

There were two comments complaining about the public meeting.

The hearing at Unity School was supposed to be strictly to address the EA and that was a small part of it. What I heard was mostly about Polaris. How much influence should this company and their employees have with their basic reasons being financial?

The meeting at Unity School on March 9 was a joke. After stating that all comments must address flaws in the EA, people were allowed to speak on the wonderful opportunities due to Polaris, and great things about ATVs.

Response

The scope of the EA includes all aspects of the project and its effects on the human environment, including economic effects. Public comments on an affected industry are not outside of that scope.

Detailed Comments on the EA and Process

There were 16 detailed comments made regarding the court order and its purported effect on the choice of the proposed action in the EA, and related matters, including calls for an EIS.

Comment

Polk County master plan was thrown out by the court. As recently as Oct. 21, DNR was saying that the trail usage was determined by the master plan process. That was ultimately corrected in the EA. The EA nevertheless chooses as its “proposed action” the dual-trail, year-round motorized approach adopted in the nullified master plan. Even if the Department assumes that a “proposed action” is required for the document, it has an opportunity in its revision to look at the facts assembled and choose a proposed action which reflects the data gathered. The “proposed action” chosen:

- Pre-empts uses protected under the statute
- Creates potential, indeterminate health impacts
- Creates noise, dust, trespass, emission pollution and nuisance potential for trail users and adjacent landowners
- Three times the cost of a single track trail
- Creates greatest law enforcement issues
- Runs counter to actions of City of Amery, Garfield Township, and Osceola Township
- Proposes an action unlikely to be built if left to the County
- Requires an EIS be prepared to study health impacts of future linkages.

A sensible approach would take as the “proposed action” snowmobiles in the winter and non-motorized uses the rest of the year.

Response

The master plan was not nullified by the court order. The EA incorrectly characterizes the court order as nullifying the master plan along with other actions associated with this project. The court order nullified DNR's MOU and easement with Polk County, but did not nullify the County's master plan decision to provide a multi-purpose trail. The EA is hereby amended to correct this information.

Under s NR 150, Wis. Adm. Code, the proposed action is not chosen based on the analysis. Rather, an action is proposed, and the EA documents an analysis on the expected environmental effects of that action and alternatives to that action. The only currently proposed action is Polk County's master plan. The EA is a disclosure document, not a decision document. Therefore, the proposed action is not to be construed as the preferred alternative. There is no provision for a preferred alternative in an EA under NR 150. We agree that of all the alternatives analyzed the proposed action has the greatest potential for impacts. In analyzing the proposed action, the EA therefore appropriately reviewed in the greatest detail the option with most potential for impacts. A wide range of alternatives were also explored in detail in the EA.

The first bullet item in this comment, that the proposed action: "Pre-empts uses protected under the statute", is addressed in the "Authorities and Approvals" part of the EA.

The second and third bullet items in this comment, relating to dust and health concerns, are addressed in the "Health Impacts" part of this comment response document.

The fourth bullet item is addressed in the "Cost and Funding Sources" part of this document.

The fifth bullet item is addressed in the "Enforcement" part of this document.

The sixth bullet item is addressed in the "Planning by Governmental Units" part of this document.

The seventh bullet item, that the proposed action is unlikely to be built by the County, is speculative by the commentor. The County would be bound by their agreements with the Department to develop and operate the trail.

We respectfully disagree with the last bullet item, regarding the need for an EIS. An EIS is not needed to analyze the health effects of future trail linkages because there is no content difference between an EA and an EIS under s NR 150.22(2), Wis. Adm. Code. Any information that is a subject for an EIS is also a subject for an EA. We've also acquired further analysis of the health effects of this proposal (see the "Health Impacts" part of this comment response document). Other connected trails would have similar health concerns. See also the "Cumulative Impact" part of this document.

Comment

The DNR had a choice of the proposed action to put forth in this EA. Rather than choose an option based on the evidence they put together, that is, a trail without ATVs, they chose the action put forth by the County with all the negative effects and required mitigation. Suggest the EA be re-written to come forward with a proposed action consistent with the technical information and facts in the EA for decision makers to consider, one that does not include ATVs on the trail.

Response

See the response to the previous comment.

Comment

What happens if the County does not accept the MOU with DNR?

Response

There could be no county development or operation of the trail without an MOU between the County and the Department.

Comment

If the corridor, by addition of trail segments in a segment-by-segment approach, results in a 250 mile motorized ATV trail, the cumulative environmental effects, and impacts on the entire system are enormous. The EA acknowledges that by connecting segments, use is projected to increase. No EIS has been prepared to address the cumulative effects of connecting segments of the system. The Cattail, Friendship, Hillsboro, Nicolet, Oconto River and White River State Trails all allow use without a master plan, much less any environmental review. The most critical information gap is the long term health effects

of using old railbeds for ATV use. The EA should not ignore that the projected 45,000 uses on the Amery/Dresser Trail will, apparently, move onto the Cattail State Trail and beyond. If ATVs are to be a permitted use, then an EIS must be required to address the potential cumulative health hazard statewide from this decision and similar decisions. Until that study is completed this trail process must come to a full stop.

