

# Reference Manual 45

## National Trails System

Chapters 1 through 10 & Appendices

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Approved by:

A handwritten signature in blue ink, appearing to read "J. H. Reel", is written over a horizontal line. The signature is stylized and cursive.

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UNITED STATES DEPARTMENT OF THE INTERIOR  
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# CHAPTER 1 – INTRODUCTION

## 1.1 PURPOSE

This document is designed for National Trails System partners: Federal trail administrators, local land managers and landowners, volunteer partners, and State and Tribal agencies. It focuses on America's national scenic and historic trails with only brief mention of national recreation trails and connecting-and-side trails. It provides background to Director's Order #45, National Trails System (see Section 2.6).

As an orientation guide, this reference manual is intended to serve both new staff and "old hands," providing a ready-reference manual to their many responsibilities. It documents several decades of experience in administering and managing components of the National Trails System.

Executive Order 13195 (EO 13195), Trails for America in the 21<sup>st</sup> Century (66 FR 7391,) signed by President Clinton on January 18, 2001 (see Appendix N), gives specific authority to craft this reference manual:

*... reflecting the authorities of the National Trails System Act, participating agencies shall coordinate preparation of (and updates for) an operating handbook for Federal administrators of the National Trails System and others involved in creating a national system of trails. The handbook shall reflect each agencies' governing policies and provide guidance to each agencies' field staff and partners about the roles and responsibilities needed to make each trail in the national system fully operational.*

America's national scenic and historic trails form a remarkable network of well over 50,000 miles of trails that protects and links together many of America's most significant natural, cultural, and recreational resources. They provide opportunities for millions of Americans to enjoy the outdoors. National scenic and historic trails are the backbone of the National Trails System. Both kinds are planned and administered under the authorities of the National Trails System Act (NTSA, 16 U.S.C. 1241-1251). These trails are unique among Federally administered areas, for they typically:

- Are managed in partnership with other Federal, State, and non-governmental entities;
- Span hundreds, if not thousands, of miles;
- Involve complex land-ownership patterns (and, consequently, complex jurisdictional issues);
- Involve overlapping jurisdictions, including two or more trails following the same route; and
- Are dedicated to a primary purpose, either recreational (for scenic trails) or cultural (for historic trails).

However, little is standard about these trails. From the Appalachian National Scenic Trail to the Ala Kahakai National Historic Trail, each national trail has its own unique identity and management challenges. Practices vary widely. The suggestions of this reference manual should be considered generic, aiming for Servicewide and systemwide consistency, and may be varied to suit the needs of individual trails.

This reference manual links the authorities of the National Trails System Act to the other authorities, practices, regulations, and procedures of the agencies that administer and manage them. Appendix J lists many of the National Park Service (NPS) policy documents upon which this reference manual is based. A Glossary of Terms and a list of Abbreviations used in this reference manual come at the end of this Chapter.

## 1.2 THE NATIONAL TRAILS SYSTEM

*We can and should have an abundance of trails for walking, cycling, and horseback riding, in and close to our cities. In the back country we need to copy the great Appalachian Trail in all parts of America.*  
— Lyndon B. Johnson, February 8, 1965, *Speech on Natural Beauty*

Following this speech, in April 1965, Secretary of the Interior Stewart Udall directed the Bureau of Outdoor Recreation to conduct a nationwide study of trails. The result, *Trails for America*, published in 1966, called for Federal legislation to foster the creation of a nationwide system of trails and was accompanied by draft legislation to accomplish this goal. The report and the proposed legislation proposed three categories of trails for the nationwide system, but placed heavy emphasis on the category of national scenic trails and the role that these trails should play in meeting the Nation's needs for outdoor recreation. The Appalachian Trail was to be designated as the first national scenic trail. The report also proposed three other national scenic trails—the Pacific Crest, Continental Divide, and Potomac Heritage trails—and identified five other routes that exhibited high potential (the Lewis and Clark, Oregon, Santa Fe, Natchez Trace, and North Country trails) for further study.

Congress spent two years working on the national trails legislation. Finally, on October 2, 1968, President Johnson signed the National Trails System Act (PL. 90-543). This Act established two national scenic trails—the Appalachian and the Pacific Crest—and called for studies of 14 other routes. It also established two other categories of trails in the national system: national recreation trails, and connecting or side trails. The Act provided the Secretary of the Interior with responsibility for overall administration of the system, in cooperation with the Secretary of Agriculture.

The National Trails System Act (NTSA) as originally passed in 1968 stipulated that only Congress could establish a national scenic trail. Administration of each national trail was to be assigned to either the Secretary of the Interior or the Secretary of Agriculture, who in turn assigned the responsibility to a particular agency within their department. The Act directed these agencies to encourage State and local governments, private organizations, and landowners to become actively involved in the development and management of segments of these long-distance trails. The Act now outlines a four-step process for becoming a national trail:

1. Legislation must be passed requesting a feasibility study.
2. A feasibility study (with findings) is then completed.
3. Legislation establishing the trail must be passed.
4. A comprehensive management plan for the trail must be completed.

### **1.2.1 National Scenic Trails**

According to the Act, national scenic trails (NSTs) are to be "extended trails, so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural qualities of the areas through which such trails may pass." There are no legal criteria for evaluating proposed NSTs. Today, there are 11 NSTs that have been established by Congress.

### **1.2.2 National Historic Trails**

During the 1970s, feasibility studies were conducted on several of the historic routes (such as the proposed Santa Fe and Oregon Trails). The studies concluded that these trails were not feasible as NSTs, primarily because they were not continuous and were often adversely impacted by modern intrusions. However, many people felt something should be done to preserve, mark, and commemorate these trails because of their importance to the Nation's history. In 1978, Congress amended the NTSA to create the new category of national historic trails (NHTs). At the same time, Congress authorized the Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod as NHTs.

To qualify as a NHT, a route must meet each of these criteria. It must:

- Have been established by historic use and must be nationally significant as a result of that use (i.e., it must have had a far-reaching effect on broad patterns of American culture);
- Be adequately documented so that it can be retraced; and
- Have significant potential for public recreational use or historic interest based on historic interpretation and appreciation.

Some national trails include water-based routes. For example, the Lewis and Clark NHT follows the Missouri and Columbia Rivers and their tributaries for much of its length. NHTs also can include highways or roads that follow or parallel a historic route; these routes are marked for automobile travel. Thus, a NHT may be a network of historic and recreation sites that serve to preserve and commemorate the trail, connected by various types of routes (land and water trails and highways) that provide for retracement or approximate retracement of the historic route. Today, there are 19 NHTs.

**Table 1. National Scenic and National Historic Trails**

<b>Year Created</b>	<b>Trail Name and Category</b>	<b>Established by Public Law</b>
1968	Appalachian NST	90-543
1968	Pacific Crest NST	90-543
1978	Continental Divide NST	95-625
1978	Oregon NHT	95-625
1978	Mormon Pioneer NHT	95-625
1978	Iditarod NHT	95-625
1978	Lewis and Clark NHT	95-625
1980	North Country NST	96-199
1980	Overmountain Victory NHT	96-344
1980	Ice Age NST	96-370
1983	Florida NST	98-11
1983	Potomac Heritage NST	98-11
1983	Natchez Trace NST	98-11
1986	Nez Perce (Nee-Me-Poo) NHT	99-445
1987	Santa Fe NHT	100-35
1987	Trail of Tears NHT	100-192
1990	Juan Bautista de Anza NHT	101-365
1992	California NHT	102-328
1992	Pony Express NHT	102-328
1996	Selma to Montgomery NHT	104-333
2000	El Camino Real de Tierra Adentro NHT	106-307
2000	Ala Kahakai NHT	106-509
2002	Old Spanish NHT	107-325
2004	El Camino Real de los Tejas NHT	108-342
2006	Captain John Smith Chesapeake NHT	109-418
2008	Star-Spangled Banner NHT	110-229
2009	Arizona NST	111-11
2009	New England NST	111-11
2009	Washington-Rochambeau Revolutionary Route NHT	111-11
2009	Pacific Northwest NST	111-11

### 1.2.3 National Recreation Trails and Connecting and Side Trails

The NTSA calls for establishing trails in both urban and rural settings for persons of all ages, interests, skills, and physical abilities. The NTSA provides for two other types of trails: **national recreation trails** (NRTs), which are Federally recognized shorter, sometimes more urban recreational trails; and **connecting and side trails**, which were intended to provide for additional points of public access to national scenic, historic, or recreation trails within Federal boundaries.

NRTs are existing trails that connect people to local resources and improve their quality of life. More than 1,300 NRTs have already been designated on Federal, State, local, and privately owned land throughout the country. NRTs may be designated by either the Secretary of the Interior or the Secretary of Agriculture. The Secretary of Agriculture has delegated NRT designation authority to the USDA Forest Service (USFS), which has developed its own designation process.

The NRT program is based on partnerships. The NPS and USFS jointly administer the NRT program, with support from a number of other Federal and nonprofit partners, notably American

Trails. Applications reflect diverse partnerships and come from States, communities or private interests that wish to highlight trails of local and regional significance.

Nominated NRTs need only meet a few criteria. First, the trail must be open to public use and be designed, constructed, and maintained according to best management practices, in keeping with the use anticipated. Second, the trail is in compliance with applicable land use plans and environmental laws. Third, the trail will be open for public use for at least 10 consecutive years after designation. Fourth, NRT designation must be supported by the landowner(s), public or private, whose property the trail crosses. Roads and highways suitable for passenger car travel are not eligible for designation.

Each year, the new designations are announced in time for National Trails Day, the first Saturday in June. NRT designation is non-regulatory and provides no on-going Federal administration or protection (unless the trail is already on Federal lands or waters). Management of the trail remains the responsibility of the local trail managing agency or organization.

The NRT program provides assistance to trail managers and users in a variety of ways. Benefits of NRT designation include: access to technical assistance from NRT program partners and funding opportunities; a NRT newsletter with program updates, newsworthy activities, and technical information; inclusion in the online NRT database; and assistance with promotion of trail activities. More information on NRTs (including the program history, application process, trail database, and agency contact information) is available on the NRT website:

<https://www.americantrails.org/nationalrecreationtrails/>.

While some 13,000 miles of NRTs have been designated, no descriptive information or guidelines have ever been developed for connecting or side trails. To date, seven connecting trails have been designated. In 1990, the 14-mile Timms Hill Trail connected to the Ice Age NST and the 86-mile Iditarod-Anvik Connector joined the village site of Anvik, Alaska, to the Iditarod NHT. Both of these nominations roughly followed the process for NRTs, finalized by the signature of the Secretary of the Interior. In 2012, four more connecting water trails were recognized as adjuncts to the Captain John Smith Chesapeake NHT: Chester River Connecting Trail, Susquehanna River Connecting Trail, Upper James River Connecting Trail, and Upper Nanticoke River Connecting Trail. In 2015, the Marion to Selma Connecting Trail was designated by the Secretary of the Interior in conjunction with the 50th anniversary of the march from Selma to Montgomery (commemorated by the Selma to Montgomery NHT).

**Appendix A** offers an outline of NTSA authorities. **Appendix B** is a condensed guide to the Act's major authorities. **Appendices C and D** provide a timeline and historic sketch on how the System has evolved since 1968. **Appendix R** lists individuals (most now deceased) who have helped build the National Trails System into what it is today.

## **1.3 EVOLUTION OF A NATIONAL TRAIL**

### **1.3.1 Conception**

In most cases, the idea for a new national trail begins with one individual or a small group of

determined and dedicated individuals—sometimes organized as a nonprofit organization, sometimes not. These citizens begin by promoting the concept. They contact their Congressional representatives, make speeches and presentations in communities along the route of the trail, and tell anyone who will listen about the great potential of their idea.

### **1.3.2 Feasibility**

If they are successful, legislation is submitted by one or more Congressional representatives to authorize the appropriate Secretary (either of the Department of Interior or Agriculture) to conduct a feasibility study in accordance with section 5(b) of the NTSA, which states:

*The Secretary of Interior, through the agency most likely to administer such trail, and the Secretary of Agriculture, where lands administered by him are involved, shall make such additional studies as are herein or may be hereafter authorized by the Congress for the purpose of determining the feasibility and desirability of designating other trails as national scenic or historic trails.*

The NTSA offers three distinct criteria for evaluating NHTs. The most important of these is evaluating the proposed trail's:

*. . . national significance with respect to any of several broad facets of American history, such as trade and commerce, exploration, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far reaching effect on broad patterns of American culture.*

Assessing this significance—especially for trails where significance is not clear-cut or obvious—is not an easy process. Guidance to better explain the evaluation process to determine national significance, as used for National Historic Landmarks, is found in **Appendix U**.

If the feasibility study concludes that the proposed national trail is feasible and meets national trail criteria and definitions, Congress then may establish it as a new national trail.

### **1.3.3 Birth (as a Federally-established trail)**

Once a law establishing a national trail passes, it is important for the Federal agencies involved to begin a series of activities—sometimes one step at a time, sometimes simultaneously. Early steps include appointment of an advisory council and preparation of a comprehensive management plan (CMP), as required in sections 5(d) and 5(e) of the Act. Some general guidelines on development and management of a new national trail are usually contained in its enabling legislation or the legislative history of the Congressional debate on the bill. But final resolution of most issues, from what types of use will be permitted on the trail to what marking and signing will be used, should be addressed in the comprehensive planning phase of development.

### **1.3.4 Infancy**

The next events in the life of a typical trail to come "on line" are staffing, funding, and contributions

from partners as conditions permit. They generally follow this order in the "life cycle" of a national trail, but not always:

- Setting up an administrative office.
- Establishing a base budget.
- Getting to know partner organization(s) and/or helping to foster their development.
- Conducting the trailwide comprehensive management plan (CMP).
- Route selection (scenic trails); detailed route mapping (historic trails).

### **1.3.5 Childhood and Adolescence**

Imperceptibly, the process of administering a national trail evolves from start-up actions to ongoing activities of greater complexity. These include:

- Sustaining collaborative links and agreements with other public agency partners.
- Staffing the advisory council.
- Strengthening volunteer and other partnership programs.
- Developing a land protection plan (acquisition of rights-of-ways, etc.) and/or assisting land trusts.
- Developing a site and segment certification process.
- Trail construction, reconstruction, and relocation.
- Developing public information, maps, websites, and other media.
- Developing project priorities and an action plan.
- Identifying and mitigating critical threats.
- Developing corridor maps that depict land ownership status.
- Marking the trail route (or, for NHTs, the auto tour route).
- Resource management, stewardship, and interpretation.
- Building coordination mechanisms to foster trailwide consistency.
- Delegation to partners of duties that can be carried out more effectively by non-Federal entities working at the local level.
- Training for partners.
- Monitoring of trail resources and visitor experiences.
- Re-evaluating the base budget in response to expansion, connecting and side trails.

Many of these steps are covered in detail in subsequent chapters of this reference manual. Clearly, the administrative responsibilities that a Federal agency must carry out include a wide variety of duties. Not all can be done at once, and few trails have the means currently to carry out many of these duties. As a national trail and national trail office are established, the Federal staff responsible for a national trail need to think strategically, and balance actions that will help the trail immediately with long-term actions that will bring the trail to its eventual "full performance" level.

### **1.3.6 Maturity**

A “full-performance” national trail is supported by many factors, building on the tasks and functions listed above. Ideally they may be characterized by:

- One or more vibrant, independent, self-financing citizen partner organizations.
- A dedicated endowment whose income is devoted to that trail.
- An adequately protected natural and cultural resource corridor.
- Inclusion in State Comprehensive Outdoor Recreation Plans and is considered a high priority resource.
- The use of GIS and other appropriate high-tech tools to map, analyze, track, and present the trail corridor and its stories.
- Clear, consistent authorities, policies, and regulations which become a platform for sustainable partnerships.
- Continuing inflow of diverse new partner organizations, members, and participants.
- Updating of critical planning documents as needed.
- Access to training to keep staff and partner skills current.
- Clear identity for the trail on State and commercial maps and on the ground.
- Appreciation and support by the public, including local communities and landowners, volunteers, and adequate funding, *even in hard times*.
- Periodic measurement of levels of visitor satisfaction and understanding.
- For NSTs — end-to-end continuity.
- For NHTs — full protection for all the high potential sites and segments that contribute to the over-all presence of the trail on the ground.

This reference manual is intended to guide all partners associated with a national scenic or historic trail to reach full-performance as quickly and efficiently as possible. **Appendix H, *Getting Started***, provides a quick overview for staff new to the Trails System.

## **1.4 GLOSSARY OF TERMS AND ABBREVIATIONS**

A number of terms are used in specific ways in the administration and management of national trails. Some of these are defined in the NTSA. Commonly used abbreviations associated with these terms are noted in the next section.

### **1.4.1 Terms**

**Administration** — Each national trail is administered by one or more Federal agencies. That agency is responsible for Federal funding and staffing necessary to operate the trail and exercising trailwide authorities from the NTSA and its own organic legislation for such functions as coordination among and between agencies and partnership organizations, planning, marking, certification, resource preservation and protection, interpretation, cooperative and interagency agreements, technical assistance, and limited financial assistance to cooperating government agencies, landowners, interest groups, and individuals. Trail administration provides trailwide coordination and consistency. NTSA section 7 contains authority for many of these administrative functions.



**Advisory Council** — Section 5(d) of the NTSA requires the appointment of an advisory council by the appropriate Secretary within one year of a trail’s establishment. The council is appointed for a 10-year period. Procedures are given as to its composition and re-appointment. (See subchapter 4.3).

**Auto tour route** — This term refers to modern-day roads that are marked to provide access to NHT routes and sites, as authorized in NTSA section 7(c). (See subchapter 7.4).

**Certification** — Section 3(a)(3) of the NTSA authorizes the appropriate Secretary to certify non-Federal lands as protected segments. This concept is also being used to track completed and recognized segments of some NSTs. (See subchapter 4.10).

**Comprehensive Management Plans (CMP)** — These planning documents are essential blueprints to the complex resource management, development, interpretation, interagency collaboration, and partnerships endemic to national scenic and historic trails. They are to be completed within two complete fiscal years of a trail’s establishment. Legal requirements for such plans are outlined in NTSA sections 5(e) and 5(f). These plans can also be used for additional trailwide planning issues as deemed necessary. (See subchapter 5.1)

**Connecting or side trails** — “provide additional points of public access to national recreation, national scenic or national historic trails or . . . provide connections between such trails.” (NTSA, section 3(a)(4). [See subchapter 5.7]). Like NRTs, these are designated by the Secretary of the Interior, not through Congressional action.

**Cooperative Agreement** — A negotiated agreement between a Federal agency and one or more parties, following the authorities of the *Federal Grant and Cooperative Agreement Act*, 31 USC 6305. Such agreements usually involve funds passing to the non-Federal partner (See subchapter 4.8).

**Feasibility study** — Most national scenic and historic trails are studied before they are established. The authority for and requirements of a feasibility study are spelled out in section 5(b) of the NTSA. (See subchapter 5.1).

**Federal Protection Component** — These portions of trail, as defined in NTSA section 3(a)(3), are “those selected land and water based components of a historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act . . .” In other words, they are Federally-owned “high potential sites and segments” (see below). These should be defined and listed in a trail’s CMP.

**High potential segment** — This term describes NHT segments that “afford [a] high quality recreation experience in a portion of the route having greater than average scenic values and affording an opportunity to vicariously share the experience of the original users of the historic route.” (NTSA, section 12(2)) (See subchapters 5.1 and 8.5).

**High potential historic site** — This term, used for NHTs, “means those historic sites related to the route, or sites in close proximity thereto, which provide opportunity to interpret the historic significance of the trail during the period of its major use. Criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative

freedom from intrusion.” (NTSA, section 12(1)) (See subchapters 5.1 and 8.5).

**Historic Routes** — Many NHTs commemorate nationally significant movements of people across the landscape. The route of travel is the actual line of movement as documented through maps, journals, and other accounts. It is a continuous line, although remnant sites and segments may only be fragmentary. Most NHTs today are traced by motor tour routes which only approximate the actual route of travel (See subchapter 7.4).

**Management** — Many government and private entities own or manage lands and waters along each national trail. Management responsibilities include local visitor services, managing visitor use, law enforcement, inventorying and mapping of resources, planning and development of trail segments or sites, site-specific compliance, providing appropriate public access, site interpretation, trail maintenance, marking, resource preservation and protection, and viewshed protection. (See subchapters 3.1, 3.6, 4.1, and chapters 5, 6, 7, and 8).

**National Historic Trails (NHTs)** — are “extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historic significance.” (NTSA, section 3(a)(3)). NHTs do not have to be continuous, can be less than 100 miles in length, can include land and water segments, and must meet all three criteria given in NTSA, section 5(b)(11).

**National Recreation Trails (NRTs)** — “provide a variety of outdoor recreation uses in or reasonably accessible to urban areas.” (NTSA, section 3(a)(1)). They are recognized by the Secretary of the Interior (or for trails within national forests, by the Secretary of Agriculture), not by Congressional action. They are managed by the underlying land owner or land manager(s).

**National Scenic Trails (NSTs)** — are “extended trails [over 100 miles in length] located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.” (NTSA, section 3(a)(2)).

**National Trails System Act (NTSA)** — was passed as Public Law 90-543, signed by President Johnson on October 2, 1968, after several years of negotiations. It has been amended dozens of times since. (Appendices A through D relate to the Act, its contents and evolution since 1968.)

**Rights-of-Way (ROW)** — are legally defined corridors of land, usually established for public passage, such as roads, highways, and pipelines. Section 9 of the NTSA offers a variety of authorities pertaining to National Trails System ROWs.

**Trail Marker** — Each national trail is marked by “an appropriate and distinctive symbol” as authorized in section 7(c) of the NTSA. (Guidelines and protection against unauthorized use for these symbols is found in subchapter 7.7.)

