



United States
Department of
Agriculture
Forest Service

February 21, 2006



Decision Notice and Finding of No Significant Impact

South Fowl Lake Snowmobile Access Environmental Assessment

Gunflint Ranger District, Superior National Forest
Cook County, Minnesota

Townships 64N Range 3 E, Sections 2, 3, 9, 10, 11, 12, 14, 15, 16.

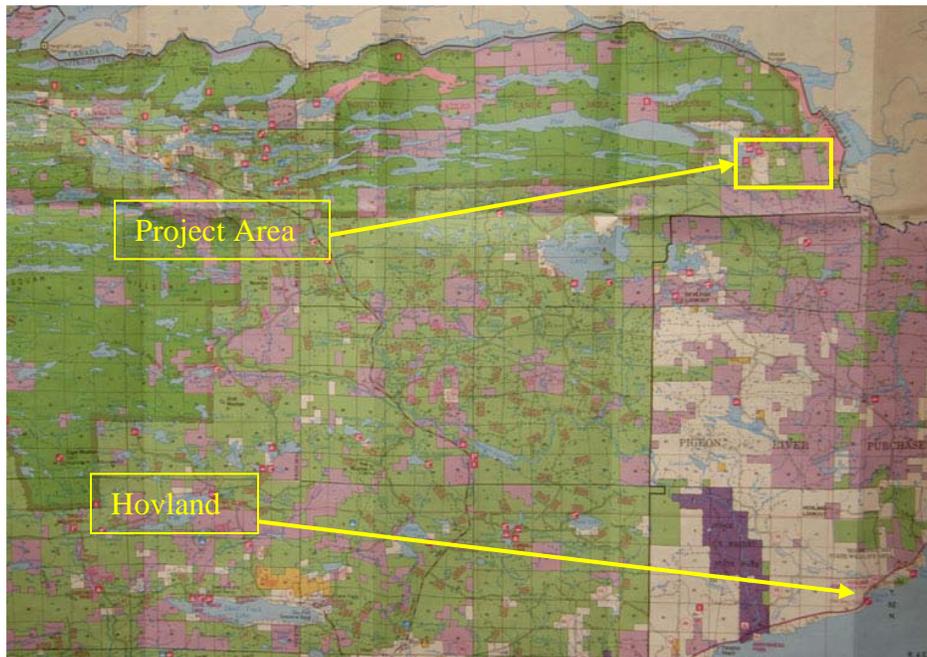


Figure 1, Vicinity map of South Fowl Project

For Information Contact: Dennis Neitzke
Gunflint Ranger District

2020 W. Hwy 61
Grand Marais, MN 55604

(218) 387-1750
E-mail ddneitzke@fs.fed.us

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INTRODUCTION

This document describes the decision I have made regarding safe snowmobile access to South Fowl Lake from the McFarland Lake area, on the Superior National Forest. This document also describes my reasons for the decision, and finding that an environmental impact statement is not needed. This finding is in accordance with the National Environmental Policy Act, other laws, regulation and policy. This decision and finding are based on my knowledge of the Upper Arrowhead Trail (Cook County #16) area, my review of the South Fowl Lake Snowmobile Access Environmental Assessment (S. Fowl EA), the Biological Evaluation, the project record and the 2004 Superior National Forest Land and Resource Management Plan (Forest Plan).

The South Fowl Snowmobile Access project has been one of the more interesting in my career. It is something that should have been dealt with long ago, however it wasn't. It is a fairly simple proposal, however it has stirred personal emotion that has been decades in building. It seemed the more I worked with the public to find a common solution, the more polarized they became. This decision will be fully welcomed and completely rejected, absolutely right and horribly wrong. A portion of the public will cheer, the rest will jeer. Some will claim victory, others will cry foul. To help understand why we are where we are, I am providing some background.

Why here and why now?

The genesis of this project began in 2003 when an existing snowmobile trail, sometimes known as the "Tilbury Trail", was brought to my attention. I had decided to step up winter patrol of the Boundary Waters Canoe Area Wilderness (BWCAW) to ensure integrity of the wilderness during the off peak months. Through our patrol, a member of the public mentioned the existence of a trail that traveled across Royal Lake. During inspection, it was determined the trail crossed a corner of the Wilderness and therefore would need to be closed.

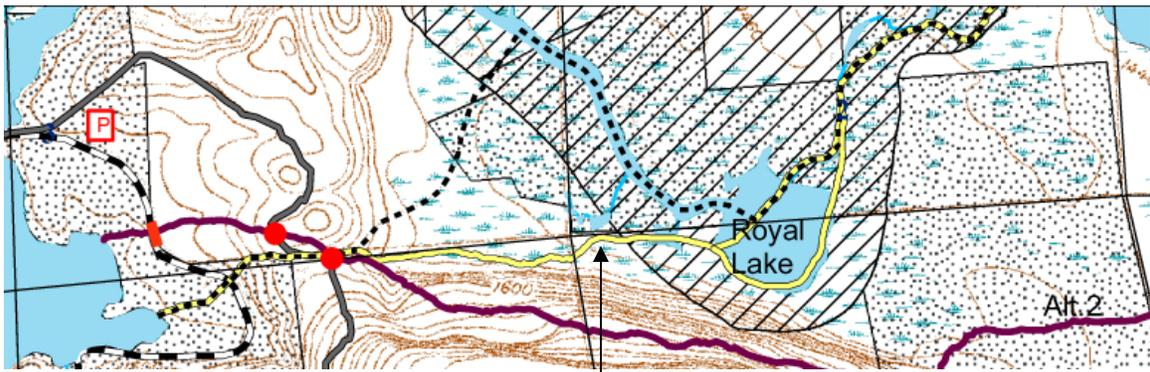


Figure 2. Map showing historic Tilbury Trail in relation to Royal Lake

Tilbury Trail connected McFarland Lake with South Fowl Lake (see Figure 1). It should be pointed out here that South Fowl Lake is the eastern most lake in a chain of

border lakes that creates the common border with Canada. Although the 1978 BWCAW Act (PL 95-495) permits some very limited motorboat and snowmobile use within the Wilderness, those lakes and routes are specifically named in the Act and according to PL 95-495, Sec. 4 (i) "...no other motor use is permitted.." within the boundaries of the Wilderness. Appropriate application of Federal Law caused me to close of the trail. However, along with closing the trail, I took the time to further explore the history of the trail, the history of the usage of lakes in this area and the history of wilderness legislation.

I walked the Tilbury Trail and studied aerial photos of the vicinity. I snowmobiled South Fowl Road and the rough trail into South Fowl Lake. Potential resolutions or alternatives involved use of lands managed by Minnesota Department of Natural Resources and Arrowhead Trail managed by Cook County. Therefore I involved members of these governments throughout the analysis of this project. Early in this analysis I also communicated with the 1854 Authority and received their support for a replacement trail.

I found that snowmobiling is legal and common around McFarland Lake. It is legal and common on South Fowl and North Fowl on both sides of the U.S./Canada border. For those lakes west of North Fowl, snowmobiling is legal and common in Canada for citizens of both countries.

A search of 1961 aerial photos shows what appears to be a winter logging trail that accessed the Royal River, west of Royal Lake. A review of 1970 aerial photos (Figure 3) indicates that change had occurred. A small timber sale, apparently logged by a fellow named Verl Tilbury (Rabold, 2006), had taken place in the vicinity of the cliffs west of Royal Lake. A close look at the photo reveals what appears to be a skid trail running the length of the sale area and a very narrow trail extended a couple hundred feet to the Royal Lake wetlands. This demonstrates the Tilbury Trail was predominantly established by logging and it predated the establishment of the BWCAW ('78 Act) in that vicinity.



Figure 4. Photo showing steep hill is Section 11; trail is narrow then descends steeply.

Now, it should be relatively simple; “to create safe access”. However public involvement throughout this assessment has been interesting to say the least. The number of people commenting on this project is over one hundred times that of another 14.5 mile snowmobile trail project that is considerably more complex (over 540 comments on this assessment vs. 5 comments on the more complex assessment). Further, comments on this project have been much more inflammatory and personal in nature than on similar projects. This project has fanned smoldering emotions over management of the Superior National Forest and the Boundary Waters that have roots in the early 1900’s. It is worth understanding some of the passionate history that surrounds both the South Fowl area and the BWCAW.

Historical perspective, Superior National Forest and the BWCAW.

Most national forests in the eastern United States were created to re-establish forests on lands that were cut over, burned, farmed and basically worn out. They were described as

the “Lands Nobody Wanted”. This was only partly true for northern Minnesota. The lake country near the border still had virgin forests and pristine waters, and it had active logging. President Theodore Roosevelt established the Superior National Forest in 1909 recognizing the natural beauty of northeastern Minnesota. However, in the 1920s plans were being formed to construct a series of dams for the purposes of storing water to power hydroelectric plants down stream. In the same time frame a resort industry began to thrive throughout much of what is now the Wilderness. The love of this area along with increasing use and development led to conflicting demands giving birth to a forest surrounded in controversy.

To provide a measure of balance against development, Secretary of Agriculture Jardine, in 1926 set aside 1000 square miles of the Superior National Forest for no further road building. However there were no established boundaries for his set aside (Legislative History PL 95-495).

Another step was taken in 1930 when the Shipstead Newton Nolan Act was passed to protect the lakes area from hydroelectric dam construction both inside and outside of the area protected (Leg. His. PL 95-495).

By 1949, Ely, Minnesota had become the largest fresh water seaplane base on the continent serving some 41 resorts within the interior of the area set aside by Secretary Jardine. It was in 1949 that President Truman established an airspace reservation over the roadless area through an executive order, ending the landing or low level flight (4,000 ASL) of airplanes in the roadless area by the general public and private landowners. This order was litigated (all the way to the Supreme Court), and prompted landowners to consider the sale of their property (USDA Forest Service, 1993).

In 1964, the Wilderness Act provided formal delineation between lands to be managed as wilderness (Boundary Waters Canoe Area, BWCA) and those as general forest. However, the '64 Act still permitted logging, snowmobiling and motorboats within the BWCA. The Superior National Forest finalized a management plan for the BWCA in 1965 following the parameters of the '64 Act. Roughly 600,000 acres were planned for non-motorized use and 400,000 acres were semi-primitive use, including logging, snowmobiles and motorboats (Leg. His. PL 95-495).

In the 1970's the US Congress debated further legislation to prescribe management for Minnesota's national forest and wilderness. Minnesota Representative Frazer described the parameters for managing the BWCA as “...*frustratingly ambiguous*...” under the '64 Wilderness Act. Therefore in January, 1977 he introduced HR2820 for the purposes of “...*seeking to reduce or eliminate the ambiguity of management within the wilderness*...” His bill would add roughly 35,000 acres and eliminate motorized use (Leg. His. PL 95-495).

However Congressman Oberstar (Minnesota) also introduced a bill, HR 8722 to rectify ambiguity. His bill would place roughly 701,000 acres as “*pure wilderness*” along with approximately 412,000 as a National Recreation Area, allowing some motorized use.