Response

See the response to the first comment in this section, above. See also the "Health Impacts" and "Cumulative Impact" parts of this comment response document.

Comment

Section 2, history and background, states that even though the court has declared previous plans and agreements to be null and void, they will be considered and analyzed anyway. I do not believe the DNR has the authority to ignore a court in this manner. The DNR must respect the court's decision and prepare an environmental analysis without considering the null and void material.

Response

See the response to the first comment in this section, above.

Comment

The EA is prejudiced toward the proposal that is the most expensive, most likely to fail, least able to acquire funding, most difficult to enforce and results in the most negative impact on the environment and adjacent property owners. Impacts on the human and natural environment have not been adequately addressed. I request an EIS be prepared.

Response

See the response to the first comment in this section, above. The commentor's request for an EIS is based on an unspecific allegation that impacts have not been adequately addressed. Also, as stated previously, there is no content difference between an EA and an EIS under s NR 150, Wis. Adm. Code. The purpose of an EA or an EIS is the same, namely to disclose environmental effects and alternative approaches. Neither an EA nor an EIS provides any requirement or authority to change a Departmental decision. The only difference between the two is that the EIS process has more rigorous public informational requirements, primarily a longer public review period and a required public hearing. For this EA, however, we provided a longer than normal public review period of 30 days and a public informational meeting. The EA process in this case was not very different, therefore, than if we had followed the EIS process which would have required 45 days for public review and a public hearing. The Department has, in effect, nearly completed an EIS process for this proposed action, although it has been labeled an EA.

Comment

We are extremely disappointed in the DNR's report. It fails miserably to address issues set forth by citizens including the LOGG. We are outraged with the lack of study ATV impact would have on the trail. ATV use and subsequent damage to the environment,

health and safety risks noise pollution, enforcement/trespass and property values are still open issues that must be addressed.

Response

The commentor does not specify how the EA fails to address the issues mentioned. All of the issues listed in the comment are adequately discussed in the EA.

Comment

We request the DNR invest funds required for a full EIS. Once completed, we request the EIS be reviewed and approved by the Wisconsin Resources Board and again presented to the community for consideration.

Response

See previous responses to comment on this topic, above. Compliance with the Wisconsin Environmental Policy Act is the responsibility of the Department, not the Natural Resources Board, under s 1.11, Wis. Statutes, and s NR 150, Wis. Adm. Code.

Comment

The Draft EA's selection of a "proposed action is in circumvention, and possibly contempt, of the court order that nullified the DNR-approved Polk County master plan for the trail. A June 7, 2005 Polk County Circuit Court order declared the decision to agree to a master plan for the trail which provides for use by motorized vehicles to be null, void and without effect. The draft EA was prepared to fulfill DNR duties under Wis. Adm. Code NR 150. An October 11 letter invited interested persons to participate in issue identification. Communications with DNR staff led some to believe that the "proposed action" had been determined prior to receiving information from the public on issue identification. The "proposed action" remained a dual surface trail for motorized and non-motorized use, even though this was taken directly from the Master Plan that was voided in October. Because the previous Master Plan for the Trail was declared "null, void and without effect" by the court, DNR was required to develop a draft EA in a systematic way that did not presume a "proposed action" based on any prior planning for the trail, particularly the nullified DNR-approved Polk County Master Plan. Instead, DNR did just the opposite and, if done intentionally, acted in bad faith. If DNR hadn't started with the "proposed action" from the voided Master Plan, and instead looked only at its draft findings in the draft EA, the only reasonable conclusion consistent with the facts would be a proposed action that would not allow ATV use on the trail. In this case, the DNR was required to begin its analysis with the alternative that, as required under Wis. Adm. Code NR 150.22(2)(e), would "avoid all or some of the adverse environmental effects of the proposed action." DNR has only two options: The first is to present the facts gathered without a "proposed action" in the final EA. The second is to select a "proposed action" in the final EA that is truly consistent with the facts and analysis. Not taking this approach in the final EA would render it inadequate and subject to further challenge. If this problem is not corrected in the final EA, DNR would arguably be acting in contempt of the court Order.

Response

See previous responses to comment on this topic, above. Also, s NR 150.22(2)(e), Wis. Adm. Code, is within the list of required subject matter for an EA or EIS, and is the provision requiring an analysis of alternatives to the proposed action. It is not a provision requiring that a proposed action be selected which minimizes impacts, as characterized by the commentator. As previously stated, the court order did not vacate the County's master plan, and that plan is the only proposed action that the County has presented to the Department.

Comment

The draft EA is inadequate because it fails to present a valid legal basis for the “proposed action” and for allowing the use of motorized ATVs and snowmobiles on the trail. Section 23.175(2)(a), Wis. Stats. requires DNR to: “Designate a system of state trails as part of the state park system for use by equestrians, bicyclists, riders of electric personal assistive mobility devices, cross-country skiers or hikers.” The statute does not refer to other motorized uses such as motorcycles, motorbikes, snowmobiles, ATVs, or go-karts. It is difficult to see how motorized vehicles, except the one motorized use specifically included in the statute, can be read into the statute on its face. In the draft EA, DNR cites *Prichard v. Madison Metropolitan School District*. In this case, the court was considering statutes that were not enacted at the same time such that they would say they were intended as a comprehensive scheme. Here the facts and history regarding the state trail statute are very different. Snowmobile trails and ATV trails were provided for when, in 1989, the state trail statute was enacted and specifically provided for uses that were not already addressed in the Wisconsin Statutes. Both the snowmobile statutes and the ATV statutes were amended under the same Act, and the Legislature did not see fit to broaden the state trail statute to include these uses. When read together, the ATV statute, the snowmobile statute and the state trail statutes set forth a unified statutory framework to provide separate trail facilities for each of the three different uses. The harmonious reading of the three statutory provisions removes any question that the state trail statute was to be read any way other than to exclude those uses already otherwise provided for by law.