**Volunteer in the Forest (VIF)** — An officially registered and recognized individual who contributes time and energy to helping programs associated with the USFS (See NTSA section 11 and subchapter 4.9 of this reference manual).

**Volunteer in the Park (VIP)** — An officially registered and recognized individual who contributes time and energy to helping programs associated with the NPS (See NTSA section 11) (See subchapter 4.9).

## 1.4.2 Abbreviations

AASHTO	American Association of State Highway and Transportation Officials
AT	Appalachian [National Scenic] Trail
ATC	Appalachian Trail Conservancy
BLM	Bureau of Land Management
BOR	Bureau of Outdoor Recreation (1963-1978)
CMP	Comprehensive Management Plan
DOD	United States Department of Defense
DOT	United States Department of Transportation
FACA	Federal Advisory Committee Act
FHWA	Federal Highway Administration, U.S. Department of Transportation
GIS	Geographic Information System
GPRA	Government Performance and Results Act of 1993
GPS	Global Positioning System
GSA	General Services Administration
HCRS	Heritage Conservation Recreation Service (1978-1981, programs now in NPS)
ITDS	Interagency Trail Data Standards
MOU	Memorandum of Understanding
MUTCD	<i>Manual of Uniform Traffic Control Devices</i>
n/a	not applicable
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NHT	National Historic Trail
NPS	National Park Service, U.S. Department of the Interior
NRT	National Recreation Trail
NST	National Scenic Trail
NTSA	National Trails System Act
OMB	United States Office of Management and Budget

P.L.	Public Law
ROW	Right-of-way
RTP	Recreational Trails Program
SCORP	State Comprehensive Outdoor Recreation Plan
SHPO	State Historic Preservation Officer
TE	Transportation Enhancements [Program]
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century
THPO	Tribal Historic Preservation Officer
TREAD	Trail Resources Database (used by all partners along the Appalachian NST)
TVA	Tennessee Valley Authority
UASFLA	Uniform Appraisal Standards for Federal Land Acquisitions
USC	<i>United States Code</i>
USACE	United States Army Corps of Engineers
USDA	United States Department of Agriculture
USFS	USDA Forest Service
USFWS	United States Fish and Wildlife Service
VIF	Volunteer in the [National] Forest
VIP	Volunteer in the Park

## 1.5 FURTHER REFERENCE

Cordes, Kathleen Ann, with photographs by Jane Lammers, 1999, *America's National Historic Trails*, Norman, OK: University of Oklahoma Press, 369 pp.

*Ibid.*, 2001, *America's National Scenic Trails*, Norman, OK: University of Oklahoma Press, 306 pp.

Elkinton, Steve, et al, 2008, *The National Trails System: A Grand Experiment*, Washington, DC: Government Printing Office, 50 pages.

Miller, Arthur P., Jr., and Marjorie L, 1996, *Trails Across America: Traveler's Guide to Our National Scenic and Historic Trails*, Golden, CO: Fulcrum Publishing, 308 pp.

Scherer, Glenn, 2002, *America's National Trails: Journeys Across Land and Time*, Guildford, CT: Globe Pequot Press for the American Hiking Society, 88 pp.

U.S. Department of the Interior, Bureau of Outdoor Recreation, 1966, *Trails for America: Report on the Nationwide Trail Study*, Wash., DC: US Government Printing Office, 156 pp.

## CHAPTER 2 – AUTHORITIES

### 2.1 THE NATIONAL TRAILS SYSTEM ACT

Since its initial passage in 1968, the NTSA has been amended more than 35 times. The Act:

- Provides a policy framework for establishing a national system of trails;
- Defines various categories of trails;
- Lists established trails and those identified for study;
- Outlines numerous authorities for protecting and administering the trails; and
- Offers an array of authorities to promote State and local administration of trails, foster volunteerism, and secure funding for national trails.

The NTSA reflects several cross-currents of American culture. The specific impetus that caused this legislation to be drafted was the threat of damaging land use changes along the Appalachian Trail. In 1965 President Johnson cited the recreational success of the Appalachian Trail and hoped that its success would be spread across the Nation. At the same time, the Trail's supporters could not see a way to protect the Trail's continuity without Federal help. The Appalachian and Pacific Crest Trails became the first two NSTs when the NTSA was finally passed in 1968. The Act was broadly written to allow flexibility, so differing interpretations as to the meaning and application of various authorities have occurred since.

Since 1968, the amendments to the NTSA have added many more trails, changed and added authorities, called for dozens more trails to be studied as possible national trails, added the concept of NHTs, and opened avenues for Federal support for State and local trails.

Several appendices in this handbook provide more details about the NTSA authorities:

- Appendix A** An Outline of NTSA Authorities
- Appendix B** Interpreting the Act – A Guide
- Appendix C** National Trails System Timeline
- Appendix D** NTSA History Sketch
- Appendix E** Appellate and Supreme Court Decisions
- Appendix F** Solicitor Opinions

## 2.2 DELEGATIONS OF AUTHORITY TO FEDERAL AGENCIES

The NTSA provides the Secretaries of Interior and Agriculture with the authority and responsibility for administration of national trails. The Secretaries, in turn, have formally delegated these responsibilities to agencies within their respective departments.

The Director of the NPS was delegated the Secretary of the Interior's authority to carry out the purposes of the NTSA relating to:

- Studying and evaluating additions to the system (conducting feasibility studies), selection and location of boundaries;
- Property acquisition;
- Development; and
- Administration for assigned components of the National Trails System.

This authority is contained in the [Department of the Interior Manual, Part 245 DM 1.1](#), General Program Delegation.

The Director of the Bureau of Land Management (BLM) has also been delegated National Trails System responsibilities, closely paralleling those given to the NPS, excluding studying and evaluating additional proposed trails. These authorities were added to the Interior Departmental Manual in May 2000, and can be found in [Part 235](#).

All national scenic and historic trails assigned to be administered by the Secretary of Agriculture are the responsibility of the USFS.

## 2.3 AGENCY ORGANIC ACTS

Each of the three Federal agencies responsible for administering America's national trails is governed by a distinct set of laws, regulations, and policies. The following summaries outline the guiding legislation and principle missions for each agency.

### 2.3.1 National Park Service

The NPS administers the units of the National Park System (that currently total over 83 million acres of lands and waters) and staffs a variety of programs designed to protect natural and cultural resources and provide recreational opportunities. The NPS mission, as stated in the National Park Service's Organic Act of 1916 (54 USC 100101(a) et seq.) is

*...to promote and regulate the use of Federal areas known as national parks, monuments, and reservations . . . by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future*

*generations.*

The NPS cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world (*Management Policies* (2006), inside front cover).

### **2.3.2 Bureau of Land Management**

The BLM administers approximately 264 million acres of land and another 300 million acres of subsurface mineral interests. The BLM's mission is to sustain the health, diversity, and productivity of these public lands for the use and enjoyment of present and future generations. Most of the lands that the BLM manages are located in the western United States, including Alaska, and are dominated by extensive grasslands, forests, high mountains, arctic tundra, and deserts. In general, these public lands remained in Federal ownership as other western lands were sold, homesteaded, or granted to railroads or States. The BLM manages its lands for a wide variety of resources and uses, including energy and mineral extraction, timber, forage, wild horse and burro populations, fish and wildlife habitat, wilderness areas, archaeological, paleontological, and historical sites, and other natural heritage values.

The BLM administers these public lands within a framework of numerous laws. The most comprehensive of these is the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701-1787). All Bureau policies, procedures, and management actions must be consistent with FLPMA and other laws that govern the use of the Federal public lands. The components of the National Trails System administered and managed by the BLM come under the direction of the National Landscape Conservation System.

### **2.3.3 USDA Forest Service**

The U.S. Department of Agriculture's Forest Service manages approximately 191 million acres of Federally owned national forests and grasslands. The USFS is also the largest forestry research organization in the world, and provides technical and financial assistance to State and private forestry agencies. Gifford Pinchot, the first USFS Chief, summed up the mission of the USFS by saying it should "provide the greatest amount of good for the greatest amount of people in the long run."

Congress established the USFS in 1905 to provide high quality water and timber for the Nation's benefit. Over the years, public demands have expanded the list of what is wanted from national forests and grasslands. Congress has responded by directing the USFS to manage national forests for additional multiple uses and benefits (such as recreation) and for sustained yield of renewable resources such as water, forage, wildlife, and wood.

Congress has interpreted multiple use as managing resources under the best combination of uses to benefit the American people while ensuring the productivity of the land and protecting the quality of the environment. Various sections of the *United States Code* (especially 16 USC Chapters 2 and 3) direct the USFS to achieve quality land management under the concept of sustainable multi-use

management to meet the diverse needs of the American people.

## 2.4 LIMITATIONS OF AUTHORITY

A number of the trails created under the NTSA enjoy full access to all the generic authorities of the Act. Over time, however, some trails were established with limitations, mostly concerning land protection authorities. The current limitations are listed in **Appendix K**.

## 2.5 JURISDICTION OF THE *CODE OF FEDERAL REGULATIONS*

The regulations for each Federal agency are issued in different sections of *the Code of Federal Regulations* (CFR). For the NPS, these are mainly found in Chapter I of Title 36; parts 1 to 5 are applicable to most NPS units. They also apply to national trail corridors where the lands and waters underlying such corridors are:

- Federal property administered and managed by the NPS, or
- Federal property administered by another agency, but managed by NPS for trail purposes pursuant to a written agreement with the other Federal agency, or
- In State or local ownership, or privately owned, and administered by the NPS for trail purposes pursuant to a cooperative agreement with the landowner, to the extent that such regulations are consistent with the cooperative agreement.

In general, the land-managing sections of the CFR only pertain to Federal lands. However, many other CFR sections besides those listed above may relate to national trails. Relevant citations are listed under **Further Reference** at the end of each chapter of this reference manual.

## 2.6 REGULATIONS

Each Federal agency involved with national trails already has in place a large number of guiding documents that interpret Federal law, build on staff experience, respond to court tests, and reflect current scientific and academic thinking. For this reference manual, current NPS [Director's Orders](#) and related documents are listed in **Appendix J** and are also shown in the **Further Reference** sections of each chapter.

Although NTSA section 7(i) gives the Secretaries of Agriculture and the Interior authority to issue National Trails System regulations, only a few have been issued, most addressing allowed and prohibited trail uses:

36 CFR 7.100 – (NPS) Prohibited and allowed uses on the Appalachian NST

36 CFR 212.21 – (FS) Allowed uses on the Pacific Crest NST

43 CFR 8351.1-1 – (BLM) Exception for motorized vehicle uses on NSTs

43 CFR 9268.3(e)(2)(iv) – (BLM) Visitor use rules relative to NTSA 7(i).

Within the NPS, the framework and foundational policies for management of the National Park



System is contained in *Management Policies* (2006). Section [9.2.2.7](#) (p. 134) describes the status of national trails that are officially recognized as NPS “units” and encourages cooperation among all trail partners. In 2013, [Director’s Order #45](#) was also approved, setting the policy guidance under which this reference manual rests.

At the interagency level, [EO 13195](#), signed in 2001, offers a broad opportunity for many Federal agencies to work together to foster trails of all kinds. (See **Appendix N** for the full text of the Order.) In addition, in 2012 the BLM approved a three-volume manual offering policy for the administration and management of NSTs and NHTs and the protection and management of other parts of the National Trails System. (See BLM manuals 6250, 6280, and 8353.)

It should also be noted that the NTSA excludes certain portions of NHTs from the jurisdiction of section 4(f) protections under the Department of Transportation Act (49 USC 1653(f)). See NTSA section 7(g) for the details.

At the trail level, the most complete set of policies are those developed since 1925 for the Appalachian NST, primarily by the nonprofit Appalachian Trail Conference. They are summarized in the ATC’s *Local Management Planning Guide* or at website <https://www.appalachiantrail.org/docs/local-management-planning-guide/2009-local-management-planning-guide.pdf>.

## 2.7 POLICY

In late May, 2013, NPS Director Jonathan Jarvis signed Director’s Order #45 (DO #45) to provide guidance and resolve earlier difficult issues pertaining to the operations of the National Trails System. DO #45 is intended to be the umbrella under which this reference manual offers supplemental guidance. The following chart offers a cross-reference between the sections of this reference manual and the numbered sections of DO #45.

**Table 2. Cross-Reference between Reference Manual and DO #45**

Topic	DO Section Number	Reference Manual Chapter and Section
Types of trails	1.2	1.2 and 1.4
Authorities	2.2 and 2.3	2
<i>Management Policies</i>	3.1	Introduction
Determining significance for NHTs	3.2	5.1
Establishment and funding	3.4	3.3. and 3.5
Staffing	3.5	3.1
Administration and management	3.6	3
Cooperation and consultation	3.7	4.1 to 4.5
Partnership agreements	3.8	4.8
Land and water protection	3.9	6
Land status	3.10	6
Planning	3.11	5
Regulations	3.12	2.5, 2.6, and 7.2
Motorized Uses	3.14	7.3
National recreation trails	3.15 and 3.16	1.2 and 1.4

Topic	DO Section Number	Reference Manual Chapter and Section
Connecting and side trails	3.17	1.2 and 1.4
Volunteers	3.18	4.9
Trail markers	3.19	7.7
Visitor centers	3.20	7.8
Data standards	3.21	9
Transfer of management	3.22	6.7

In addition, DO #45 address several areas not directly addressed anywhere in this reference manual. These are Assignment and Delegation of Authority (DO section 3.3), Marketing and promotion (DO section 3.23), and Official Listing (DO section 3.24). Hopefully, in future iterations of this reference manual those topics can be addressed.

The BLM has also recently published three volumes of National Trails System policy that should be consulted for actions and trail operations involving BLM lands.

6250 – National Scenic and Historic Trail Administration

6280 – Management of National Scenic and Historic Trails, etc.

8353 – Trail Management Areas: Secretarially Designated National Recreation, Water, and Connecting and Side Trails.

## 2.8 FURTHER REFERENCE

Appalachian Trail Conference, (various editions) *Local Management Planning Guide*, Harpers Ferry, WV: ATC.

Bureau of Land Management Manuals

1203 — *Delegation of Authority* (1998)

1211 – *Headquarters functions and operations* (1997)

6250 – *National Scenic and Historic Trail Administration* (2012)

6280 – *Management of National Scenic and Historic Trails, etc.* (2012)

8353 – *Trail Management Areas: Secretarially Designated National Recreation, Water, and Connecting and Side Trails* (2012)

*Code of Federal Regulations*, parts

36 CFR 1-5, 7 – NPS basic authorities

36 CFR 200, 211 — Forest Service organization, function, administration, etc.

36 CFR 212.21 – Pacific Crest NST

43 CFR 8351.1-1 –BLM visitor use rules.

43 CFR 9268.3(e)(2)(iv) – BLM Visitor use rules relative to NTSA 7(i).

Downs, Thomas C., 2000, “The National Trails System: A Model Partnership Approach to Natural Resources Management” in *The Environmental Law Reporter, News & Analysis*, February, 2000.

*Federal Register*, 1979, “Delegation of Authority,” Washington, DC: Government Printing Office, Vol. 44, No. 77, p. 23384.

Forest Service Manuals

1220 – *Organization and position management*

1230 — *Delegations of Authority and Responsibility*

1240 – *Organization standards*

*Ibid*, 2008, *Management Policies* (2006), Washington, DC: National Park Service, 168 pp. (also available on <https://www.nps.gov/policy>).

*Ibid*, 2013, [Director’s Order #45 – National Trails System](#)

U.S. Department of the Interior, *Departmental Manual*, parts [235](#) and [245 part 1.1](#).

*United States Code*, section 16 U.S.C. 1241-1251, 43 U.S.C. 1701-1787, 54 U.S.C. 100101.

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## CHAPTER 3 – ADMINISTRATION AND MANAGEMENT

### 3.1 ROLES AND FUNCTIONS

Three Federal agencies (BLM, USFS, and NPS) share responsibility for implementing the NTSA through both administrative and management actions. Trail **administration** is distinguished from on-the-ground trail **management** within individual national parks, forests, recreation areas, monuments, historic sites, and other public or private lands (See the 1.4 *Glossary of Terms* and 1.5 *Abbreviations* in Chapter 1).

The NTSA encourages Federal agencies to administer national scenic and historic trails in partnership with other agencies, non-governmental organizations, and individual citizens. The line between administrative roles and management functions may not be a strict one—and may vary from trail to trail. **Appendix H, *Getting Started***, provides a brief overview of getting engaged with the National Trails System. The following chart is an attempt to highlight variations by functions that occur at both levels, with reference to the NTSA authority that pertains.

Cooperative agreements, Memorandum of Understanding (MOUs), and Memoranda of Agreement (MOAs) are all helpful instruments in defining relationships among and between Federal offices; State, Tribal, and regional agencies; and local units of government. When such agreements work well, decision-making stays local, accountable, and flexible (See subchapter 4.8).

The most successful trails—such as the Appalachian NST (AT)—have involved myriad volunteers for decades. It has been said that “volunteers are the soul of the AT.” If a dedicated group of volunteers and supporters exist for a trail, the Federal trail administrator (as well as local land managers) can enter into cooperative agreements with volunteer organizations and be confident that they will carry out their agreed-upon tasks and roles (see subchapter 4.9).

#### 3.1.1 Within the Administering Federal Agency

Administering and managing NSTs and NHTs is complex. In many ways the job resembles traditional public lands management in such tasks as planning, staffing, budgeting, supervision, natural and cultural resource management, interpretation planning, design, public relations, and law enforcement. However, some tasks are unique to trails. Inter-agency and public-private partnerships are essential for such trails to be successful. Great distances, interstate responsibilities, lack of Federal land base, and difficult access further complicate this work and distinguish it from more traditional park, forest, or public land management. Trail administrators are wise to create incentives for non-Federal land ownership, to encourage ongoing interstate and inter-regional coordination, and to assist their nonprofit and State partners to be familiar with the authorities of the NTSA.

A spirit of cooperation can be encouraged by keeping communications channels open, keeping mailing and contact lists current, and expressing appreciation to cooperators and supporters.

**Table 3. National Trails System—Summary of Administrative and Management Functions**

Function	Trail Administrator	On-the-Ground Manager
Coordination [7a, 7h, 7i]	Interagency, interstate	With local stakeholders and groups
Planning [5e, 5f, 7g]	CMP, links to local plans Context issues	Local area plans, harmony with CMP, local access issues
Certification [3a3]	Develop process and standards Certification agreements Monitoring	(Affects non-Federal sites and segments only)
Compliance	Programmatic, trailwide Project-level technical assistance	Project-specific
Resource preservation and protection	Trail resource inventories Guidance and assistance General standards	Local inventories and mapping Site-specific actions Treatment and compliance
Land protection and acquisition [7d, 7e, 7g, 7h, 10c, etc.]	Help set priorities Actions outside Federal boundaries	Local actions within boundaries
Trail marking [3a, 5f, 7c, 8e]	Develop marker, control its use Develop trailwide standards Fund non-Federal installations	Install and maintain trail signs
Interpretation [7c, 10c, 12(1)]	CMP guidance Planning, design, and production assistance Trailwide consistency	Local media and personal services Links to other local stories and themes
Visitor Use [7i]	Guidelines, trailwide regulations	Permits, events, law enforcement Monitoring and management
Funding [10]	Annual operating base Challenge cost-shares Limited financial assistance	Operations, annual appropriations Construction projects
Maintenance [7h]	Help set standards, guidelines	Local standards and support
Viewshed protection	Recommendations	Local protection, land trusts, etc.
Volunteers [2c, 7h, 10c, 11]	Track total numbers Offer limited assistance, coverage	Supervise and monitor locally

**Trail Administration Offices.** The administration of each national trail has been assigned to one or more agencies. In the NPS, most national trails are administered from field offices reporting to regional directors (however, the Natchez Trace NST is part of the Natchez Trace Parkway). In the USFS and the BLM, trail administrators are generally collateral duties for regional (or State) office staff, although centralized field offices are underway for certain trails.

Trail administration tasks may include (the mix is different for each trail):

- Providing for law enforcement and visitor safety. (See subchapters 3.6, 4.1, 4.2, and 7.2).
- Identifying, requesting, managing, and accounting for the necessary funding needed to administer each trail. Challenge cost-share authorities allow Federal trail offices to match partner funding and in-kind services for specific projects (See subchapters 3.7 and 3.8).
- Working with landowners and other trail stakeholders to encourage them to play a constructive part in its operations. This negotiation can take several forms, including financial assistance (subchapter 3.7), site and segment certification (subchapter 4.10), or technical assistance (subchapter 4.11).
- Offering technical assistance in all aspects of trail planning, promotion, protection, development, operation, and maintenance, including facilitation of such tasks as publishing cooperator's reports and plans, providing mapping and in-kind services, and developing interpretive programs, media, and materials. (See Chapter 4).
- Reviewing and commenting on proposals affecting the trail environment (such as pipelines, highways, utilities, and urban development) under established existing project review procedures. (See subchapter 4.1).
- Coordinating with cooperating Federal agencies and encouraging them to secure, construct, manage, and maintain those portions of the trail located on other Federal lands. (See subchapters 4.1, 5.4, 5.5, and 6.7).
- Coordinating with State and local governments and encouraging them to secure, construct, manage, and maintain those portions of the trail located on other non-Federal agencies' lands. (See subchapters 4.2, 6.3, and 6.9).
- Establishing and supporting advisory councils for the first ten years of a trail, providing the necessary logistics and materials to enable them to carry out their work. (See subchapter 4.3).
- Initiating and monitoring cooperative agreements with other Federal agencies, State and local governments, and non-profit groups to develop, operate, publicize, and/or maintain portions of the trail. (See subchapter 4.8).
- Cooperating closely with and supporting interested trails and supports groups, under the Volunteers in the Parks (VIP) and Volunteers in Forests (VIF) Acts, including supplying tools and materials, training, liability insurance, and other benefits authorized in those acts. (See subchapter 4.9).
- Certifying trail sites and segments as outlined in a trail's comprehensive management plan. (See subchapter 4.10).
- Overseeing research and documentation, including the preparation of special studies. (See subchapter 4.11 and chapter 8).
- Initiating new or updated plans and studies. (See Chapter 5).
- Complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other laws and executive orders where applicable. (See subchapter 5.2).
- Protecting lands and interests in lands (where authority allows), including establishing a

uniform mapping program to track land status, easements, donations, and full-fee acquisition by the agency and other public and private organizations. The identification and protection of adjacent lands may also be an important issue. (See Chapter 6).