Shortly after, Representative Burton (California) introduced HR 12250 which would add 35,000 acres to the BWCA and 220,000 acres to be managed as National Recreation Area for those parcels between the wilderness units. The final bill to come out of House and Senate conference established the BWCAW at around 1,100,000 acres. The new boundaries were mapped out and a legal description was drawn to follow that map (Leg. His. PL 95-495). There was no area defined as National Recreation Area in the final bill.

Congress debated the Act for three years and the deadlock was only broken when representatives of groups with differing views met in a marathon negotiating session where a compromise agreement was reached. Interestingly, with the passage of the '78 Act, the public controversy did not come to an end. There were loud protests including public "lockouts" at District offices. Demonstrations took place on April 14, 1978 when an estimated 1,000 people protested by reading an eviction notice to the Gunflint District Ranger while the City of Grand Marais cut the electricity to the District Office (Cook County News Herald, 2006). Not everyone easily accepted the decisions made by Congress.

One could ask the question, "Did the '78 Act reduce or eliminate ambiguity?" The answer should be "Yes". While Congress did not totally eliminate motorized use or create a "pure" wilderness, they were specific and clear with their directions. Congress clearly defined the boundaries for the new BWCAW. Logging was eliminated from within the Wilderness. The law contained provisions for motorboats on specifically named lakes and very limited snowmobiling on specifically named routes. Otherwise motor use in the Wilderness was prohibited.

Interestingly, one could also ask the question, "Did the '78 Act reduce or eliminate ambiguity outside the BWCAW?" Again the answer should be "Yes".

- First, Congress provided specific direction in the Wilderness Act of 1964 under Section 2 (a) "*...and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.*"
- Second, over the years Congress has provided guidance for managing National Forest System lands through a series of Laws, notably the "Organic Act", the Multiple-Use Sustained-Yield Act", the "Endangered Species Act", the Resources Planning Act (RPA) and the "National Forest Management Act" (NFMA). Forest Plans are prepared under the auspices of these Acts to provide strategic management of each National Forest.
- Third, the 1964 Wilderness Act provided clear separation between management strategies for wilderness and non-wilderness, although the BWCA was somewhat muddled given provisions that allowed exceptions (prior to 1978 such as logging, snowmobiling and motor boating where found within the BWCA).
- Fourth, the '78 Act clearly established the new Wilderness boundaries and ended all logging, most of the snowmobiling and dramatically reduced motor boat use within the BWCAW. The same Act contained language that directed the Forest Service (through the Secretary of Agriculture) to provide additional opportunities for those uses outside the newly established Wilderness boundaries (i.e. Section 18(a).

Congress clearly intended that lands within designated Wilderness boundaries be managed under specific guidance provided by specific wilderness legislation. Congress also clearly intended that lands outside designated Wilderness be managed for purposes other than Wilderness.

Historical perspective, Tilbury Trail

As mentioned, the Tilbury Trail was in place and can be located on aerial photos as early as 1970. During the writing of the '78 Act, Royal Lake and Royal River were both included in the expanded boundaries for the new BWCAW. With the official boundary placed at 400 feet above the normal high water mark of the River and Lake, the Tilbury Trail was now placed inside the Wilderness and motorized use of the trail was no longer legal.

There is some question as to how well the boundaries were displayed and communicated. Maps show the boundary on Royal River and Lake. Some thought that if they skirted the lake, their use would be legal. Although at the same time, there was use through the middle of Royal Lake, which was clearly not legal.

In the early '90s Cook County petitioned the Gunflint Ranger District for a combined ATV and snowmobile trail to South Fowl Lake, which was denied. The record does not indicate if the County was referencing the Tilbury Trail in their petition (it is clear that the Tilbury Trail was not adequate for ATV use). At any rate, it appears that no specific action was taken to close the Tilbury Trail.

Now with a proposal for safe snowmobile access into South Fowl Lake, the debate over proper management of the Superior National Forest continues. The Tilbury Trail is no longer an option. Every option considered in the South Fowl Access EA locates a new trail outside the wilderness. No motorized use of the BWCAW is analyzed or will it be authorized. However, the debate over what is "right" continues with all the fervor the Superior National Forest and the BWCAW has known. Amidst the passion and debate, it has been and will continue to be my position to follow law, regulation and Forest Service policy.

Project Vicinity

Proposed trail alternatives are located in the south halves of Sections 2 and 3 and the full Section 9, 10, 11, 12, 13, 14, 15, and 16 of T. 65 N., R.3 E.: the area between and south of McFarland and South Fowl Lakes. All alternatives are within Superior National Forest Land and Management Plan (Forest Plan) management areas (MA) 10.2 General Forest Longer Rotation. The project is entirely within Cook County, Minnesota. Lands involved with these alternatives include National Forest system lands, Grand Portage State Forest and Cook County Arrowhead Trail. Since alternatives cross lands or roads managed by the State Department of Natural Resources (DNR) and Cook County Road Commission, this decision was made with full consultation with DNR Officials and the Cook County Board of Commissioners (See map in Appendix C).

Purpose of and Need for Action

I have considered several factors when thinking through this project and why it needs to be done. I have not found any absolute legal requirement that the Forest Service provide further access to the Fowl Lakes. However, as mentioned above, snowmobiling is legal on both Fowl Lakes and on the Canadian side of the border lakes to the west. There is a section of the '78 Act that did weigh into my thinking.

Sec. 18. (a) EXPANSION OF RECREATION PROGRAMS. The Secretary is authorized and directed to expedite and intensify the program of dispersed outdoor recreation development on the Superior National Forest outside the Boundary Waters Canoe Area Wilderness, as designated by this Act. The Secretary shall consider in such new program development the need for the following: additional snowmobile trails, particularly those now planned or under construction; remote campsites on lightly developed lakes; and lake access sites and parking facilities to provide motorized recreation experiences similar to those previously available in the Boundary Waters Canoe Area.

While this does not necessarily compel a particular action in a particular place, in my mind Congress encouraged the Forest Service to take a hard look at improving facilities outside the BWCAW especially when removing similar facilities from within the Wilderness. Also as mentioned, doing nothing would leave an untenable situation with the narrow trail from South Fowl Road to the Lake and the steep hill on the Arrowhead Trail as it heads south of McFarland Lake. Therefore, I have determined that action is appropriate.

The purpose of this project is to develop safe, adequate and legal snowmobile access from the McFarland Lake area to South Fowl Lake on the Gunflint Ranger District, Superior National Forest. This trail would provide public access to the border lakes without threatening private land or damaging the wilderness resources. A route designated by the Forest Service, in cooperation with the Minnesota DNR and Cook County, better handles existing use on a single preferred route away from other cross-country alternatives.

Forest Plan Direction

The National Forest Management Act of 1976 (NFMA) amended the Resources Planning Act of 1974 (RPA) to require each National Forest prepare, maintain and as appropriate revise a Land Management Plan (PL 93-378 sec 6(a)). Pursuant to PL 93-378 Sec 6(e) Forest Plans shall provide for multiple use and Sustained yield of product and services obtained therefrom in accordance with the Multiple-Use Sustained- Yield Act of 1960 and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness.

In compliance with NFMA the Superior National Forest conducted an environmental impact statement (EIS) and prepared a Land and Resource Management Plan (Forest Plan) for which a Record of Decision was signed in 1986. Those portions of the Forest Plan pertaining to wilderness management were revised, an EIS was prepared and the Forest Plan was amended in 1993. Further, the remainder of the plan (outside the

BWCAW) was revised following the completion of an EIS with the record of decision signed in August, 2004.

The environmental assessment (EA) for this project is tiered to the Final Environmental Impact Statement (FEIS) for the Superior National Forest Revised Forest Land and Resource Management Plan dated August, 2004, as permitted by 40 CFR 1502.2. The Forest Plan established multiple use goals, objectives, standards and guides for managing the Forest. Proposed alternatives have been evaluated in terms of guidance provided by the Plan.

The management area (MA) involved as designated by the Superior Forest Plan is MA.10.2 General Forest Longer Rotation.

All of the trail construction alternatives are located within MA 10.2 (pg 3-10). Emphases for land and resource conditions are to provide a wide variety of goods and services that include scenic quality, recreation opportunities, and access to those opportunities. Interactions between users may be moderate to high, with evidence of other users prevalent. Conventional motorized use is allowed and incorporated into construction standards and design of facilities. Management activities are directed to move the area toward Roded Natural ROS (Recreation Opportunity Spectrum) characteristics. Open roads provide access to resources and roded recreational opportunities. The setting for MA 10.2 is described as where recreation use and/or lake density is high, or the potential for recreation use is high. Snowmobile trails and lake access may be provided in this area.

DECISION

I have given careful consideration to the resources affected; the guidance provided by law, regulation and policy as well as the public discourse that has resulted from this proposal. My decision is somewhat different than what would normally be made for a proposal. I have decided to approve both alternatives 2 and 4 with some caveats. Only one route may be constructed and used at a time. Alternative 2 (the northern route) is approved for construction under the given criteria. If at some time, a decision is made to use Alternative 4, then the northern route must be abandoned and obliterated.

I have walked the routes for alternative 2 and 4 several times, a few of those times with our civil engineering technician and our recreation specialist to discuss construction techniques and impacts. I have observed soil types to estimate potential impacts. I've looked at the proposed routes in both summer and winter to estimate effects to the BWCAW. I've mentally constructed the trail to estimate the impacts to trees, vegetation, scenery, various wildlife species, as well as the general land forms in the vicinity (see Appendix A). I have looked into the history of the area and read all the public comments on this proposal. My decision is based on this knowledge of the project area and a review of the South Fowl Lake Snowmobile Access Environmental Assessment, the Biological Evaluation, the project file, law, regulation, policy and the Forest Plan.

Alternative 2 will be a slow speed, somewhat rough trail that shall only be used by snowmobiles, typical of those in current use (see figure 5). All terrain vehicles (ATVs) will not be permitted. Appendix A includes a series of photos demonstrating route conditions. This decision includes the following actions:

- Clearing vegetation (tree and shrub, primarily with chainsaws) on a corridor 8-10 feet wide and approximately 2.2 miles long. Emphasis will be on putting winding trail through brushy areas along the route and cutting as few trees as possible.
- Only minimal use of heavy equipment will be used. There is a short (approximately 100-150 feet) slope near the center of the north section line of section 10 (NE1/4, NW1/4, NE1/4, Sec 10) where the route will need to be cut into the side slope.
- There is a short section toward the middle of the route (approximately 100-150 feet) where some rock may have to be moved from the treadway. For this section, logs may be used to help level the trail, but will generally be no more than 12 inches high.
- Signs will be placed to guide and regulate snowmobile traffic as well as warn other traffic at trail/road intersections.
- The old Tilbury Trail is officially closed, however to ensure success of this decision, physical closure will be implemented with this decision. Rocks and natural debris will be placed in the trail to block use of the trail. Heavy equipment such as a Bobcat or rubber-tired front-end loader may be used to place the rocks and stumps.
- For the purpose of this decision, a snowmobile is defined using the Superior National Forest Plan definition of being self propelled and steered by skis or runners (see figure 5). This trail will be constructed for snow machines that fit that definition and that are designed solely for the purpose of snow travel. Since technology is quickly advancing, it is difficult to predict what machinery might be developed for snow travel. Future new and different types of machines are not approved for use on this trail. For example, that would include vehicles that have two or four tracks designed for both propulsion and steering.
- Barriers and gates will be installed to reduce opportunities for illegal OHV use of the Border Route Trail and other federal lands.
- Initiate a Forest Supervisor's closure order for motorized use other than snowmobiles on the federal portions of the trail.
- No mechanical grooming would be permitted for this alternative.
- Monitoring will be done by the Forest Service and potentially a cooperating group of citizens to assess any illegal use (particularly any ATV or OHV, as well as any snowmobiles entering the Wilderness) of this trail, to ensure erosion and sediment control measures are effective and to determine the presence or introduction of noxious non-native invasive plants.
- I am also approving hand planting of a variety of tree species in and around the trail route, particularly on the bench area between the upper and lower cliffs. There has been considerable natural mortality of trees in this area that are being replaced by brush (primarily mountain maple). The objective would be to reestablish trees in this area using native species (such as cedar, yellow birch, red and white pine).

