

State Trail Administrators Training Workshop

September 19-20, 2003

Radisson Hotel City Centre, 31 West Ohio St, Indianapolis IN 46204, 317-635-2000
Organized by the National Association of State Trail Administrators and the Federal Highway Administration (FHWA)

- See Attendees at www.fhwa.dot.gov/environment/rectrails/stam2003/attendees.htm.
- See [Common Abbreviations](#) used in this summary.

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Introductions

Christopher Douwes, FHWA Trails and Enhancements Program Manager, opened the meeting and thanked Steve Morris, Indiana DNR, for helping to organize the meeting. Steve thanked Diana Virgil of the Indiana Trails Fund for taking care of the logistics for the meeting.

Christopher read from *Sharing the Trail with Horses*, by Judi Daly, from the Summer 2003 issue of *Trail Tracks* from American Trails, which describes how fear affects how people perceive various trail uses. See www.americantrails.org/trailtracks/Summer03TT/TT03Summer.pdf, page 22 of 32. He introduced the meeting as a means for States to enhance how they administer their programs, trails, and State needs. He also passed around the State Trail Administrators list to check for accuracy. The list is kept at www.fhwa.dot.gov/environment/rectrails/rtpstate.htm. Please forward corrections and updates to jonathan.leclere@fhwa.dot.gov.



TOP

Reports from the States

OH: Bill Daehler's office administers the RTP and the Land and Water Conservation Fund (LWCF) Program. Ohio just completed its new Statewide Comprehensive Outdoor Recreation Plan (SCORP). Ohio is close to submitting 2003 RTP recommendations for approval. A State initiative, Clean Ohio Trails (passed November 2000) allocated \$25 million for trail projects over a four year period. Ohio also completed the first trail guide for the State, and hired a new trail grants person: Mary Fitch.

IL: Dick Westfall, David Sellman. Dick is an advocate for trails across the State. It has been fun to make up rules and try to create opportunities based on what the public wants. David is responsible for five different grant programs for trails as well as boating.

CO: Lori Malcolm took over from Stuart Macdonald. The program has been downsized somewhat but is in excellent shape. Colorado has used LWCF funds for trails. Projects include the Colorado Front Range Trail to connect major urban centers. The challenge is coordinating with Federal agencies. The State has four regional trails coordinators to work on projects and with Youth Corps to improve connectivity.

KS: Trent McCown said Kansas has ongoing debate about the need for trails and trail funding. A strong landowner rights movement has limited railbanking corridors and railtrail construction in rural areas. About 97% of Kansas is private land ownership, so space for trails often is limited to urban areas or public areas such as State parks. The first State-operated rail trail in Kansas (Prairie Spirit), is up and running and has public support. The challenge is involving local communities, working on nuts and bolts issues, and helping people find funding. Kansas is working with OHV groups on a motorized riding area.

PA: Marian Hrubovcak manages a variety of programs and recently received the RTP. Blueways and greenways are other linear State programs; the goal is to combine these programs.

MO: Erika Jaques works primarily with RTP. The RTP received 60 applications for funding, and has more and more interest as the word gets out. Missouri awarded 16 projects; requests for funds are 3 times the funds available. The challenge was to meet the motorized quota for funds.

IN: Steve Morris made copies available of the Indy Trail Users Guide and specific trail guides for Central Canal Towpath, Monon, and White River trails. Steve is responsible for a variety of trails issues. Programs include water trails, scenic rivers, motorized trails, and Indiana's longest hiking trails. His staff coordinates the State trails advisory board. The Redbird OHV facility is a recent accomplishment. There was a lot of support from local interests and State government.

WV: Bill Robinson. WVDOT works on all the various pieces of trails and bike/ped programs. The legislature is interested in funding a State trails person. One big project has been Hatfield-McCoy trails system of motorized and other uses, which is expanding.

OK FHWA: Shannon Dumolt noted that the Congress was very supportive of TE in recent debates over funding. Oklahoma is opening multi use trail system.

NH: Chris Gamache said New Hampshire just purchased an easement for 180,000 acres of land in Northern New Hampshire. New Hampshire manages 700 miles of OHV trails as well as trails for all other uses. Grants start next month.

WI: Brigit Brown said Wisconsin manages 40 linear trail parks throughout the State, and 30,000 miles of snowmobile trails. Larry Freidig is the RTP grant person. They work with the State trails advisory board. Wisconsin has many miles of railbanked corridors, and its own railbanking statute. It has an ATV task force to figure out how to provide more motorized recreation. ATV registrations have almost doubled without any new areas to ride them. The State is looking at increasing OHV registration fees.

IN: Bob Bronson oversees SCORP planning and administers the RTP and other outdoor recreation grants. Several cycles of RTP funding are helping to complete the Redbird OHV project; about 30 percent of annual RTP funds have gone to that project over the last several years. City trails have been around for some years, and recent extensions were added using TE funds. Not a lot of State money goes to outdoor recreation; the State counts on Federal funds. Indiana raised the 3-year ATV registration fee from \$6 to \$30 to develop and acquire lands for OHV use, like snowmobile program

funds. After December 31st, all ATVs must be registered; not just those used on public lands. People are gradually converting to trail advocacy, including elected officials.

NJ: Larry Miller said OHVs are a big topic, especially the lack of facilities. The State is developing a State OHV policy, and will create two new riding areas.

ME: Paula Fortin is FHWA's new RTP contact person in Maine. She said Bud Newell works with financial assistance programs, including RTP, and was representing Mike Gallagher.

MN: Tim Mitchell administers trails and other State programs. There are issues with OHVs but the new concern is a case where adjacent landowners along a rail trail challenged the State's ownership based on old railroad deeds. The continuing case may affect people nationwide.

FHWA DC: Jonathan LeClere has a background in website development and information technology; he wants to help States get the information they need. He wants to see what States want to have available.

SC: Wendy Coplen manages the RTP. SC just awarded 2002 and 2003 RTP grants and met the 30/30/40 percent requirements. There were about \$8 million in requests for \$1.3 available.