- Monitoring “on-the-ground” problems, such as encroachment by development or vandalism of historic sites. (See Chapters 6 and 8).
- Conducting sign and marking programs, including providing all necessary markers to non-Federal trail managing authorities, as directed in the Act. Many of these signs and markers may also be part of trailwide educational and interpretive programs. (See subchapter 7.7).
- Promoting the trail with appropriate trail-specific public interpretive and educational measures, such as brochures, maps, guidebooks, and videos. (Sometimes non-government groups may be able to do this more efficiently and sensitively than Federal agencies – as long as the formats and styles are consistent with the rest of the National Trails System.) (See subchapters 7.8, 9.4 and 9.5).
- Managing natural, cultural, and recreational resources by conducting inventories of historic and scenic resources and preparing resource management plans, environmental assessments and other reports. (See Chapters 8 and 9).
- Managing and analyzing data (including mapping, property records, historic research, maintenance schedules, etc.). (See Chapter 9)
- Preparing annual reports and other summaries of trail conditions, accomplishments, and problems, including performance management requirements, strategic plans, and reports. (See Chapters 9 and 10).
- Within the agency, coordinating with other regional offices responsible for areas through which the trail passes.

When appropriate, some of these tasks may be transferred to State or local governments, or cooperating non-profit organizations. This has been done successfully on parts of the Appalachian, Florida, and Ice Age NSTs.

In short the Federal administrative staff of a national trail must:

- possess tact, patience, and diplomatic skills;
- be perceived as honest, fair, knowledgeable, and always consistent;
- be approachable;
- be true to the trail as a whole;
- be inclusive and open to others' ideas;
- be firm and able to exercise leadership when necessary;
- be humble and always appreciative of others' contributions;
- be able to ask for help and others' opinions;
- be able to respond to multiple calls or demands for assistance in a timely way;
- be able to withstand starts and stops as individual partners come and go; and
- be able to nurture a trail support community and maintain its trust.



**National Headquarters.** National program staff should perform only national and inter-regional functions, such as providing guidance and developing standards of consistency among NPS-administered trails (and with those of other agencies); articulating and finalizing policy, directives, and standards; reviewing trail-specific and nationwide trails planning; coordinating with other Federal agencies; reviewing pending legislation and preparing testimony; coordinating internally among the relevant national divisions and offices; communicating nationally and with groups and individuals interested in the national system of trails; promoting the Nation's trail system: coordinating national funding; and fostering multi-trail and interstate training in National Trails System issues. Trail-specific decision-making and events should be carried out by the individual trail administrators.

Trail studies and plans (such as the feasibility and comprehensive plans required by the NTSA) are the responsibility of each agency's office or division of planning. In the early years of the National Trails System, these were usually conducted by the Denver Service Center. Today they are more likely carried out by regional or field office staff with guidance and coordination by the Office of Park Planning and Special Studies. The USFS has assembled, as needed, feasibility study teams in appropriate field offices. Increasingly, parts of trail studies and plans are being conducted by contractors, with agency guidance and oversight.

**Federal Land-Managing Agencies Along the Trails.** Most national trails pass through or alongside public lands managed by BLM, forests and grasslands of the National Forest System, and units of the National Park System. Several national trails also pass through or touch lands and waters controlled by the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), and the various branches of the U.S. Department of Defense (DOD). Many of these agencies play invaluable roles as on-the-ground managers. These agencies may conduct some or all of the following activities:

- participation in statewide plans and area-specific plans,
- corridor establishment and construction,
- trail maintenance,
- trail-corridor protection
- site-specific interpretive services,
- local mapping,
- facilitating volunteers,
- law enforcement and other visitor services,
- review of planning and policy documents, and
- protection of adjacent lands from adverse uses.

Where appropriate, these management units also issue back-country or wilderness permits, inform trail users of hazardous or unusual conditions, providing interpretive services and publications, help monitor the trail's condition, identify threats, monitor trail use, and provide local coordination with volunteers and State and local governmental officials working to promote the trail.

### 3.1.2 Outside the Administering Agency

**Advisory Councils.** Authorized under NTSA section 5(d), advisory councils meet for a 10-year term (unless extended) to advise the administrative agency on a specific trail's plans, development, protection, and administration. Responsibility for decision-making remains with the trail's administering agency. (See subchapter 4.3)

**Federal Non-Land-Managing Agencies.** Trails administrators should cooperate closely with the many other agencies (including the Federal Highway Administration, Natural Resource Conservation Service, and the Rural Electrification Administration) on issues affecting the trails. For example, since 1991, the USDOT's Federal Highway Administration and its State counterparts have made funds from a variety of programs available for transportation-related trail projects. Sections 8 and 9 of the NTSA specifically mention the Secretaries of Defense, Transportation, and Housing and Urban Development, as well as the chairpersons of the Interstate Commerce Commission, Federal Communications Commission, and the Federal Power Commission. These departments and agencies are under no binding authority to protect trail corridors. However, the NTSA encourages all Federal agencies to share appropriate and necessary information to protect the Congressionally designated trails and associated lands. This cooperation was reinforced by section 1 of the 2001 [EO 13195](#) (See **Appendix N**).

**State Governments.** States can play important roles in protecting national trails and their corridors, especially along trails where the Federal government is prohibited from acquiring lands outside of existing Federal boundaries. Many protection mechanisms are available and appropriate, including easements, cooperative agreements, and acceptance of donations. Clear delineation and acceptance of administrative and fiscal responsibilities by a State is normally documented in a cooperative agreement. Once established and protected, sites and segments managed by States should be nominated for certification (See subchapter 4.10) and recognized as official parts of the trail. Administration and operation of these areas must occur without expense to the Federal government. Other State agencies can (and often do) help with documentation, planning, tourism, promotion, special events, funding, and resource management.

**Local governments.** Municipal and county governments can also play important roles in protecting and managing trail corridors at the local level. Many protection mechanisms are available and appropriate at the local level, including zoning, easements, cooperative agreements, and acceptance of donations. Clear delineation and acceptance of administrative and fiscal responsibilities by a local unit of government is often documented in a cooperative agreement, drawn up in accordance with the regulations and authorities of both the Federal administering agency and the local government involved. In addition, local land use planning, zoning, and tax structures can help protect trail lands.

Once established and protected, trail sites and segments managed by local governments should be nominated for certification (See subchapter 4.10) as officially recognized parts of the trail. Where a number of small, local segments connect (or where a cluster of sites is owned by one local government), they are best certified as one cooperatively managed segment or site complex.

Administration and operation of these areas must occur without expense to the Federal Government.

**Partner organizations.** A well-organized, self-financing, independent trail group is ideal for a trail to achieve “full performance.” The NTSA encourages non-governmental organizations to take the lead in carrying out many trail functions – especially the coordination of volunteers. If such a group does not exist at the time of a trail’s establishment, sooner or later it will have to be created to organize and focus citizen support and volunteer partnership functions on behalf of the trail.

Many organizations over the years have effectively carried out trail layout, construction, identification and mapping of historic features, on-going monitoring, safety patrols, as well as participation in regional, State-wide, and local planning. Among these groups are some of the Nation's experts in historic research and mapping, volunteer organizing, right-of-way negotiating, trail maintenance, signs and markings, treadway construction, trail re-location, and site restoration. At the ground level, local trail groups can be invaluable for locating specific trail segments within a broader planning corridor. They can also help establish long-term continuity among public agency lands and private landowners. Lastly, as user groups, these organizations can offer immediate feedback as to whether government agencies are meeting public expectations.

Many of the ideas that are common practice today in operating national trails were initiated among partner groups. These groups can be innovative, creative, and provide long-term commitment in the face of agency staff turnover and policy changes. An example of such innovation is the Appalachian Trail Conservancy’ Land Trust that uses private funds to secure trail corridor buffer lands. Such trail-specific land trusts and conservancies are playing increasingly critical roles in protecting and preserving the rest of America's national trail corridors.

Once incorporated, trail partner organizations can become legal signatories to cooperative agreements. Many of the better-organized groups have broad memberships, paid professional staff, and take lead responsibility in providing the public with guidebooks and other user-oriented information which they sometimes can produce more efficiently and flexibly than can government agencies (as long as they are generally consistent in format and style with other National Trails System products). Without such cooperating partners, Federal agencies responsible for national trails alone cannot carry out the partnership intentions of the NTSA.

**Individuals.** Individuals can also play important roles in the management and promotion of America's national trails. They can volunteer directly for both cooperating groups and agency offices, often supplementing agency staff. They can provide vision and inspiration through articles, testimony, and works of art testifying to the importance of these trails in their lives. As landowners, they can voluntarily agree to get certified the trail sites and segments they own, donate easements or parcels of land, set up long-term public rights-of-way, or otherwise deed their land for public access. As writers and reporters they can discuss current developments on specific trails or, more broadly, report on the Nation's trail system as a whole. Trails in the future will only succeed if individuals continue to be inspired, challenged, and refreshed by them.

In short, administration and management of national trails is a complex and demanding set of tasks.

Once a trail office is established it is hard enough to achieve the minimum necessary to function and carry out the basic authorities of the NTSA. Optimum operations, however, occur at a higher level, when the basics have been mastered and the partnerships are strong.

### **3.2 OPERATIONAL CONSISTENCY**

One purpose of this reference manual is to foster consistency regardless of jurisdiction—so that the public is served as uniformly as practicable. There are many areas, both visible to the public and behind the scenes, where mutually agreed-upon practice can offer a predictability and harmony in how national trails are presented to and experienced by the general public. These include:

- consistent site and segment certification procedures (see subchapter 4.10)
- standardized land-protection record formats (see subchapter 6.5)
- standard signs, blazes, and markers (see subchapter 7.7)
- standardized resource protection inventories (see subchapters 8.4 and 8.5)
- standard mapping symbols and formats (see subchapter 9.4)
- common formats and information for databases, GIS maps, and websites (see subchapters 9.2, 9.3, and 9.5)
- unified passports for fees and permits
- standardized format for recording trail statistics (see subchapter 10.1).

Over and over again, Federal land-managing agencies have learned that the public does not care which agency has a particular responsibility. Visitors expect (and deserve) common signs and markers, consistent and accurate maps and brochures, serial books and publications, and similarly formatted websites. If they are to believe in and trust the idea of a “system,” there must be continuity in all media, messages, and graphics.

### **3.3 STATUS OF TRAILS WITHIN THE ADMINISTERING AGENCIES**

It has taken several decades for the three Federal land managing agencies that are responsible for NSTs and NHTs to integrate this function into their traditional operations. National trails—which often have few boundaries, are sometimes discontinuous, often are found far from the nearest Federal jurisdiction, and occasionally overlap—are not easily assimilated into land-management hierarchies which rely on clear boundaries and unified jurisdiction.

The NPS has found ways to incorporate the trails into the agency’s management and accountability structures. For many years the direction has been to “treat them as if they were park units.” This means that each NPS trail has a line-item budget in the agency’s annual budget request document and most of the chiefs of trail offices are called “superintendents.” Also, trail offices can draw upon the professional program services available to the rest of the Service for some programs (research, compliance, planning, resource management, etc.). In fact, three of the NPS-administered national trails have been formally declared units of the National Park System—the rest await clarifying policy on this issue.

### 3.4 STATUS OF TRAIL ADMINISTRATORS

This varies even within each agency. In the BLM and the USFS, trail administration used to be a collateral duty (generally for recreation staff); now both agencies have several full-time trail administrators. However, in those agencies they are not line managers. For the NPS-administered NSTs and NHTs, most are administered by a full-time superintendent who serves as a decision-maker in the chain of command.

### 3.5 LOCATION OF ADMINISTERING OFFICES AND FIELD OFFICES

Once the administration of a trail has been assigned to an agency (or to two jointly), it is important to assign trail staff to a location (or locations) that optimize their effectiveness. Generally this has been a single office somewhere near the trail, or at least near the major trail partners. A good example of this is the NPS's Appalachian Trail Park Office that is co-located with the nonprofit Appalachian Trail Conservancy in Harpers Ferry, West Virginia, near the midpoint of the Trail. Some of the factors that should be considered in locating a national trail staff office are:

- Co-location with an office administering an overlapping or interconnected trail(s).
- Location in the agency region which has responsibility for the most States through which the trail passes.
- For NHTs, location in the office or region associated with the greatest number of significant sites or features connected to the trail.
- Most central location along the trail.
- Long-term involvement with significant trail partners or its cultural, natural, or socio-political characteristics.

### 3.6 JURISDICTIONAL OVERLAP

The NTSA offers specific advice about the relationships of agencies responsible for the administration of national trails and the management of trail sites and segments:

*The establishment of a national trail does not give the administering agency jurisdiction over the lands through which the trail crosses. On Federal lands, the administering agency must consult with the on-ground managers of various trail segments. Mutually beneficial management responsibilities may be transferred through written agreement (NTSA section 7(a)(1)).*

*In finalizing the route of a national trail, the administering agency must be careful to consult all affected parties and assure that adverse impacts on adjacent land uses is minimized. Trail development shall harmonize with established multi-use land use plans (NTSA section 7(a)(2)).*

*Regulations governing the use, protection, management, development, and*

*administration of components of the National Trails System may be jointly issued by the secretaries of the Interior and Agriculture with the concurrence of affected agency heads, and consultation with all other stakeholders (NTSA section 7(i)).*

The following table shows which Federal agencies are responsible for over-all trail administration and which have management jurisdiction of on-ground (or over-water) segments.

Key to Abbreviations

BLM	Bureau of Land Management
DOD	Department of Defense
NPS	National Park Service
TVA	Tennessee Valley Authority
USACE	US Army Corps of Engineers
USFS	USDA Forest Service
USFWS	US Fish and Wildlife Service

See **Appendix I** for the lengths of each national scenic and historic trail.

### **3.7 FUNDING**

NTSA section 10(c)(1) provides broad generic authority for funding national trails (although section 10(c)(2) does contain restrictions and limits for Natchez Trace NST).

To operate a Federal office, to conduct research, to travel, to construct visitor facilities, to protect land—even to review studies and be a responsive partner—all these functions require funding to be carried out. There are many ways to obtain funding to support components of the National Trails System, or even the System as a whole. Some of these include:

- Annual operational appropriations
- Annual appropriations for construction and land acquisition
- Special project funds
- Challenge Cost-Share
- Grants from Federal agencies or others
- Project funds through State agencies
- Donations.

Establishing a permanent base for reliable funding is one way to assure that the Federal side of a trails partnership endures. NPS has found it advantageous to establish an operating account for each of its national trails, as well as a national headquarters account for program leadership. Requests to increase these accounts are then made as needs arise. In addition, special program funds (Challenge Cost-Share, historic preservation, construction, land protection, repair and rehabilitation, roads and trails) have been competitively sought and used to enhance the trails.



**Table 4. Federal Agencies Along National Trails**

<b>Trail</b>	<b>Administering Agency</b>	<b>Managing Agencies (on-the-ground management)</b>
Appalachian NST	NPS	NPS, USFS, DOS, USFWS, Smithsonian
Arizona NST	USFS	BLM, FS, NPS
Continental Divide NST	USFS	USFS, BLM, NPS
Florida NST	USFS	USFS, DOD, NPS, USFWS
Ice Age NST	NPS	USFS, NPS
Natchez Trace NST	NPS	NPS
New England NST	NPS	
North Country NST	NPS	USFS, NPS, USFWS, USACE
Pacific Crest NST	USFS	USFS, BLM, NPS
Pacific Northwest NST	USFS	NPS, USFS
Potomac Heritage NST	NPS	NPS, USFWS, DOD
Ala Kahakai NHT	NPS	NPS
California NHT	NPS	BLM, USFS, NPS, USFWS
Captain John Smith Chesapeake NHT	NPS	NPS, USFWS, DOD
El Camino de los Tejas NHT	NPS	NPS
El Camino Real de Tierra Adentro NHT	BLM & NPS	BLM, USFS, USFWS, USACE
Iditarod NHT	BLM	BLM, USFWS
Juan Bautista de Anza NHT	NPS	BLM, DOD, USFS, USFWS, NPS
Lewis and Clark NHT	NPS	USACE, BLM, USFS, USFWS, NPS
Mormon Pioneer NHT	NPS	BLM, USFS, NPS
Nez Perce (Nee-Me-Poo) NHT	USFS	USFS, NPS, BLM
Old Spanish NHT	BLM & NPS	BLM, USFS, NPS
Oregon NHT	NPS	BLM, USFS, DOD, USACE, NPS
Overmountain Victory NHT	NPS	USFS, NPS, USACE
Pony Express NHT	NPS	BLM, USFS, NPS
Santa Fe NHT	NPS	USFS, NPS, USACE
Selma to Montgomery NHT	NPS	USFS, NPS
Star-Spangled Banner NHT	NPS	NPS, USFWS
Trail of Tears NHT	NPS	USACE, TVA, USFS, NPS
Washington-Rochambeau Revolutionary Route NHT	NPS	NPS, USFWS

The Federal Government offers many financial (grant) and technical assistance programs listed in the *Catalog of Domestic Assistance* (see website <https://beta.sam.gov/>). Another useful Federal webpage is <https://www.grants.gov>. Federal grant authorities for historic preservation and protection of abandoned railroad rights-of-way can be found in 36 CFR 61 and 64.

Project funds are available from many sources, both within and outside government. Several attempts have been made to document Federal funding agencies, charitable foundations, State programs, and others who might help fund trail projects. Funding websites include the Sonoran Institute's *Conservation Assistance Tools* at <https://sonoraninstitute.org/resources> and River Network's *Directory of Funding Sources* at <https://www.rivernetwork.org/connect-learn/resources/>. Many different project funding programs are authorized by Federal surface transportation laws. Most of these are available through such Federal Highway Administration programs as the Recreational Trails Program (RTP). See websites



<https://www.fhwa.dot.gov/environment/rectrail.htm>.

For many trails, every dollar spent by Federal agencies is matched by a dollar or more of contributions by volunteers and their supporters. Trails are a partnership. Funding them together can be stressful—or an opportunity for collaborative success.

In addition to funding, technical assistance of various types may be invaluable in building trail partnerships. A list of “Federal Programs That Can Help” is offered in **Appendix S**.

### **3.8 FURTHER REFERENCE**

*Code of Federal Regulations*, parts

5 CFR 2635 – [Standards of Ethical Conduct for Employees of the Executive Branch](#)

5 CFR 3501 – [Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior](#)

5 CFR 8301 – [Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture](#)

36 CFR 61 – [Procedures for State, Tribal, and Local Government Historic Preservation Programs](#)

36 CFR 64 – [Grants and Allocation for Recreation and Conservation Use of Abandoned Railroad Rights-of-Way](#)

43 CFR 20 – [Employee responsibilities and conduct \(Interior\)](#)

General Services Administration, *Catalog of Federal Domestic Assistance*, on website:

<https://beta.sam.gov/>.

National Park Service, 1999, “National Trails System Sourcebook for Federal, State, and Foundation Assistance,” 137 pp.

[NPS Director’s Orders](#):

#1 – *The National Park Service Directives System*

#9 – *Law Enforcement Program*

#20 – *Agreements*

#22 – *Recreation Fees*

#52A – *Communicating the National Park Service Mission*

## CHAPTER 4 – PARTNERSHIPS

*Partnership: a relationship resembling a legal partnership and usually involving close cooperation between parties having specified and joint rights and responsibilities, as in a common enterprise.*

—From Webster’s *New College Dictionary*, 1977, p. 836.

### 4.1 INTERAGENCY COORDINATION

National Trails are a complex interaction across great distances among many different jurisdictions at the Federal, State, county, and local level. International, regional, and even property-by-property issues add to their complexity. There may be many relationships needed to establish and operate a national trail. However, only some of these will transform into enduring, synergistic, mutually beneficial partnerships with shared vision and a spirit of joint enterprise.

Successful partnerships are characterized by trust, crisis prevention, and enhancement of the efforts of individual partners. All such relationships rely on successful communication. This can be achieved by many means, including:

- Periodic newsletters
- Periodic meetings
- One-on-one meetings
- Background briefings to key stakeholders
- Periodic phone calls and e-mails
- Accurate websites
- Visits by trail office staff to inspect projects and update key contacts and stakeholders.
- Bonding around the campfire.

Federal trail administrators play a key role in coordinating with partners all along their trails. Even within their own agencies there may be complex relationships with other offices.

In early 2001, five Federal agencies (NPS, BLM, USFS, the Federal Highway Administration, and the National Endowment for the Arts) signed a Memorandum of Understanding (MOU) pertaining to the administration and management of national scenic and historic trails. The intent of this MOU is to build better long-term relationships—at all levels—within the Federal agencies jointly responsible for these trails on behalf of the American public. This MOU was updated and signed by six agencies early in 2006. The full text is found in **Appendix O**.

The NPS shares its partnership expertise on the website <https://www.nps.gov/partnerships/index.htm>. In addition, the late Brian O’Neil, former General Superintendent at Golden Gate National Recreation Area, left behind excellent principles for effective partnerships found in **Appendix Q**.