- I am also approving the closure of Wooly’s Bluff Road to OHV and snowmobile use.



Figure 5. Photo of a typical snowmobile in use today, generally a single rear track for propulsion and two front skis for steering. Machines with two or four tracks that are used for both propulsion and steering are not approved for use on this trail.

As mentioned above, there will be only one route in use, either alternative 2 or 4. I am placing caveats with this decision that will allow flexibility to adapt to changing conditions. If there is cause to do so, the north route will be closed and obliterated and then Alternative 4 will be constructed and used. To ensure successful implementation of this decision, the Forest Service will continue to collaborate with Cook County Commissioners and Minnesota State DNR. Conditions indicating a need for change are:

- If at some point in the future, the State, County and Forest Service wish to put in a connecting system of snowmobile trails from the State grant in aid trails to the McFarland or South Fowl Lakes area, then Alternative 2 would be closed and Alternative 4 be constructed.
- If the Forest Service has determined that reasonable attempts to close the north route to OHVs are not effective, the trail will be closed and Alternative 4 constructed (i.e. riders are cutting paths around closure devices or monitoring determines that OHV incursions are being made on the trail).
- If the BWCAW is physically breached by snowmobiles from Alternative 2 or OHV cannot be controlled on Alternative 2, this route will be closed and Alternative 4 constructed.
- If analysis by the Forest Service and the State shows that use by snowmobiles of the northern route exceeds its capability, it will be closed and rerouted to Alternative 4. The measure to determine this will be excessive resource damage or excessive interaction between snowmobiles.

- Trail closure standards and techniques are as follows:
 - The short hill leading to the bench area will be reshaped to its original contour and revegetated with species typical of the area.
 - Small trees (up to eight feet tall) will be transplanted to restore the affected area on the slope.
 - Transplanted trees will be added to the visible area from any road or trail intersection.
 - The segment overlapping the old Tilbury Trail will be obliterated with rocks, stumps and natural debris to prevent motorized incursion.

If I, or any of my successors, determine that any one of the above criteria is met, that would trigger a switch from Alternative 2 to Alternative 4. Should the time come that the northern route will be closed; it will be done with physical measures similar to the Tilbury Trail. If conditions warrant a change, I am approving Alternative 4 for construction. Alternative 4 will be more of a standard design trail that includes the following actions:

- Clearing vegetation (tree and shrub, primarily with chainsaws) on a corridor 12-14 feet wide and approximately 1.9 miles long from McFarland Lake to the junction of South Fowl Road.
- Heavy equipment will be used to construct a 12 foot running surface for snowmobiles. There is a short exception to this; the new segment of trail constructed from Wooly's Bluff Road through the woods to an intersection with Arrowhead Trail would be done with minimal heavy equipment use. That segment will be slower speed trail constructed by cutting as few trees as possible.
- The South Fowl Road would be used for the trail and during the winters when there might be logging and the road is plowed, safety signs will be used.
- The trail for the last 0.84 miles from South Fowl Road to the Lake would be widened to 12 to 14 feet similar to the section on the shoulder of Arrowhead Trail.
- The steep section of trail in section 11 will be constructed with switchbacks winding down the hill to create a trail wide enough for two sleds to pass each other, one going up and one going down. It will also have a design speed such that two snowmobilers can pass each other with reasonable safety.
- The parking area at the intersection of South Fowl and Arrowhead Trail will be bladed and resurfaced with crushed gravel.
- Signs will be placed to guide and regulate snowmobile traffic as well as warn other traffic at trail/road intersections.
- Barriers and gates will be installed to reduce opportunities for illegal OHV use of the Border Route Trail and other federal lands.
- Monitoring will be done by the Forest Service and potentially a cooperating group of citizens to assess any OHV use of this trail, to ensure erosion and sediment control measures are effective and to determine the presence or introduction of noxious non-native invasive plants.
- If determined to be a part of the grant in aid trail system, this alternative could be mechanically groomed.

Appendix A includes photos and discussion of trail layout and design. Specific design criteria and monitoring actions that are included with this decision are listed in Appendix B.

All acreages and miles stated in the Decision Notice and South Fowl Lake Access Area EA are professional judgments based on computer analysis of G.P.S. locations. Small differences in actual on-the-ground harvest unit acreages and road and trail distances are possible.

REASONS FOR THE DECISION

In making my decision, I considered the environmental effects of the action and no action alternatives and how well each would meet the purpose and need of the McFarland South Fowl Lakes Area. I considered all issues and took into account the competing interests and values of the public. I am aware of the interactions between the various resources; the direct, indirect, and cumulative effects of the proposed action on the different resources and have taken these into consideration in deciding to implement this project.

Interestingly, the rationale for this decision is fairly simple. However the thought process behind the rationale is somewhat more complex and is outlined in the sections below.

Safety-The Superior National Forest has a long standing policy of not permitting snowmobiles on the plowed surface of roads. Further, I have been working on a committee with Cook County to address similar concerns on County Roads. Alternative 2 completely separates snowmobile use from regular vehicle traffic, which I feel is the safest route.

Scenery-Members of the public commented on the beauty of the topography above Royal Lake where Alternative 2 would be routed (see Figures 6 and A-10). It is an interesting thought that we should keep a form of recreation out of an area because of its beauty. My thoughts are different; one of the reasons I chose this route is because it does offer a glimpse of the outstanding beauty of the area to snowmobilers.

Sights and Sounds of Snowmobiles-Public input has been interesting on this issue. People do not want to have their wilderness experience interrupted by the sounds or sights of snowmobiles. There are also cabin owners on McFarland Lake who do not want further impacts from noise of snowmobiles and the impacts of headlights along Arrowhead Road. Obviously one of these two groups will be impacted to some degree. Generally it could be said that sights and sounds outside a wilderness would be more common and acceptable. In this case all snowmobile use will be outside the wilderness. In reviewing the tradeoffs for this project, it is sure there are cabin users that will be impacted by sights and sounds from Alternatives 1, 3 and 4. In our patrols of the Royal Lake area we have yet to find evidence of winter BWCAW users, although someone may visit. I can conclude alternative 2 will affect the least people known to use the area.



Figure 6. Photo of typical winter scenery along the northern trail route up on the bench with occasional views of the cliffs.

Soils-Construction techniques and impacts were also a factor in my decision. I am convinced that the soil impacts from mechanical realignment and surfacing is nominal and within Forest Plan guidelines for any alternative. However the public did raise issues of soil movement and Alternative 2 will have the least amount.

Wilderness-Impact to the Wilderness is another issue that is important to the both the Forest Service and the public and I believe I took a hard look at the possibilities. I compared the impacts from this proposal to the experience levels outlined for Management Area 5.2 (Wilderness, semi-primitive non-motorized). During the winter, there will be sounds emanating to the Wilderness from snowmobiles using the northern route. I have presented information on the magnitude and duration of those winter time sounds in the Finding of No Significant Impact (FONSI). It will also likely be possible to stand on Royal River and Lake and see a snowmobile for a short section (roughly 100 feet) of the northern route. I have presented information on the duration a snowmobile may be visible in the FONSI. During the summer, there will be no motorized use of the trail and I believe that though a person may know the trail exists, it will not be visible from a canoe on Royal River or Lake (see Figures A-7, A-8 and A-14 in Appendix A). This is consistent with MA 5.2 *"Natural conditions in some locations may be moderately affected by the action of visitors. The effects of visitors are relatively noticeable along major travel routes and portages, and near major entry points. Impacts often persist from year to year. There may be moderate vegetation loss and soil disturbance at some sites. Impacts are apparent to most visitors."* My review of law, regulation and policy

has led me to believe those impacts do not preclude the implementation of this alternative (please see the section on Consistency with NFMA, the Forest Plan and Other Laws).

ATV-There is also a concern regarding ATV use in the area. Some that submitted comments wanted more ATV access to South Fowl Lake, primarily to bring in small boats in the summer. Some wanted no change from the current setting. Others were definitely opposed to introducing more potential ATV use. Since ATV use was not part of the purpose and need of this proposal, it is my preference to authorize as little change as possible with this decision. Alternative 2 is located primarily on National Forest System lands, it will have a Forest Supervisor ATV closure order and it has support from the local land owners who have agreed to help monitor, educate users and provide information to the Forest Service for purposes of enforcing the ATV closures. Alternative 4 is primarily on State lands and would likely add opportunities for ATV use, particularly the trail from South Fowl Road to the Lake.

The reason for closing Wooly's Bluff Road is that it is a private easement on National Forest Land through a reservation in the deed the Forest Service purchased with the Wilderness Retreat Resort Property. The road should not be open to the public. To respect the rights of the property owners, the road will be closed to motor use.

Special Management Areas-Potential impacts to some species of rare plants (associated with the Rove Slate complex) found in the area was raised as an issue. Two areas near the proposals have some identification for special character. The Forest Service has identified an area of special interest in section 3 (W1/2, NE) that is wholly contained within the BWCAW (Forest Plan pg. 3-57). Alternative 2 comes within ½ mile of this cliff, but will not directly or indirectly affect plant life on the cliff. The State has identified the cliff in section 12 as an "area of natural interest". Alternatives 3, 4, and 5 come within 200 yards of this cliff. However there is no evidence that the existing use or the potential impacts from those alternatives would directly or indirectly affect plant life on that cliff. I am convinced that neither of those areas would be affected by any alternative; however it is reasonable that Alternative 2 being further away would be a better choice.

Plants-There is also a suggestion that Alternative 2, when it traverses the bench area in sections 10 and 11, crosses through rare plant habitat, including "potential" habitat for rare species. During plant inventory for this route, two plants of one species that is on the list of plants of State Concern were found. There are several ways to impact a plant; one dramatic way is when heavy equipment moves earth around. I have read the biological evaluations (BE), talked with our biologists, read the Gerdes report and I have some familiarity with some of the species. I believe all alternatives could be implemented without harm to rare plants, but less heavy equipment machine work, as described in Alternative 2, will provide the least impacts.

