

# Natural Resource Road Act Project

## Overview of Current Policy Thinking for Recreationalists

Share the Trail Workshop, Kamloops, BC January 18, 2013

Drafting of the Bill has only recently commenced and will take at least 6 months to complete, with another 4 to 6 months for the regulations. This paper outlines the current policy thinking of the NRRA project team. It provides an overview of what the project teams hopes to achieve with the NRRA regarding recreationalists. Feedback from readers will assist the project team and is appreciated. I hope you find the paper of value as workshop participants. I regret not being there in person.

Don Gosnell, Project Manager, Natural Resource Road Act Project.

### Key Messages:

How may the NRRA apply to recreationalists?

The NRRA project team is proposing that the NRRA:

- support access management (short and long term use) including consideration of recreational interests
- require that users respect the environment, the infrastructure and other users. If you damage the road or environment or cause injury or damage property, you can be held accountable.

The NRRA team is proposing that the NRRA will:

- support and enable implementation of the Provincial Trails Strategy
- enable new opportunities for recreational users to inform decisions regarding:
  1. potential impacts on existing non-designated recreational trails from proposed industrial or commercial activities;
  2. post industrial road and trail access
- provide for recreational groups and tourism operators to enter into maintenance agreements with government to ensure continued access on low environmental risk roads & trails. Under such agreements liability would be limited to acts of reckless disregard or acts with intent to create a hazard that result in (1) injury or property damage or (2) damage to the environment. Other financial barriers could be reduced or eliminated.
- confirm that the primary drivers for “stabilization” are mitigation of risk to environmental values (for example protection of fish habitat or wildlife populations) and alignment with land use decisions (e.g.: non-motorized access only, no motorized access, etc).
- establish a “use at your own risk” liability regime for third party users.
- provide for the safe use of off highway and off road vehicles on resource roads (main concern is in regard to proper equipment (mirrors, lights, helmets, seat belts)).
- provide for unlicensed operators under low risk, supervised conditions
- provide for recreational vehicle crossing of “active” resource roads

- provide for enforcement against those who chose not to act with respect for the environment and other road users
- provide for government to hold those who damage the road or environment accountable
- provide for prescriptive agreements between government and small scale tourism and recreation organizations who wish to build or maintain a resource road.
- establish a safety regime very similar to that which exists on public highways regarding:
  1. operator certification
  2. safety equipment
  3. basic rules of the road
  4. workplaces (e.g.: construction zones, maintenance zones, works adjacent to the road)
  5. pedestrians and other non-motorized users.
  6. exemptions from some provisions where the risks are otherwise mitigated.

The NRRRA Project team is intending that the NRRRA will not:

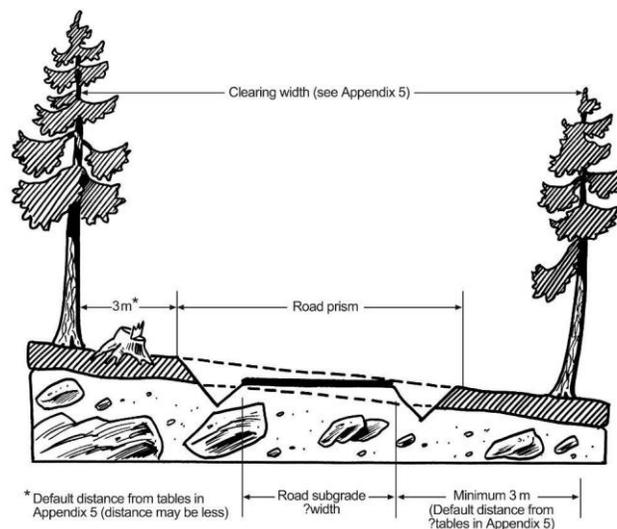
- result in an increase in road deactivation
- require recreational trails to be upgraded to some legislated, arbitrary standard;
- privatize roads or trails
- change the current model for regulating gating of roads
- force government to maintain roads and trails for any purpose

## Provincial Trail Strategy and the Natural Resource Road Act. How do they relate?

### The definitions of a resource road and a recreation trail overlap

The proposed NRRRA definition of a resource road is a two part definition:

- (1) “road”** means a linear corridor for which the surface of the land has been altered from its natural state to create a “road prism” (see diagram) and which is intended or used for sustained travel by motor vehicles;



**(2) “resource road”** means roads other than those:

- (a) administered under the *Transportation Act* (public highways and municipal roads);
- (b) administered by a municipality under another enactment;
- (c) marked as being within a *Mines Act* permit or beyond a gate authorized under a *Mines Act* permit; or
- (d) built or managed by land owners on their private land;

The NRRA will not apply in the event that it conflicts with other laws including:

- (a) resource roads within a provincial park, to the extent that a Park Use Permit conflicts with the NRRA, the *Parks Act* will apply;

The *Provincial Trail Strategy* defines a recreation trail as: “a path or route solely or partly used for one or more recreation functions”.

Based on these definitions, recreation trails would appear to include many, if not the majority, of the resource roads in the province. So clearly the NRRA and the Strategy need to be complementary.

Recreational users often encounters non-recreational users. The Strategy and the NRRA both take an inclusive approach to defining the scope of infrastructure of interest and for the same reasons: (1) province wide application, (2) temporal changes in road and trail use, (3) evolving nature of use (industrial, commercial, public motorized vehicles, hikers, horses, mountain bikes, motorbikes, ATVs and Segways®. Possibly personal hovercrafts and who knows what in the future.