## 4.2 COORDINATION WITH STATES AND THEIR POLITICAL SUBDIVISIONS

Section 8(d) of the NTSA explicitly encourages the Secretaries of the Interior and Agriculture to foster trails of all types at the State and local level through such means as Statewide Comprehensive Outdoor Recreation Plans (SCORPs) and State policies. For NSTs and NHTs, State agencies have (and can) play various roles, depending on how high a priority State and local officials consider the trail. The NTSA allows a broad array of agreements between Federal agencies and States to foster national trails. States have acquired key lands for national trails, have helped mark and maintain NHT motor tour routes, have marketed trails for tourism and travel, have helped plan and support trail corridors, have connected regional and local trails to national trails, and have also funded NST and NHT projects. Today, every State has a trail coordinator and a State trail council. Many States have Statewide trail plans or a trail addendum to their SCORPs. Often State programs similar to trails, such as scenic byways and transportation enhancements (which use Federal transportation funds), can have a direct impact on NSTs and NHTs. Federal trail administrators should work closely with these programs to ensure unified and authentic visitor experiences.

## 4.3 ADVISORY COUNCILS

Section 5(d) of the NTSA sets forth the procedure to nominate, appoint, and consult with an advisory council for each trail, for the first 10 years after the council is first chartered:

*(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the system, . . . establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment, . . . If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:*

*(1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;*

*(2) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;*

*(3) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: Provided, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and*

*(4) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.*

Key tasks associated with operating an officially appointed advisory council must conform to the authorities of the [Federal Advisory Committee Act](#) of 1972 (FACA, 5a U.S.C. 1-16) and its [implementing regulations at 41 CFR 102-3](#). Agency tasks include crafting the establishment charter, nominating and re-nominating members, holding regular meetings that are advertised in the *Federal Register*, recording accurate minutes, and following up to make sure decisions are carried out.

NPS experience with National Trails System advisory councils indicates that they are generally an important aspect of the early years of a trail's administration. Advisors often provide important access to political officials, State agencies, and supporters of the trail. They have been very helpful in developing trail comprehensive management plans (CMPs), becoming advocates for plan implementation, and guiding trail administration in its infancy.

FACA spells out the conditions by which Federal agencies can consult for group advice from advisory boards, commissions, councils, committees, groups, and panels. Any time a Federal agency intends to establish or use an advisory group having at least one member who is not a Federal employee, the agency must comply with FACA and administrative guidelines developed by the General Services Administration (GSA).

There are a number of consultative situations where FACA does not apply. They include:

1. Any meeting to obtain advice or recommendations from one individual.
2. Any meeting initiated by a Federal official with more than one individual for the purpose of obtaining the advice of individual attendees and **not** for obtaining consensus advice or recommendations.
3. Any meeting initiated by an established outside group with one or more Federal officials for the purpose of expressing the group's view, provided the officials do not use the group recurrently as a preferred source of advice or recommendations.
4. Any meeting with a group initiated by a Federal official for the purpose of exchanging facts or information.

In addition to the activities listed above that are exempted by GSA regulations, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501-1571) exempted from FACA requirements any meetings between State, local, Tribal and Federal officers where:

5. Meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and
6. Such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.

Citizens can participate in planning teams as long as they provide input, but do not help develop consensus opinions or findings. Officially, non-Federal persons cannot be part of planning teams, but they can attend meetings and be consulted as long as they don't help make the team's decisions.

A policy discussion group (or "roundtable") can be formed to discuss draft proposals, option papers, or specific issues. This allows the formal convening process associated with advisory committees to be avoided. Another option is the use of focus groups when there is a need for quick, anecdotal information about how different approaches to solving a problem would work in practice. Both options involve the solicitation of individual opinions only. Neither of these non-FACA options is appropriate, however, if the goal is to obtain consensus advice. Indeed, when meeting with a number of individuals under these circumstances, NPS managers should emphasize that the agency is seeking only the attendees' individual views, and the attendees should be discouraged from attempting to reach a consensus, or otherwise making recommendations as a group.

GSA administers all advisory committees and reports to Congress on their status. GSA conducts annual reviews of advisory committee accomplishments, responds to inquiries from agencies on establishing new committees or the renewal of existing groups; and prepares an annual report covering a summary of committee activities. Federal agencies which administer advisory committees must provide timely information to GSA so that GSA can perform these functions efficiently. When program managers are unresponsive to GSA's request for information concerning an advisory committee, it may create the impression that the committee is not fulfilling a vital role and, perhaps, is unnecessary. GSA maintains a website (<https://www.gsa.gov/faca>) that contains helpful information about FACA.

Advisory committees are to be created only when essential, and can be created either by statute or administratively. Travel and other related expenses, including some wages, can be paid to participants. Each advisory committee must have a charter, be convened by a Federal employee (who approves the agenda ahead of time), and have its meeting dates published in the *Federal Register*. All meetings are open to the public (unless closed by written order of the President or agency head). Full minutes are to be kept, filed with GSA, and made available to the public.

When an advisory committee or council is established under FACA, the following documents must be prepared and submitted to the appropriate processing office within the administering agency:

1. A proposed charter that contains:
  - the committee's official designation.

- the committee's objectives and the scope of its activity.
  - the period of time necessary for the committee to carry out its purpose.
  - the agency or official to whom the committee reports.
  - the agency responsible for providing the necessary support for the committee.
  - a description of the duties for which the committee is responsible.
  - the committee's estimated annual operating costs in dollars and work-years.
  - the estimated number and frequency of committee meetings.
  - the charter's termination date, if less than two years from the date of the committee's establishment.
  - a description of the committee's membership and other membership provisions.
  - the designated federal officer (DFO) or his designee to chair or attend each meeting of the advisory committee.
  - if the committee is to be composed of formal subcommittees or subgroups, they should be identified and described as to their composition and specific functions.
  - the specific statutory authority for the committee.
  - the date the charter is filed.
2. A Statement of Justification for establishing the committee.
  - 3 (a). A list of prospective committee members, together with biographical information about the persons recommended for appointment, or
  - 3 (b). A list of government and private organizations from which nominations should be solicited; together with a proposed letter soliciting nominations from those outside organizations.
  4. A proposed letter of appointment.
  5. A Notice of Establishment for the *Federal Register*.

A Designated Federal Officer (DFO) must be assigned to each committee to:

- a. Approve or call meetings, (ensuring that they are reasonably accessible, with convenient locations and times);
- b. Publish adequate advance notice of meetings in the *Federal Register*;
- c. Approve agendas;
- d. Attend meetings;
- e. Chair meetings (when requested by agency heads);
- f. Adjourn meetings when such adjournment is in the public interest;
- g. Maintain required records on costs and membership;
- h. Ensure efficient operations;
- i. Maintain records for availability to the public; and
- j. Provide copies of committee reports to the Committee Management Officer.

No advisory committee may meet or take any action until a charter has been filed with GSA, the appropriate House and Senate authorizing committees, and the Library of Congress. Also, FACA

section 14(b) requires that each advisory committee file a new charter upon the expiration of each successive 2-year period following the date of establishment. (Public Law 102-525, Title III, section 301 exempts from this re-chartering requirement advisory committees that are established legislatively and are connected with any National Park System unit.) A committee may not meet or take any action if its charter has expired. If a committee's charter expires, the committee must be reestablished (as opposed to simply renewing a current charter) in order to continue operating.

Prior to accepting an appointment, each prospective council member should be informed of their duties and obligations, allowable expenses, and compensation limitations. Poor attendance or lack of participation is grounds for removal. Actual criteria for removal should be spelled out in the charter or bylaws. Responsible program staff must provide prospective advisory committee members with information regarding any applicable standards of conduct, including those that may be imposed by Federal conflict of interest statutes. Generally, committee members are appointed to represent interests other than the Federal Government's, not for their individual qualifications and independent service. As such, they are not "special Government employees" (SGEs) and they are not bound by ethical standards applicable to SGEs. However, committee by-laws should still address conditions under which individual members, although not SGEs, may and should recuse themselves from voting on certain matters which may come before the committee. Sometimes they need to be reminded that they are advisors, and not managers.

With few exceptions, advisory committee meetings must be open to the public. In addition, to comply with the Federal Records Act and FACA, committees must maintain detailed minutes of each meeting, including a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. Committees must also maintain permanent records that document the essential purpose and work of the committee and provide an enduring record of its accomplishments. All documents that explain the basis for a committee's recommendations and conclusions should be carefully maintained. Permanent records must be preserved and transferred to the National Archives. It is especially important to separate administrative files, such as those relating to personnel, payroll, and fiscal matters, from program files that document the substantive work of the committee. The ultimate disposition of these two categories of files will differ.

National Trails System advisory councils have often provided a broad democratic forum of diverse constituencies (State, Federal, and local officials, nonprofit groups, landowners, scholars, etc.). These groups have generally served a positive communications role for newly established trails often hundreds (sometimes thousands) of miles in length. Such distances can inhibit trail program presence at the local or regional level. Typical costs for a 35-member council have been in the \$10,000 to \$20,000 range per meeting. As advisory bodies, these councils have often proven impartial and free of conflicts of interest, not dominated by any one interest group.

#### **4.4 PARTNER ORGANIZATIONS**

*Making our nonprofit partners stronger makes the Appalachian Trail stronger. The more support we can provide them, the better.* — Dave Ritchie, NPS

For each NST and NHT one or more nonprofit organizations have been founded to promote and care for that trail. Some have paid staff and local chapters and field offices, others do not. Each is founded on a deep commitment to the trail(s) it supports through volunteer maintenance crews, research, fund raising, re-enactments, and other means. These organizations are the lifeblood of the National Trails System. Few trails would be established in the first place if it were not for a strong group committed to the political work necessary to getting through the feasibility and legislative process. These groups have commitment, flexibility, entrepreneurial spirit, and fund-raising abilities that government agencies often do not.

A strong trail organization can often take workload off the shoulders of trail administrators by organizing (and accounting for) trail volunteers, providing eyes and ears for resource monitoring, even publicizing the trail. For a fuller list of roles and responsibilities of such groups, see Chapter 3, page 10.

Most of the groups founded to support one or more national trails have banded together into an umbrella organization called the Partnership for the National Trails System (see <http://pnts.org/new/>). Federal staff need to listen carefully to understand who their partners are and what motivates them. (For a full list of current NST and NHT partner groups, see “Meet the Partners” on the website <https://www.nps.gov/nts.>)

In addition, other types of groups can help trails. Because of limited authorities to collect monies and sell commercial products, Federal agencies have turned to cooperating associations to carry out many functions needed to serve the public. Such groups typically contract to operate visitor center bookstores. Many of these groups can play an essential role in publicizing trails, providing accurate and up-to-date information services, and raising money to help support trails. See NPS Director’s Order 32, *Cooperating Associations*.

#### **4.5 LINKS WITH AMERICAN INDIAN GROUPS**

Current Federal policy insists that Federal relations with American Indian groups be conducted on a government-to-government basis. Many national trails cross American Indian lands and reservations and/or commemorate stories important to native peoples. The establishment of these trails, the way they are built, mapped, interpreted—even the symbols and markers used to represent them—may be of great importance to Indian groups. Sites sacred to Indian peoples, place names, commemorative artifacts, and local interpretive messages all have to be treated with great sensitivity when American Indian concerns are present. For more detailed NPS guidance and policy, see [section 1.11](#) (Relationship with American Indian Tribes) of *Management Policies* (2006).

#### **4.6 INCENTIVES AND PRINCIPLES**

National scenic and historic trail partnerships come in many forms, sizes, timeframes, and degrees of complexity. The authorities of the NTSA enable Federal trail administrators to offer incentives to foster various types of partnership. These include technical assistance (giving advice when asked), limited funding (making small amounts of funds available, usually through cooperative agreements



for specific tasks benefiting the public), site and segment certification (formalized by certification agreements), promotion (by having a trail listed or shown on an official Federal map or brochure), and use of the trail logo. A sophisticated network of partnering, developed over decades, is the Appalachian NST's Cooperative Management System (see subchapter 4.7 below). This evolving web of agreements, role and function statements, standards, and trail-specific policies is documented in the ATC's *Local Management Planning Guide*.

Successful partnerships are grounded in practical and positive principles:

- Be clear: Be up-front about your limitations and strengths. Make sure roles and responsibilities are well understood.
- Seek unity: Build a common vision. Concentrate on shared values and goals, seek common ground.
- Be respectful: Know each other's roles, different as they may be; disagree respectfully.
- Be responsive: Do what you say you are going to do.
- Be honest: Practice open communication, be forthcoming.
- Be supportive: Help with causes other than your own.
- Be broad: Avoid narrowness and exclusion, gather a wide variety of viewpoints.
- Do your homework: Be familiar with and follow accepted and official policies and practices.
- Be consistent: Have sound reasoning that doesn't change over time. Remain steady. Avoid setting undesirable precedents.
- Be grateful: Giving credit costs nothing and buys credibility. Be generous with awards and recognition of accomplishments.
- Build trust: Make it safe to work together. Forgive easily.
- Learn together: Evaluate mutual efforts to maximize effectiveness; be forgiving and move forward.

When partnerships fail, the cause can often be found in the failure of partners to abide by one or more of these factors. Good coordination and consultation are essential for successful, sustained trail administration. A more comprehensive discussion of the characteristics of successful partnerships is found in **Appendix Q**.

## **4.7 COOPERATIVE MANAGEMENT SYSTEM**

As a flagship of the National Trails System, the Appalachian NST has been a laboratory for developing sustainable partnerships that can care for and protect interstate trails. The comprehensive management plan for the Appalachian NST, building on the authorities of the NTSA, states that local trail management will be a shared responsibility. The Appalachian Trail Conservancy's *Local Management Planning Guide* has evolved as the key document for that trail that defines and coordinates policy; outlines Federal, State, and nonprofit roles, and defines the

appropriate scope of local plans. The *Guide* lists all relevant partners in each of the Trail's 14 States, outlines a standard trail resource database format (called "TREAD"), provides a sample local management plan outline, lists relevant Federal and ATC policies by subject, outlines compliance procedures, and provides relevant agreements and inventory forms in appendices.

#### **4.8 COOPERATIVE AGREEMENTS AND SIMILAR INSTRUMENTS**

The financial assistance authorities under NTSA section 7(h) provide a simple mechanism for funding limited management and administrative functions of volunteers without the usual restrictions of Federal procurement or concessions requirements. Cooperative agreement authority is defined in the Federal Grant and Cooperative Agreement Act (31 USC 6305). In some agencies (NPS, for instance), cooperative agreements are considered grants and must conform to OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*. Through cooperative agreements, Federal agencies can even allow nonprofit partners to use Federally acquired structures and permit trail clubs to charge fees. Care should be exercised in writing agreements based on NTSA section 7(h) authorities to ensure proper accountability and auditing. Cooperative agreements must ensure both demonstrable public benefit and substantial Federal agency involvement.

#### **4.9 FOSTERING VOLUNTEERS**

NTSA amendments passed in 1983 provide broad and unique authorities for Federal land managers to cooperate with and foster volunteers for the establishment and maintenance of trails. NTSA section 11 authorities apply to a broad array of trails, while section 7(h) authorities apply only to the components of the National Trails System.

Section 7(h) enables land managers to delegate certain management responsibilities to nonprofit organizations, accompanied by "limited financial assistance." This term is not defined in the NTSA, however the relevant Senate report states:

*The Secretaries . . . should continue . . . to provide financial assistance through cooperative agreements with appropriated funds or with other receipts as an element of these cooperative efforts and implement expanded programs along these lines as soon as practicable.*

(Senate Report 98-1, 98<sup>th</sup> Congress, 1<sup>st</sup> Session, p. 8).

Section 11 of the NTSA authorities are some of the broadest cooperative authorities available anywhere under Federal law. Volunteers are encouraged to help in planning, developing, building, conducting research, providing education and training, maintaining and managing trails within the National Trails System as well as on those trails that, although not designated, could be so developed. Partnering Federal agencies can make available to such volunteers facilities, equipment, tools, and technical assistance.

NTSA authorities for volunteers are tied closely to individual agency volunteer programs

(Volunteers in the Forests Act, 16 USC 5558A, and Volunteers in the Parks Act, 54 USC 102301), more commonly known as “VIFs” and “VIPs.” These acts have parallel provisions that essentially permit the USFS and the NPS to recruit and use volunteer labor in furtherance of authorized programs (including trails) and to pay for incidental expenses incurred by volunteers for transportation, uniforms, lodging, and subsistence. A volunteer under these acts has Federal Government employee status for purposes of tort liability and Workman’s Compensation should the volunteer cause or be subject to injury or damage.

Under the NTSA, a landowner may be enrolled as a Volunteer-in-Park (VIP) or a Volunteer-in-Forest (VIF) and receive coverage under the Federal Tort Claims Act and Workman's Compensation in case of injury for approved certified site activities. This pertains, *even when they are working for the trail on their own lands.*

Trail volunteers are not automatically VIPs or VIFs unless enrolled according to agency procedures. Formal recognition of volunteers and the statement of mutually agreed-upon activities (job descriptions) occur through cooperative agreements (see subchapter 4.8 above). These are arranged both with groups (such as the Appalachian Trail Conference) and individuals (especially landowners of certified sites and segments). Like many other volunteer authorities, the activities of VIFs and VIPs are affected by the availability each year of support funds and Federal supervisory personnel.

In recent years, eight Federal agencies—including those involved in the National Trails System—signed an MOU to establish a Federal Interagency Team on Volunteerism (FITV). This team is pledged to share information, co-sponsor workshops and training opportunities, and collaborate on research and program evaluations.

#### **4.10 CERTIFICATION OF SITES AND SEGMENTS**

Certification is an administrative process that Federal trail administrators use to officially recognize protected trail segments on non-Federal lands associated with NHTs. It is based on NTSA section 3(a)(3):

*The appropriate secretary may certify other lands as protected segments of an historic trail upon application from State or local government agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate secretary may prescribe, and are administered by such agencies of interests without expense to the United States.*

Along NHTs, certified segments should be directly associated with the trail and its corridor – although “complementary interpretive facilities” some distance away have also been certified. Certification is intended to ensure that such places (1) meet minimum Federal standards for recognition as part of the trail, (2) receive proper recognition as part of the trail, (3) are managed, protected, and interpreted to the same standards as are Federal segments of the trail. Certification agreements are voluntary “good-faith” expressions of mutual interest and expectation. They are voluntarily renewable but not legally binding contracts.

Sample NHT certification agreements are shown in **Appendix M**. Certification is usually provided through a written agreement. Updating of a certification should be initiated at least six months ahead of the desired renewal time.

- The application for NHT certification should include, as a minimum, the following information:
- Name and description of the segment or facility for proposed certification.
- Name of the owner or managing entity, with address and other contact information.
- Location of the trail segment, with a clear and reproducible map.
- Qualifications of the managing authority.
- The design of existing and proposed facilities.
- Summary of known legal requirements (if any).
- Detailed description of the management of the segment or facility.

In order for a segment along an NHT to be certified as part of an NHT, it should:

- a. Be listed as a high potential segment on or near the trail as depicted in the trail's comprehensive management plan (CMP).
- b. Have at least one direct thematic link to one of the trail's major themes.
- c. Possess commemorative value or sufficient historical integrity in its setting.
- d. Be managed by an entity willing to maintain and protect the integrity of both the resources and a quality visitor experience—consistent with the trail's CMP.
- e. Be managed in compliance with relevant Federal, State, and local laws and regulations.
- f. Be open and available to the public, within reason, as agreed upon through negotiations between the owner and the Federal administering agency.
- g. Have potential to provide for public benefit through educational enrichment and/or recreational values.

**The Process:** The NHT certification process and requirements for each national trail should be outlined in that trail's comprehensive management use plan (CMP).

Certification negotiations seek to achieve the following goals:

- Confirm that specific non-Federal historic trail features are important components of the trail,
- Include non-Federal lands and waters as recognized trail components,
- Provide official recognition for qualifying non-Federal segments,
- Document the Federal agency's and non-Federal partner's commitment to protecting cultural or natural resources present along the segment while providing for appropriate public use and access, and
- Build a consistent, coherent visitor experience and resource protection program along

the length of the trail.

The certification process for NHTs consists of the following steps:

1. State or local governments, or private landowners, submit an application for certification of their site or segment to the Federal trail administrator.
2. Federal staff conduct a pre-certification visit and evaluation.
3. As appropriate, partners identify any relevant management and public use objectives for a segment as defined in the trail's CMP.
4. The applicant(s) and Federal trail administrator negotiate the terms of the agreement and mutually approve and sign it.
5. The applicant(s) and Federal agency participate, as appropriate, in signing ceremonies, press events, and other public notifications.
6. Post certification actions may include technical assistance, site and interpretive planning, project compliance, and other mutually agreed upon endeavors.

The process is simple. A landowner applies for certification by writing to or phoning the Federal trail administrator's office. Most should have already read the relevant trail's "Certification Guide" and, perhaps, also the trail's CMP which explains the certification process in some detail. Federal trail staff then visit the segment to gather background information and discuss certification in more detail. A draft certification agreement is prepared and sent to the applying landowner. The trail administering agency certainly helps craft the agreement, but should not be the principle author. Negotiations continue and the agreement is refined until a final document is developed to which both sides agree. Should ownership change, certification can only continue with the new landowner's consent.

The administration and resource management sections of the agreement contain the terms regarding who will do what and how it will be done. The goal is to work in good faith to achieve Federal agency standards for natural and cultural resource management, interpretation, and visitor use, while protecting the rights of the landowner or local manager. Terms include such actions as development of segment management or resource management plans, evaluation and setting of carrying capacities when appropriate, avoidance of ground disturbance to protect subsurface resources with consultation with the trail administrator and the SHPO, and more.

The segment owner agrees to allow the public appropriate access to the historic site or segment. How and when are spelled out in the agreement. Some owners do not mind relatively unlimited visitor access, others want to restrict access to certain times and/or with certain conditions. Some landowners are comfortable with signs along the highway directing the public to their site—others are not. Some landowners prefer to only open the property up to organized tours at specified times. Such tours, however, must be open to the public.

**Benefits:** Certification agreements generally work well, usually surviving the transfer of property from one owner to another. When one Santa Fe NHT landowner died, she willed her historic site to a neighbor she knew who would protect it. The new owner promptly signed a new agreement. In some cases the community helps. When one certified historic site in Kansas was sold, the new

owners were promptly contacted by trail supporters in the community and they, too, agreed to continue certification.