Planting trees within the bench area along the northern route is an idea that came up during the comment period. It not only provides long term improvement for screening

from Royal Lake, but it will involve members of the public in restoring tree diversity to the bench area that is dominated by mountain maple.

Alternative 3 was not selected because it did not seem to resolve any issues. It would still require new construction on the segment coming off from McFarland Lake. As well, it would require construction of switchbacks on the steep segment in section 11. Further, similar to Alternatives 4 and 5, it would continue to place snowmobiles on South Fowl Road.

Alternative 5 did not meet the purpose and need. There would be no safe snowmobile route from McFarland Lake to the intersection of South Fowl Road. While people could trailer their machines to the parking lot, I find the other alternatives, particularly Alternatives 2 and 4, provide a reasonable solution and meet the purpose and need.

No action alternative has been discussed above in that it would leave an unsafe situation in place. There are those who would suggest that snowmobilers don't need to be able to ride to South Fowl Lake and maybe this is an area from which they should be precluded. There are approximately 3 million acres of land within the borders of the Superior National Forest. Of that, approximately 2.2 million are under National Forest management, and of that 2.2 million acres, approximately 1.1 million acres are within the Boundary Waters Canoe Area Wilderness. The debate for what should be wilderness and what should not be wilderness was determined by Congress in 1978, with a strategic management plan for the BWCAW revised in 1993. Strategic management for lands outside the wilderness were determined with the Forest Plan revision that was concluded in August, 2004. My conclusion from reading each of these laws and policies is that snowmobiling to South Fowl Lake is historical and legal. I have determined it reasonable to continue to allow its use and make it safe.

If the need becomes evident that the north route should be closed and Alternative 4 be constructed, I am fully confident closure of the north route would be successful. Techniques for our road closures have been demonstrated to be very successful. Further, as I walked both the Border Route Trail and the Tilbury Trail, I have witnessed how quickly the regrowth of trees and brush encroach and take over those trails. I have also witnessed how quickly trees die; fall and cover the trail, making it blend in with the surrounding forest (see Figure 7).



Figure 7. Photo showing Tilbury Trail, after a year of no use, trees are falling and brush is encroaching.

PUBLIC INVOLVEMENT

This has been an extremely interesting project in terms of public involvement. I can confidently say there is interest by the public. Early on, when the trail was brought to my attention, I discussed options with members of the Cook County Board of Commissioners. As I gathered more information, I also discussed options with local officers of the Grand Portage State Forest in Grand Marais and Two Harbors. Since I had taken action to close the Tilbury Trail, my activities to look for another route had the interest of the local landowners around McFarland Lake. Therefore, I chose to begin the public involvement process during open meetings of the Cook County Board of Commissioners. Agendas for these meetings were published ahead of time; they were open to the public, had some structure to them, allowed focused discussion on the topic and helped me gain some perspective on public issues.

During this time, I had our engineering technician who has decades of experience locating and constructing roads and trails, searching for possible routes. When I was comfortable I had sufficient field information and a reasonable picture of the public issues, I assembled an interdisciplinary team and we put a set of alternatives together.

This is somewhat different than the typical process used by the Forest Service. Normally we would develop a proposed action based on a need and then scope for public issues.

Alternatives would be developed from significant public issues and the analysis would be completed on those alternatives.

I chose a different process this time, because the interest of the public was obvious and keen. I chose to get public input before a proposal was developed to help me understand the scope of the project as well as to look for solutions that would gain broad support (a goal I did not achieve). My conclusions from early involvement were to develop alternatives to ensure I had fairly represented public issues.

In early 2004 the interdisciplinary team had the alternatives framed up, along with sufficient information on each. I also learned the public was becoming divisive on this proposal. Therefore I chose a strategy to focus the discussion around the alternatives and narrow the debate to the real issues in an attempt to allow us to analyze them at the appropriate level. In the summer of 2004, I submitted the alternatives in the form of a scoping package to the public for a formal 30 day comment period. Interestingly because the potential for ATV use had been raised by the public, the comment period was extended to 60 days to comply with 36 CFR 295.3.

A legal notice including a description of the proposed action was published in the *Cook County News Herald* on June 24, 2004. The published legal notice provided an address, phone number, and email address for those who wished to request a copy of the more detailed scoping package. That same day, a detailed scoping package requesting comments on the proposed project was mailed to over 388 individuals, groups, and agencies who have identified their interest in this type of project by placing their name on a mailing list maintained in the Forest Supervisor's Office in Duluth. This scoping package included detailed information on the actions, issues, analysis to date and mitigation measures.

We requested that comments be submitted within 60 days after the publication of the legal notice in the *Cook County News Herald*. Thirty-two responses were received from 29 individuals or groups (including one message with 68 signatures). A copy of their comments with Forest Service response is in project file for the South Fowl Environmental Assessment.

During the comment period, the State requested a different format for working on this project. During the revised process of working with the State and based on our analysis of comments, I chose to amend two alternatives and add a fifth one.

A change in Forest Service personnel, resulting in a change to my interdisciplinary team lengthened the time it took to complete the analysis. As time moved forward, the debate and discourse only grew.

In light of the changes to the alternatives, extensive disagreement among the public and the increase in time needed to complete the assessment; I concluded it would serve all our needs to have another 30 day comment period before making a final decision. We received over 540 comments letters in this second comment period.

I will also mention that during this comment period, I led a field trip that was open to all people interested in the project. While the request for the trip came from a member of the public, my objective was to help folks clearly see what was proposed, what the potential impacts were and to understand the various views on the issues. The make up of the group that participated was nearly 50% on each side of this proposal. We primarily looked at the north route because that's what generated the interest. Our discussion was cordial and focused on the issues. There was a fairly good exchange of thoughts between people on either side, with me and with each other. Unfortunately I believe, and comments received afterward support this conclusion, that each side only became firmer in their position.

Although following 36 CFR 215.6 (b) (1) and CEQ 1503.4, all comments were read and fully considered, there was no weight given to the number of comments supporting or opposing a particular alternative. Similarly there was no weight given to the number of signatures on a petition supporting or opposing a particular alternative. There are some interesting occurrences to note during this project assessment. As mentioned above, there is extensive debate and disagreement over management of the Superior National Forest. Along with that debate, there is an underlying mistrust for Government and for each other.

Many folks offered their opinion on which alternative I should choose:

“Please accept this letter in support of Alternative 4 for the proposed snowmobile trail near the BWCAW in Superior National Forest.”

“Thank you for the opportunity to comment on the South Fowl Lake Snowmobile Access project. I support "Alternative 2: Modified North Route." I want to see this trail used because it is most like the historic Tilbury Trail that it is replacing.”

“As a Native American, I care deeply about the land. If I felt this trail (Alt. 2) would harm the land, I would not support it.”

“I've been going to the Boundary Waters since I was old enough to paddle a canoe. For me, the draw of the BWCAW is that the majority of it is free from motorized vehicles. As you paddle through the crystal clear water, the only sounds you hear is the lapping of waves and the occasional call of a bird (support for Alt. 4).”

“I have also explored most of the routes of the BWCA and Quetico Parks in the past thirty years and deeply value these experiences in natural settings... I support the Alternative 2”

Some offered their opinions in a slightly different way:

“I am a member of ATVAM (All Terrain Vehicle Association of Minnesota), and a property own in St. Louis County (My family owns a cabin near Ely). I also go kayaking and snowmobiling. Please use Alternative #4! This is the only choice that allows safe snowmobile access to South Fowl Lake. “

“I didn't own or ride a snowmobile for the first five years I had the cabin but since have grown to enjoy its appropriate use. I have come to believe that snowmobiles have had insignificant environmental effects on the area by using the Tilbury Trail. However, I realize that political processes require a modified version. As an environmentalist with credentials, I support the Alternative 2.”

Some folks were a little less polite. The opinions below demonstrate the emotions that often turned into personal attacks:

“Are you people insane? Let me understand this....because some "Yahoo," can't follow laws we are now considering giving them another trail into the BWCAW. I can't figure out whether this is a left-wing or right-wing thing but it definitely is STUPID. Exactly how many times and how many ways are you spineless people going to bend over for these, "screw the environment, I'm havin' fun," people? Enough already!!”

“I very concerned that the U.S. Forest Service would consider spending tax payers dollars to create a new trail to serve a few local residents and, in essence, reward what was clearly an illegal activity in the first place”.

There were several commenters asking why reward illegal activity, just as there were those who wondered why the trail had not been rerouted as Congress suggested in PL95-495 ('78 Act). And then there is the comment on the integrity of the snowmobilers and why have a trail to serve a few users.

It is unfortunate that comments on this proposal disintegrated to generic attacks on members of a group and I think it appropriate to address these comments. Let me be clear, **none** of the trail alternatives would be constructed within the BWCAW. With regard to law enforcement activities on the Superior National Forest, the greatest number of violation notices are issued to wilderness users within the BWCAW (58% of all violation over the entire forest, 65% of violation notices written on the Gunflint District (LER, 2005)). In spite of this record, there is no way I would characterize wilderness users as a bunch of law breakers, nor would I suggest we close the BWCAW because of the number of violations occurring. Similarly, I will not characterize snowmobilers as a bunch of law breakers. The Wilderness is a resource to have, to hold and to enjoy properly. The task of the Forest Service is to provide proper oversight, as provided by law, regulation and policy, so that people may experience wilderness. National Forests are capable and mandated to provide a range of recreational experiences, without giving more importance to one type of use.

“The Forest Service's oversight for close to 30 years has lead to this reroute. The Forest Service should have completed this trail reroute back in 1978 when the Boundary Waters Wilderness boundaries were changed. At that time, money was available, according to the 1978 BWCA Wilderness Act, to create trails outside of the Boundary Waters to compensate for trails lost within the Boundary Waters.”

Now, why wasn't the Tilbury Trail closed right after the signing of the '78 legislation? I don't have an answer for that. However it is closed now and this decision will move the trail outside the Wilderness.

“Our initial reaction to the South Fowl Lake Snowmobile Access was why would the Forest Service reward a relatively small number of McFarland winter residents that took it upon them selves to illegally use the Tilbury Trail?”

“Besides, according to the environmental assessment, there have only been eight groups filling out permits at the Little John BWCAW entry to Royal Lake and Royal River in the last four years. Even if there was the maximum number of nine people per permit (which I doubt!) that means there was a total of 72 people going to Royal Lake or River in four years.”

Again, it is unfortunate that comments focused on the numbers of each user group. Law, regulation and policy establish each use as legitimate. The Multiple Use Sustained Yield Act talks about *“National Forest area established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes”*. Section 1 of the '64 Wilderness Act and Section 2 of the BWCAW Act further refine the purpose of National Forest Wilderness. Neither Act mentions a minimum number of users or establishes a preference based on use.

“There needs to be a buffer area to insure the wilderness experience for those in the wilderness areas. We must plan and where necessary, error on the side of the environment/wilderness ledger.”