GA: Eric Hunter said a court case is underway on the Silver Comet rail trail, which is nearly complete from Atlanta to the Alabama border. RTP and other funds have built it. Georgia's previous governor instituted a greenspace program that provided funds for counties and communities to purchase greenspace. The greenspaces usually are in flood plains or flood zones, so heavy development cannot occur. Many counties and communities are turning to the RTP to find funds to build trails in these greenspaces. Georgia receives 3 times the request for RTP funds as it has funds available. One issue is small rural communities wanting to build walking tracks, and helping them understand LWCF is a more appropriate funding source. Georgia gets a lot of funding requests from the US Forest Service, but some projects sit for 3 or 4 years before they either complete the project or turn the grant back. Federal lands are the only places where there are OHV riding areas.

DE: David Bartoo is a trails specialist, and Susan Moerschel manages RTP grants. David does planning and design. Most trails are single tracks, about 140 miles of trail. Delaware is developing a sustainable standard for trails similar to IMBA's. State law prohibits OHV use in DE. The RTP also gives DE a Small State Exemption. The State parks system is only 50 years old.

MI: Jim Radabaugh said Michigan has four trail programs, several thousand miles of snowmobile and OHV trails, and rail trails and other State corridors. Michigan had a lot of retirements and staff changes, so personnel and political issues have taken up time. There are new people, new ideas, and new statutes. One new challenge is Argo amphibious vehicles. The Segway lobby also brought new policies. Michigan acquired another 80 miles of multi-use corridor recently; it is common to have shared motorized-nonmotorized corridors. There are concerns about winter damage to pavement, so an experimental project started to evaluate pavement types and durability on trails where snowmobiles are used. Several court cases are going on, including one challenging use of snowmobiles in a local township, which is in conflict with State statutes.

AK: Jim Renkert just received RTP responsibilities. He has worked on variety of trails issues, including the State snowmobile program. He brought an avalanche safety brochure, part of a successful program. The State is involved in wide variety of outdoor recreation as well as trails.

LA: Matt Rovira said the RTP is housed in the Governor's office. As the program has grown, the natural place would be in natural resources department, but Governor wants to keep it. The RTP is very popular; there is a four to one ratio on requests for funding. One big problem is OHV safety, especially vehicles being struck on highways; there were six fatalities just in one parish. A safety awareness campaign is underway. In the past, Categorical Exclusions (CE) worked for trails, but concerns about wetlands impacts has created a huge impact on trails grants. There is a very expensive process of delineation and assessment on environmental clearance.

ND: Dan Schelske found out a month ago that he is the new State trails coordinator. He has been involved in Scenic Byways and was park ranger for 18 years. There has been a huge increase in ATV sales and there are many concerns about their use. The State will need to provide facilities.

CO: Tom Metsa recently was hired as State OHV program administrator. The program gets 45 applications a year and funds about 30. Half of the OHV registration funds this year were taken to help fund other State projects.

IN FHWA: Joyce Newland is transportation planner for FHWA who has responsibilities for the RTP and TE. She also welcomed the group to Indiana.

Other Discussion: All States receive far more requests for RTP funds than they have funds available. Three States had requests up to 10 times the funds available, the median was 3 to 5 times the funds available, and a few States had twice the requests as they had funds available.



TOP

Surface Transportation Reauthorization

Christopher Douwes presented information on SAFETEA, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, proposed by the US Department of Transportation in May 2003, to follow the Transportation Equity Act for the 21st Century (TEA-21). See the presentation at www.fhwa.dot.gov/environment/rectrails/stam2003/fhwa/index.htm. TEA-21 expires September 30, 2003.

Congressional proposals will not be complete by September 30. A TEA-21 extension act for 5 to 6 months is being considered to extend funding authorization. If extension does not happen on time, the RTP and other Federal highway programs will shut down after Sept 30.

The Surface Transportation Extension Act (STEA) of 2003 was enacted September 30, 2003; see

<http://thomas.loc.gov/cgi-bin/bdquery/z?d108:h.r.3087>: (you need the colons). Advance FY 2004 apportionments are listed at www.fhwa.dot.gov/legisregs/directives/notices/n4510510.htm.

Questions and Answers and Comments: *Most questions came from States; Christopher Douwes answered most questions on behalf of FHWA, except as noted.*

Q: Will FHWA be able to take any action to process grants from past years?

A: If funds have been obligated yes, but don't expect any new funds. State can continue to work on projects but funds will be held up.

A recent vote in the US House of Representatives overturned a proposal to eliminate requirement for States to spend funds on Transportation Enhancements. It would not have affected the RTP directly. The vote was 327 for, and 90 against, continuing mandatory TE funding: a 78% margin in favor. Pedestrian and bicycle, tourism, and historic preservation advocates said this is a vote of confidence for their issues.

Q: Dick Westfall (IL): How will the extension affect funding to States?

A: If a 5-month extension passes, then States would get 5/12 of their annual funding; possibly with a provision to extend another month. Almost half of the funding will be available. *[Note: In fact, the apportionments were about 52% of the expected funding.]*

Q: Dick Westfall (IL): Why should we go forward on partial funding if we may have to stop?

A: During the previous reauthorization (from ISTEA to TEA-21), the RTP changed from an allocation program to an apportionment program and had significant programmatic changes. States had to wait for new guidance. This time, we don't anticipate changes in how funds are distributed to the States, and we don't anticipate significant program changes. It is up to the States, but if they do nothing, they may not be able to obligate funding. Congress also needs to extend contract authority. Christopher believes there is too much need for the Federal-aid highway programs, and Congress will provide interim funding.

There are two extremes of politics that seem to support a 1 or 2 year interim bill. One side wants a change in the Administration and the Congress to support GREENTEA: more non-highway programs. An opposite viewpoint is that the Administration and current Congressional control will be strengthened, and there could be a HOTTEA: a Highways Only program. The message from the Administration is to keep a balanced program, make it more flexible and efficient, and improve safety without raising new taxes or user fees, including the fuel tax. Increased flexibility means States would have more ability to control their programs. An enhanced emphasis on highway safety will help pedestrian and bicyclist concerns. Trail safety can also benefit.

The Administration's proposal has an environmental message: \$62.4 billion for environmental programs (roughly 25% of total authorizations over 6 years). The \$360 million for the RTP is a 20 percent increase (although less than what trail advocates want).