A major issue of concern to landowners is their potential liability if they open their historic properties to the public. Fortunately, most States have excellent recreational tort liability waiver laws that protect landowners from such liability when they open their lands for public recreation. (In most cases, this applies only when there is no use fee charged.)

Certified segments are eligible for Federal technical and limited financial assistance. Certification gives access to broader professional assistance than most owners can obtain on their own. The trail administrator may be able to bring an historical architect to evaluate a structure and make recommendations to the owner—or an archeologist to make recommendations for research needs. Partners at certified properties have access to a wide network of Federal professionals, training programs, and support.

Certification can build a strong and favorable public image through recognition of the landowners' efforts to preserve resources and provide for appropriate public use. The display of the trail marker logo along the segment lets people know that the property is part of a nationally-significant trail, and that protection, interpretation, and public use all meet the high standards of quality that the American people expect along national scenic and historic trails. Members of the community—especially school children—can benefit from the civic pride that comes with recognition and increased knowledge about the history of their area. Local efforts to obtain grants for historic preservation and other civic projects related to the trail can gain additional justification.

Certification provides a positive way for a landowner to get help preserving trail resources without giving up any private property rights. In time, some landowners may decide they would like to donate their site or an easement to a local historical society or land trust, or take other actions. As long as trail segments are certified, they are protected through a good faith partnership that commits both sides, given available resources, to do all they can to perpetuate the trail's important sites and facilities for the benefit of future generations.

NSTs – Certification is also used to recognize and track completed non-Federal portions of some NSTs (but without specific NTSA authority). In the negotiations leading to certification, the Federal agency becomes informed about the trail segment's location, quality, management, and environmental impact, while the applicant becomes fully informed about trail standards and the relevant authorities of the NTSA. Once certified, NST segments can display the official trail marker logo. Once certified, NST sites and segments remain so enrolled unless removed by either the requesting landowner or the trail administrator. (See subchapter 7.7).

In order to achieve NST certification (at least as practiced along the North Country NST), a segment must:

- Exist and be open to the public.
- Be located along the route of the trail as officially mapped and link with existing segments or the anticipated location of future segments.

- Be managed in accord with the trail’s CMP (and subsequent policy and guidance).
- Be open to foot travel and compatible uses (snow-shoeing and skiing).

The application form is brief (1-2 pages) and must include concurrence with any public land managers involved. It is submitted to the trail administrator. Ideally, the trail office has been consulted as the segment is being developed to avoid later delays and miscommunications.

The implications of NST certification agreements are few and non-binding. These agreements certainly do not convey any interests or title to lands and waters. Certification is voluntary, with the Federal partner only providing oversight, not regulation. For those NSTs practicing certification, trail markers and mileage totals pertain only to certified segments. Certification agreements can be terminated by either party, especially if new land uses impair the scenic qualities of the trail.

#### **4.11 TECHNICAL ASSISTANCE AND RESEARCH**

The scope of NTSA section 11 is extremely broad. Federal trail agencies can provide a wide variety of technical assistance, such as mapping and title services to non-profit land trusts or assistance in training volunteer trail workers. Other available skills include site planning, interpretive planning, design and production, compliance, and response to threats. Equipment and facilities can be provided, including the use of government buildings for meetings. Often the most helpful activity that Federal agency partners can offer is gentle encouragement, empowerment, and information—leaving partners the freedom to take specific actions as needed and be strong advocates for the trail.

Trail-related research is not specifically encouraged by the NTSA. However, it can take many forms and be extremely helpful in solving problems, gaining a better understanding of the trail visitor, and keeping abreast of changing trends. Two exemplary studies, each fully funded by the NPS, were the survey of the Overmountain Victory NHT called *The Economic Impact and Uses of Long-Distance Trails* (Moore, 1998), and the 2000 survey of visitors along the Appalachian NST (Manning et al, 2000).

#### **4.12 TRAINING**

Becoming a competent and knowledgeable National Trails System partner requires a variety of skills. Most of these can be learned.

##### **Basic trail skills**

- Safety
- Layout and basic construction
- Trail blazing
- Basic trail maintenance
- Agreements
- Leave No Trace

##### **Advanced Trail Skills**

- Universal accessibility

- Planning and compliance
- Signs and markers
- Advanced construction
- Landowner relations
- Interpretation and education
- Historic preservation
- Funding and fundraising
- Inventories and assessments
- Project management
- Organizational development
- Volunteer management

Skills training—especially in a partnership setting—is essential to make sure all partners are up to speed on best practices, required (or convenient) standards, legal requirements, and the tried-and-true methods for achieving their goals. Trail organizations and public agencies have developed sophisticated and successful training programs dating back to the 1870s. Several non-profit groups – such as the Student Conservation Association – offer traditional trail skills training. Others – such as the ATC – have developed training programs tailored to their special needs and issues. Many of these skills can also be learned and honed at community colleges, conferences, and through mentoring with experts.

Since 2000, five Federal land-managing agencies and 13 national trail nonprofit organizations banded together to form the National Trails Training Partnership (NTTP) to consolidate nationwide information about current training opportunities. (See website [www.americantrails.org/nttp](http://www.americantrails.org/nttp) for a current training calendar, search functions by competency, and other relevant information.).

#### **4.13 CONFLICT RESOLUTION**

When partnerships break down, conflict resolution is often appropriate. Like marriage counseling, sometimes it works and sometimes it does not. If a partnership is set up in the first place on good principles (see subchapter 4.6 above), it is likely to endure. When one unravels, those involved who want to save it need to come to a common understanding of what may be going wrong. Sometimes clashing personalities cannot be reconciled. Sometimes mistaken assumptions or mutual distrust sour any further work together. But often, strengthened communications, third-party mediation, new leadership, clarified vision and mission statements, counseling, and joint successes can heal broken or strained partnerships. Perhaps a special committee or outside experts can be brought in to help heal old wounds and build trust to move two or more groups in a broken relationship into joint trust again.



## 4.14 FURTHER REFERENCE

Appalachian Trail Conservancy, (various editions) *Local Management Planning Guide*, Harpers Ferry, WV: ATC.

Baas, Jennifer, et al, 2018, [\*National Park Service Active Transportation Guidebook: A Resource on Supporting Walking and Bicycling for National Parks and Their Partners\*](#), Wash., DC: National Park Service and Federal Highway Administration, 167 pages.

*Code of Federal Regulations*, , parts:

2 CFR 416.1 — Administrative requirements grants and agreements to State and local gov'ts (Agriculture).

7 CFR 3018 — Lobbying restrictions for Dept. of Agriculture partners.

36 CFR 59 — Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities.

41 CFR 102-3 and 105-54– Federal Advisory Committee Management (GSA).

43 CFR 12 — Administrative and auditing requirements and assistance (incl. grants) (Interior).

43 CFR 18 — New Restrictions on Lobbying (Interior).

43 CFR 1784 — Advisory committees (BLM).

[Federal Advisory Committee Act of 1972](#) (5a U.S.C. 1-16)

Forest Service Handbooks

1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook.

1909.17 – Economic and Social Analysis Handbook.

Gilbert, Tom, 2001, “Trail ‘Certification,’ What is it? Why do we do it?” in *North Star*, October-December, 2001, Lowell, MI: North Country Trail Association, p. 34.

Manning, Dr. Robert E., William Valliere, James Bacon, et al, 2000, *Use and Users of the Appalachian Trail: A Source Book*, Burlington: University of Vermont, 479 pp.

Moore, Roger L., et al, 1987, *Organizing Outdoor Volunteers*, Boston: Appalachian Mountain Club, 86 pages.

Moore, Roger L, et al, 1998, *The Economic Impacts and Uses of Long-Distance Trails: Featuring a Case Study of the Overmountain Victory National Historic Trail*, Wash., DC: National Park Service, 130 pp.

NPS Director’s Orders

#7 – Volunteers in Parks

#20 – Agreements

#21 – Donations and Philanthropic Partnerships

#26 – Youth Programs

- #27 – Challenge Cost-Share (under development)
- #32 – Cooperating Associations
- #75A – Civic Engagement and Public Involvement
- #93 – Conflict Resolution

NPS Long-Distance Trails Group Office – Santa Fe, 1991, *Santa Fe National Historic Trail Certification Guide*, 14 pp.

*Ibid.*, 1994, *Trails of Tears National Historic Trail Certification Guide*, 13 pp.

O’Connell, Brian, (Dec. 31, 1075), *Effective Leadership in Voluntary Organizations*, New York: Walker and Co.

Office of Management and Budget circulars

A-102 and A-128 – Administrative requirements for grants to States and local governments.

A 110 and A 133 – Administrative requirements for grants and agreements to universities, hospitals, and nonprofits.

Snow, James B., *Authorities and Responsibilities Under the National Trails System Act*, speech given in Knoxville, TN, Nov. 4, 1989.

31 U.S.C 6305, *Using Cooperative Agreements*.

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## CHAPTER 5 – PLANNING, COMPLIANCE, AND LIABILITY

### 5.1 STUDIES AND PLANS FOR NATIONAL TRAILS

Sections 5(b), 5(e), and 5(f) of the NTSA outline the basic information required by Federal law for both feasibility studies and comprehensive management plans (CMPs) for national trails. Both efforts should be conducted in full consultation with all affected public and private parties. **Appendix G** lists the status of both feasibility studies and CMPs completed to date under the authorities of the NTSA.

A **feasibility study** is conducted to assess whether or not a proposed trail qualifies for inclusion in the National Trails System. Unless specified otherwise, it is to be completed within three full fiscal years from the year that the authorizing legislation passed. Of all the studies conducted between 1968 and the present, more than half have resulted in an established trail. The process for NST feasibility studies differs from that for NHTs because the NTSA gives only a loose definition for an NST, but specific criteria are given for NHTs.

For NSTs, the definition in NTSA section 3 is:

*National scenic trails ... will be extended trails [over 100 miles long] so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.*

From this definition (plus other sections of the NTSA), a set of NST criteria has been developed for the recent studies of the American Discovery and Great Western Trails. These are:

**Significance** – The route should include nationally important cultural, historic, natural, recreational, and scenic features, and the experience of traveling the trail should be comparable in quality and enjoyment to other NSTs.

**Length** — The trail should be at least 100 miles long and continuous in availability for use.

**Accessibility** — The trail should connect to other trails and recreation areas, providing access where possible to urban areas.

**Desirability** — There should be an anticipated need for the trail, and it should be capable of attracting visitors from across the Nation. It should offer an outstanding scenic and enjoyable outdoor recreational experience. There should be extensive local and regional support for the project.

**Trail Use** — NSTs should be designated for hiking and other compatible non-motorized uses.

For NHTs, the criteria in NTSA, section 5(b)(11), require that each proposed trail meet all three of the following conditions:

*(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. . . .*

*(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, exploration, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.*

*(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. . . . The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.*

Feasibility studies for NSTs and NHTs must be based on two initial factors:

1. Whether or not it is physically possible to develop a trail along the route being studied, and
2. Whether development of the trail is financially feasible and desirable for the public interest.

The NTSA also requires that additional factors be investigated:

1. The proposed route of the trail (including maps and illustrations)
2. Areas adjacent to such trails to be used for scenic, historic, natural, cultural, or developmental purposes,
3. The characteristics which, in the judgment of the appropriate secretary, make the proposed trail worthy of designation as an NST or NHT,
4. The current status of land ownership and current potential use along the designated route,
5. Estimated costs of acquisition of land or interests in land, if any,
6. Plans for developing and maintaining the trail and the cost thereof,
7. The proposed Federal administering agency,
8. The extent to which a State or its political subdivisions and public and private organizations might reasonably be expected to participate in acquiring the necessary lands and in the administration thereof,
9. The relative uses of the lands involved, including the number of anticipated visitor-days

- for the entire length (as well as individual segments) of the trail, economic and social benefits from alternate land uses, manpower impacts of the proposed trail, and
10. (for NHTs) The anticipated impact of public outdoor recreational use on the preservation of the proposed historic trail and its related archeological features, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national significance.

Feasibility studies do not necessarily need to include alternatives, although many study teams have found alternatives to be an appropriate way to help determine the best future status of the subject trail. Alternatives can range across gradients of different management types, different route locations, or (best of all) different types of designation. Some of the possible alternatives to NST or NHT designation include NRT, national heritage corridor, State or local recognition, or scenic byway. Management alternatives are best left to the later phase of a comprehensive management plan (see below).

Studies must contain appropriate environmental compliance documentation. If a potential action appears controversial to the planning team, then an environmental impact statement (EIS) must be completed. Otherwise most studies are sufficient as environmental assessments (EAs). Most recent NST and NHT feasibility studies have been EAs. National Trail System feasibility studies become important historic documents, describing the reasoning behind why a trail was recommended (or not) for establishment.

In addition, a feasibility study for an NHT must include a recommendation by the [National Park System Advisory Board](#) about the trail's national historic significance using the criteria of the National Historic Sites Act of 1935 (See NTSA section 5(b)(3) and **Appendix U**.)

Details about how best to craft a National Trails System feasibility study can be found in the NPS paper, "What Does It Take to Become a National Trail? An Analysis of National Trails Feasibility Studies" (posted under "Resources" on <https://www.nps.gov/nts>).

A **comprehensive management plan** (CMP) is usually a complex project. It should be completed within two full fiscal years of a trail's establishment by Congress—but often takes much longer. The CMP focuses on the trail's purpose and significance, issues and concerns regarding current conditions along the route, resource protection, an accurate inventory of trail-related resources, visitor use, and long-term management objectives. Ideally, the planning process can help foster support for the trail along its route through a pro-active public involvement process. When approved and signed, it should serve as the fundamental document for all major trail stakeholders, clearly stating common vision, understandings, policy, guidance, and planned cooperative actions.

The requirements for national trail CMPs are listed in NTSA sections 5(e) and 5(f):

- Specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of NHTs),

- Details of any anticipated cooperative agreements to be consummated with other entities (including States and local governments),
- An identified carrying capacity of the trail and a plan for its implementation (this concept is now being addressed on an interagency basis as “visitor use management”),
- (Section 5(f) trails only) The process to be followed by the appropriate Secretary implement the marking requirements established in NTSA section 7(c),
- An acquisition or protection plan, by fiscal year for all lands to be acquired by fee title or lesser interest, (in section 5(f), for high potential sites and segments only) along with a detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired, and
- General and site-specific development plans including anticipated costs.

Most recent CMPs also contain EIS, reflecting the fact that operations of a national trail are considered a major Federal action having a significant effect on the quality of the human environment. The best recent CMPs not only have fully addressed the requirements found in NTSA sections 5(e) and 5(f), but also explore issues critical to a specific trail, such as major public and private partners, purpose and mission of the trail, regional context, potential economic impacts, interpretive themes and objectives, and governing policies. CMPs should link closely to land plans for national park units, national forests, BLM districts, State parks, and other public land plans. Conversely, once a CMP is finalized, it should help guide revised or new public land planning of areas crossed by the trail.

Some recent CMPs have also included detailed themes, goals, and objectives as a foundation for trailwide interpretation and visitor management. Interpretation often helps enhance public appreciation for a trail’s national significance, increasing public support for the trail.

Many CMPs offer a range of management alternatives. These can include full Federal jurisdiction, partnership with interested States and localities, shared management with one or more nonprofits, or minimal Federal involvement restricted only to technical assistance and coordination. Such alternatives must be framed in cognizance of the full range of administrative and management authorities of the NTSA.

Ideally, CMPs will be approved and signed by all major agencies and partner groups. However, for this to happen, an agreement or MOU should be drawn up authorizing this partnership.

As with feasibility studies, CMPs quickly become important historic documents that are used over several decades to update new partners and staff on decisions made to guide the trail’s operations. In some cases, the original CMP gradually becomes obsolete—no longer guiding trail partners—and plans should be made to update or revise it. As a rule of thumb, CMPs should be revised every 15 to 20 years.

Suggestions on how best to craft a National Trails System CMP can be found in the NPS Paper, “Planning for America’s National Trails – Best Practices: An Analysis of Comprehensive

Management Plans for America’s National Scenic And Historic Trails” found under “Resources” on <https://www.nps.gov/nts>.

## 5.2 LEGAL COMPLIANCE

Planning and operating national trails – as Federal actions – are subject to a large body of law and regulation. For example, the National Environmental Policy Act (NEPA) requires that prior to undertaking a Federal action, Federal agencies must take into account impacts on the environment and try to minimize such impacts. NEPA compliance may be complicated on lands where the U.S. owns only the underlying interests, but not surface rights (often the case with BLM).

NEPA requires that an EIS be completed before any Federal action is taken which may be controversial and/or have a significant effect on the quality of the human environment. To determine whether or not an EIS is required, an EA may be conducted. In recent years, EIS requirements have been built into some comprehensive management plans for national trails. Later, when specific local trail actions are being considered (such as the relocation of the Appalachian NST on Saddleback Mountain in Maine) an EIS may also be warranted. In addition, trail staff are often asked to review compliance documents by others (Federal and State agencies, private consultants, etc.) affecting properties and projects along the trail.

Similarly, Federal actions are subject to review under section 106 of the National Historic Preservation Act (NHPA)(now found in 54 U.S.C. 306108). Section 106 requires that Federal agencies consider the effects of their actions on historic properties and provide the Advisory Council on Historic Preservation an opportunity to comment on such actions. The Council’s regulations (36 CFR Part 800) implement section 106 and outline the process by which “historic properties” (those listed on or eligible for listing on the National Register of Historic Places) are considered in plans and treatment actions. Throughout the section 106 review process, agencies must involve consulting parties and consider their views and concerns about historic preservation issues when making final project decisions. Many actions are subject to programmatic agreements to establish uniform relationships with State Historic Preservation Officers (SHPOs).

For national trails, both the study stage and planning stage offer ideal opportunities to establish ongoing consultation with SHPOs, Tribal Historic Preservation Officers (THPOs), the USFWS (for rare and endangered species), and Federally recognized Indian tribes. At the planning stage—when the exact trail route, site details, and impacts may not yet be fully known—one strategy that may work well is development of a Programmatic Agreement (PA). For historic preservation issues, a PA is developed in consultation with a number of parties, including as applicable, the Advisory Council on Historic Preservation, SHPOs, THPOs, Federally recognized Indian tribes, local governments, and non-profit organizations.

The NTSA itself requires certain kinds of legal compliance, such as submission of feasibility studies and planning documents by certain dates, required content for such studies and plans, appointment of advisory councils, interagency coordination, prohibition of certain uses, etc. A full list can be found in **Appendix A**, under “Musts/Shalls (Regulatory).”



Compliance with a number of other laws and orders may also be required, including:

- Accessibility – Americans with Disabilities Act (ADA), ADAAG, and UFAAS, 36 CFR 1191; 7 CFR 15 (Agriculture); 43 CFR 17 (Interior)
- American Indian Religious Freedom Act — 42 U.S.C. 1996
- Archaeological Resources Protection Act of 1979 — 16 U.S.C. 470aa-470mm
- Executive Order 13007 – Indian Sacred Sites
- Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments
- Floodplain management – Executive Orders 11988 (42 FR 26951) and 12148 (44 FR 43239)
- Native American Graves Protection and Repatriation Act of 1990 – 32 U.S.C. 3001-3013
- Off-Road Vehicles on Public Lands – EO 11989 (42 FR 26959)
- Prime and Unique Farmlands – 7 U.S.C. 4210 et. seq.
- Endangered Species Act – 16 U.S.C. 1531-1544
- Rehabilitation Act, section 504
- Wetlands Protection – EOs 11990 (42 FR 26961) and 12608 (52 FR 34617)

For compliance in the NPS, see *Management Policies* (2006), Director's Orders #2, Park Planning, and #12, Conservation Planning, Environmental Impact Analysis, and Decision-Making, and #28, Cultural Resource Management.

In addition, many States and local governments have legal procedures for adhering to important laws safe-guarding water quality, endangered species, public safety, and other issues. Unless a trail under consideration for action (or planning) is completely on Federal land, there is a strong likelihood that applicable State and local laws will apply, especially for large-scale local actions.

### **5.3 RELATED AGENCY PLANS**

For the NPS, trail CMPs are similar to park general management plans (GMPs) as outlined in Director's Order #2, *Park Planning* and Chapter 2 of *Management Policies*. Both processes include resource inventories, scoping of issues, public involvement, and compliance with NEPA and other Federal laws and regulations pertaining to resource protection and management, and fulfillment of performance-related goals and objectives. However, CMPs differ from GMPs in several ways:

- CMPs are primarily coordinating documents intended to provide common trailwide practice and consistency among a variety of management partners, and
- CMPs do not usually contain specific management prescriptions (unless they are specific only to the management of resources located entirely on one agency's lands or are agreed to by management partners).
- CMPs for trails that cross other Federal agency lands (and waters) should be carefully coordinated with local area planning—such as USDA National Forest plans and BLM Resource Management Plans—in order to ensure that the trail corridor and its related

resources receives the highest possible levels of protection. When a CMP follows the completion of these agency plans, it may be necessary to negotiate amendments or addenda to update the appropriate RMPs and Forest Plans.

## 5.4 LOCAL TRAIL PLANNING

Most remote backcountry areas of the United States are not subject to local zoning or planning. For example, most of the Appalachian and Pacific Crest NST corridors have not had to be considered or documented in county or township plans. However, as national trails have proliferated across America, more and more of them have become located in rural towns, suburbs, and even city centers, where planning and zoning are important tools for land use regulation. Sometimes it is in the best interests of the trail to have a corridor designated through the public planning process and become embedded in local plans.

**Example: Juan Bautista de Anza NHT** — This trail crosses several highly urbanized areas. Incorporation into local planning documents has proven essential. The Anza Trail is unusual in that its CMP calls for a chain of commemorative off-road recreation trails associated with the trail corridor from Nogales, Arizona to San Francisco, California. Such a network will be accomplished only by linking together existing or proposed local trails, and thus the need to have the NHT corridor in local plans.