“Not too many years ago a good percentage of Cook County was fields and young forests! We don't believe that "Wilderness Values" should even be considered.”

These divergent points were expressed often by commenters. The discussion on the spirit of the legislation and needs for buffer have long been around and again are addressed by law, regulation and policy. CEQ, 1508.27 clearly demonstrates that impacts to wilderness are to be considered when they occur.

Discussion on what those impacts mean, and how they should be considered, is a little more complex. The Congressional Record prepared for PL 95-495 provides clear evidence that there were areas to be added to the BWCAW where the initial boundaries crossed existing roads. As an example, Congress chose to move those boundaries to

exclude the Gunflint Trail, a paved, well used County highway, by a distance of 100 feet near Seagull Guard Station (Leg. His. PL 95-495, pg 80). Also along the Vento Unit near Swamper Lake where the wilderness was setback roughly 860 feet from the Gunflint Trail (roughly the distance Alternative 2 would be from Royal Lake). Language in the 1964 Wilderness Act is a very clear under Section 2 (a) “...and no Federal lands shall be designated as “wilderness areas” except as provided for in this Act or by a subsequent Act.”

Interestingly, law firms such as “Wildlaw” and “Southern Environmental Law Center” represent this point in their appeals to several Forest Plans. Following are excerpts from their appeal of the Forest Plan for the Alabama National Forests (Wildlaw, 2004).

“Congress has in the past often placed wilderness boundaries right up to roads and other human development without the use of a setback or buffer. See Scott at 9-10, 12-13. 1 Clearly not every acre of a wilderness area must be isolated from human disturbance and protected from human sights and sounds. Congress clearly rejected the use of buffers around wilderness areas and instead often provides for buffers within the boundary of the area. Scott at 9. This also shows that it is improper to shrink the roadless areas with setbacks from roads.”

My review of the Forest Plan and my read on Federal law is that a deciding official must consider the impacts to Wilderness. However, buffers are not to be placed around wilderness borders and that clearly not every acre of wilderness needs to be isolated from human disturbance and protected from human sights and sounds.

“Since ANY designated snowmobile route is likely to increase the snowmobile traffic, we are especially concerned that this increased traffic NOT be near the road and not be near existing cabins. We understand that there will be noise when cabin owners take their snowmobiles onto the lake or leave McFarland to go to South Fowl or return, but we do not support any change that is likely to increase the traffic near cabins, on McFarland, or on the road.”

1 “. . . when some agencies misapplied this aspect of the Wilderness Act to assert that outside sights and sounds led them to judge lands not qualified for wilderness, Senator Frank Church (D-ID), who had been the floor manager when the Senate debated and passed the Act, reminded them of Sen. Murray’s definitive explanation at a Senate hearing:

*The Wilderness Act calls for the designation of suitable wild lands which are of wilderness “character.” This term “wilderness character” applies only to the immediate land involved itself, not to influences upon it from outside areas. This point was specified precisely in an early amendment to the wilderness bill. * * * What [Sen. Murray’s 1960] amendment made clear is that the suitability of each acre of possible wilderness is to be ascertained on the basis of that wilderness entity, not on the basis of insubstantial outside influences. Sights and sounds from outside the boundary do not invalidate a wilderness designation or make threshold exclusions necessary, as a matter of law.¹*

Although the intent of Congress is clear, the agency persisted in using the erroneous sights and sounds criteria. During Subcommittee Hearings for the 1978 Endangered American Wilderness Act:

“That is why it is so critical that the users of the BWCAW do not get impacted by the routing of trails that will bring noise and disruption into the wilderness boundaries, thereby destroying their experiences of a lifetime.”

“Please consider how the sound of motorized vehicles (summer and winter) reaches miles from the trail itself. This fact must be considered when contemplating the impacts of a trail routing decision.”

Obviously there are personal views from all perspectives on this proposal that are strongly held. My commitment is that I have reviewed each comment and every comment received for this project along with the Forest Service response is available for public review.

Agencies and Tribes

Comments on the scoping package were solicited from the US Fish and Wildlife Service, the Minnesota Department of Natural Resources, Cook County, the US Army Corps of Engineers, the Minnesota Pollution Control Agency, the Minnesota State Historic Preservation Office, and local American Indian tribes on various aspects of the project. These contacts were made during and after the scoping period to help identify and clarify issues.

I recognize this area is part of the 1854 Ceded Territory and that tribal members use the area for hunting, fishing, gathering forest products, recreating, and other cultural activities. Section 3.9 of the Forest Plan Revision FEIS includes a thorough discussion of the unique relationship of the Superior NF and the Ojibwa Bands of Bois Forte, Fond du Lac, and Grand Portage.

ALTERNATIVES CONSIDERED IN DETAIL

Initial alternatives were developed using issues raised during public meetings held in conjunction with Cook County Board meetings. Those Alternatives, along with information on tradeoffs and preliminary environmental effects were mailed to interested and affected persons for scoping and comment in the summer of 2004. Final alternatives for this decision are slightly different than those initially sent out that summer. Based on comments received from that involvement, Alternative 5 was added for consideration and Alternatives 2 and 4 were modified.

See Map in Appendix C

Alternative 1: No Action

There would be no new management actions proposed at this time. The current legal access between McFarland Lake and South Fowl Lake using the Arrowhead Trail (Cook County Road #16), the South Fowl Road (SFR #328) and the unnamed trail on State and The Nature Conservancy property would not be adjusted nor enhanced, but would continue to be used.

Alternative 2: Northern Route (also see Appendix A)

This route begins at the Little John Lake parking lot on McFarland Lake and travels to the east. The parking area for the Little John wilderness entry point would be used to service this trail. It crosses the Arrowhead Trail, the Border Route hiking trail, and the former Tilbury Trail before moving southeast ascending to a bench on the ridge above the Royal River. The route follows the ridge in an east-southeast direction about 1.3 miles, then down-slope northeast to level ground and directly east to South Fowl Lake. The 2.2 mile length of this route is all new construction.

Alternative 3: Southern Route

This route begins on the south shore of McFarland Lake near an old resort site. The trail crosses Wooly's Bluff Road, proceeding south toward the Stump River. The State's Stump River Road is then used for the trail as it travels eastward connecting with the Arrowhead Trail (Cook County Road #16) approximately 0.22 mile north of its intersection with the South Fowl Lake Road (State Forest Road #328). From this point the trail follows the South Fowl Lake Road as do Alternatives 4 and 5. After an adjusted descent down the hill in Section 11, this route follows the existing route east to the South Fowl Lake over state, federal, and The Nature Conservancy property.

Alternative 4: Modified Proposed Action (also see Appendix A)

The proposed action alternative starts at the south shore of McFarland Lake heading south across Wooly's Bluff road a short distance, then east to the Arrowhead Trail. This proposal then parallels the west edge of the Arrowhead Trail creating a 10-12 foot wide trail along or just outside the road ditch, but within the ROW (See map). The existing parking area at the junction of the Arrowhead Trail and the South Fowl Lake Road would be re-surfaced with crushed gravel. The trail would then follow the South Fowl Lake Road easterly and north toward South Fowl Lake. On the north end of this road, a narrow, steep run needs to be adjusted for safer use. From there the route heads east to the Lake on the existing route over state, federal, and The Nature Conservancy property.

Alternative 5: Short Route

Several scoping respondents proposed a shortened route which would not use McFarland Lake as a trail terminus, but rather use the parking area at the intersection of the Arrowhead Trail and the South Fowl Road as the western trailhead. From there the trail would follow the route of Alternatives 3 and 4, using the South Fowl Road. Then after using an adjusted descent down the hill in Section 11, this route follows the existing route east to the South Fowl Lake over state, federal, and The Nature Conservancy property. This alternative is essentially the No Action Alternative (No.1) with an improved route at the steep hill in Section 11 and re-surfacing of the parking area at the intersection of the Arrowhead Trail and the South Fowl Lake Road.

CONSISTENCY WITH NATIONAL FOREST MANAGEMENT ACT THE FOREST PLAN AND OTHER LAWS

As mentioned above, the Superior National Forest Plan was prepared in compliance with the Organic Act, Multiple Use Sustained Yield Act, Resources Planning Act, National Forest Management Act and the Endangered Species Act. I have reviewed those laws individually and have determined that this project will meet each of those Acts, particularly since this project is in compliance with the Forest Plan.

A heritage resource survey was completed for the alternatives and it was found that there are no eligible sites within the corridors of any proposed route. A biological assessment (BA) was completed by our biologist with a determination of “not likely to negatively affect” Federally listed species within the project area. That BA has concurrence from U.S. Fish and Wildlife Service.

A biological evaluation was completed for those species considered sensitive by the Regional Forester. There are some plant species on each route, along with potential habitat for species. Our biologist found that these proposals will not affect these species such that there might be a loss of viability or lead to listing on the Threatened or Endangered Species List.

Documentation for each of these findings is located in the project file at the Gunflint Ranger District.

I have reviewed the 2004 revised Forest Plan and determined the selected actions are consistent with that plan. My reasons for making this determination are:

Finding: Snowmobile trails are a legitimate use of National Forest System Lands.

1. I reviewed the desired conditions, goals and objectives from the Forest Plan, particularly Chapter 2, Forest-wide Management Direction and Chapter 3, Management Area Direction to determine if the actions analyzed in this document comply with those desired conditions, goals, and objectives.
2. Through design, this project will meet Forest-wide Goals including (Forest Plan page 2-5) providing management direction that enhances social and economic benefits:
 - a. Emphasize a variety of forest settings that provide for a spectrum of social opportunities and benefits for people.
 - b. Maintain a road and trail system that provides opportunities for people to access the National Forest.
3. The project directly meets the forest wide desired conditions (D) and objectives (O):

D-SE-2 (pg 2-37) The Forest provides non-commodity opportunities in an environmentally sustainable and socially acceptable manner to contribute to social sustainability and vitality of local resident's way of life, cultural integrity, and social cohesion.

D-REC-1 (pg 2-40) The Forest provides a range of quality motorized and non-motorized recreation opportunities to satisfy diverse public interests while maintaining sustainable ecosystems.

D-REC-3 (pg 2-40) The Forest provides developed sites, facilities, trails, water access sites, and other recreation opportunities within health and safety, resource protection, cost, and maintenance requirements.

O-REC-1 (pg 2-40) Improve the capability of the Forest to provide diverse high quality outdoor recreation opportunities.

D-RTL-1 (pg 2-43) The Forest trail system provides a range of activities and experiences necessary to accommodate recreation uses while minimizing environmental and social impacts.

D-RTL-2 (pg 2-43) Trails are managed for their intended primary purpose and to avoid user conflicts.

D-RMV-1 (pg 2-43) The Forest provides RMV road and trail riding opportunities with experiences in a variety of forest environments, while protecting natural resources.

O-RMV-1 (pg 2-43) A maximum of...130 miles of snowmobile trail miles with associated trail facilities may be added to the National Forest Trail system.

Finding: Snowmobile trails are legitimate within Management Area 10.2 of the Forest Plan.