In the draft EA, DNR relies on *MCI Telecommunications Corp. v. State* to support its position that the court may accord deference to the agency's interpretation. Here even if the statute were ambiguous, the scope, history context, subject matter and purpose are determinative as to the state trail statute's meaning. Assuming the statute were ambiguous, the court may review an agency's interpretation according to one of three levels: great weight deference, due weight deference, and *de novo* review. The *de novo* standard of review is appropriate “when an agency's position has been so inconsistent as to provide no real guidance.” That is the case with DNR's regulation of state trails and thus is the case here. The “policy” with respect to applying the statute and allowing motorized uses on state trails seems to have been applied in a piecemeal and meandering fashion.

If “due weight deference” was the standard chosen, the court would uphold the agency's interpretation of an ambiguous statute if the interpretation was “reasonable.” E-mails

from Department staff, the Statewide Comprehensive Outdoor Recreation Plan (SCORP), and studies and plans for other trails state that motorized trail use is not compatible with non-motorized uses. These statements and references make it clear that allowing motorized ATVs and snowmobiles on state trails – uses that are not provided for by the statute – precludes uses that are expressly provided for by the statute and is, thus, an unreasonable interpretation of the law.

The draft EA also states that state trails are also usually designated as Type III or Type IV uses under NR 44.07 with public access allowed by both motorized and non-motorized means. There is nothing inconsistent here with designation as Type IV use and yet unavailable to ATVs and snowmobiles.

In summary, the draft EA is inadequate because it fails to present a valid legal basis for the “proposed action” and for allowing the use of motorized ATVs and snowmobiles on the trail.

Response

See previous responses to comment on these topics, above. See also the "Legal Basis" part of this comment response document. We agree that a Type III or IV designation under NR 44.07 does not demand that motorized uses be permitted.

Comment

Friends of LOG Greenway (LOG) adamantly opposes the EA as written and questions conclusions that the “preferred alternative” is not a major action which would significantly affect the quality of the human environment and therefore not require an EIS. The EA not only falls short of its intended purpose but is selective in its approach to analyzing the potential impacts of the “proposed action” and even takes liberties with the available scientific literature and other evidence.

Response

See previous responses to comment on these topics, above. The comment is unspecific about how the EA "falls short of its intended purpose " and "takes liberties with the available scientific literature and other evidence."

Comment

The “proposed action” is by far the most intrusive and expensive option for a recreational trail corridor. Besides having questionable legal standing, it does not comply with State or federal design standards. It is an improper acknowledgement of a document declared invalid due to an incomplete trail planning process. Determined before an EA was available, it was impossible for those who wrote the trail master plan or those involved in the previous trail planning process to adequately consider environmental and other impacts.

Response

We agree that the proposed action is the most intrusive and expensive option considered in the EA. See the "Legal Basis" and "Design and Engineering" parts of this comment

response document. We're not sure what the commentor means by "a document declared invalid". We have previously stated that the County's master plan was not voided in the court order. We agree with the comment and the court that the EA should have been completed prior to Department actions to establish the trail, and the signing of agreements with the County.

Comment

The EA should be a supporting document to bring information of the impact on the environment that would be caused by different trail uses. The EA should not be advocating any one use. The advocated use is surely not supported by the information in the document. The EA has a lot of good information in it and a lot of good supporting information behind it. The problem is it comes up with a biased recommendation the ATVs should be allowed. The best solution is a greenway allowing snowmobiles in the winter.

Response

See previous responses to comment on this topic, above.

Comment

The EA refers to a court order in 2005 that declared the trail master plan to be null and void, yet it doesn't appear that the trail decision process started over at that point, to truly look at the best trail uses.

Response

See previous responses to comment on this topic, above. The County is not subject to s 1.11, Wis. Stats., and s NR 150, Wis. Adm. Code. Therefore the County was free to make their own plans for the trail independent of the Department's EA process. The Department is required to complete the EA process prior to signing agreements with the County, however. The EA is hereby amended to include this information.

Comment

The EA starts off using as its baseline premise a trail concept adopted in a previous trail-planning process which was rendered null and void by court settlement. The earlier MOU does not exist and therefore, should not, and in fact cannot, be the basis of the analysis. This is a fatal flaw as it skews all subsequent analysis in favor of the worst possible trail outcome. By assuming Polk County will develop the dual-trail, dual-surface option, the EA attributes all the desirable qualities of a non-motorized trail to the entire project. All negative qualities of motorized trails are fobbed off on the project as a whole, as if they would also obtain in a non-motorized scenario. Rather than separating out and clarifying issues, this EA muddies the waters by conflating two very different trail visions as if they inherently belong together.