The RTP proposal would:

- Strengthen State RTP Committee. There are concerns some States don't have appropriate input from motorized or other interests. At least one State prohibits organizations represented on State committees from applying for funds. The USDOT proposal would have a minimum of 30% of members represent motorized users, 30% represent nonmotorized, meet at publicly-announced meetings, and have the committee review, rank, and recommend projects for the RTP (not for overall State trail policy, as some organizations have claimed). This proposal generated some controversy, and is unlikely to be included in final legislation.
- Clarifies program eligibility. The RTP proposal would clarify that States can use RTP funds for trail assessments (such as the Universal Trail Assessment Process (UTAP)), to support State efforts to improve accessibility. States can use RTP funds to support Youth Corps or other trail crews. States would be able to fund non-law-enforcement trail monitoring and preventative maintenance (but not policing). Educational trail patrols would also be eligible.
- Eases Program Requirements: The RTP proposal would simplify the Federal share (allowing a higher Federal share in States with large proportions of Federal land), and eliminate excessive highway contracting and program requirements.

Youth Corps Proposal. The RTP proposal would require States to use 10% of their RTP funds through youth corps. This proposal originally was part of an overall proposal to improve how to get funds directly to State RTP agencies, and meet the spirit of Disadvantaged Business Enterprises (DBE) requirements. The direct funding and DBE proposals were not included in the final proposal, leaving the youth corps proposal alone. Some States don't have youth corps, and most States oppose a mandatory requirement. The CRT proposes codifying encouragement of youth corps, perhaps with an incentive of a higher Federal share.

FL: Alex Weiss said Florida uses the State committee to help advise in developing criteria for selecting projects, and includes input from other groups. She wants to keep the current system which gets policy from a wider variety of sources. A State statute requires going to the public.

Q: Matt Rovira (LA): Would States be able to use RTP funds to match other Federal funds (e.g. LWCF)?

A: The RTP proposal has provisions to enhance the Federal share, to allow RTP funds to be used to match other Federal program funds (including LWCF), and to allow for environmental compliance costs to be credited toward the non-Federal share (for costs incurred in the past 18 months). These provisions have not generated opposition, so they are likely to pass.

Q: Brigit Brown (WI): Would Section 106 expenses be eligible (to meet requirements of Section 106 of the National Historic Preservation Act)?

A: Yes, the RTP proposal would allow credit toward the non-Federal share for environmental compliance costs (including Section 106) incurred prior to Federal project approval. Costs incurred after project approval should be incorporated into the project cost.

Transportation Enhancements

SAFETEA does not propose any changes to the Transportation Enhancement (TE) activities or to the funding source. However, the total amount of TE funds would be less than anticipated, because

the Surface Transportation Program would be slightly smaller.

Some organizations, such as the Civil War Preservation Trust, want to amend some existing TE categories to specifically allow battlefield acquisition and/or other historic preservation. Historic preservation projects have been difficult to administer due to inconsistencies in State policies.

Bicycles and Pedestrians

SAFETEA proposed very few changes directly affecting pedestrians and bicyclists.

- It continues broad eligibility of bicycle and pedestrian projects from any funding category.
- States may allow user fees on shared use paths as long as the path is not within the right of way of a highway or street. User fees have to go back into the trail. This was controversial among TE program managers. It is optional, not required.
- It defines "shared use path" to allow equestrian use. Nothing in Federal law or regulation prevents horses from using Federal-aid facilities.
- It does not propose allowing "electric personal assistive mobility devices" (Segways). The Senate has considered allowing Segways on trails using federal funds. The Segway clearly is a motorized use and may impact State policies on maintaining trails as nonmotorized.

Q: Are snowmobiles allowed on trails using TE or other Federal-aid highway funds?

A: Yes they are legal, if State or local laws or regulations permit.

Indemnification for Railbanking (Sec. 1617)

Some court cases involving railbanked property have resulted in claims against the United States Government for compensation. The indemnification proposal would require States that use Federal-aid funds on railbanked property to indemnify the US government in case there is a claim on the railbanked property. It is best to make sure you have fee simple title.

Q: Erika Jaques (MO): Will this apply to past railbanking cases?

A: It probably would not be retroactive for funds obligated prior to enacting this indemnification provision, but it would apply to any new funds obligated on previously railbanked corridors. This provision depends on action in Congress: it might pass, it might not.

Q: Dick Westfall (IL): Does this apply to any railbanking?

A: The provision would apply to projects using any form of Federal highway money in a railbanked corridor if there was a judgment in favor of a landowner. If the DOT settles and buys fee simple title or obtains a written permanent easement, then the landowner would have no cause for future action.

New flexibility

Donations and Credits: SAFETEA would allow the value of donated services provided by local government employees to be credited to the non-Federal share.

Q: Does that include county as well as State?

A: It includes counties, cities, towns, townships, municipal districts, school districts, or any other unit of local government, but not an agency of State government.

Q: How is donation considered? A credit? Cash? Donation of services?

A: It would be considered a credit to the non-Federal share. In reality, wages paid to a local government employee who "donates" services are a cash contribution. But it is still a "donation" in that it substitutes for the State's contribution toward the non-Federal share. In the past, for most highway projects, the non-Federal share was simply the State share. So, the "donation" is something in place of the State share. Shannon Dumolt pointed out that no money changes hands in other cases, but this is cash since the local government pays a worker.

Q: Brigit Brown (WI): Would this apply if the employee is funded from Federal funds?

A: No. Double counting of Federal funds is not allowed: see 49 CFR 18.24(b)(1): "Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant." If costs borne by the first grant also satisfy a second federal grant there can be "no double counting" under the common rule.

Historic bridges: SAFETEA would amend the historic bridge program by removing the limit of using other Federal highway funds after using Bridge Program funds for historic preservation. This would, for example, allow TE funds to be used for bridge preservation without a limit. Currently, the limit is the cost of demolition, which could mean a bridge would have to be demolished and built new, rather than rehabilitated or restored.

Transportation, Community, and System Preservation Program (TCSP)

SAFETEA would replace the Transportation and Community and System Preservation Program, a discretionary program, with a new TCSP that apportions \$500,000 to each State for TCSP-eligible activities.