- MA 10.2 (pg 3-10) emphasizes land and resource conditions that provide a wide variety of goods and services that include scenic quality, recreation opportunities, and access to those opportunities. Conventional motorized use is allowed and incorporated into construction standards and design of facilities. The setting for MA 10.2 is described as where recreation use and/or lake density is high, or the potential for recreation use is high. Snowmobile trails and lake access may be provided in this area. The selected alternative is consistent with this direction.
- D-LR-8 (pg 3-11) Dispersed recreation facilities such as campsites and trails (day use, backpacking, portaging, bicycling, horseback riding, hunter walking, snowmobile, ATV use, interpretive) may be provided for public use. Other dispersed recreation opportunities that may not be associated with facilities such

as orienteering, hunting, fishing, berry picking, bird watching, wildlife viewing, and trapping, would also occur.

- D-LR-10 (pg 3-11) Many people may use this area, mostly along waterways, roads, and trail. In these more highly used areas it is common to encounter others engaged in a wide variety of activities. In the remainder of the MA, contacts between users will generally be less frequent. Vehicles associated with timber harvesting may be encountered on roads and in the woods throughout the year.

Finding: Alternative 2 and 4 are not inconsistent with management of the BWCAW in this location.

- The project area also includes the adjacent MA 5.2b Semi-Primitive Non-Motorized Wilderness. MA 5.2b is within the Boundary Waters Canoe Area Wilderness and has the ROS classification of Semi-Primitive Non-Motorized (Forest Plan pg. 3-45). This designation is comparatively (to MA 10.2) more restrictive to reduce the impacts on recreation and to reduce interaction between users. Semi-Primitive Non-motorized Wilderness provides visitors with a semi-primitive experience in a moderately unmodified natural environment. MA 5.2b is generally located along the main wilderness travel routes, where a visitor can expect to encounter others and solitude is not one of their highest expectations. Some, but not a high degree of challenge, risk and freedom is provided here.
- Desired Resource Conditions (pg 3-45) ...Natural conditions in some locations may be moderately affected by action of visitors. The effects of visitors are relatively noticeable along major travel routes and portages, and near major entry points. Impacts often persist from year to year. There may be moderate vegetation loss and soil disturbance at some sites. Impacts are apparent to most visitors.
- Desired Social Conditions (pg 3-45) Opportunities for experiencing isolation and solitude are moderate to low. The frequency of encountering others in the area is moderate. The challenge and risk associated with recreational opportunities is moderate to low.

Finding: Alternatives 2 and 4, including mitigation are consistent with other Desired Conditions, Objectives, Guidelines and Standards for the Forest Plan.

- D-RWA-1 (pg 2-44) The Forest provides a range of water access sites with related recreation opportunities on lakes and river segments.
- O-RWA-1 (pg 2-44) Associated recreational, subsistence, and commercial water uses at water access sites will enhance or maintain water quality, TES species, and viable populations of native species and desirable non-native species.
- O-TS-4 (pg 2-49) Road and trail crossings of streams, wetlands, and riparian areas adjacent to lakes and streams will be minimized.

- D-WS-2 (pg 2-10) Water related recreational, subsistence and commercial uses are provided for within the limits of aquatic ecosystem capability.
- O-WS-10 (pg 2-12) During all management actions involving soil disturbance:..... Restore and re-vegetate disturbed areas...except portions of disturbed areas that, by design, are converted long term to a non-productive condition (such as trails).
- D-WS-5 (pg 2-10) Roads and trails are managed to maintain native plants and animals, protect water quality, and to manage for compatible human uses and types of access.
- O-WL-6 (pg 2-29) Reduce or eliminate adverse effects on threatened and endangered species from the spectrum of management activities in NFS land.
- I have reviewed the standards and guidelines in the Forest Plan (Forest-wide S & Gs pages 2-9 through 2-54 and MA pages 3-9 through 3-12 and 3-41 through 3-76). All relevant standards and guidelines will be met and have been incorporated in the design elements and mitigation measures listed in Appendix B. Further evidence of my review of standards and guidelines is provided in the Response to Comments in Appendix D.

FINDING OF NO SIGNIFICANT IMPACT

The Presidents Council on Environmental Quality (CEQ) has provided guidance on what constitutes a significant impact in section 1508 of 40 CFR Parts 1500-1508 Regulations for Implementing The Procedural Provisions of The National Environmental Policy Act. In particular, 1508.27 provides that “Significantly” requires considering both context and intensity of the impact.

I have reviewed both the context and intensity of the environmental consequences for Alternatives 2 and 4. Based on my experience with similar projects and practices, I conclude that the selection of Alternatives 2 and 4 does not constitute a major Federal action, individually or cumulatively, and will not significantly affect the quality of the human environment. Although all considerations for significant impact are important, I paid very close attention to potential impacts to the BWCAW, to rare plants including their habitat and to local users of the area. These issues were truly important to the action in question (CEQ 1500.1 (b)). The level of analysis conducted for the South Fowl Lake Access Area Environmental Assessment is adequate and documents no significant effects. Therefore, an environmental impact statement is not needed. This determination for Alternatives 2 and 4 is based on the following factors:

A. Context- CEQ 1508.27 (a) states “For instance, in the case of a site specific action, significance would usually depend upon effects in the locale rather than in the world as a whole.” The geographical setting of the proposal is localized with implications only for the immediate area of McFarland to South Fowl Lakes.

1. Winter: Impacts to wilderness are from the perspective of sights and sounds of snowmobiles and then, only when heard or detected by a person who is in the wilderness immediately adjacent to the source. A person not in the vicinity of

Royal Lake would not be affected by activities from this decision (CEQ 1508.8). Putting this into context, the EA estimates that 25-30 snowmobiles travel from McFarland to South Fowl Lake on a given day on a weekend. Data provided in the EA demonstrates that an average of eight permits for the John Lake entry point are obtained each winter. Our analysis of those eight permits indicates that most if not all of those parties head north into John and East Pike Lakes and little, if any, foot traffic travels the Royal River to South Fowl Lake. This analysis is supported by the fact that Tilbury Trail was used for 25 years after the '78 Act, and to my knowledge, no one from the public brought it to the Forest Service's attention until recently. My conclusion is that there will be few, if any, wilderness users that will be affected in the winter.

Further, cumulative impacts are expected to be nearly the same, regardless of alternative selected. In the event someone were to walk or ski Royal River and Royal Lake, there are no other trails and virtually no winter fishing opportunities on those two bodies of water. Therefore, it is likely they would continue to South Fowl Lake. In that event snowmobiling is legal on South Fowl, and even if no action was taken regarding trail construction, snowmobiles would be heard and seen as they rode legally in the McFarland and South Fowl Lake area. Cumulative effects from any alternative would only be marginally higher than no-action as related to wilderness users and those effects are not significant.

2. Summer: Impacts from a summer perspective would be to canoeists traveling Royal River and Lake. There will be two types of impacts from a summer view point. Short-term, or those that would be seen and heard during construction and long-term, or those that might be seen for years. I have determined that neither would be significant. Again, putting this into context, Figure 8 presents information on average use of the BWCAW entry points. Our data calculates there is an average of 4 persons per entry point permit. Duncan Lake (1956 overnight permits/year), toward the western end of the Vento Unit, has the highest number of permits. Pine Lake (717 overnight permits/year) is shown to demonstrate where most of the wilderness users go when they begin their trip near McFarland Lake. Persons entering at John Lake (131 overnight permits/year) can go in two directions, north into John Lake then to East Pike Lake or west into the Royal River. Border Route Trail-East, (13 overnight permits/year, virtually all in the summer) demonstrates the number of hiking groups in this vicinity each year. Those hikers entering the Wilderness will walk away from the project area and therefore will not be affected (the Border Route Trail above the northern route is not in the BWCAW).

Short-term effects would include sounds of equipment or chain saws during construction. I anticipate that it would take two weeks for the motorized construction to be completed. Since the maximum daily quota for John Lake is 1 overnight permit, the number of people that might be affected would likely be 40, in reality because canoeists can travel two directions from the John Lake entry point, the number affected will be less. Cumulatively there would be a slight

increase in impacts to those visitors traveling during that timeframe since there are sounds of vehicles at the start of their trip near McFarland Lake and possible sounds of motors on the Fowl Lakes. Use at McFarland and Fowl Lakes is highly variable and predominantly on weekends. Again, impacts that fit within Forest Plan Desired Conditions for MA 5.2 (pg 3-45).

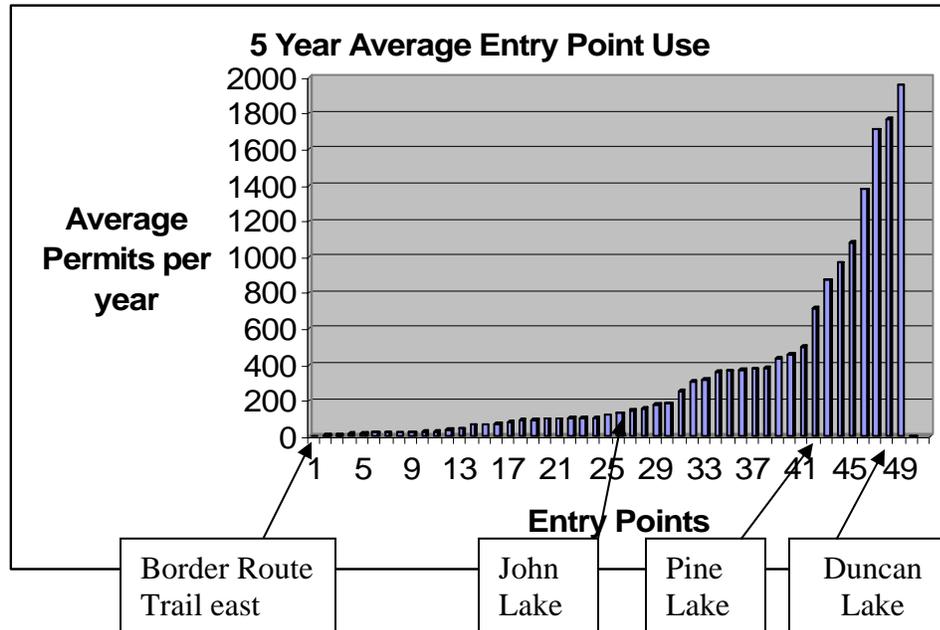


Figure 8, Table of average number of summer overnight permits used at entry points for Gunflint and Tofte Districts (Superior National Forest Data).

Long-term effects might be from the very remote possibility that a canoeist would see that a trail exists on the bench half way up the cliffs. I walked the northern route and mentally judged the brush and few trees that would need to be cut, the minor heavy equipment necessary on the west end of the bench area, the small amount of rock that might be moved or logs set up to level the trail near the talus and the few trees that would need to be cut on the east end of the route. I then walked onto Royal Lake and River and looked up toward the potential route. Conifer trees blocked the view for nearly the entire route (see Figures A-7, A-8, A-11 and A-14 in Appendix A). This is a time when leaves are off the deciduous trees and brush. In the summer those would only add to the screen. Since I knew where the route would be placed and I couldn't see the brush in the winter, I am confident it cannot be seen in summer.