Response

See previous responses to comment on these topics, above.

Comment

On health hazards, particularly polluted dust from the subsoil of the existing rail bed, the impact on local endangered and threatened species, and the impact of erosion and dust suppressants on local wetlands and water-ways, the report cites the need for continued analysis and study. Each of these alone represents a significant enough hazard to trigger the more advanced, detailed and precise analysis on an EIS.

Response

We respectfully disagree. The EA concludes that none of these issues is significant. The commentor's description of an EIS is incorrect. There is no content difference between an EA and an EIS under s NR 150, Wis. Adm. Code, as previously noted.

Planning by Governmental Units

Comment

Seven comments address planning by other governmental units.

Communities have planned for a non-motorized greenway. Amery is planning development of a non-motorized greenway to balance its recreational opportunities. The City has the motorized Cattail Trail and indicates that the benefits do not outweigh the negatives. The Osceola Township Comprehensive Plan indicates the Town intends the trail to be non-motorized. The Garfield Town Board has endorsed this trail as a non-motorized greenway. Local community plans are inadequately addressed in the EA.

The EA does not adequately acknowledge the plans or comments by City of Amery. The City has determined a non-motorized greenway (with possible exception of snowmobiles) is the best option. The City of Amery has publicly opposed allowing ATVs on this trail for social, economic and environmental reasons.

The EA does not adequately acknowledge the plans of Osceola and Garfield Townships, failing to acknowledge any local township decisions. The Town of Osceola Comprehensive Plan and minutes of Town of Garfield board meetings show support for non-motorized use.

I am providing a letter to support a non-motorized trail from Mayor Harvey Stower. [Unsigned letter provided outlines history of the project.] An extract of the minutes of the City of Amery Planning Commission provided states, "Motion by Sondreal, seconded by Burkel to recommend a summer non-motorized trail from Amery west to Dresser to meet the Gandy Dancer trail. All in favor. Motion carried."

City of Amery, Town of Garfield and Town of Osceola all have this trail in their plans as being no ATVs, and the Town of Lincoln elected to not take a stand on use of the trail. What happened to local control? The effect this trail will have if ATVs are allowed will directly affect these governments with enforcement problems, reduced tax dollars due to land price effects and complaints about noise and trespass.

I would have a hard time accepting that DNR would go against the choices made by local governments in the area.

The City of Amery has long planned for a non-motorized trail to complement and enhance their existing ATV trail. Several towns have similarly endorsed a non-motorized trail option, as have a clear majority of adjacent landowners by LOGG. Why aren't more of these documents included in the appendix?

Response

These comments correctly point out actions by local governments that should have been included. Copies of the resolutions cited are attached, added to Appendix 20 and noted in section 23 of the EA. Appendix 20 is re-titled "Local Governmental Plans and Resolutions." We appreciate correction of this oversight. The EA is hereby amended to include this information.

Real Estate Values

Comment

Twenty one people commented on the effect of the proposed trail on real estate values. Sixteen comments suggest that more work is needed on this analysis or that the approach was flawed.

The equalized value analysis failed to take into account the effect of inflation, it failed to identify the portion of the property value increases that are due to inflation, it failed to note that the data was taken during a period of nationwide real estate boom, and further, it failed to separate those properties which were adjacent to trail use from those properties that were out of earshot. The conclusion that the effects of motorized trails on property values is overshadowed by a rising market is inaccurate and, at best, temporary. I recommend the property values section be revised to say a) no data is available regarding the effect of motorized use on adjacent property values, or b) a market value analysis of homes next to a motorized trail with non-motorized comparables be undertaken. Personal discussion with real estate agents shows they believe motorized use has a negative effect on values, and non-motorized trails a positive effect. Further, the property values section is silent on the important effect on property values of the presence of an indeterminate public health hazard.

Given the choice, most of us would like to live next to a park. Few would like to live next to a motor sport trail where dust, noise and trespass are every day nuisances.

The EA cites increased residential property values in the Town of Clayton and concludes this "analysis" suggests the strong real estate market in the area overshadows any potential negative impact the trail may have. This statement should be deleted as being simply silly. The issue is not whether property values are going up in the vicinity, but whether they are higher or lower than they would be next to a non-motorized trail. Without a market analysis of comparable properties next to a motorized trail and next to a non-motorized trail, statements about values remain speculation. The risk in not having

an answer to this question is that an adjacent property owner may have a cause of action in an inverse condemnation suit for the diminution of property value caused by designation of a State Trail as open for motorized use. Before a decision is made to put motors on the Amery/Dresser State Trail, a definitive study should address the property value implications.

There seems to be very little evidence that ATV trails increase property values significantly.

The report failed to compare the difference between property values for non-motorized trails versus motorized. Don't give the false impression that property values go up when ATVs are involved. It has been established by a survey that adjacent landowners are opposed to motorized use of the trail for reasons including loss of property value. This is a terrible stress and makes us feel the DNR is completely insensitive to homeowner concerns. Many of us are retired and would face financial instability and hardship at this time of our lives.