Assumption of Responsibility

The Assumption of Responsibility provision would allow States to assume Federal responsibilities and liability for TE, RTP, and TCSP. FHWA division administrators offered the proposal to reduce the burden on FHWA division offices from these smaller programs. It would be at the option of the State. If the State assumes responsibilities, it must also assume liability for complying with Federal laws. It is intended to eliminate a layer of bureaucracy to help States implement TE, RTP, and TCSP more effectively. However, it was noted that some States may not be familiar with all Federal requirements, and there is a concern that it might not really reduce the amount of FHWA involvement, paperwork, and fiscal compliance.

Q: Tom Davis (OH): Could a State assume responsibility for RTP and not TE?

A: Yes, in fact, the programs would have to be separate in most States, because State DOTs administer TE, but most States administer the RTP through a State resource agency.

Alex Weiss said Florida already has an agreement in place, and is happy with FHWA backing up the State. You would just reevaluate current program to see if it complies: State by State.

More Information on Reauthorization; What Comes Next?

More reauthorization information is at www.fhwa.dot.gov/reauthorization/index.htm. There are also links to various organizations.

What's Next? The biggest increase in transportation funding in history is not enough, according to some Members of Congress. Both the House and Senate versions contemplated so far would require "revenue enhancement".

State Presentation on the RTP Proposal

Steve Morris surveyed State Trail Administrators in May-June 2003 on their response to SAFETEA and its trail provisions. He presented their responses at the [Trails and Greenways Conference in Providence RI in June 2003](#). He used this presentation to help the Indiana State trails advisory committee understand Federal legislation and programs related to trails. Some States provided comments which were kept confidential on how they felt about SAFETEA proposal. See *Federal Transportation Reauthorization: The State Perspective* at www.fhwa.dot.gov/environment/rectrails/stam2003/morris/index.htm).

RTP Funding: SAFETEA's RTP proposal would return of 21% of estimated OHV recreation fuel taxes. The State Trail Administrators proposed a return of at least 50% of funds by agreeing with the Coalition for Recreational Trails. CRT sent a letter to USDOT Secretary Mineta to show broad support for the RTP from wide variety of organizations and interests, but CRT also expressed disagreement with several RTP provisions.

Dick Westfall asked if the States had input into the letter. Stuart Macdonald said he felt it was important to include State people, as individual professionals, to support the RTP. Christopher Douwes said DC-based groups wrote the letter. He was concerned they didn't seek clarification from FHWA on some points of disagreement. CRT wanted to get the letter out quickly.

Stuart Macdonald said that getting information out to local trail supporters is becoming effective. The experience with recent TE controversy shows that communication is improving.

Q: What is likelihood that the changes proposed to RTP will pass?

A: Christopher said FHWA drafted a response to CRT. The trail advocacy groups have frequent contact with Congress all the time. Most Members don't want new requirements. Christopher thought that some new requirements likely would be rejected, but new flexibilities and clarifications probably would be accepted.

Recreational Trails Program Implementation (handout, see *Implementation* presentation at www.fhwa.dot.gov/environment/rectrails/stam2003/michigan.htm)

Jim Radabaugh (MI) provided examples of topic areas they have been dealing with in Michigan:

- Engineering requirements: looking at costs.
- Moved toward funding engineering and design costs; this is the second year.
- MIDOT's TE program has also moved in this direction: more effective use of funding.
- On State lands in MI, there is a trend toward requiring review of all construction projects.
- Balancing State dollars with Federal sources and making sure funds are available at the same time.
- Communicate: staff changes mean new challenges to keeping programs running smoothly; make sure there are good contacts with FHWA and State DOT.

Implementation Discussion: What do States need and want from FHWA for program guidance?

Bill Daehler (OH): It is great that you have a staff person to handle technical questions; State FHWA contacts have not known the details.

Christopher: The CRT proposal includes an RTP Clearinghouse similar to the America's Byways Resource Center (www.bywaysonline.org), the Pedestrian and Bicycle Information Center (www.pedbikeinfo.org), and the National Transportation Enhancements Clearinghouse (www.enhancements.org). It would help answer technical questions. The CRT proposal might mandate support through a nonprofit organization, university, or other entity. FHWA agrees a clearinghouse is a good idea, but would prefer to compete it rather than having a particular entity designated in the legislation, and is concerned that a mandatory amount might impact FHWA's ability to support trail related issues such as the National Trails Training Partnership (NTTP: www.NTTP.net), trail technology and development with the US Forest Service, and trail related research (such as ongoing contracts with IMBA and the American Horse Council).

Q: Wendy Coplen (SC) asked if an RTP clearinghouse would help States or local people applying for funds?

A: Yes, both.

Dick Westfall (IL) said the program guidance is approaching half-inch size. It would help to work on environmental clearance and who to call, what processes other States use. One suggestion: see <http://environment.fhwa.dot.gov/guidebook/index.htm>.

Suggestion: Should we have a "Frequently Asked Questions" document for RTP? Lori Malcolm asked FHWA to provide a checklist of environmental and other issues they need State to address.

States should share information on how to comply with the guidance. States should feel free to plagiarize good ideas from other States.

Some States reported that Federal standards seem to vary from office to office depending on who is interpreting the Federal statutes. Christopher said FHWA will make guidance available on the improved FHWA RTP website. Shannon Dumolt (FHWA OK) said FHWA has an opportunity to clarify these requirements so there is more consistency and make it available to all States.

Alex Weiss said Florida has reduced DOT environmental information to 15 questions that are appropriate for trail projects. Florida's application, references, and supporting materials are at www.dep.state.fl.us/gwt/resource/rtp.htm. Shannon Dumolt said many FHWA environmental staff consider Florida a leader in environmental issues.

Tom Davis (OH) asked if we could use a listserv online discussion group. Christopher and Stuart both send information out, but hasn't been used much as a discussion vehicle. There are concerns about questions going from States over the heads of FHWA division offices. There was no clear support for a listserv, but States should continue to share questions and to provide good examples from one State to others.

Assumption of Responsibility: The States are not sure if this provision would be helpful or not. There are great variations among State requirements, and interpretation by Federal agencies has complicated compliance in some States.

Wendy Coplen (SC) said she is concerned that program guidance keeps getting bigger and raises new questions and unintended consequences, and then requires further clarification.