In Pima County, Arizona, the Anza Trail was incorporated into its 1992 Comprehensive Plan with a conceptual alignment along the Santa Cruz River. Subsequently, the board of supervisors passed a resolution in support of the trail and an ordinance that required easements as development occurred. With these authorities in place, the County then aggressively required easements of developers along the route. In 1997, the County passed a bond measure that included \$750,000 for planning, acquisition, improvement, and public education for the Anza Trail. These funds helped buy the historic La Canoa Anza Trail camp site and prepare a Master Plan for the Anza Trail that specifies a trail alignment through the entire county. Other elements of the plan include determining the ownership of the land that the trail passes over, trailhead access points; development of standards for the trail; and identification of potential funding sources for land acquisition and trail construction. The County then leveraged the bond funds to get TEA-21 funds to construct and interpret five miles of the Anza Trail across the Canoa Ranch and interpretation of trail segment and locations along approximately 70 miles of the Trail along the Santa Cruz River. The County goal is to complete a recreational trail throughout the County and to have a park at each of the five Anza campsites.

In San Luis Obispo County, California, the 1990 county trails plan included the Anza Trail (mostly envisioned as a bike route). This recognition helped secure a future trail easement over Shell Oil Company property in Price Canyon on the historic route of the Anza expedition. However, local supporters and the NPS want to have a continuous off-road hiking and equestrian trail recognized in County plans. In 2000, after recognition of the Anza Trail as one of 16 National Millennium Trails, the San Luis Obispo Council of Governments (SLOCOG) included the Anza Trail in its circulation plan for the County, a step in eligibility for TEA funds. SLOCOG includes the mayors of all the cities

within the county as well as the county board of supervisors. Since then, agreements have been signed with the board of supervisors and five cities to support this vision for the trail. These agreements set the stage for working toward an off-road trail alignment within the historic trail corridor.

## **5.5 CONSISTENCY WITH OTHER PLANS**

The lands and resources associated with national trails are almost always affected by planning and actions of multiple jurisdictions. The intent of the NTSA is that these actions be coordinated so as not to impair the values of the trails and, at the same time, not create hardship through arbitrary changes to economically important land uses.

Often, after a CMP for a NST or NHT is conducted, the local land managers (national parks, national forests, BLM areas, etc.) conduct more site-specific planning which may or may not refer to the significance and importance of the segments of national trail within their study area. It is important that the trailwide plans (such as CMPs) and the local area plans dovetail and reinforce each other.

Most Federally administered park lands (including most NST lands) are protected from damage by Federally funded transportation projects under section 1653(f) of 49 U.S.C. The NTSA exempts some sections of NHTs with the following language:

*Except for designated protected components of the trail, no land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places. (NTSA section 7(g))*

Much of the planning for trails in the United States occurs at the State and local level. Many States have published State trail plans—sometimes as part of Statewide Comprehensive Outdoor Recreation Plan (SCORPs) required pursuant to the Land and Water Conservation Fund Act. Section 8(a) of the NTSA encourages States to carry out such plans, with a special emphasis on historic trails. Similarly, NTSA section 8(b) encourages the secretary of Housing and Urban Development to include recreation trails in the planning for urban and metropolitan areas.

## **5.6 MAJOR TRAIL RELOCATIONS**

*(b) After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) Such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance*

*with established multiple-use principles: Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress. (NTSA, section 7(b))*

At the local level for short relocations, this authority has been used many times, especially on NSTs when better corridor lands become available. Examples of this are the Appalachian NST where Federal acquisition enables relocating off road segments. For the North Country NST, several relocations are contemplated away from the route mapped in the CMP, such as a less impacting route in the Adirondacks of New York and a more scenic and accessible route in northern Minnesota. In general, relocations are not an issue for NHTs. To date, the only “substantial” relocation requiring Congressional action has been the “Arrowhead Re-route” of the North Country NST in northern Minnesota.

Section 7(e) adds,

*that if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner, or his heirs and assigns, shall be offered, by notice given at the former owner’s last known address, the right of first refusal at the fair market price.*

## **5.7 CONNECTING AND SIDE TRAILS**

Section 6 of the NTSA authorizes the Secretaries of Agriculture or the Interior to designate connecting and side trails on any of the lands under their jurisdiction, as well as on other types of lands. Six such trails have been so recognized, two in 1990 (the 14-mile Timm’s Hill Trail in Wisconsin and the 85-mile Anvik Connector in Alaska), and four more water trails were added in 2012 as connectors to the Captain John Smith Chesapeake NHT.

In the 1990’s, when it was proposed that this authority be abolished to streamline the NTSA, many reviewers expressed an interest in keeping it for the future to help make the National Trails System a better connected network of trails. This recognition function implies no ongoing Federal administrative or financial benefit. And yet, no formal policy statement or consistent guidance manual has yet been promulgated for such applications. Interagency policy for consistent treatment of connecting and side trails is underway.

## **5.8 LIABILITY**

People involved with trails are often concerned about risks. Landowners worry about trespass and vandalism. Hikers worry about injury. Public agencies worry about exposure to damage. How can trail experiences be planned to minimize risk? Risk management begins when a trail is designed according to recognized standards and guidelines. It is then sustained when a trail is managed responsibly with frequent review visits, prompt attention to hazards, and suitable notices to guide visitor behavior and alert everyone to hazards.

Most States provide laws to waive liability for landowners and agencies who make their land accessible to the public without fee, short of overt hazards (these laws are known as “recreational

liability tort waiver statutes”). However, State laws vary. A good national overview of trail-related liability is the Rails-to-Trails Conservancy’s booklet *Rail-Trails and Liability: A Primer on Trail-Related Liability Issues & Risk Management Techniques* (Morris, 2000). Another source is the NPS Rivers and Trails Conservation Assistance Program website that includes a compendium of liability statutes by State:

<https://www.nps.gov/ncrc/programs/rtca/helpfultools/recusebrochures/index.htm>.

Trail risks are minimized through good design and maintenance. Accidents happen when clearances are too low, visibility poor, drainage clogged, slopes are slippery, and steps unstable. Helpful guides for trail construction include standard works, such as the USFS’s *Trail Construction and Maintenance Notebook*, the Appalachian Mountain Club’s *Guide to Trail Building and Maintenance* (Proudman and Rajala, 1981), and Student Conservation Association’s *Lightly on the Land*.

## 5.9 FURTHER REFERENCE

American Association for Horsemanship Safety et. al., 2002, *Recreation Use Statutes and the Private Landowner*.

Birchard, William, Jr., and Proudman, Robert D., 2000, Second Edition, *Appalachian Trail: Design, Construction, and Maintenance*, Harpers Ferry: Appalachian Trail Conference, 237 pp., illustrated.

Birkby, Robert C., 1996, *Lightly on the Land, the SCA Trail-Building and Maintenance Manual*, Seattle: The Mountaineers, 267 pp.

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1601 — Land Use Planning (2000)

H-1601-1 — Land Use Planning Handbook (2000)

H-1790-1 — NEPA Handbook (1988)

8440 — Environmental assessments (1978)

*Code of Federal Regulations*, parts:

36 CFR 1191-1192, etc. — Accessibility for the disabled

36 CFR 79, Curation of Federally-Owned and Administered Archaeological Collections

36 CFR 219 — Forest Service planning and EISs

36 CFR 800 – Section 106 review process

43 CFR 1600— Public lands resource management planning, etc.

43 CFR 2400 to 2420 — BLM land classification

Morris, Hugh, 2000, *Rail-Trails and Liability: A Primer on Trail-Related Liability Issues & Risk Management Techniques*, Wash.,DC: Rails-to-Trails Conservancy 23 pp.

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*Ibid*, 2003, What Does It Take to Become a National Trails? *An Analysis of National Trails Feasibility Studies*, Wash., DC: NPS National Trails System program office, MS, 34 pages.

*Ibid*, Director's Orders

#2 – *Park Planning* (2000)

#12 – *Conservation Planning, Environmental Impact Analysis, and Decision-Making*.

#74 – *Studies and Collecting (in development)*

*Ibid*. website, updated as necessary, *Recreational Use Statutes and Private Landowners*, see <https://www.nps.gov/rtca/helpfultools/recusebrochures/index.htm>.

National Park Service *Management Policies* (2006) Chapter 2, Park System Planning

USDA Forest Service, 2000, *Trail Construction and Maintenance Notebook, 2000 Edition*, Wash., DC: USDOT Federal Highway Administration, 139 pp.

USDA Forest Service, Forest Service Manuals

1910 – *National Resource Planning*

1920 – *Land and Resource Management Planning*

2310 – *Planning and Data Management*

2510 – *Watershed Planning*

2620 – *Habitat Planning and Evaluation*

USDA Forest Service, Forest Service Handbooks

1909.12 – *Land and Resource Management Planning Handbook*

7709.55 – *Transportation Planning Handbook*

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## CHAPTER 6 – TRAIL CORRIDOR PROTECTION

### 6.1 LAND PROTECTION AUTHORITIES

The NTSA provides many authorities that help Federal agencies (and others) protect national trail corridors and the resources that give them enduring value. Section 7(d) of the Act provides the basic structure of methods that may be used to acquire lands for trail protection:

*Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or national historic trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange.*

Section 7(e) expands on the previous section by providing specific authority for cooperative agreements and acquisition of lands and interests in lands. The appropriate Secretary, through the agency charged with trail administration, shall encourage involved States and local governments to:

1. Enter into written agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or
2. Acquire such lands as are needed for the trail right-of-way.

Section 7(e) also provides Federal authority, should States and local governments fail to act, to:

3. Enter directly into written agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or
4. Acquire such lands as are needed for the trail right-of-way.

In addition, section 7(e) includes two important caveats:

- The land should be acquired in fee if other methods of public control are not sufficient to assure their intended use, and
- Land may be acquired from local governments only with the consent of such entities.

Section 7(f) provides the Secretary with the authority to convey any Federally owned property in that State and classified as suitable for disposal in exchange for any non-Federal property within the trail right-of-way. Either the values of such properties must be equal or must be equalized by cash payment. This section also provides the Secretary with authority to acquire whole tracts with the consent of the landowner, even though portions of the tracts may lie outside the area of trail acquisition. The excess lands may be used for exchange or sale, with the funds from such a conveyance being returned to the appropriation bearing the land-acquisition costs for that trail.

Section 7(g) provides the Secretary with the authority to use eminent domain proceedings to acquire lands (or interests in lands) without the consent of the owner. This authority should be used only when, in the Secretary's judgment, all reasonable efforts to acquire the land through negotiation have



failed. In such cases, the Secretary may acquire only such title as is reasonably necessary to provide passage across such lands. Further, the Secretary may not use such proceedings to acquire more than an average of 125 acres per mile. This section also limits direct Federal acquisition on NHTs to areas identified in the study report or comprehensive management plan as high-potential route segments or sites.

Other important land protection authorities in the NTSA, by section, include:

- 7(h)(2) Federal rights-of-way (ROWs) may be reserved for national trails
- 7(k) Donations of lands are considered a conservation tax credit.
- 9(a) Easements and ROWs may be granted across Federal trail lands, as long as they relate to the purposes of the NTSA.
- 9(b) Other agencies with Federally-owned linear corridors shall make them available for components of the national trails system.
- 9(c) Federally ceded railroad grants, when abandoned, will revert to U.S. ownership, unless used for a public highway within one year.
- 9(d) Retained ROWS, both inside and outside Federal boundaries, may be used for national trails.
- 9(e) Rules are outlined for releasing abandoned Federal ROWS.

Some national trails, in their establishment language, have been curbed from using certain of these authorities. **Appendix K** shows which national trails have access to which authorities. Subchapter 6.3 below describes each available protection strategy in more detail.

In short, the NTSA land protection authorities can be summarized as:

- **General authority** which states that the Federal Government is allowed to acquire national trail lands.
- **Cooperative agreements with States** encourage them to use State authorities to acquire land to protect national trails.
- **Federal cooperative agreements** enable Federal agencies to enter into agreements directly with local jurisdictions, organizations, and landowners of the States do not.
- **Exchanges** are allowed for non-Federal property within a right-of-way. Any property that the Secretary of the Interior deems suitable for exchange or other disposal may be used. It can be equalized by a cash payment. The Secretary of Agriculture may authorize exchange of national forest lands.
- **Land acquisition** can be carried out through easement, full-fee, exchange, or donation. The appropriate Secretary may acquire local government lands with consent.
- **Disposal** can occur if a national trail right-of-way is relocated. The former owner must be informed and have first rights to re-acquiring the land.

## 6.2 BOUNDARIES

Defining a national trail corridor can be complicated. It must be delineated to include the associated features and significant resources. Defining boundaries gives trail administrators and managers the ability to better protect trail resources critical to fulfilling each trail's purposes. Boundaries are also an important tool in addressing operational and management issues, such as public access and jurisdiction responsibilities. The only national trail currently with boundaries is the Appalachian NST (typically defining a 1000-ft. wide corridor), mapped to aid in the Federal land protection process.

For many of the NHTs, an “accordion-type” of boundary may be more appropriate, accommodating significant viewsheds, related structures, geologic features relating to the trail story, and other associated properties, while minimizing corridor width in less important areas. Ideally a national trail may have several distinctly different “boundaries,” defining property parcels, related features and views, affected drainages, and access points or buffers.

In addition, NSTs and NHTs cross over all types of jurisdictional boundaries: State and county lines, the edges of national parks and forests, private property boundaries, and municipal boundaries. **Appendix I** lists the status of land ownership for each NST and NHT.

## 6.3 LAND PROTECTION STRATEGIES

Federal land protection staff are authorized by the NTSA and other authorities to use many different strategies to protect national trails—some strategies work better than others. In general, the minimum necessary interest should prevail. Threats to trails and their corridors can be addressed in many different ways. For example, the proliferation of telecommunications towers visible from (and often visually intrusive to) many NSTs has been addressed in an early-warning agreement with the telecommunications industry (see Vinch, 1999).

All authorized strategies, from the “toolbox” listed below, may have their place in an effective trail corridor protection program. **Appendix K** shows which national trails have authority to use which NTSA authorities. **Appendix L** compares the pros and cons of the different strategies. Detailed procedures are spelled out in each agency's land protection manuals and handbooks (see **Further Reference** below).

**Fee-simple acquisition** involves negotiating with landowners to acquire full interest in their real estate property. Usually such transactions involve willing sellers and agencies funded and authorized to acquire the subject property. The full control of land rights provides the best certainty that the resources along the trail will be permanently protected, and that appropriate opportunities for visitor uses can be made available. Within the National Trails System, this type of acquisition has only been used by Federal agencies along the several NSTs where it has been the most common type of Federal protection.

**Donations** are a type of acquisition where the landowner willingly gives full or partial interest (easements, mineral rights, etc.) in land and waters to a public agency or private conservancy

organization. For the receiving group or agency, the benefits are the same as for fee-acquisition, but at less cost. For national trails, the donor is entitled to conservation tax deductions for the value of the donation (See NTSA section 7(k).)

**Easements** are the acquisition of partial interest in lands—usually to provide recreational right-of-way access, protect scenic values, restrict future development, limit the height of future buildings, or even retain the historic appearance of building facades. They do not provide full protection, but often effectively balance public investment and access with continuing private control and use. An easement conveys certain limited rights for specific purposes, either in perpetuity or for a specific time period. They can be purchased or donated. Long-term easements convey when property changes ownership, although new landowners may not honor their limitations. There are many kinds, including scenic easements (which protect views and scenic features), right-of-way easements (to allow public passage), and access easements (to permit access to adjoining lands). In the long run, some types of easements have proven almost as expensive as full-fee acquisition. Easements are usually best enforced when held by private groups, such as land trusts, and not by agencies. Land trusts have often proven to be more locally credible and flexible than Federal agencies.

**Exchanges.** NTSA section 7(f)(1) includes in the Agriculture and Interior Secretaries' exchange authorities the ability to exchange any lands under their jurisdiction that may be needed for national trails within a given State for approximate equal value.

**Interagency transfer.** NTSA section (7)(a) authorizes the transfer of management responsibility of trail lands from one agency to another as documented in a memorandum of agreement. In such a case, the new managing agency can exercise all applicable laws, regulations, and rules. Title of such lands, however, remains with the United States Government.

**Cooperative agreements** (also known as “general agreements” within NPS) are written arrangements between two or more parties, providing public benefit with substantial Federal involvement. They allow non-Federal partners to manage activities or development, while still protecting landowner interest. No land is actually acquired by the Federal Government, but it allows a specific action to be taken. They can provide for resource protection, collaborative management, interpretative or recreational opportunities, and the posting of signs or markers. They usually are renewed every five years.

**Eminent domain** is the legal mechanism used when public interest takes precedence over private ownership. It is also used to gain clear title or to agree on a fair price when appraisals are in conflict. Condemnation is a legal action that clears title for the purchasing unit of government and then uses an administrative court trial to determine fair price. Within the National Trails System this authority is only available for a few trails and has only been used (very sparingly) as a last resort on two: Appalachian and Pacific Crest NSTs.

In discussions leading to the 1978 amendments of the NTSA, Senators expressed that:

*... the Secretary should adopt a flexible approach in protecting the [Appalachian] Trail. In extending the Secretary's eminent domain authority, the Committee does not foresee*

*the widening of established portions of the Trail except in those cases where the current width is inadequate to protect the integrity of the Trail. The Committee notes that the original language of the 1968 Act which directs the Secretary of the Interior to acquire the necessary lands by negotiation has been retained. This policy should be continued, and it should be clear that the expectation of the Committee is that eminent domain will continue to be used as a tool of last resort for the Trail. (Senate Report 95-636, 95<sup>th</sup> Congress, 2<sup>nd</sup> Session, p. 5)*

**Funding others** is a possible strategy when no funding or authority exists for Federal agencies to acquire national trail lands directly. Federal funds have been appropriated to help others to protect components of the National Trails System. One example is the 1999 appropriation of \$2 million for the Wisconsin Department of Natural Resources to acquire threatened parcels along the Ice Age NST.

**Other strategies** have also been used, some for short periods of time, some temporarily until better methods can be found. These include handshake agreements with landowners (usually by local trail clubs), leases, designated trail corridor in local open space plans and zoning, tax incentives by State or local governments, term-retentions and life estates, options to buy, right of first refusal, and leasebacks. The advantages and disadvantages of each type are found in **Appendix L**.

## **6.4 THE LAND PROTECTION PROCESS**

**Pre-Acquisition services** include corridor mapping, deed renewal and appraisals. These tasks must be carried out before land can be bought. Specifically, referring to future needs to relocate a trail, NTSA section 7(a)(2) states:

*Right of way selection shall minimize adverse effects on adjacent landowners. If a Right-of-way must be moved, it must be approved by Congress. The Secretary may permit other uses as long as it doesn't interfere with the nature and purposes of the trail. There shall be no motor vehicles, except in emergencies.*

To acquire properties, the land manager first decides what properties need to be acquired (when appropriate, in consultation with partners), taking into account the trail's comprehensive management plan (CMP), as well as current and perceived threats. Ideally, a pros and cons analysis considers such issues as cost-effectiveness, quality of visitor experience, flexibility of resource management, permanence of protection, maintenance and access, monitoring, and law enforcement. If possible, State and local jurisdictions should be consulted.

The agency's land acquisition office researches local tax maps and other courthouse records to determine ownership. Legal descriptions of the properties are provided by deeds and survey plats. The land acquisition office then informs the landowner that it is interested in acquiring their land, and that it can be appraised for free. If the landowner gives permission then a private appraiser is hired to write an appraisal report which is sent to the government. The government is only allowed to offer the amount that the appraiser suggests. The landowner then decides whether or not they will accept the offer.

Monitoring of easement conditions is generally carried out by local groups as the NTSA encourages. This helps ensure that the plants, animals, vistas, and other special features which have been bought are protected. Local communities that consider a trail as an asset often take great pride in its care.

## **6.5 LAND PROTECTION RECORDS**

When land protection is undertaken, care must be taken to develop a professionally assembled and maintained central file of land records and easements. Links should also be established with cooperating land trusts and volunteer groups who can conduct site monitoring as necessary. Also formats for land protection records and ownership master lists should conform to standard systems, such as BLM's. Appraisals should conform to UASFLA, the Uniform Appraisal Standards for Federal Land Acquisitions.

Official Mapping for trail corridor protection uses 'tract maps.' Surveyors start out with a topographic map (usually using enlarged 7 1/2' min. quadrangles or equivalent GIS base) and then go out to survey property lines. The cartographers then look at local tax maps and records to identify and record ownership and parcel numbers. This mapped information is then reviewed by the trail administrator. Once the boundaries are approved they are mapped with relevant data for each tract. This information is then plotted out in pencil on a reproducible base map and then each parcel's legal description is written. The trail right-of-way is shown with different shadings for easements and full-fee lands. In recent years, this process is computerized using USGS topographic mapping software, and survey points are superimposed using Global Position System units (GPS).

## **6.6 TRAIL CROSSING AGREEMENTS**

Easements and Rights-of-Ways across or along trails can be granted to companies, government agencies or private landowners, as stated in NTSA section 9(a):

*The Secretary of the Interior or the Secretary of Agriculture . . . may grant easements and rights-of-way upon, over, under, across, or along any component of the national trails system in accordance with the laws applicable to the national park systems and the national forest system, respectively: Provided, That any conditions contained in such easements and rights-of-way shall be related to the policy and purposes of this Act.*

The purpose of these easements is to convey certain limited rights to use property for a specific purpose such as a pipeline, cable, or road. The agreements should err on the side of resource and viewshed protection, and, if possible, include time limits and full site restoration after the right-of-way or permitted use ceases. Special care should be taken to protect the resource and recreational values of the Federally managed "Protection Components" associated with each trail.