I am concerned about the potential negative impact on property values close to a motorized trail. I invested almost everything I had into my dream home and cannot afford to lose my investment. Had I known about a motorized trail near my home I would never have bought it.

I have been told of current property owners who were trying to relocate but were unable to sell when the prospective buyer learned of the possible ATV trail.

Because the EA does not substantively compare motorized versus non-motorized trail scenarios, readers are given to understand that property values will increase no matter what the trail decision is, based on the increase in Town of Clayton property values since 1999. In fact, a motorized trail with its attendant noise, emissions, environmental damage and trespass will have a real and material impact on the lives of nearby homeowners. That impact will clearly be negative in terms of the value of their property, and in some states, adjacent landowners of motorized trails have successfully sued local governmental units under the legal theory of "government taking," most recently in New Hampshire.

Two comments suggest values will not be impacted. Many people don't care about a trail. Railbeds taken out of service have been developed as trails since the early 1970s. It is unreasonable for persons who purchase land adjacent to railbeds to complain when trail activities are planned. These landowners took a risk when they purchased next to a railbed. The potential for development as a motorized trail kept the land value subdued, that is a benefit the landowner can now enjoy.

Three people related their personal experience with a property purchase.

I bought property right on the trail and put up a pole shed for storage after I heard the trail would someday probably be a multipurpose trail. I know that trail will make my property value much higher if it is multi-purpose.

I purchased a parcel on the proposed trail site for a premium price because of the motorized and non-motorized recreation possibilities. I will not build on this site if motorized vehicles are not allowed.

I am in the process of writing a purchase agreement for property adjacent to the rail bed. My contingency is that the sale will not go through if the trail decision is to allow motorized vehicles of any sort.

Response

We believe that additional analysis of impacts on property values is not warranted. As many comments indicate, a real estate sale requires a willing buyer and a willing seller. We acknowledge that presence or absence of motorized recreation will influence potential buyers, both those who want motorized recreation and those who don't. The data provided shows there has been a steady increase in property values in townships with trails. Those values are based on overall amenities available in the community.

The Polk County real estate market continues to be very active and we would expect values to continue to increase. Increasing suburban development, planned Highway 8 improvements, rural character and accessibility to the Twin Cities all contribute to the continuously increasing values. The EA is hereby amended to include this information.

Recreational Needs

Comment

Nine comments address recreational needs.

Look at trail riding opportunities just in Polk County, rather than in the northern tier, as used in the assessment. We believe you will see the ratio of trail availability by user group is reverse, in most cases, from what was described in the EA.

There have been no studies indicating the amount of use, mix of use on its nearest neighbor the Cattail Trail. All we can work on is hypothesis. If there are to be 45,000 users per year, then we have significant health impacts not only for this trail, but for the Cattail trail and other connected trails. The EA should be delayed until on-site surveys are completed to determine actual use on the Cattail Trail. Only then can an adequate assessment of potential impacts be made.

SCORP information on supply and demand seems very unrealistic. No way that 86% of people walk for pleasure or 50% bicycle. There are too many cars on the road for these statistics to be accurate.

The recreational opportunities identified in the section “Supply and Demand” is incomplete and misleading. The Wisconsin ATV Association indicates there are 5,555 miles of state-funded ATV trails in Wisconsin which does not include club trails. A trail mapping company indicates there are closer to 9,000 miles. Since Northern Wisconsin has a disproportionate share of ATV trails, simple extrapolation leads to the conclusion that there are far more than 402 miles of summer use ATV trails and 858 of winter use ATV trails in this region. It cannot be concluded that all bicyclists and pedestrians can safely use roads and highways. WDOT now rates CTH F between Amery and Deronda as undesirable for bicyclists. In a fast growing region like this there are few safe connections for bicyclists and pedestrians. The EA arbitrarily omits certain activities in the list of participation percentages. Consider that “viewing and photographing fish” is identified by SCORP as more popular than off-road ATV riding. There is no reason to omit this. Including certain activities in the list (like off-road 4-wheel driving [in jeeps and trucks]) and omitting others is disingenuous and misleading.

Statistics given in the EA show that Wisconsin already has many trails for snowmobile and ATV use. There are significantly less non-motorized trail miles. The statistics also show that citizens prefer to use trails in non-motorized modes. Missing is a survey of people to see if they would actually use a dual purpose trail for walking /biking.

SCORP data provided makes it clear that walking for pleasure, viewing nature, biking, hiking and jogging are all more popular than is riding an ATV. Yet in the Northern Region, there are currently about twice as many miles of ATV trails as there are for bicycles. That information should be presented to decision makers in a straight forward way.

The population is exploding in western Wisconsin. This growth is surely going to increase traffic on our highways and county roads. Where will people walk and bike without decent non-motorized trails? Our nation is experiencing an enormous problem with obesity. Our state needs to allow children and adults the benefits of a place for healthful outdoor exercise. Minnesota appropriated \$25 million to develop and maintain bike paths. Let’s not let Wisconsin fall behind in having these benefits available.

Response

SCORP data provided in the EA is sound trend analysis information developed through current survey methods and is the best available data on recreation needs in Wisconsin. SCORP data is updated periodically. If changes that commentators perceive are indeed occurring, the trends noted will show in future SCORP data.