Stuart Macdonald said States have very different approaches to RTP. Some make their own policies based on broad guidelines, others expect FHWA to determine policy. Some concerns from local project sponsors and trails interests are handled by State programs; while others want FHWA in Washington to tell them how to respond. States may set their own guidelines within Federal guidelines.

Erika Jaques (MO) asked for Uniform Act guidance to simplify the procedure for nonprofits, or for situations such as easements and leases. See www.fhwa.dot.gov/realestate/ua.htm.

See [Questions and Answers Submitted Prior to the Meeting](#).



TOP

--LUNCH--

Small group discussions

State Trail Committees

Tim Mitchell MN: www.dnr.state.mn.us/fad/recreation/trails_federal.html: The Minnesota Recreational Trail Users Association has nine different trail uses each with three representatives. Meetings typically have over 20 attendees. The group has its own bylaws and policies. Costs are split among several sources. MN DNR provides about half the budget. The group plays a big role in the State trails conferences as well. Motorized votes on motorized projects.

Eric Hunter GA: Some users fight projects. There are concerns about how you review projects, by site visits or just through applications. The key is developing trust among the groups so they will accept judgments of others.

Public notification: Many States have open meetings laws (7 of 9). Most States provide meeting information to the public.

IL: Do you create your board from existing trail organizations or just from trail users? Three of nine States get members from existing user organizations. Ohio has a separate committee for bond initiative funding for trails. Some States have requirements for representation from Congressional districts (CO).

Committee Membership

- Political requirements, governor's office influence. In WV, the Governor appoints the committee members.
- Terms of office: not all require them.
- Several States have Federal representatives to give input, but not to score projects or as official representatives on the committee.
- Most also have a local governments or open space agency or park districts.
- IL has a category for regional greenway coalitions.
- Continuity of members is a concern.

Project Review

- 4 of 9 States have committee members review grants. PA has a legal problem; it is trying to clarify that the advisory committee makes recommendations to be approved by others.
- IL has a white paper clarifying the intent of the program that the committee sets up policies and priorities. The State does the actual project selection. This seems to be the typical model.
- There is a potential problem if higher level authorities change the recommendations.

IL: the committee needs to have more to do than just work on RTP funding selections.

Oklahoma and Colorado have standard applications available on their websites so applicants know how to apply (OK at www.otrd.state.ok.us/rd/index%20frame.htm; CO at <http://parks.state.co.us/default.asp?action=park&parkID=98>). Some State priorities change each year. States should determine priorities first, then announce them to potential applicants. MN said things change over time, and applicants like the flexibility.

Different States have different ways of scoring projects. Some just pick a total score. Sheer numbers of applications make it difficult to evaluate projects fairly. OK and WV find that project sponsors feel TE is easier program to deal with. Other States feel State trails programs are much easier for local applicants.

Unsuccessful applicants want feedback. It is good to have variety of opinions from committee members. OK gives points to projects that improved over unsuccessful previous applications.

Motorized issues: Many non-snowbelt States have trouble spending motorized money. State snowmobile groups are very active. Summer motorized interests are harder to connect with as they are less organized. IL is encouraging ATV users to form a statewide association.

Committee expenses: There are different ways to handle committee expenses. Some have fairly minor expenses for a handful of people. The WI committee costs about \$4,000 a year. Most cost less. WI and OH have committee members pay their own way. IL asks different committee members to host meetings in their own location and provide lunch, which creates less of a sense of the State controlling them. CO sponsors trips to different locations to show projects, and to give people a chance to talk about local concerns. WV does an annual presentation of projects.

- Feed em
- Take them out to see projects
- Nurture committee ownership of process and appropriate level of responsibility



Good Idea? Bad Idea?

User fees

What is the definition of a user fee? There are different kinds.

Some States allow user access fees. Some people think user fees are needed to provide necessary funding for services (maintenance and operation). Different kinds of fees include membership fees, park passes, day use fees, annual use fees, parking fees. There are issues of equity between user groups [including equity for low income people, *editor note*].

- What is a "reasonable" fee?
- Annual fee vs. day use fee
- What is appropriate where the public also pays taxes? Some people see double taxation.
- Fees on public vs. private land
- Parking fees (+) and (-):
 - (-) people can avoid the fee by parking elsewhere.
 - (+) relatively easy to administer

- (+) may reduce liability, and still allow Recreational Use Statutes to remain in effect
- Parking fees aren't seen the same as a user fee; you're not charging for the actual trail.
- How to "capture" the users
- More fees are associated with motorized use than nonmotorized.
- Where do the fees go: to trail work or to general fund?
- Membership fees to protect from lawsuits.
- Privately owned areas have different fee schedules depending on the type of use: concerns about what is equitable.

Working with Nonprofits

- Working with nonprofits on Federal land is easier
- Historical bias developed (can be hard to work with)
- Ownership issues
- User fees
- Transient (no staff)- can they be held accountable
- Existence of State government good list/bad list
- Issues of land ownership - maintain the project

Combining Funds

Some States combine funds from various programs to provide trail funding. Some States mix and match RTP funds with other funds. Some States have one grant round for various trail programs.

- New Hampshire
 - NH collects motorized fees stateside and uses them for motorized trail grants: \$4 million/year. NH gets \$600,000 from RTP. NH has a \$20,000 cap on all grants. Locals apply for the RTP for construction projects, and to the State for materials funded at 100%. No soft match is allowed in State grant program. NH would allow mixing funds only for State involved projects. NH has 2 year grants, allowing a one year extension.
 - NH has a \$54/yr ATV registration (resident). NH has completed an economic impact study which showed the snowmobile economic impact about \$1.1 billion per year, and ATV economic impact is estimated at about \$250 million per year (formal impact study underway now). NH buys a \$2 million liability policy for private landowners where trails run. The State has never had to pay for an award against a landowner.
 - NH is trying some recycled materials for trail; recycled glass and asphalt
- Colorado has various sources of funds, but one set of requirements. CO lumps all money into one grant cycle. The State sorts projects and funding sources in house. Programs include OHV grants, RTP, LWCF for trails, and lottery dollars for GOCO (Great Outdoors Colorado). CO builds many trail bridges with LWCF funds. CO has 3 year grants, allowing a one year extension. CO needs a way to 'connect' the thousands of trails. CO is getting funding from health organizations for trail guides.
- Colorado has 4 categories of applications:

- Planning: award up to \$15,000 (25% match) [Note: Colorado defines 25% match as 25% of the amount received from the Government grant, regardless of total project value.]
- Small: award up to \$15,000 (25% match) [25% of the amount received from the grant]
- Large: award up to \$200,000 (100% match) [match value must equal the amount received from the grant]

All grant applications are scored by outside reviewers: about 45 people and the State Trails Committee. Each applicant must complete an environmental form, then the applications are sent to the Colorado Natural Heritage Program for a second environmental analysis.