## 6.7 TRANSFER OF MANAGEMENT AUTHORITY

Section 7(a)(1) of the NTSA states:

*(B) The Secretary charged with the overall administration of any trail pursuant to section 5(a) may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this Act. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement except to such extent as the agreement may otherwise expressly provide.*

This authority pertains largely to the Federal Protection Components or Federally-owned trail segments not eligible for site and segment certification.

## 6.8 FEDERAL PROTECTION CONSISTENCY

This concept strives to reduce conflicts between different Federal agencies that are operating under different (and sometimes conflicting) Federal laws and missions. For example, the U.S. Code section pertaining to the Federal Highway Administration contains a famous section 4(f) that requires the replacement at equal or greater value of any parkland taken for use in a Federally funded highway project. This protection has been interpreted to include NST segments. To clarify whether or not this also pertains to NHTs, NTSA section 7(g) states:

*Except for designated protected components of the trail, no land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.*

Other areas where conflicting policies and practices can impact national trails include Telecommunications towers (see Vinch, 1999) and coal mining (see 30 CFR 761).

On Federal lands—or the Federal Protection Components of a trail—there may be conflicting values that should be resolved through the local area planning process, conflict resolution, or binding arbitration.

## 6.9 STATE AND LOCAL PROTECTION

Protection of national trail segments and sites is encouraged by authorities in NTSA section 7(h). The agency administering the trail should provide for the development and maintenance of the trail within Federally administered areas and should encourage States to do the same on their lands. State

and local entities are encouraged to participate in the acquisition, protection, development and maintenance of trail lands. The Federal trail administrator may enter into cooperative agreements or intergovernmental agreements with States or their political subdivisions, landowners, private organizations, and individuals to operate, develop or maintain a trail within or outside a Federally administered area, including the provision for limited financial assistance.

## **6.10 LAND TRUSTS AND OTHER COLLABORATIVE PROTECTION MECHANISMS**

Land trusts can be key allies in fully protecting national trail corridors. They are nonprofit corporations with a fundamental interest in lands for the purpose of protection and preservation, varying in size from the international scope of the Nature Conservancy to small groups that protect a few parcels in one town or county. Many landowners do not trust Federal or State government and therefore will not sell or donate to such agencies. Land trust staff can contact the landowners with minimum bureaucracy and acquire the land or interests in the land privately. They have the ability to buy land or interests in land and arrange appraisals, act as intermediaries, talk informally with local landowners, and hold land until it can be bought by government agencies. A land trust can be a helpful tool when starting a trail, and a committee can be formed to create one if it does not already exist. Often, land trusts can acquire land at less cost than Federal or State Government agencies.

## **6.11 FURTHER REFERENCE**

Code of Federal Regulations:

- 30 CFR 761 — Areas designated unsuitable for mining (Office of Surface Mining Reclamation and Enforcement)
- 36 CFR 14 — NPS rights-of-way
- 36 CFR 254 — Forest Service land ownership adjustments (includes exchanges)
- 43 CFR 2091 — BLM land management and segregations
- 43 CFR 2200, 2201, 2300, and 2310 — BLM land exchanges and withdrawals
- 43 CFR 2420 — BLM multi-use land management classifications
- 43 CFR 2800 to 2808 — Public Land (BLM) rights-of-way

National Park Service Director's Orders

- #25 – Land Protection
- #30C – Damage Assessments

Ibid, 2000, Land Acquisition Procedures (LAPS)

Vinch, James J., 1999, "The Telecommunications Act of 1996 and Viewshed Protection for the National Scenic Trails" in *Journal of Land Use and Environmental Law*, 15:1, Fall 1999, Florida State University College of Law.

## CHAPTER 7 – TRAIL DEVELOPMENT AND USE

### 7.1 USER NEEDS/VISITOR EXPERIENCE

Although national scenic and NHTs are both defined and created by the NTSA, visitors experience them differently on the ground. For example, a typical hike on an NST will involve a day-trip or backpacking trip along a wooded, often high-altitude dirt path. One obtains water from springs and may have to treat it before use. Hikers use food that may be mailed ahead to mail drops (or obtained in towns along the way), spending overnights in shelters or tents. In contrast, travel along a typical NHT involves long-distance automobile or tour bus travel that approximates the historic route, with stops made to see individual sites or to walk and re-trace short distances on remnant trail segments. Overnights are more likely spent in motels, with water and meals obtained at stores and restaurants. Portions of many NHTs cross through major urban areas, such as Los Angeles, Chattanooga, St. Louis, Las Vegas, Washington, DC, and San Francisco.

National trails invite travelers to travel from end to end – and each year a number of people try this. In recent years, over 300 people annually have completed the entire Appalachian NST. However, the vast majority of trail users come for an hour, a day, a week, perhaps even an entire vacation, enjoying a portion of the trail. A recent user study of the Appalachian NST (Manning, et. al, 2000) found that the average user spent two days hiking 13 miles, generally traveled in pairs, and came to enjoy nature and get exercise. Through-hikers averaged spending \$2,400 for their entire trip, while non through-hikers spent \$250 per trip.

NSTs are primarily a recreational experience to challenge, inspire, and refresh those who venture on them. NHTs are primarily commemorative, evoking historic and pre-historic movements of national importance. Experiencing either type can be transformative, inspiring, and educational.

Both types of trails are marked with distinctive National Trails System trail markers (see subchapter 7.7, Signs and Markings, below). NSTs may also be marked with paint blazes.

As the 2000 user study of the Appalachian NST has shown, visitors to and users of the national trails come from many walks of life, have many expectations, and carry away myriad impressions. Satisfied customers return—and bring their friends and families. If the managers and administrators of national trails are going to provide satisfactory—preferably delightful and restorative – experiences to the visiting public, they must develop tools to understand the visitors’ experiences and guide management practices to optimize the benefits without damaging the resources and facilities of the trails. One technique for assessing these issues is called VERP (Visitor Experience and Resource Protection). VERP and other measuring techniques are discussed in Chapter 10.

Since passage of the Americans with Disabilities Act, guidelines for outdoor recreational facilities have been developed to facilitate universal access. Rules for trail and trail facility design are being finalized by the U.S. Architectural and Transportation Barriers Compliance Board (“Access Board”). In essence they give design standards for a fully accessible trail and then list factors by which exceptions and waivers can be made (called “departures”). Full physical and programmatic access



must be provided in Federally operated or recognized programs and activities, such as interpretive and educational materials and media, special events, and visitor facilities. However, trail segments may be left fully or partially inaccessible if one or more of the departures pertain.

## 7.2 REGULATIONS

The major authorities defining the development and use of national trails can be found in NTSA sections 7(c), 7(i), and 7(j). Although the Secretaries of Agriculture and Interior have authority to promulgate National Trails System and trail-specific regulations, few such regulations have been developed. In fact, only two trail-specific regulations appear in the *Code of Federal Regulations*:

- 36 CFR 7.100, outlines prohibited and permissible uses along the Appalachian NST
- 36 CFR 261.20, prohibits motorized vehicles on the Pacific Crest NST without special-use authorization.

Both the USFS and NPS have authority to apply regulations applicable to national forest and park areas (NTSA 7(i)), but these apply only to lands under ownership jurisdiction of those agencies. The *Code of Federal Regulations* clearly states in 36 CFR 1.2(b):

*(b) The regulations contained in parts 1 through 5, part 7, and part 13 of this chapter do not apply on non-federally owned lands and waters or on Indian tribal trust lands located within National Park System boundaries, except as provided in paragraph (a) or in regulations specifically written to be applicable on such lands and waters.*

However, many sections of the CFR directly or indirectly bear on the National Trails System. They are listed in **Appendix I**, by manual chapter.

## 7.3 USES OF HISTORIC TRAILS

Remnant trail ruts and traces associated with NHTs should be considered cultural resources and treated with the same respect and sensitivity as one would historic structures or prehistoric artifacts. The Oregon-California Trails Association (OCTA) developed a typology of trail traces called MET (Mapping Emigrant Trails). MET offers 5 classes of remnant trail condition: unaltered (pristine), used, verified, altered, and approximate (obliterated and/or unverifiable). High potential segments will usually fall in the first two classes, and these should be considered the most valuable trail remnants to be protected and preserved.

Therefore, if a modern use (such as wagon train re-enactment) of a remnant trail segment is proposed, the local land manager must decide whether or not to allow it. Such a use, potentially, may ruin the remnant ruts (or swale) of the soil and underlying base material may not be able to support it. Modern mechanized uses (such as ATVs, 4x4s, even Segways) are even more likely to damage valuable remnant ruts if local conditions (friable soils, heavy winds, erosion, etc.) enable such damage. If an adverse impact is anticipated, permission to “use” the area should not be given. However, for a trail remnant that is stable and not prone to wind or water erosion and/or is well

stabilized by vegetation, such permission may be appropriate. Further details about the analysis and treatment of historic trails can be found in the Brown, 2005, Landscape Lines publication No. 15, *Historic Trails*.

## 7.4 AUTO TOUR ROUTES

NHTs (at least the authentic remnant remains) are usually not continuous. NTSA section 7(c) allows for the marking of commemorative routes on existing public roads that parallel the actual historic route, helping to unify the trail experience. Auto tour routes are designated all-weather roads that approximate the actual historic trail route. They do not intend to be the actual trail route. (In many cases, the original trail route may have been lost or obliterated. In some cases, it remains as a local road. In a few instances, the original route is abandoned and still exists much like its original condition on either public or private land.) Therefore, care should be taken to distinguish between the tour route and the actual trail.

Because the original trail route exists in a wide spectrum of conditions—from nearly pristine to completely lost—it is not possible today for the public to actually follow most original historic trails their entire lengths. The auto tour route provides access to the trail and its most significant sites and segments. It is marked with the NHT trail marker logo (see subsection 7.7 below) and an accompanying "Auto tour route" sign.

A Federal NHT administrator can enhance an auto tour route for effective visitor use and appreciation by coordinating interpretive brochures, publications, contacts with people, museum and tourist information points, and interpretation of physical trail resources along the route. A well-marked auto tour route helps publicize a trail throughout its length and raise interest in it in local communities along the way. It can provide a useful means for planning and organizing trail tours. The marked identity of the trail route can stimulate grassroots interest in protecting, developing, and managing trail resources and enhancing local and regional economies.

**Route Selection Criteria** Deciding which public roads will form the designated auto tour route for a trail occurs during the comprehensive management plan (CMP). The CMP should clearly list and map the auto tour routes associated with that trail. Four criteria should be considered in making such road and highway selections: *directionality and proximity, all-weather capability, simplicity and continuity, and tour route quality*.

To achieve *directionality and proximity*, the selected route should track or parallel the actual historic trail as closely as possible, while maintaining a consistent and simple direction. The route should be a simple-to-follow road system that is associated with the historic route, perhaps crossing it from time to time, trending in the trail's direction of travel with the least number of different roads and highways possible. Easily distinguished local tour routes (to provide closer access to historic trail sites) may be clearly named and marked to differentiate them from the spine of the auto tour route.

*All-Weather Capability:* Auto tour routes should consist of roads that are paved, in very good repair, and routinely plowed during snow conditions. In general, auto tour routes should follow designated

State and Federal highways, but occasionally may follow county roads.

*Simplicity and Continuity* mean that a route is easy to follow, with a minimum of routing changes and directional signs. (In urban environments, it may be desirable to route travelers away from otherwise confusing mazes of city streets by having the tour route follow interstate highways and beltways to safely and efficiently move travelers through such areas.)

*Quality* optimizes the visitor experience, directing trail visitors to a better appreciation of the trail landscape and features that might have been viewed by historic trail travelers. (High speed roads, soundwalls, and design features that inhibit an appreciation of the adjacent landscape values should be avoided when alternatives exist.) It is a challenge to provide a uniformly pleasant long-distance driving experience given the overall lengths of many national trails.

Planning and marking a designated route involves three steps: mapping the route, mapping associated sites and features, and mapping sign locations: a) Map the historic route and the associated auto tour route, b) Map associated historic sites, trail segments, and interpretive sites that are accessible to the public, (keep in mind constraints such as land use and ownership, vehicle access, safety etc.), c) Map the desirable locations for the different types of desired signs. (This is fairly simple to do and should be done logically using directional signs, route identification signs (auto tour as well as actual historic removal route), site identification signs, and NHT informational signs.) When this exercise is completed, it can become the sign plan for the NHT, helping facilitate implementation through jurisdiction approvals and presentations for obtaining necessary funding.

**Markers and Signs.** State and local road agencies must be consulted about any proposed auto tour route. The Federal Highway Administration may also be consulted, but State agencies and their subdivisions generally determine what is permissible on Interstate, State, county, and city highways. Initial consultation should occur during preparation of the trail's CMP. After conceptual agreements with State and local highway agencies (often involving several States) are signed, formal cooperative agreements with each agency (addressing adoption of a sign location plan, agreement on a sign layout with the trail logo marker and text specifications, and additional understandings regarding authorization to use the official trail logo on the approved signs, funding, installation, and maintenance requirements) should also be signed.

Federal funds may be used to produce and install National Trails System markers. Trail funds can assist State highway departments (or other road managing authorities) in sign production. Posts, hardware, installation, and maintenance costs should be assumed by the managing authority consistent with cost-share agreements. Some State highway departments may have policies or regulations that prohibit State expenditures on road signs that are considered to be non-essential, and this may be interpreted to include NHT auto tour route signs. A general cooperative agreement that commits the State governor, in principle, to helping the Federal administering agency achieve the trail's CMP objectives can be helpful in setting the stage for favorable highway agency involvement in trail route marking.

As with all roadside regulatory and directional signing, AASHTO's *Manual on Uniform Traffic Control Devices* (MUTCD) provides the national standard for sign composition, color, and size. As

"cultural/recreation" features, tour route signs are usually brown with white lettering. All letters should be capitalized and conform to standard engineering block-letter styles. The trail logo should be placed above the text "AUTO TOUR ROUTE," and its size and lettering height are determined by the posted speed of the road. (The logo design itself is not subject to MUTCD design standards, but its graphic design should be highly visible and comprehensible to travelers.)

For trailwide consistency, motor tour route signs should be the same from State to State. The Federal trail administrator, who is responsible for appropriate use of the official trail marker, should review and approve all location plans, layout plans, and fabricated sign samples to ensure that trailwide consistency is achieved. Ideally, each sign should be constructed of a single piece for ease of comprehension and enhanced aesthetic appearance. (Some States, however, require one piece containing the logo and a separate piece below it containing the text to reduce costs. Though presenting a divided appearance, and possibly making it easier for sign theft, such sign configurations can still meet MUTCD specifications.)

Trail route signing generally comes in three types: actual route, directional and informational, and site identification. 1) Actual trail route signing identifies for travelers or visitors where the actual historic route is. These can occur in a wide variety of circumstances: road crossings, along local roads, at abandoned sections of trail on public or private land, and places where the original trail is now a modern road and marked as the auto tour route.

2) Auto tour directional and informational signing guides travelers to actual trail sites and segments, as well as to informational sites. In cities and towns, connecting to other roads or highways, this type of signing must be carefully coordinated. Such signs should conform to MUTCD requirements and should consist of horizontal brown background signs with the NHT marker logo on the left side, the name of the feature on the right side, with a directional arrow below the text name. Supplemental directional signing alongside roads, as needed, should be of similar colors and format (although cost considerations may warrant omission of the trail logo). Return route directional signs should also be posted to lead travelers back to the auto tour route where appropriate from the trail site. (See subsection 7.7 below).

3) Site identification signing identifies site or trail segments associated with the trail. These signs tell visitors retracing or traveling the approximate route of the trail that they have arrived at a trail destination, such as an historic site, an actual trail segment, or a visitor interpretive facility.

When the same auto tour route follows more than one national trail, the respective trail logos should be consolidated on signs, side by side, with the common "AUTO TOUR ROUTE" text beneath them. Wider signs require higher costs and double posts — but this is usually less costly than individual signs for each trail with attendant maintenance costs and visual clutter.

If an NHT auto tour route is designated as a State or national scenic byway, all effort should be made to avoid the placement of another logo marker on the same sign as the trail marker. While scenic byway designation can help to complement the purposes of an NHT (and vice-versa), actual placement of an additional logo can be confusing to the public.

Where an auto tour route splits to mark NHT cutoffs, variant routes, or branches (such as the Santa Fe NHT's Mountain and Cimarron routes, or the Oregon Trail's Parting of the Ways) text may be added to distinguish each route. This text should be added on a separate brown sign plate and affixed immediately below the auto tour route sign.

Additional guidance is provided by the National Trails System Sign Manual (see **Appendix T**).

## **7.5 TREADWAY DEVELOPMENT AND SUPPORT FACILITIES**

As individual trails develop, trail partners often craft manuals to guide the layout and construction of the trail. The first of these was developed for the Appalachian Trail. Subsequent manuals have been developed for almost all the NSTs. Three recent examples are the “Handbooks for Trail Design, Construction, and Maintenance” for the North Country, Ice Age, and Florida NSTs. An excellent generic manual for backcountry trail construction and maintenance is the USFS's *Trail Construction and Maintenance Notebook*, Manual 2300.

These manuals are invaluable guides, tailored to the conditions of each trail, that promote a high quality trail experience by giving the trail builder step-by step guidance in site analysis, planning, layout, landowner negotiations, construction standards, structures (bridges, puncheon, water bars, fords, stepping stones, etc.), and support facilities (such as trailheads). Additional sections address trail signs, worker and volunteer safety, ongoing maintenance, and tool care.

Water plays two roles along backcountry trails: destroyer and life-saver. Most faulty trail design results in an eroded trail tread and deteriorated trail surface. This is caused by water (usually in the form of rain and runoff) that has not been appropriately accommodated. The art of good trail making is to locate the trail in such a way as to minimize water crossings and then construct it to shed the water that does fall on it. Stream crossings and wetlands present special challenges. Bridges, puncheon, and other structures have to be installed so as to minimize or avoid any adverse impacts on aquatic life.

Water is also a life-saver. Through-hikers or anyone spending an overnight along a trail needs water for drinking, cooking, and washing. In wetter parts of the country there are usually springs and seeps marked on trail maps often enough to replenish supplies. In dry areas, access to water may be a key limiting factor (as it was historically for overland emigrants with oxen and other stock to feed and water). In both cases water quality is very important—today most trail users are wise to take some kind of purification equipment.

Support facilities for trails come in many shapes. They provide access, safe footing, bathroom services, drinking water, and information. They can take the form of trailhead parking lots, hardened trail surfaces, restrooms, water stations, and information boards. Each trail may have specific guidance for these features so that they harmonize along the length of the trail. Such features may be radically different depending on the setting (desert, grassland, forest, or mountain top). Most scenic trail manuals include information about such features. As guidelines become finalized for providing approved and standardized access for physically disabled people, those requirements will need to be incorporated into the design of new trail segment and facility construction.

## 7.6 DESIGN AND CONSTRUCTION

Currently, the key word associated with trails is “sustainable.” This implies that a trail, once constructed, will endure over the long term without major repair or alteration. The most remarkable sustainable trails are ones that remain from pre-European cultures and may be hundreds of years old, enduring rains, the growth of vegetation, and changing uses. Many segments, for example, of Inca-built trails in South America have endured—largely unmaintained—for over 600 years. Within the National Trails System, some portions of the original Ala Kahakai NHT are equally old and well preserved. The more a trail keeps clear of obstructions, remains well-drained, is easily identified, and can be comfortably used by the intended user groups, the more sustainable it is. Most trail manuals today (such as those mentioned in subchapter 7.5 above) feature principles of sustainability.

## 7.7 SIGNS AND MARKINGS

Signs, blazes, and other markings confirm that a person is on a trail, or, indeed, on a specific desired trail. Each of the national scenic and historic trails has a distinct trail marker logo, using the same shape and layout format. As authorized in NTSA section 3(a)(4):

*The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.*

This is then enlarged in NTSA section 7(c) which specifically authorizes that the administering secretaries:

*... in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national scenic, and national historic trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriate points along the trails and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established.*

Details about how trail markers are to be used on individual trails are sometimes covered in individual comprehensive management plans, but there have been no agreed-upon national standards by which these markers are to be installed and maintained. In many cases, several signing systems are used along the same trail. Many of the NSTs also use a system of blazes (usually a painted rectangle on trees and poles) to assist in wayfinding along the trail itself. Many of the routes of NHTs have been marked by Carsonite-mounted signs installed and maintained by local trail chapters. In both cases, the installation of these blazes and markers is coordinated closely with the Federal trail administrator. (See subchapter 7.4 above for markers and signs associated with NHT motor tour

routes.)

**Evolution:** Trail marker logos are developed (usually during the CMP phase) for each NST and NHT, based on Federal design instructions. These instructions, first developed in the early 1970s, introduced the rounded triangle shape. The early guidelines were revised by the NPS in the mid-1990s to better coordinate lettering, color, and graphic compatibility. The revised logo shape has a slightly flattened base and allows smooth lettering flow above the graphic figure. (The graphic specifications for the national trail logos are found in **Appendix T**, *National Trails System Sign Manual*.) The official design of each NST or NHT trail marker logo (with details on color, lettering, design, etc.) is maintained and controlled by that trail’s Federal administrator.

**Design Principles:** Trail marker designs in use today are based, with a few exceptions, on graphic images in popular use since the trails were established. The total effect of the marker (including shape, color, contrast, lettering, and image) must be:

- legible from a distance (adequate letter size for road speed),
- distinctive for each trail,
- compatible in color and form to function as a system with other trail markers, and
- easily and accurately reproduced.

Guidelines and specifications for these markers are found in **Appendix T**. For new markers, the pictorial elements should be developed as color forms, with line used only as a form in itself. All shapes should “read” easily. If possible, logos should be expressed in only two or three colors. All logos in the color versions do not use holding lines to delineate the shape of the interior or graphic part of the logo. This is achieved, instead, by the use of color to define the interior shape. (In black-and-white, an interior holding line may be used.) Line work should not be used to delineate the edges of graphic images. A substantial black line is used to reinforce the outside edge, especially when produced in color or when used on a light background. In the event that these markers are mounted with bolts to a background, space has been left in the corners for bolt holes to be made without interfering with logo graphics or lettering. The designated colors for each trail marker logo are Pantone Matching System (PMS) colors and are an integral part of the design’s authentic reproduction.