Similarly as the route passes across the talus area, there are enough conifers to cover the actual trail (see Figures A-8 and A-14 in Appendix A). In the winter, the view may be open enough to see a snowmobile from Royal Lake, but particularly in the summer the trail will not be visible.

3. There is also a question of “What if the ATV closures are not effective?” My decision includes criteria listed under “Decision” that we either have effective

closure or the trail will be obliterated and rerouted. Standards for obliteration would be similar to those used by Gunflint District for several years now and those have been demonstrated to be effective (Monitoring Report, 2004). Since we will not tolerate the impact, it will not be significant.

Alternative 4 would have fewer noise impacts to the Wilderness; however cumulative impacts would be relatively the same.

The physical and biological effects are limited to the immediate project area. The Environmental Assessment in Chapter 3 analyzes these effects in different resource areas. All actions are consistent with the Forest Plan, and all environmental effects are within the range disclosed in the Final EIS for the Forest Plan. The types of activities selected to be implemented are similar to activities that have occurred in the past in this area or areas that are similar. I find that the activities of the selected Alternatives (2 and 4) move the project area toward the goals and objectives outlined in the Forest Plan.

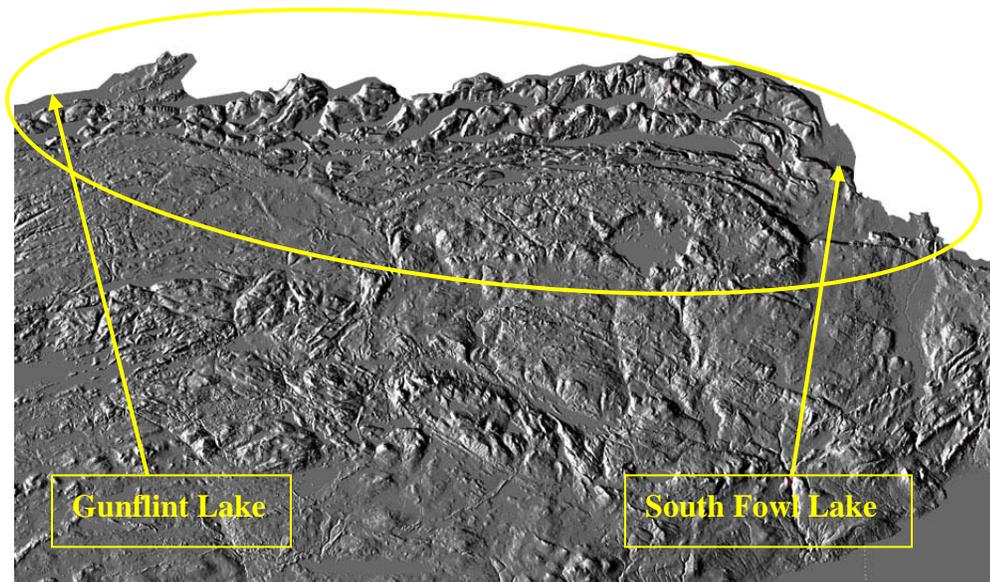


Figure 9. Satellite photo of Border Lakes area showing rough approximation of Rove Slate Complex (outlined in yellow). Note the more rugged steep slope features along the Canada border.

1. Effects to rare plants, particularly those associated with the Rove Slate complex (see Figure 9) were brought as an issue. I have looked at a map indicating the extent of this geologic layer. In the United States it is calculated to be about 81,800 acres within the proclamation boundary of the Superior National Forest (GIS calculation). Of those, just over 51,800 (63%) are contained in the Vento Unit of the BWCAW. Further, I did a rough count of the geologic features (see Figure 10) that are similar to the Royal Lake cliffs. Gerdes (2001) has determined that talus slope, rock outcrop and moist cliff are abundant in the Rove Slate complex (tbl 2, pg 17). I counted a total of 75 peaks or ridges with steep to vertical slopes. Of those, 60 (80%) were in the Vento Unit of the BWCAW. I

then did a rough estimate of length of the feature, Royal Lake cliffs are about 1.4 miles long. There are about 68.8 miles of this feature of which 48.5 (70%) are within the Vento Unit. The north route of this proposal would affect at most 2.7 (.003%) acres (EA pg 41) of the Rove Slate complex and at most one mile of feature (1.4%). Cumulatively no other motorized routes from Gunflint Lake to South Fowl, (road or trail) exists that is located next to, or affects, any of the steep slope features. Further, the impacts from this project are from over-the-snow winter travel.

Put into context, the impact on .003% of the Rove Slate complex or 1.4% of the geological feature is not significant. The numbers in the above paragraph demonstrate that a majority of the Rove Slate complex is contained within the Vento Unit of the BWCAW, which has management guidance prepared under wilderness law.

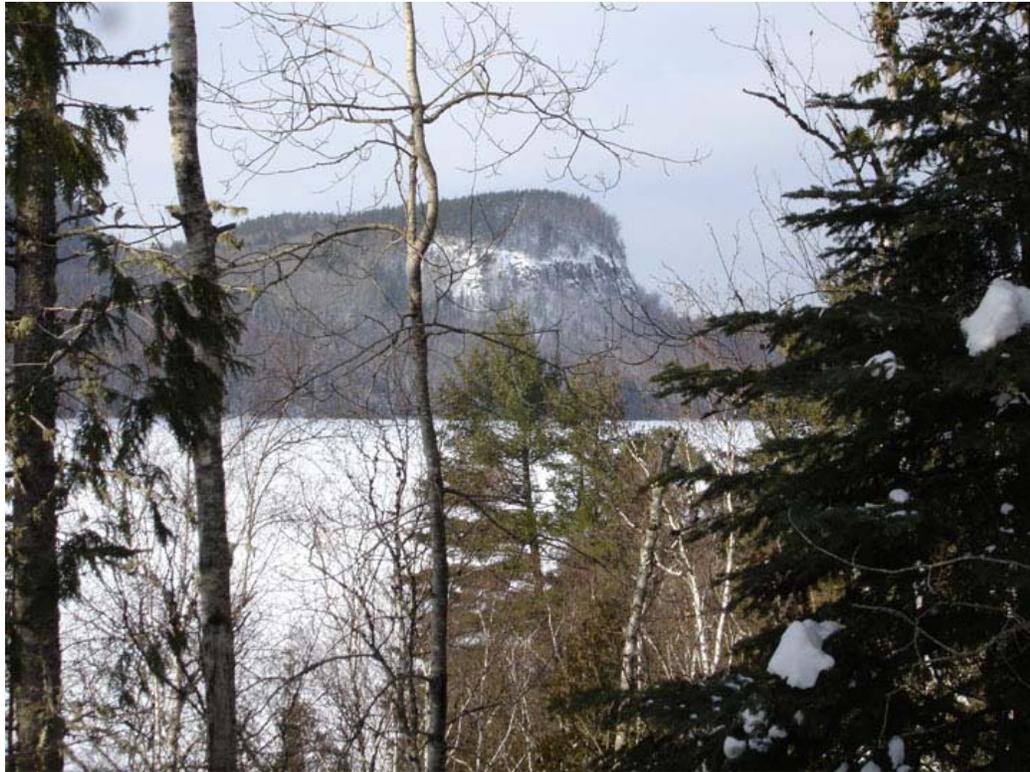


Figure 10. Wooly's Bluff, an example of geological features analyzed for this project.

2. Potential for soil erosion has been raised as an issue. I've reviewed similar snowmobile trails on the Gunflint District, as well as those recently constructed and I have witnessed that our construction techniques and the uses by sleds has not led to erosion. Further, the base of parent material upon which the northern route would be placed, is such that water seeps downward rather than runs overland. This is due to the rocky nature of the parent material and the shallow

soils. Where located on the bench area, there is expected to be no overland flow of water to cause erosion.

Where the parent material and soils change toward the east end of the route, the topography is flatter and more similar to that on which we have currently several trails located. Experience shows erosion is not significant.

Similarly, water quality will not be significantly affected by either Alternative. Potentially minor amounts of sediments may be produced by this action. However, it is highly unlikely sediments will move from the trail surface, let alone reach the slopes down toward Royal Lake (see Appendix A). There will be no heavy equipment in the riparian areas. Each Alternative will have an approach to South Fowl Lake for access to and from the lake. The riparian impacts of clearing brush will not affect ecological function, will not be intensive and will meet water quality standards found in the Forest Plan on page 2-13 through 15.

There will not be a loss of wetlands, nor a significant change to wetlands and hydrologic function. Alternative 2 crosses roughly 100 feet of lowland cedar on State land as the route descends from the bench. Alternative 4 crosses a similar stretch near McFarland Lake. Snowmobile trails are not uncommon in wetland areas and experience has shown me that there are effects to the vegetation upon which the trail is located but, minimal if any, indirect effects to surrounding vegetation and normal water flows are maintained.

My approach to approving two alternatives is different than normal, but I am confident the effects have been displayed for each of these alternatives. One or the other will be implemented, not both at the same time. It could be that Alternative 2 is put in place and through use of the criteria in this decision, it is later determined that Alternative 4 should be constructed. In that event Alternative 2 will be obliterated prior to construction of Alternative 4. The only impacts between the two that might be cumulative are soil related. Cumulative impacts between the two, similar to a 100 foot driveway (EA pg 41), are so very minor that together, they wouldn't be significant.

3. Social impacts are and will be present. It has been interesting attempting to determine exactly what the social impacts are. Some folks talk about the economics from construction. In the context of typical budgets for the Superior National Forest, those are not significant for any Alternative, even if the accuracy was off by 100%. Wilderness impacts from the perspective of sights and sounds are primarily social impacts. These impacts are generally what the debate has been about over the past two years. It is the same, at times very heated, debate that has been going on for the last few decades as to what is the proper management for both the Superior National Forest and the BWCAW. CEQ 1508.14 "Human environment" provides guidance on social impacts.

“Human environment shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. The means that economic or social effects are not intended by them selves to require preparation of an environmental impact statement.”

While there is considerable debate and disagreement, much of that debate surrounds Forest Service land management policy and is beyond the scope of this project. There may never be full agreement on that policy; however that policy was decided through law, which includes our Forest Plan. This decision is in full compliance with law, regulation and policy. The fact that the debate continues does not result in that being a significant issue for this project.

B. Intensity – CEQ 1508.27 (b) states that intensity refers to the severity of the impact. The severity of the impact will not be significant based on the following:

1. Both adverse and beneficial impacts of the selected alternative are discussed in Chapter 3 of the EA. Beneficial effects have not been used to offset or compensate for potential adverse effects. Based on my experience, the EA, BE, and planning record, there are no *significant* adverse or beneficial effects of the selected alternatives.