- OHV: award up to \$200,000 (no match required, but suggested). OHV applicants must conduct an oral presentation to an OHV subcommittee for selection. OHV applications are mostly on Federal land and already have to comply with NEPA, so these are not normally sent through the Colorado Natural Heritage Program for a second review.
- Indiana requires locals to have fiscal involvement/responsibility pertaining to their matching funds. Applicants can only apply for one grant from one funding source per year. Projects must go through all Section 106 (historic preservation) steps, along with other environmental requirements to receive their Categorical Exclusion.
- IN has a statewide website with a GIS map with all trails in State as near as possible. It uses all RTP funds to get projects built. It limits projects to \$1 million. IN built much of the trail system in the last decade using enhancement dollars.
- Kansas has increasing population and trail demand in urban areas. This is putting a lot of trail development in urban areas such as the Kansas City metro area and within other communities. The State budget is tight, and funding for trails is always an issue.
- ATVs in Kansas hold a similar status to tractors. They are poorly regulated and allowed to travel with unlicensed drivers on almost all roadways except State highways within certain cities. The strong agriculture backing of anti-ATV regulation would make it difficult to increase a tax for trail funding.
- Funding combinations can involve a lot of additional paperwork.

[The following was in the notes, but Christopher Douwes edited the points into paragraphs.]

The FHWA share for RTP projects does not exceed 80%, but other Federal funds may be used to match RTP funds. If a Federal agency sponsors a project, the project still needs at least 5% from non-Federal sources.

However, at present, RTP funds cannot be used to match other Federal funds. If RTP funds are more than 50% of the project funding, then other funds are match; if another Federal funding source is larger than the RTP share, then you can't use RTP funds as match. The SAFETEA proposal would allow RTP funds to match other Federal funds.

For example, right now, transportation enhancement funds can match majority RTP funds, but the reverse is not true. The TE funds still need a non-Federal share. However, if the SAFETEA proposal is enacted, then RTP funds could be used to match TE funds.

Dealing with Opposition to Motorized Use

IL and some other States have no sites owned and operated by the State. MO, KS, and ME have State OHV riding areas. AK manages areas for motorized riding. There are several areas in CO, most are operated on Federal land and open to the public. Most States specifically prohibit OHV use on State park lands.

IL had tried some OHV areas, but public opposition had them closed. In 1997, an ABATE chapter became active in pushing State to open up areas to motorized use. The State came up with a \$30 titling fee to generate funds to develop private (non-DNR) property for motorized recreation. Five sites have been developed or improved. The fee generates \$600,000 a year. Activists want the State to do more. The State purchased a former coal mine, which may be opened to OHV recreation.

Zoning approval: the State DNR requires posting notices where an OHV riding area is proposed for counties without zoning regulations. Dick gave an example of one proposed project where serious opposition emerged. Other cases included a county that did not approve zoning even though State was making funds available.

IL motorized project sponsors have authority to allow whichever uses they determine, so full-size vehicles are generally excluded. There are a few private areas for them. The Indiana Redbird riding area allows four wheeler use.

NH just won a court case where town challenged proposed OHV area. The State sided with a landowner and won since owner was not charging, and it was not a commercial operation. Four State statutes uphold landowner against liability. NH also purchases \$2 million in insurance coverage from a private company. The program has been going for over 15 years and there has been no successful lawsuit. There is an inherent risk clause. ME also has a good policy.

In Kansas, a private four wheel drive club constructed and is operating a 270 acre OHV area on private property, with RTP assistance. It is for 4WD vehicles only (no ATV or motorcycle use). The organization obtained the property after battling zoning problems in a previous county and moving to the chosen county that welcomed them and the possible tourist money. The OHV area is open to the public on weekends. Volunteers man CB radios on site. There is jeep type use and road type 4WD use on 40 trails with a range of trail difficulty. A local Hummer dealer (75 miles away) donated funds to help make the match to have a location to test drive Hummers.

NH will only develop ATV trails on public lands where there is a user group that signs an MOU on maintenance responsibility, generally for three years. The State legislature mandated that the State will do more for OHV recreation, and gave DRED 90 days to identify property to evaluate. There are strict criteria for what is suitable. The State agrees it is better to manage the use and to do it right.

NH has a \$54 annual OHV registration fee. It grants about \$200,000 per year to clubs. The State budget for snowmobile and OHV programs is over \$4 million.

The NH snowmobile registration is \$48 a year for State residents who belong to a local snowmobile club, but \$78 for those who don't join. It helps clubs generate more funds to match grooming money from the State.

IL has been litigated by an opposition group that fights funding for OHV areas. The case under appeal held that the State had to provide copies of documents as well as pay for the group's legal fees. In ME a person bought lots to try to stop a spur trail.

Snowmobile riders generally are older and more willing to have meetings and get involved in processes. ATV riders generally are more willing to get involved in maintenance work and see more threats to their riding areas.

People generally want to provide for various outdoor recreation activities but don't want it near where they live. Even hiking has been impacted. In NH, the biggest hurdle is the noise created by the vehicles. NH reduced the maximum noise level from vehicles in 2002. ME planted trees and built a board fence along an ATV trail to address noise. NH has a wildlife study underway to study all kinds of impacts of motorized recreation.

How should States deal with Segways and motorized scooters? Motorized wheelchairs are an exception, but some people want ATVs or other motor vehicles defined as assistive devices.

It is also important to provide a good experience for the users, not just a place to go. Rock piles and bog areas for four wheelers are two examples. A good play area may attract more users and reduce illegal use elsewhere. Another issue is time sharing for different trail activities.