Comment

One comment suggests the most significant omission is projected trail use numbers. All alternatives are affected by the number of trail users. Problems and potential concerns increase with use. DNR has not made available any useful comparisons of similar trail use numbers, probably as a result of not having a similar trail to compare. This speaks to the failure to have a statewide trail plan that determines how the trails will be used. Instead we have a system of unconnected trails with different uses scattered all over the

state, quite difficult for planning recreational activities. The EA should include analysis and impacts of each use scenario with the number of anticipated trail users.

Response

Trail use estimates provided in the EA are best estimates available at this time. We agree that it would be desirable to have use monitoring data, as is noted in section 22 of the EA. The issue of impacts generated by the broader trail system is addressed in section 21.

Safety

Comment

Fourteen comments address safety issues. Ten express general safety concerns.

Enforcement of regulations will be critical to ensure safety. There is an apparent dichotomy between the statement that there is a great deal of pride in the trail system, and the fact that vandalism, damage and erosion are consistent problems on the Cattail trail.

The EA comments about mixed use trails. To be complete, the EA needs to be specific as to what will be necessary and sufficient for all users to be accommodated in a safe manner.

The EA states, "Development of a dual-use trail in Northern Wisconsin would provide an opportunity to monitor use and determine acceptability to trail users." This is difficult to understand. Would a dual tread be an experiment? Without adequate enforcement, the outcome is inevitable. True experimentation does not include obvious bias to ensure the desired outcome.

A paved trail out of Amery would improve safety along County Road F which runs parallel to the trail for the first 2 miles.

My family and I bike on trails because roads seem too dangerous for kids. Permit only people and people-powered vehicles on this path, for safety and encourage people to be physically active.

Our 6 grandchildren have learned or are learning to ride bicycle and will soon not be content to ride only in our yard. We find riding on the road to be risky. We would appreciate a nice quiet peaceful greenway on which they could safely ride.

The report fails to address safety issues walkers, hikers and bikers would face with ATVs running along side. We are hard pressed to imagine our grandchildren riding their bicycles on a trail with ATVs riding within inches of our path.

Our driveway crosses the rail bed. ATVs have "flown" across our driveway and almost collided with our vehicles. No Trespassing signs have not stopped use.

We have had numerous incidences where ATVs and snowmobiles have crossed in front of us without slowing or stopping and almost causing injury.

Recently in the region of the Amery-Dresser trailway, a colleague's friend was brutally mowed down by a snowmobile, a tragic hit-and-run. This calls to question, how can motorized vehicles and people safely share the proposed railway that has no dividing space between the two sectors of proposed use, a safety buffer?

Polaris is committed to promoting safe and responsible recreational riding. Trail and land access are the lifeblood of our business. In support, Polaris grants money to ATV and snowmobile clubs to use for trail development, and responsible riding and safety training.

Response

We acknowledge that there are safety issues related to responsible trail use and adequate enforcement, particularly when multiple modes of recreation and travel are allowed on a trail. This is addressed in section 17b of the EA. We would expect that any future easement agreed to by the Department and Polk County would include operational requirements such as speed limits, signing, fencing, education and enforcement.

Comment

Two comments address access for emergency personnel. If there is no motorized use of the trail, emergency personnel won't be able to get to their patients. If ATVs are not to be used, what you're doing is delaying help if anyone needs it on the path.

Response

Emergency vehicles are allowed access on state trails as needs require.

Trespass and Property Damage

Comment

Eight comments address trespass or property damage.

The EA states that the trail should be a fun environment. Living near a trail should be fun too. There are houses within 50 to 80 feet of the proposed trail. It is not fun to have excess, irritating noise, fumes and dust as you try to relax and enjoy your home and yard. Relocating homes and their inhabitants is a cruel action and very disruptive to a community.

We have been battling illegal ATV and snowmobile trespass on the corridor for years. How will it ever be possible to control speed, trespass and traffic when there is no way to control it now? I have reported violations and law enforcement has never notified me that they were able to issue a citation. My experience has been so discouraging that I have given up.

Address the fact that other area state-funded ATV trails have suffered considerable environmental damage by ATVs and that this vandalism is only getting worse. Opening more land to ATVs guarantees there will be further environmental clean-up in the future.

Pictures are provided of my yard, at the very end of the trail, where snowmobiles rode 20 yards into my property at 2:30 AM, waking me and my family. They constantly use the trail showing blatant disrespect for the law, DNR and my property. In summer we get drunken ATV people late at night going at high speeds.

Snowmobilers using the closed trail are trespassing on my property and going much faster than the 10 mph required close to a residence. Trespass and damage to signs on the closed trail is disrespectful to people who live along the old railroad bed and the DNR. The ATV crowd is even more disrespectful.

Response

We acknowledge that damage can occur when recreational users illegally go off the trail. As noted above, if the trail is opened to motorized recreation we would expect there to be a greater enforcement presence. The number of enforcement hours available for motorized recreation has been increased and problem areas are being targeted. Future problems with trespass and property damage would warrant enforcement focus. These comments confirm information provided in section 17b and potential need for mitigation as described in section 25 of the EA.

Use Alternatives

Comment

Eighty nine comments express a preference for a particular trail use or opposition to certain uses.