As discussed for Alternative 2 above, the primary impacts to the BWCAW are sights and sounds of snowmobiles in the winter. There will be no physical impacts to the Wilderness. Intensity of the sound is fairly simple to relate, the perception is more difficult. A normal conversation is about 72 decibels at 0.5 feet and 60 decibels at 2 feet (EPA, 2006). A snowmobile operated at 15 miles per hour is measured at 73 decibels at 50 feet (ACSA, 2004). The closest distance to Royal Lake is 600-800 feet from the proposed route, so the decibel level would be 24 decibels lower (MPCA 1999) to 49, for a person on Royal Lake, through open air. For comparison sake, a typical library is 50 decibels while a remote forest is 30 decibels. At the design speed (average safe speed for the trail) of 15 miles per hour, it would take a snowmobile roughly eight minutes to travel the 2.2 miles through the northern route. Again, at that slow pace, the time a snowmobile might be visible would be about 5 seconds at a perceptible level of approximately 49 decibels. In this location of the BWCAW, I find that impact is not significant.

Sights and sounds are also an issue for Alternative 4. There are folks who don't want to hear snowmobiles from their cabins on McFarland Lake. Alternative 4 would put greater sounds near those cabins; snowmobiling is quite common near roads and would occur even under no action. These impacts, although they may be unwelcome, are not significant.

Intensity of the impact to rare plants is not significant since there were no federally listed sensitive plants found along the route. Indirect impacts are speculative, i.e. “What if rock climbers started using these cliffs?” Or, “What if

snowmobiles tried to ride down the slope into the Wilderness?” Or “What if ATVs do get onto the trail?” There are criteria included with this decision to address each of these situations. Further, Gerdes (2001) describe cliffs in the Rove Slate complex as “dynamic and prone to crumbling” and “unsuitable for climbing” (pg 19). And, I would offer that it would be highly impractical for a snowmobiler to attempt a ride down that steep slope into the Wilderness (see figure A-14).

Intensity of impact to the Rove Slate complex is also not significant. Soil impacts will generally come from construction and the amount of soil disturbance determined in the EA is extremely small, less than an average driveway would cause.

If Alternative 4 needs to be constructed, the soil impacts would be greater, but still not significant when comparing the acres of impact to the whole of the cumulative impact area (EA pg 41).

2. Public health and safety will be protected under the selected alternatives by the design elements and mitigation measures. Alternative 2 specifically separates snowmobiles and automobiles and therefore “dual use” safety issue is resolved. Alternative 4 has some risk that snowmobilers may find the plowed surface more desirable. Again that is speculation, an appropriate trail would be provided that separates snowmobiles from regular vehicles. My experience in Michigan and Wisconsin with similar situations is that snowmobilers tend to stay on trails provided, including those on shoulders.

3. There are no known unique geographical characteristics that will be significantly affected by the actions of this decision. The EA (Chapter 3) analyzed effects to all relevant resources. There will be no known significant adverse effects on historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. During revision of the Forest Plan broad consideration was given to special management complexes, unique biological areas and candidate research natural areas. The Forest Plan Record of Decision did not allocate the South Fowl Lake area into one of those special management areas.

4. Based on consultation with others, comments received from the public, past experiences with similar projects, and the Environmental Assessment, I have determined there are no highly controversial effects (CEQ 1508.27). This does not mean that implementation of the project will be acceptable to all people; in fact public involvement has demonstrated this to be a highly charged project. People have expressed passionately divergent views on how to manage this portion of National Forest land and what values are most important to them. However, the effects of the project displayed in the EA do not have substantial controversial scientific disagreement.

5. Actions from Alternatives 2 and 4 are similar to those that have occurred on other parts of the Gunflint Ranger District, and effects of this action will be

similar to the effects of past actions. All actions are consistent with the Forest Plan, and all environmental effects are within the range disclosed in the Final Environmental Impact Statement for the Forest Plan. Based on this past experience and the environmental analysis, there would not be any highly uncertain effects or effects that involve unique or unknown risks.

The EA describes the risks associated with each of the alternatives in Chapter 3. There is some risk of illegal ATV use of the northern route. However monitoring will be done and decision criteria applied if that happens. There is also some risk of ATV use on the trail coming from McFarland Lake if Alternative 4 were to be constructed. Summer closure and monitoring would be needed for that trail as well.

6. Alternatives 2 and 4 will not establish a precedent for future actions or represent a decision in principle about a future consideration, particularly the need for other snowmobile trails or recreational access for other forms of recreational use. Any future proposal would follow appropriate guidelines for analysis and decision. The decision made about activities within this project area does not commit us to actions on lands outside the project area.

7. All known connected actions associated with the selected activities that have occurred in the past, are occurring now, or reasonably foreseeable in the future, have been identified in the EA. This includes actions on all ownerships in the project area. The cumulative effects to each resource area were analyzed in the EA (Chapter 3). There are no known significant cumulative effects between this project and other projects currently implemented or planned in the project area or adjacent areas.

8. No significant impacts are foreseen on any properties listed on or considered eligible for listing on the National Register of Historic Places, nor will there be any loss or destruction of any scientific, cultural, or historic places. The area affected by the actions of this project has been surveyed for heritage resources. Any known sites will be appropriately protected.

9. A Biological Assessment (BA) was completed for threatened and endangered species and for their critical habitat for the South Fowl Lake Access Area. The BA determinations are:

- a. All of the alternatives may affect but are not likely to adversely affect wolves or wolf habitat in the area.
- b. All of the alternatives may affect but are not likely to adversely affect lynxes or lynx habitat in the area.
- c. Alternative 2 may affect but is not likely to adversely affect eagles.

The Forest Service consulted with the U.S. Fish and Wildlife Service in accordance with requirements. The Fish and Wildlife Service concurred with our determination. The BA is found in project file for the South Fowl Lake

Snowmobile Access Environmental Assessment, located at the Gunflint Ranger District..

10. As outlined in the section Consistency with NFMA, the Forest Plan and Other Laws, these actions do not threaten a violation of any Federal, State, or local law or requirement for the protection of the environment (40 CFR 1508.27(b)(10)).

To bring this section to conclusion, I have searched for the factors Congress intended to be considered for a decision such as this and I have looked at the factors important to this decision. I've given consideration to the entire setting as to whether or not this action is significant and an EIS needs to be prepared. First, the Forest Plan (pg 2-43) has an objective for snowmobile trails, O-RMV-1, that permits up to 130 miles of new snowmobile to be added to our system. Therefore broad consideration of the impacts for new trails was provided in the Final EIS for the Forest Plan. Second, Alternative 2 would be the first 2.2 miles to be added since the Forest Plan was signed in August 2004. In event Alternative 4 is constructed, the 2.2 miles from Alternative 2 would be removed and 5.1 miles would be added. Third, the EA for this decision presents clear and concise documentation of the site specific impacts as required under CEQ 1508.9.

I recognized that this action is highly emotionally-charged and people have many deep seated personal opinions. I have read several background laws and policies under which the Forest Service works. I have gone over analysis of impacts for each issue very carefully and I have read and considered all public input. I have asked myself, "Is there more that can be done to make this proposal less emotional, is there more data or analysis that would help me or the public see more clearly, is there anything more I can do with the public to reduce the long standing passion surrounding management of the National Forest, the BWCAW or this proposal? Would preparing an EIS change anything connected with this proposal, analysis or decision?" My conclusion is that more detail, more analysis, more documentation and, after my last field trip with people on both sides of the issue, more public involvement would not resolve the debate. CEQ 1500.1 (b & c) provides guidance to help with this conclusion.

Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

Ultimately, of course, it is not better documents but better decisions that count.

NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action."

I recognize that each alternative, including that of no action will have some impacts, both positive and negative. I have looked at the full scope of activities in the area of McFarland, Royal and South Fowl Lakes. I have addressed CEQ 1508.27 "Significantly" point by point and have determined that implementing this project will not lead to significant impacts, either by itself or cumulatively when viewed with other actions. Therefore preparation of an EIS is not necessary. Further, preparing an EIS would only amass more detail and documentation, but would not assist in making a better decision.

PROJECT IMPLEMENTATION

This project may be implemented fifty days after the date of publication of this decision in the *Cook County News Herald*, Grand Marais, MN.

Should new information relevant to this decision become available, that information will be considered, and the decision examined to determine appropriate action. During implementation, any proposed changes to the authorized project will be subject to the requirements of NEPA, NFMA, and other laws concerning such changes.

In determining whether and what kind of NEPA action is required, I will consider the criteria whether to supplement an existing EA in 40 CFR 1502.9(c), and FSH 1909.15, sec. 18, and in particular, whether the proposed change is a substantial change to the Selected Alternative as planned and already approved, and whether the change is relevant to environmental concerns. Connected or interrelated proposed changes regarding particular areas of specific activities will be considered together in making this determination. The cumulative impacts of these changes will also be considered.

As stated and analyzed in the EA, the acreages of the units are estimates and may vary slightly in implementation. Many of these minor changes will not present sufficient potential impacts to require any specific documentation or other action to comply with applicable laws. Some minor changes may still require appropriate analysis and documentation to comply with FSH 1909.15, sec 18.

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Cook County News Herald

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Ted Young, 1/6/2006

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4/2004

APPEAL RIGHTS

This decision is subject to appeal in accordance with the provisions of 36 CFR 215.11 (June 2003). The period for filing a notice of appeal begins the first day after the publication of the legal notice in the *Cook County News Herald*, of Grand Marais, Minnesota. A notice of appeal must be filed, and postmarked or received by the Appeal Deciding Officer (listed below) by the close of business on the 45th day following publication of the legal notice. The publication date of the legal notice is the exclusive means for calculating the time to file an appeal. The Notice of Appeal must be sent to:

James W. Sanders, Appeal Deciding Officer
Attn: Appeals & Litigation
USDA Forest Service, Eastern Region
626 E. Wisconsin Avenue
Milwaukee, WI 53202

Faxed Notices of Appeal must be sent to James W. Sanders, Appeal Deciding Officer - South Fowl Lake Snowmobile Access EA / Superior National Forest, Attn: Appeals & Litigation at:
(414) 944-3963.

Business hours for hand delivered Notices of Appeal are: 7:30AM to 4:00 PM Central Standard Time, Monday-Friday.

Electronic appeals should be directed to: appeals-eastern-regional-office@fs.fed.us
subject: Notice of Appeal: South Fowl Lake Access EA / Superior National Forest.

Acceptable formats for electronic appeals are: text (.txt), MSWord 6.0 or higher (.doc), portable document format (.pdf), or rich text format (.rtf). For submission by email, appeals greater than 10 lines (no more than 80 characters per line) should be electronically attached. If electronic appeals are 10 lines or less, they may be submitted as an email message using standard messaging software. All email submissions should contain "Notice of Appeal: South Fowl Lake Access EA / Superior National Forest" as the first words on the subject line.

The Notice of Appeal must state the reason(s) for objecting, including issues of fact, law, regulation, or policy; and it must identify the specific change(s) in the decision that the appellant seeks.



02-21-06

DECIDING OFFICER:

Dennis Neitzke
District Ranger
Gunflint Ranger District
Superior National Forest
2020 W. Hwy. 61,
Grand Marais, MN 55604
Voice/TTY: (218) 387-1750
FAX: (218) 387- 3246