Using Education Funds

RTP education funds may be used for many different programs:

- Wisconsin splits education funds 50% motorized and 50% nonmotorized.
- Public Service Announcements (PSAs) for motorized safety
- Trail ambassadors
- Tread Lightly! and other publications
- Snowmobile safety course
- Training classes
- Signs, especially interpretive signs for safety and/or environmental protection
- Brochures and maps with safety and/or environmental protection messages
- Websites: the portion that supports safety and environmental protection

There is a possible difficulty: if States can't copyright materials, it could be a liability issue. After the meeting, Tim Mitchell (MN) asked Christopher Douwes about copyright regulations for materials

developed with RTP assistance. The Federal regulations are in 49 CFR 18.34 for units of State and local government, and in 49 CFR 19.36 for nonprofit organizations. Here is 49 CFR 18.34 (see www.fhwa.dot.gov/hep/49cfr19.htm#sec.19.36 for part 19).

Sec. 18.34 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- (b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

At the end of the discussion, participants called the session: Education 101, "The Gray Area". Many trail education topics are not only for trail safety or environmental protection. There was also discussion about allowable costs and hypothetical but realistic scenarios, many of which were in a "gray area", and not clearly eligible or ineligible.

Paved Trails vs Unpaved Trails

Issues included maintenance cost, erosion, impacts, education, accessibility, multiple use.

- Paved trails tend to have more use. Does this mean there is a higher demand for paved trails, or are trails paved because they have higher use?
- Singletrack trails tend to be more backcountry.
- Are earth surface trails equally or more sustainable?
- Accessibility issues: If earthen trails are wide enough and of proper grade they can be easily accessible. Provide information concerning existence of accessible trails. Roller/compactor stabilizer works well.
- Accessibility: DE tries to make most trails accessible.
- Mountain bikers prefer singletrack but accept paved trail access routes. Mountain bikers accept hardpacked trails because they're usable in adverse conditions without fear of destroying trails.
- Can education ease concerns?
- A majority of users are hikers/bikers/equestrians.
- Regulations encourage paved trails.
- In Delaware, most paved trail projects are funded from other grants (DOT funds)
- Singletrack is more expensive - agencies already stretched thin - RTP funds go to trail maintenance rather than building new trails.
- Funding exists for new trails but not maintenance.
- Need innovative methods to reduce maintenance. Maintenance vehicles often damage trails.
- Design standards concerning trail types differ – for example, drainage.
- Wisconsin study on long-term costs suggests paved trails cost more than limestone.
- Michigan has been testing surfaces. Wider paved trails seem to be less popular now. Limestone or other crushed rock is cheaper over the long term. Some user groups prefer one or the other, or use will be increased in some areas depending on the surface.

Accessibility Guidance

Stuart Macdonald informed the group of a note the US Access Board sent on September 16, 2003:

ACCESSIBILITY

*From: Peggy H. Greenwell, Accessibility Specialist/Training Coordinator
U.S. Access Board
1331 F Street Suite 1000 NW
Washington DC 20004-1111*

After much delay, the Access Board is planning to move this rulemaking on accessibility guidelines for trails, picnic and camping facilities, and beaches forward. The Board will however, limit the rulemaking to the Federal government or those covered by the Architectural Barriers Act at this time. As you know, we have been delayed for several reasons including the finalization of the cost analysis. With the support of the Federal land management agencies, the Board believes that the rule should move forward more efficiently by limiting its coverage to the Federal government. This will also allow for the guidelines to be used on a Federal level with the opportunity to gain additional experience and information about making outdoor areas accessible for persons with disabilities. It is anticipated that rulemaking under the ADA will follow to address accessibility guidelines that will cover State and local governments and places of public accommodation.

With work still to be done on the cost analysis, it is anticipated that this Architectural Barriers Act NPRM will be ready for publication sometime in 2004. We will keep you apprised of our efforts as we move forward. We appreciate your patience and understanding in the development of accessibility guidelines for this important area. Should you have any questions, please feel free to contact me at 202 272-0017.

Questions on Programmatic Match

There were questions about the RTP's programmatic match provision [but the questions and answers were not recorded]. See the Guidance on Federal Share and Matching Share at www.fhwa.dot.gov/environment/rtp9908_pt1.htm#rtp8; scroll to #4: Programmatic Non-Federal Share. If you have further questions, please contact Christopher Douwes at 202-366-5013.

September 20, 2003



TOP

Land and Water Conservation Fund and SCORP Planning

Joel Lynch, National Park Service, gave a presentation on the Land and Water Conservation Fund (LWCF) and its Statewide Comprehensive Outdoor Recreation Plan (SCORP) requirement. See the [Land and Water Conservation Fund Presentation](#).

LWCF and SCORP Questions and Answers

Q: RTP funds may be used as if they are LWCF funds for the purposes of LWCF Section 6(f), the continuing recreational use. What is the procedure?

A: See the RTP Guidance at www.fhwa.dot.gov/environment/rectrails/rtp9908_pt2.htm#rtp23; scroll to *Continuing Recreational Use*. The RTP Guidance came out while there was no LWCF funding. FHWA will update this section after reauthorization.

Comment: The LWCF 50 percent Federal share is too low.

Response: The Federal share is established in legislation.

National Trails Training Partnership

Stuart Macdonald

The National Trails Training Partnership (NTTP) is a coalition of Federal land management agencies and every major trail user group. Its goals are to:

- Share more information among providers of trail-related training.
- Provide training opportunities to the public, including the States.
- Encourage people to use online calendar at www.NTTP.net.
- Identify all agencies and organizations that provide training and can be contacted to help put on training sessions.
- Gather resources for big NTTP clearinghouse, based online at www.AmericanTrails.org.

BLM and other agencies have developed a week long class called *Trail Management: Plans, Projects, and People*. See www.ntc.blm.gov.

We need input from the States. The NTTP would like all State program staff to help us identify training opportunities and send them to Stuart Macdonald at mactrail@aol.com. The States also should send training and conference information to Stuart. States also are requested to provide information on how they maintain facilities built with RTP funds.

Please publicize NTTP in your State newsletters and publications and websites. You can copy material, and article, and the logo from website at www.NTTP.net.

State trail administrators should ask their State DOTs counterparts about new bicycle design and pedestrian design courses (see www.nhi.fhwa.dot.gov/default.asp for course information). They probably would be welcome to attend.