Response

These opinions relate to the ultimate decision on designated uses of the trail. People's opinions and perspectives are valuable and will be considered when the decision is made. These comments are available as part of the decision record. While they are appreciated and useful information for decision makers, these comments do not address the factual content of the EA.

Water Quality

Nine comments address water quality issues.

Comment

People interested in the trail have an opportunity to help others. They should get together to remove dams and impediments to the river.

Response

Comment noted.

Comment

Four comments are related to use of chlorides.

What does chloride do to wetlands and water quality?

Work of Paul McGinley, UW Extension Water Quality Specialist at UW Stevens Point reports that chloride concentration in Wisconsin surface waters is rising. Dust control chloride materials applied anywhere in the watershed will ultimately find their way into the lakes, not just material applied to trails near lakes. Some species are sensitive. As concentrations continue to rise, we can expect known effects to be more pronounced, perhaps allowing other species to displace sensitive ones.

The EA references use of dust suppressants. Explain how often these chemicals need to be applied, at what cost and what the threats are to water resources.

There is much research showing that the rising level of chloride in our lakes and streams is coming from contaminated runoff. High concentrations of chloride may have detrimental effects on plants and animals. Allowing dust from ATVs on an old railroad bed with contaminated residue from spillage is not a good option either. These residues are addressed by the EA. Problem is they propose to wait and see what types of problems arise rather than a proactive approach to prevent problems. Magnesium chloride is used for dust suppression on the Cattail trail. Has DNR done any studies of the effects this is going to have on the Apple River and surrounding lands? Do we wait to see long term effects only to find there is no money to do cleanup? If ATVs are not allowed on the trail, there will not be dust problems. The EA does not indicate that any of the listed dust suppression materials are OK'd by DNR or Polk County Water Quality Department for use on shorelines or in wetlands. This could be a costly disaster.

Response

Increasing chloride concentrations in surface and groundwater are in all likelihood a result of road salting. We would expect use of dust suppressants to have a minimal effect. Polk County staff indicates that one application of dust suppressants per year has been adequate on the Cattail trail. We would expect future operation of the trail to include the minimum necessary use to address problems. We do not believe that study of impacts of dust suppressants is warranted. The EA is hereby amended to include this information.

Comment

Three comments address soil erosion.

As far as erosion, all it would take is a few dedicated ATVers to grade the trail once in a while.

This is a highly populated area and allowing motorized uses before an engineering study is done would be a disaster. If erosion fills a wetland it is not as simple as scooping it

back out as is quoted in the EA. The Somer's Lake Trail is a lesson on how much damage can be done in a short time.

Erosion from 4 wheelers will send more silt down to New Orleans, helping to build the delta back.

Response

We acknowledge that soil erosion can occur, particularly if trail users go off-trail. Current practice is to mechanically remove soil from surface waters if a delta builds up; in fact, to just scoop it out. On other trails additional fencing has been done where off-trail operation had caused soil erosion.

Comment

Two comments express general concerns for water resources.

We are especially concerned with the impact of ATVs on the wetlands in the Lotus Lake area, wetland habitat and Lotus Lake. Wetland species deserve study.

The report failed to mention the flowage into Lotus Lake, which contains a rare Lotus flower found only in two Wisconsin lakes. The Polk County Land & Water Resources Department is studying Lotus Lake. Staff has informed the Lotus Lake Association that a motorized trail would play havoc bordering along the lake.

Response

It will be important as part of trail design, operational oversight and enforcement to assure that recreational users do not damage wetlands associated with Lotus Lake as well as the many other wetlands along the corridor. Though their presence in a lake is unusual, the Lotus flower is not rare. It is common in Mississippi River backwaters.

Wildlife

Comment

Six people commented on concerns with wildlife. Four mention that they routinely observe and enjoy wildlife while using motorized trails. One notes that studies by U.S. Forest Service and State of Maine show that properly designed and constructed ATV trails do not damage the environment as well as having minimal impact on wildlife.

Response

Comment noted.

Comment

Three comments express concern for impacts of motorized use on wildlife.

The EA mentions one of the values of a trail being to get out and enjoy wildlife and nature. If motorized vehicles are allowed it will be very loud. Wildlife will be extremely scarce, as will be non-motorized travel.

The EA does not address the effects of ATVs and other motorized off-highway vehicles on wildlife. Traffic noise may play a role in altering bird communities by interfering with communication. Intense week-end ATV traffic that causes displacement for 2-3 days may eventually result in driving a particular species away from an area. This effect may change depending on the season. For example, deer may abandon an area in the spring. Reptiles and amphibians are particularly susceptible to traffic related impacts and habitat alterations because they are unable to avoid most vehicles and concentrate in relatively large zones around water bodies. Amphibian recruitment may also be adversely affected when egg masses are smothered by sediment.

The EA does not address impacts in terms of edge effects, the function of forest diversity, direct mortality of wildlife, wildlife disturbance, erosion and other key environmental factors.

Response

We recognize that any use of the trail corridor will result in some disturbance. However, the corridor runs close to roads, farms and homes where activity already results in disturbance. Management practices described in the EA such as education, enforcement and fencing to limit off-trail use are important to mitigate impacts on wildlife. Any edge effects on wildlife occurred when the corridor was established for rail use.