Courtesy of Unique Adventure Tours, Scotch Creek BC



Courtesy of www.jaradite.com

### **The PTS and NRRA share common objectives**

*Provincial Trail Strategy* states: *A desired outcome of this Strategy is to mobilize citizens and communities in becoming stewards and users of recreation trails, and to inspire entrepreneurs to develop responsible tourism and trails-related products and businesses.*

NRRA: An objective of the NRRA is to encourage safe, respectful and responsible use and management of resource roads.

The NRRA is well aligned with these outcomes and objectives in that it:

- will support access management planning processes including recreational uses that provide all interested parties with an opportunity to inform access management decisions;
- will not prescribe the planning process but it will prescribe a process for public review and comment regarding the establishment of access management objectives and;
- will require adequate First Nation consultation (a fiduciary obligation of the Province) and;
- will adapt the trail maintenance agreement so that it can be used on resource roads without the need to first designate the road as a recreation trail;
- does not differentiate roads from trails. Rather it differentiates obligations based on the nature of use and risk to the environment.

For example:

- maintenance results are always the same: stable slopes & soils, clean water, safe for intended use;
- use obligations are based upon two principles:
  1. that safety is primarily the responsibility of the road user;
  2. that out of respect for others, drivers must have certification to ensure they have knowledge of the rules, the skill and physical ability to control the vehicle and the maturity to mitigate danger before its too late.

While the NRRA will make maintenance agreements available without special trail designation, the other benefits of designating recreation trails will continue. Doing so signals a decision of government to manage a route primary for recreation. The NRRA model though allows for temporary or seasonal management of a road for recreation without the designation, thereby avoiding the situation were an industrial road is also legally a recreation trail, a situation that can cause confusion and unsafe circumstances.

NRRA thoughts for the afternoon topics for discussion

- ***Definitions – Shared Use Trails vs. Multi-Use Trails (Misunderstandings through use of words.) Are we all using the same language in trail designations, signage, and interpretations?***

NRRA Perspective: through Terry Wardrop, John Crooks and his staff, issues regarding definitions can be addressed. Sign standards for resource roads will be established and will accommodate or incorporate recreational trail sign standards. Key issue for the project team is that signs must provide clarity, not cause confusion. For example, a stop sign should always look like a stop sign found on public roads.

- ***Funding -- Are there enough trails? Do we need more and/or better trails? Can we take care of existing trails? Where will more funding come from? By forming partnerships will it help reduce costs, especially for such items as liability insurance? What are the best ways to use volunteer labour - non-profit groups, youth groups such as Scouts, and corporations (through corporate social responsibility programs)?***

NRRA Perspective: NRRA will not likely create a new funding mechanism for recreational trail construction of maintenance. John Crooks should be contacted

regarding ideas for such funding. If the NRRRA can play a role, John will bring that to the Project team for consideration.

- ***Respect -- How can we achieve respect-based decision making between user groups? What actions are needed to get along? How can we undo the negative perceptions we have of each other?***

NRRRA Perspective: Subject to any use restrictions established by government for a given road or trail, the NRRRA will require users to accommodate each other. Where different uses are incompatible, it is proposed that the NRRRA provide government with the authority to establish either temporary or permanent use restrictions (as currently exists for designated rec trails). Also those persons authorized to establish workplaces as defined under the Worker's Compensation Act over or adjacent to resource roads will have the authority to reasonably control the flow of traffic through the workplace to ensure the workplace is safe (similar to what now occurs on provincial and municipal highways).

- ***Changing landscape – What are the issues related to the changing Forest industry, such as the future of logging roads as trails and new regulations under the proposed Natural Resource Roads Act? What are the issues around resource management and land use planning (ALR)?***

NRRRA Perspective: As a general principle, environmental risk mitigation is always a condition of any human activity. It is everyone's responsibility. Land use decisions often rely on mitigation strategies to reconcile incompatible objectives – balancing economic, social and ecological values and opportunities. The NRRRA enables the access related mitigation strategies required to support land use decisions including authorized activities be they industrial, commercial or recreational.

The NRRRA is not a land use planning Act. It may however, provide the government with a new objective setting tool specific to access management. That tool will rely on existing land use decisions and future engagement processes to inform government decision-makers. For example, a local initiative to resolve access conflicts could see those outputs used to set legal access management objectives for a road or roads within an area, similar to what has occurred in the Okanagan with areas set aside specifically for recreation..

Regarding post-industrial use, the key concern is mitigation of environmental risk and, where maintenance occurs, that it provides for safe intended use. Intended use describes the vehicle, the nature of use (how the vehicle will be operated, how many vehicles on the road at any given time, anticipated seasonal conditions and the duration of use. So if the purpose of maintenance is for summer ATV tours, the level of maintenance must accommodate that use and ensure such use does not damage the environment.

***Trail standards – Are we all building to the same design and sizes (BC Parks, Crown Lands, Regional Districts and local governments)? What are the constraints of established rules and formal processes? Are our trails accessible?***

The NRRA will not prescribe many construction and maintenance standards. Rather it relies on the proponent to understand the intended use and to then build and maintain a road or trail that is adequate for the intended use. The NRRA will also require vehicle operators to use the trail in a safe manner – with due care and attention for changing road and trail conditions. Should a person's use cause damage or injury to another person, property or the environment, the person causing the injury or damage will be responsible under the law.