Off Highway Vehicle Information and Education Programs

Chris Gamache (NH), ATVs and the New Hampshire Bureau of Trails (Presentation will be at www.nhtrails.org)

The New Hampshire Bureau of Trails had found that a lot of inaccurate information about trail uses was being tossed around. The State wanted to get good, accurate information out to land managers and local officials on how the State program works, regulations related to motorized recreation, and proper management of motorized recreation routes. It developed: "Managing ATV use on the forests of New Hampshire."

New Hampshire has a history of trails across private land. The State Off-Highway Recreational Vehicle (OHRV) program started in 1973. The Agency is fully funded by vehicle registration fees: probably the highest in the country: \$54 a year for residents, and \$73 for out of State. The Bureau of Trails:

- Plans, develops, and maintains a statewide trail system
- Administer funds.
- Help form clubs: numbers have increased from 9 to 23 clubs in the last four years. More clubs equal more recreation opportunities.

The Bureau has a staff of 15 people who deal with trails. The State program has been involved with over 20 pieces of legislation in past two years. Legislature required State to do a new trail plan for ATVs and trail bikes.

The Bureau acquires easements and works with landowners on recreational access. It has had successes working with commercial landowners who allow public recreation access. Without cooperation of private landowners, there would be very little outdoor recreation in NH. The Bureau provides a \$2 million liability policy to all landowners who allow public OHV trails, through an OHV club or the Bureau, on their land. The landowner has right to determine which vehicles are allowed. The policy costs the State about \$63,000 a year. Over 5,000 landowners are currently participating. There has not been a suit against the State since 1996. There has not been a successful suit ever against the State program, and only a couple of minor settlements in the early 1990s. The Bureau is working to evaluate property for new ATV trail systems.

The State has very specific definitions for what OHRVs are. They must be under 50" wide, which excludes the utility and exotic vehicles. It is illegal to run an ATV through water in NH.

Other efforts:

- The website, www.nhtrails.org, won a 2003 American Trails Website Contest award in the category of "Promotion of courtesy and trail sharing."
- An ATV safety course is required.

The States would like a compilation of regulations and program information for OHVs from each State. Christopher will bring this up with Bob Walker (MT) as an agenda item for the National OHV

Managers meeting scheduled for March 2004 in Portland OR.



Redbird State Riding Area Field Trip

For more information, see www.in.gov/dnr/redbird/index.htm.

Steve Morris gave an overview of Indiana's first State OHV riding area. The original idea was to have the land donated, but the company that owned it decided to sell it. The DNR purchased and developed an OHV area, and project went ahead with State trails funds.

Nila Armstrong, Trails Specialist, explained that local riders tried to develop their own area. The DNR told the local residents it is just a riding area, and is not in competition with any local businesses or services. Illegal riding had been going on for over 30 years. There was a big network of existing trails all over the property. Some seen as dangerous were closed, such as big vertical drop-offs. Injuries had taken place over the years. Volunteers hauled out over 20 tons of trash, including wrecked cars. The State just finished an agreement with Peabody Coal for another 200 acres. A right of entry on Sherwood-Templeton gives them about 380 acres. Local tourism interests are supportive. This is the third weekend that the site has been open. The area is open only on weekends for the first season. The fee for daily use is \$10 per machine.

The parking lot is covered with crushed limestone on top of standard highway fabric. The cost with the access road, electrical, and restrooms was \$547,000. It has held up great even with trucks and extremely heavy rains. New restrooms were installed. The site is managed by Redbird Management Group, a concession to DNR.

Gary DeLong is chairman of the IN Trails Advisory Board. He was pleased to see all of the user groups pull together and learn from each other. There is not a lot of land available for recreation, so it is important to find an area for all uses.

The biggest success is the support from the local communities. In 1930, the coal mine employed 500 people in underground mining, but dropped to 50 people when they went to surface mining. That was a huge impact on the community, so now outdoor recreation is seen as economic engine. Other nearby facilities include Shakamak State Park and Minnehaha State wildlife area.

A new class of law enforcement recruits came to the park to get trained in ATV operation. There was a lot of enthusiasm, and they hope to do more training for other groups.

Future plans include a mountain bike trail system for part of the property. Adjacent property is being reclaimed by another State agency and the hope is that some motorized trails may be developed there as well.

The meeting adjourned at the end of the field trip.



Next Meeting

The next State Trail Administrators Meeting is scheduled for Austin, Texas, on October 20-21, 2004, followed by the National Trails Symposium October 21-24. See www.americantrails.org.

Common Abbreviations in this summary: web links for organizations and programs

State abbreviations use US Postal Service format: www.usps.com/ncsc/lookups/abbreviations.html#states.

- ATV: All Terrain Vehicle
- BLM: Bureau of Land Management: www.blm.gov/recreation
- CRT: Coalition for Recreational Trails: www.funoutdoors.info/rtphome.html
- DNR: Department of Natural Resources [most common term for State resource agencies]
- DOT: Department of Transportation [either US or State]
- FHWA: Federal Highway Administration: www.fhwa.dot.gov/hep/
- ISTEA: Intermodal Surface Transportation Efficiency Act of 1991 (Federal transportation funds 1991-1997)
- IMBA: International Mountain Bicycling Association: www.imba.com
- LWCF: Land and Water Conservation Fund: www.nps.gov/ncrc/programs/lwcf/index.html
- NPS: National Park Service: www.nps.gov/ncrc
- OHV: Off Highway Vehicle [ORV: Off Road Vehicle; OHMV/OHRV: Off Highway Motorized Vehicle]
- RTP: Recreational Trails Program: www.fhwa.dot.gov/environment/rectrails/index.htm
- SAFETEA: Proposed Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003
- SCORP: Statewide Comprehensive Outdoor Recreation Plan [website: see LWCF]
- TE: Transportation Enhancement Activities: www.fhwa.dot.gov/environment/te.htm
- TEA-21: Transportation Equity Act for the 21st Century [of 1998] (Federal transportation funds 1998-2003)

USFS: US Forest Service: www.fs.fed.us/recreation



To provide Feedback, Suggestions, or Comments for this page contact Christopher B. Douwes at christopher.douwes@fhwa.dot.gov.

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