Other

Twenty three comments address issues other than as categorized above.

Comment

The proposal is compared to the Wild Goose Trail in Dodge and Fond du Lac Counties. The problem with this comparison is that 14 miles of the trail in Fond du Lac County allows snowmobiles only from December 1 - March 31. No ATVs at any time. The Wild Goose Trail cannot be compared to what is proposed for Amery-Dresser.

Response

This is a correct observation. In Dodge County, ATV use is allowed from December 1 through March 31. ATV use is not allowed in Fond du Lac County. We appreciate your catching this error. The paragraph on non-compatible trail uses, section 17b on page 16 of the EA is amended to make this correction.

Comment

The EA cites the publication "Park Guidelines for Off-Highway Vehicles" by George E. Fogg. Sliding Fogg's opinions in along with quotes from the Wisconsin State Trails Network Plan makes it appear the Plan endorses Fogg's opinions which is misleading and false.

Response

We respectfully disagree. The quoted information is correctly attributed.

Comment

The section Proposed Action with Mitigation of Impacts includes a statement that the County might consider buying and moving a home. What kind of lunacy and lack of common sense is that?

Response

While we agree it is unlikely that the County would consider this mitigation measure, it is not at all unusual for a building to be moved as part of a transportation project. It was included as part of the EA given the very strong concerns heard from some people who live very close to the corridor.

Comment

The following general comments are noted. Some are addressed by specific comments and responses above. Others are outside the scope of the EA.

Appendices 21 and 22 incorrectly characterize the Lotus Lake neighborhood. No survey of residents has been done. Rules preventing motorized recreational vehicle use don't prevent their ownership. Many residents enjoy them. The trail does not go through the neighborhood but adjacent to just a few lots. The EA adequately describes impacts and their mitigation. Agree no EIS is required.

The LOG group would rather the trail be overgrown with weeds and brush and not be used by anyone than allow motorized sports. This group wants silent sports and has managed to prevail.

I hope this problem gets solved. It's sad that people are trying to take away our rights to be able to have fun on the trails. What's next? Thank you to all the people who have made the trails possible for us to enjoy.

In light of calls to conserve fossil fuel, continuing to burn more fuel and forcing more toxic byproducts into our environment in the name of recreation and increased revenues does not make sense.

The Amery, New Richmond, Dresser, St. Croix Falls area is experiencing difficulties maintaining and rerouting trails due to land sales and new housing developments. Trail 46 south has been lost and corridor 12 is threatened. Trail 46 north has a housing development going in this year. We now have some major trail issues to deal with for the 2007 season. The longer this is dragged out, the more it will cost. The working relationship we have tried to maintain is disappearing as well.

Objections about burial grounds, butterflies, plant life, etc. would never have surfaced if it hadn't been for LOG. They can't beat those of us who are in favor of a year-round motorized trail on the numbers, so they are manipulating the system. All other trails in the state are doing just fine when it comes to plant life, wildlife, etc. as far as I know.

Explain how cooperative environmental assistance partnerships, Green Tier and other innovative environmental initiatives relate to ATV and motorized use.

When it comes to emissions, noise and dust pollution, current scientific or factual evidence, rather than out dated or anecdotal information, needs to be presented.

It is neither my nor DNR's nor elected officials' responsibility to provide a playground for people who choose to buy expensive toys like ATVs.

I believe property owners who live near the trail should have the biggest weight when making this decision. They must put up with noise and there is a very good chance their property values will go down. Petition attached in support of a non-motorized trail.

There has been garbage dumping along the rail bed. This is not the act of a walker or biker.

With closing of the Sommers Lake trail, I should think it not necessary to do an EA to know the impact of ATVs to the environment and wildlife compared to biking, walking or rollerblading. Pictures from the magazine called "Mud" are provided showing ATVs and their riders destroying the environment.

Quotes from George Fogg regarding social, environmental and educational benefits of OHV recreating tell us it can be done by the whole family and creates a way for young people to discover a positive future. Non-motorized sports can also be family oriented. Equipment is inexpensive and people at all income levels can participate. Hiking and biking through a more pristine, quiet natural setting would create an even more positive future.

Why would a community want to encourage activities that disrupt the peace, pollute, promotes ill health and wastes resources by making more places (motorized trails) where these negative effects are condoned?

Noise, emissions, dust and erosion will be virtually non-existent on a non-motorized trail, while motorized trails must grapple with this continually.

With the growing meth. problem in the area, this trail will give kids something to do.

There are environmental problems with any project of this kind, problems that can be dealt with. We deal with this every day on highway projects, power lines, zoning, etc. If there were problems along the trail they should have shown up in the last 120 years. If trains carrying coal, oil, chemicals, fertilizer or whatever haven't caused any problems, what can a snowmobile or ATV hurt?

The presence of human beings on the planet presents an environmental impact. I view the job of the department as to find a way to preserve the environment, while allowing the greatest number of people the opportunity to live and enjoy the environment. I

believe the bulk of impact of toxics left by the railroad was 40 to 50 years ago and dusts retaining those toxics have been impacted by removal of railroad ties and storms.

DATED: February 19, 2007