**Lettering:** The term “National Scenic Trail” or “National Historic Trail” across the base of each marker should be uniform in size in the font Helvetica Neue Bold. The trail name is set in the font ITC New Baskerville Bold at a 100% horizontal scale, following a parabola centered in the white space just above and outside the central graphic. Because some trails have short names and some long names, two font sizes may be used for the trail name, depending on its length. The letter spacing (or tracking) is customized for each trail marker to maximize legibility.

**Uses:** These trail markers serve several roles for national trails. They assure trail users that they are on the desired route. They invite passers-by to explore the trails. They give trail sites a distinct identity as part of each national trail’s story. They also help to confirm the trail sites and segments that land managers and landowners make available to the public. They also identify official

publications and exhibits (and other markings and media) distinctive to each trail.

To accommodate this variety of uses, the logos have been designed at a 9-inch size in color (for highway signs and similar markings), at a 3-inch size in color or black-and-white (for pathway markings and publications), and at a 1-inch black-and-white size (for publications, pins, and business cards). Each size can be reduced or enlarged as needed. For example, for speeds over 35 m.p.h., larger logos are needed, sometimes as large as 18, 24, or 36 inches in diameter, depending on the road speed.

**Protection and Authorized Uses:** When registered as official Federal insignia, these trail marker logos are protected from unauthorized uses, manufacture, and reproduction according to the United States Code (18 USC 701). Notices to this effect, with the latest revised design revisions, have been made public in the *Federal Register*. Thus, all uses of these marker logos must be approved and authorized in writing by the appropriate Federal trail administrator. Permission to use and display the trail logo for specific non-commercial purposes may be included in agreements between Federal trail administrators and partner organizations.

Several of the USFS logos (Pacific Crest, Continental Divide, and Florida NSTs) are also protected as registered servicemarks filed with the US Patent Office. “TM” in the lower right corner indicates a marker is in process of service mark protection; “®” indicates full registration protection by U.S. patent regulations. Such protection must be renewed on a periodic basis.

**Production:** National Trails System trail markers have been manufactured by a variety of companies, including US Prison Industries UNICOR service and now, under UniGuide, Bunting Graphics, Inc. For State highway rights-of-way, many trail markers have been manufactured by State sign shops. Ideally, all of the trail logos for an individual trail—especially in one State—should be produced by the same firm to assure consistency and quality control. Recommended manufacturers that are familiar with this type of sign and keep die-cuts for some or all of them can be identified by staff at the NPS Harpers Ferry Center.

**Context and Installation:** Trail marker signs and logos are intended to offer guidance to the trail and reassurance along the trail for trail users. They are not to be used for commercial purposes, special events away from the trail, or other inappropriate situations. Ideally, they should stand alone against a background that evokes the values for which the trail was established. Details of posts, bolt heads, cross bars, footings, and other parts of the installation will depend largely on the practices of the jurisdiction erecting the sign or marker. When multiple logos occur on the same sign (where trails overlap), they should be arrayed side by side, to the extent possible.

**Blazes:** Some of the national trails also use simple blazes to mark the trail route between trailheads and intersections (sites where the trail marker logo is often used). These blazes are usually painted on trees, phone poles, even rocks and bridge abutments. Each trail has developed its own shape, color, and size.



## 7.8 EDUCATIONAL SERVICES

Components of the National Trails System offer unparalleled educational opportunities for making history, nature, and heritage come alive to visitors. Many trail partners have crafted curriculum guides and websites to educate people of all ages about a trail's stories and meaning. Commercial firms have found trail adventures appropriate for video and CD-based electronic games. Outfitters and tour groups, including Road Scholars, Inc., offer tours and classes about the trails and their compelling stories. Educational services come in many forms, from books and magazine articles to on-site interpretive services, from websites to visitor centers, from data books to map and guide brochures. One new program for teachers originated along the Appalachian NST. It is called "A Trail to Every Classroom" and is being emulated on many trails.

**Interpretation** — The discipline of interpretation links people and places, tells stories, inspires, and even provokes passions. Interpretation is successful when visitors walk away with a new understanding and appreciation of the meaning of the place they are visiting. The interpretive process may contain many elements: information, orientation, entertainment, even recreation. Journalist Freeman Tilden said that interpretation is an art, and like any art, is in part teachable—"information with a spin." Good interpretation does more than educate—it provokes, it encourages appreciation, and (perhaps later) fosters conservation and preservation actions.

The interpretation of national trails is no different than the challenge of interpreting specific sites. The linear nature of national trails creates special opportunities of presenting a story across the landscape. Often these sites are far from each other or their historic relationships may be obscured by modern developments such as agriculture, cities, subdivisions, and roads. Both the linear nature of a trail and subsequent land use changes make it difficult to communicate the "big picture" of the trail's full story and meaning.

Other challenges to trail interpretation include the historic context of the site, isolation of resources from other sites, variable visitor expectations, and lack of site amenities. When visitors go to a specific historic site, they often (but not necessarily) have expectations of what they will see and experience. These expectations may come from tourism literature, television or news stories, friends who have visited the site, or other sources.

There are many means available to present interpretive messages, including museum exhibits, guided tours, films, videos, audio cassettes, books, brochures, wayside exhibits, and living history. Each method has strengths and weaknesses. National trails, typically, do not have entrance stations or even signs notifying visitors that they are "entering" a particular trail. It is not uncommon for visitors to trail sites to be "accidental tourists" stumbling upon a site, and only realizing its significance through interpretive media. Their discovery may be a gem of delight in a trip that may have other purposes.

Along NHTs, often the sole interpretive element at a site is an outdoor wayside exhibit providing information of a particular element or site. Standard orientation panels have been developed for some trails to provide the needed contextual information, while others include the information on a

single wayside, along with site-specific information. There is no single formula that works everywhere.

The expectations and needs of trail visitors vary widely. Some may be serious scholars or “trail buffs” who wish to visit as many sites as they can, to learn every nook and cranny. Others seek to re-trace or re-enact trail events and personalities. For many, a trail stop may be merely a break from the tedium of a long vacation or business trip. One major challenge (not unique to trails) is to transform these people's momentary interest and curiosity into a thirst to learn more.

Many assume that along NHTs that there is a recreational trail from one end to the other. This is generally not true. While there may be segments that are appropriate for recreational uses, it is impossible to travel most NHTs today as it was possible during the trail's significant periods. Modern intrusions such as highways, cultivated fields, private property, and other alterations prevent this. Such, however, offer opportunity. All of the NHTs have auto tour routes which roughly parallel the historic trail route (see Section 7.4 above). From an interpretive perspective, it may be easier to make a connection with people who are also travelers—like those who made the trail significant historically.

Many trail sites are rural and isolated. Common amenities—such as restrooms, water spigots, picnic facilities, information stations—are often not available. These conditions (isolation, potential hazards, weather concerns, road conditions, etc.) should be communicated to visitors prior to their visits.

Various interpretive media can help reach trail visitors. Sometimes it is easier to take the trail story to the visitor through off-site slide shows, publications, videos, traveling exhibits, outreach programs, and the Internet than it is to bring the visitor to the trail. Inexpensive brochures can offer information on the overall significance of the trail, the route of the auto tour route, and locations of site information.

Effective interpretation is usually brief. It gets to the core ideas—what is really significant and compelling about a place. Too much detracts from a visitor's experiences. Interpretation should be just enough to stimulate the imagination. Good interpretation leaves visitors wanting to learn more, wanting to return again.

Along national trails, many partners make sites available and help tell the story. One important role of the Federal trail administrator is to coordinate all these efforts to present a coherent story to visitors. Private landowners, historical societies, businesses, and State and local agencies may certify their qualifying sites and segments to become parts of the national trail. For visitors, meeting a strong steward of the trail's legacy who can also share some of its compelling stories can be a highpoint of their visit.

Effective interpretive planning consists of developing a statement of purpose, statements of significance derived from the resources being interpreted, interpretive themes, interpretive goals, and interpretive objectives.

**Visitor Centers** — Section 7(c) of the NTSA states:

*The appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.*

The implication of this authority is that Federal agencies can play a role in developing and even operating interpretive facilities along NSTs and NHTs. However, the authority strongly suggests that other partners take the lead in funding and operating such facilities. In fact, more than half of all known visitor centers along the NSTs and NHTs are in State parks. Federal involvement in major trail-related interpretive facilities is best carried out through technical assistance, land protection, planning and design, and even exhibit development and installation. The placement and development of interpretive sites along a trail should conform to the recommendations of the trail's CMP. Where possible, Federal agencies—especially away from public lands—should not have the lead responsibility for operating such sites. At the same time, Federal partners should insist on top quality design and operations. **Appendix P** lists existing National Trails System-related visitor center facilities, by trail.

**Maps and Publications** — From the earliest days of the development and promotion of national scenic and historic trails, maps and other publications have played a critical role. Maps and guidebooks are essential tools in finding one's way along any of these trails. At first, each trail organization published its own series of maps and books – often using them to generate revenue. For long-standing trails, there will be new, updated editions as conditions change. The first series of NST and NHT maps with any graphic consistency appeared in the late 1980s, using the NPS Unigridd brochure format, characterized by a black-band title and strong, simple graphics.

If trail partners are able to issue and update trail maps and books, they should be encouraged to do so. If they cannot, Federal partners may wish to issue (at least in the early years of a trail) appropriate booklets, maps, brochures, and other materials that help the public find and appreciate the trail. Whatever the format, these means of communications are important ways to educate the public (including international visitors) about each trail's significance, values, compelling stories, meaning, and evolution. Today, websites (more easily updated than publications) are becoming widespread, including availability of complex GIS-based mapping (see subchapter 9.5).

## **7.9 MAINTENANCE**

For national trails, maintenance takes many forms. Along a typical NST, volunteers take the lead in keeping trails free of deadfalls and other hazards. They scout the trail before each visitor season to make sure it is passable. They plan small-scale projects to clean waterbars, clear vegetation, replace rock steps, etc. Usually local managers handle the heavier, larger-scale maintenance, such as removing garbage from parking lots and cleaning restrooms. Often on Federal and State lands, trail

crews and seasonal work crews conduct most trail maintenance.

Maintenance of historic trail segment and sites may be more variable. Sometimes remnant ruts are best left alone, perhaps even fenced off to prevent any use. Historic structures take a lot of care and often require restoration and maintenance beyond the capabilities of local volunteers. Signs and blazes should be periodically inspected and repaired.

In short, maintenance varies from trail to trail and site to site. Some of the trail manuals cited in Section 7.5 above include chapters on trail maintenance. So far there are no universal interagency standards by which to evaluate the condition of trails and the need for subsequent maintenance.

## **7.10 MINOR TRAIL RELOCATIONS**

NTSA section 7(b) gives a process for relocating segments of an NST or NHT. It closes by saying that “a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.” Since “minor” and “substantial” are not defined, and since an NST should be an “extended trail” (over 100 miles in length), it has been assumed over the past several decades that a relocation of 50 miles or less is likely to be considered minor and not subject to Congressional action.

For minor relocations, section 7(b) requires that the Federal trail administrator

1. obtain approval of the head of the Federal agency or agencies whose lands are involved, and
2. document why the relocation is necessary in preserving the purposes for which the trail was established, or
3. document the need to move the trail in order “to promote a sound land management program in accordance with established multi-use principles.”

## **7.11 FURTHER REFERENCE**

Brown, Margie Coffin, 2005, *Historic Trails*, Washington, DC: NPS Park Historic Structures & Cultural Landscapes, Landscape Lines No. 15, 40 pp., illustrated.

*Code of Federal Regulations:*

- 36 CFR 1191-1192, etc. — Accessibility for the disabled
- 36 CFR 2 — NPS resource protection, public use, and recreation
- 36 CFR 7 — NPS special regulations for specific areas (see especially section 7.100 for the Appalachian NST)
- 36 CFR 261 — Forest Service prohibitions
- 36 CFR 264 — Forest Service insignia, etc.
  
- 43 CFR 2740 to 2742 — BLM recreation and public purposes
- 43 CFR 8350 — BLM management of NST lands
- 43 CFR 8360, 8364, 8365 — BLM visitor services

Federal Highway Administration, American Association of State Highway and Transportation

- Officials (AASHTO), etc., 2003 *Manual on Uniform Traffic Control Devices for Streets and Highways* (MUTCD), published by American Traffic Safety Services Association, etc.
- Florida Trail Association, 1991, *Trail Manual of the Florida Trail*, Gainesville: Florida Trail Association, 69 pages.
- Manning, Dr. Robert E., William Valliere, James J. Bacon, et al, 2000, *Use and Users of the Appalachian Trail: A Source Book*, Burlington: University of Vermont, 479 pp.
- National Park Service, 1996, *A Handbook for Trail, Design, and Maintenance, North Country National Scenic Trail*, Madison: NPS, notebook format.
- Ibid.*, 1997, VERP, *A Summary of the Visitor Experience and Resource Protection Framework*, NPS D-1214, 35 pp.
- Ibid.*, 1998, *Wayside Exhibit Guidelines: The ABCs of Planning, Design, and Fabrication [for] National Scenic and National Historic Trails*, 54 pp.
- Ibid.*, and Wisconsin Department of Natural Resources and Ice Age Park and Trail Foundation, 2001, *Ice Age National Scenic Trail: A Handbook for Trail Design, Construction, and Maintenance*, 10 chapters + appendices.
- Ibid.*, no date, *Landscape Lines: Historic Trails*, Number 15, Washington, DC: Government Printing Office, 40 pages.
- NPS Director's Orders
- #6 – Interpretation and Education
  - #17 – National Park Service Tourism
  - #42 – Accessibility for Visitors with Disabilities
  - #45 – National Trails System
  - #48B – Commercial Use Authorizations (in development)
  - #50B – Occupational Safety and Health Programs
  - #50C – Public Risk Management Program
  - #52B – Graphic Design Standards (in development)
  - #52C – Park Signs
  - Special Directive 93-7: Use of the Arrowhead Symbol
  - #53 – Special Park Uses
  - #65 – Explosives Use and Blasting Safety
  - #80 – Real Property Asset Management
  - #87D – Non-NPS Roads
- Parker, Troy Scott, 2004, *Natural Surface Trails by Design: Physical and Human Design Essentials of Sustainable, Enjoyable Trails*, Boulder: Natureshape, 78 pp., illustrated.
- Oregon-California Trails Association, 1996, third edition, *Mapping Emigrant Trails: MET Manual*, Independence, Mo: OCTA, 31 pp. illustrated.
- Ostergaard, Dick, 2000, "A Guide to Materials for Interpretive Sign Fabrication," Denver: USDA

Forest Service Rocky Mountain Regional Office.

*Ibid*, no date, "Sign Sense: Principals of Planning, Design, Fabrication, and Installation,"  
Denver: USDA Forest Service Rocky Mountain Regional Office, 10 pp.

Tilden, Freeman, 1957, *Interpreting Our Heritage*, Chapel Hill: University of North Carolina Press  
(3<sup>rd</sup> ed.), 199 pp.

Trapp, Suzanne, Michael Gross, and Ron Zimmerman, 1994, *Signs, Trails, and Wayside Exhibits:  
Connecting People and Places*, University of Wisconsin – Stevens Point Foundation Press,  
2<sup>nd</sup> ed.

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## CHAPTER 8 – NATURAL AND CULTURAL RESOURCE MANAGEMENT

### 8.1 BASIC CONCEPTS OF RESOURCE MANAGEMENT

One of the primary management objectives for most national scenic and historic trails is the protection of significant trail-related natural and cultural resources to identify, maintain, and perpetuate their value and integrity. On most trails—especially where extensive ruts, ruins, or structures remain—there are many issues faced by both trail managers and administrators, such as site and structure stabilization, impacts of retracements and other uses, changes in vegetation, viewshed management, gravesites, sites sacred to native peoples, weathering and erosion, and current impacting land uses.

There are many ways to deal with these issues – some work better than others. The Hippocratic guidance for doctors—“Do no harm.”—is a useful first step. However, often resource issues are complex and require balancing and phasing.

Both the administering and managing agencies involved with each trail – both at the Federal and State level – have tools and procedures for many aspects of resource protection. In addition, for most of the trails, natural and cultural resources are all bound together and influence each other. For example, the preservation and perpetuation of wagon trail ruts depends largely on the type of soils where these features are found. Similarly, the hydrological dynamics of rivers and shorelines largely determines public access and safety along many of the water trail components of the National Trails System.

One comprehensive concept that can guide trail corridor management is **ecosystem management**. This provides an inter-disciplinary framework for balancing human economic and recreational desires with the needs of natural communities of plants and animals.

Another term that blends both natural and cultural resource values is **cultural landscapes**. The NPS techniques for conducting Cultural Landscape Reports have evolved since 1980 to offer a flexible set of tools that can give trail corridor managers important baseline data about the trail-related resources and their change over time.

The NTSA requires that each comprehensive management plan address **carrying capacity**. This has proven difficult—largely due to lack of adequate data at a trail’s start-up phase and over huge areas – so it was been largely ignored until recently. However, the idea that there may be a time when a trail corridor’s resources cannot stand the rate of traffic or use and thus deteriorate is a valid one. Also, when sites and features sacred to indigenous peoples are involved, very careful management measures may be needed to minimize disturbance and damage.

In the meantime, NPS has determined that in parks the bigger issue that frames carrying capacity is **visitor use management**. Current work evolves from recent lawsuits about the number of users permitted on specific stretches of certain wild and scenic rivers. Although no such lawsuits have (yet) been filed concerning national trails, in the mature years of a trail when visitation levels have risen



and stabilized, tools from carrying capacity and visitor use management practice may be very helpful in appropriately and skillfully managing trail use levels.

On many fronts, specialized NPS and interagency teams and techniques are being developed to cope with invasive species, global climate change, inventorying and monitoring, cultural landscapes, viewshed analysis and management, and resource threat mitigation. Trail staff and partners should collaborate with these efforts to the degree they are beneficial to maintaining and enhancing the values for which each trail was established.

## **8.2 NPS GUIDELINES**

Basic concepts of resource management (e.g. ecosystem management, cultural landscapes, etc.) for the NPS are spelled out in Chapters 4 and 5 of *Management Policies* (2006), as well as in Director's Orders #28—*Cultural Resources Management*, #28A—*Archaeology*, #41—*Wilderness Stewardship*, #47—*Soundscape Preservation and Noise Management*, and NPS-75—*Natural Resource Inventorying and Monitoring*.

Even though each Federal agency has separate guidance, the underlying principles of sound, scientifically based resource management common to all of them are rooted in the basic resource management disciplines (such as biology, ecology, hydrology, geology, archaeology, and some of the social sciences, such as economics).

For a full set of agency policy directives and orders pertaining to resource management, see the section in **Appendix J** for Natural and Cultural Resource Management.

## **8.3 SECRETARIAL STANDARDS**

For cultural resources, standards now used throughout the Department of the Interior and most States were promulgated as required by the National Historic Preservation Act of 1966. The *Secretary of the Interior's Standards for Archeology and Historic Preservation* define and set policy for preservation, rehabilitation, restoration, and the full spectrum of treatments for historic properties. The most recent published edition is 1983, although web-based modifications have been made since. Additional documents, the *Secretary of the Interior's Standards for Archaeological Documentation* and *The Secretary of Interior's Standards for the Treatment of Historic Properties*, may also be helpful when investigating certain trail sites and segments.

## **8.4 RESOURCE INVENTORIES AND EVALUATIONS**

There are many formats for inventorying natural and cultural resources. As the demand for national patterns and the sophistication of spatial and non-spatial data management increases, there is growing pressure to standardize these inventories so that resource conditions on one place and agency and be compared to another. Current programs include Cultural Landscape Reports, Visual Resource Management (BLM), natural and cultural resource inventories, and scenic assessments (Forest Service).

## **8.5 SITE AND SEGMENT INVENTORY MAPPING**

Since 2001, NPS has joined several other agencies to develop the Federal Trail Data Standards (FTDS). These standards have been approved by the Federal Geographic Data Committee. These standards—really attributes and definitions—will enable each trail office or partner using GIS to develop data dictionaries that can communicate with each other and contribute similar data for regional and national totals. Meanwhile most NPS offices responsible for national trails have developed some degree of GIS capability.

## **8.6 TREATMENTS OF PREHISTORIC AND HISTORIC MATERIALS, ARTIFACTS, AND DOCUMENTS**

Treatment is a term that describes an action or actions that affect an artifact, document, or other material object. Neglect is a type of treatment, as are pro-active actions that cause stabilization, protection, preservation, or destruction. In general, agency policies and the laws on which they are based emphasize doing the minimum necessary to disturb or alter the object(s). Treatment is an important component of cultural landscape reports and provides land managers a toolkit to proactively address critical (and even subtle) cultural resource values. In general, site-specific treatment is the responsibility of trail site and segment managers.

## **8.7 MONITORING, REVIEWING, AND RESPONDING TO THREATS**

As linear land and water corridors, often hundreds or thousands of miles in extent, national trails are vulnerable to land use change. As technologies evolve new threats emerge. For example, a major issue in the West in the 2000s was oil and gas drilling and the visual effects of related tanks, access roads, and pipelines in disturbing views important to the trails. In the 2010s, the emphasis has shifted to renewable energy sources, and wind farms and solar plants have suddenly become major threats to the views from national trail.

The only way stay abreast of the ever-changing landscape context of each national trail is to develop a system of monitors who can alert decision-makers about proposed changes. This is often done by the local chapters of trail organizations. They may be the first to hear of local notices about proposed industrial or energy projects. They can also be alert to changes in land ownership that can precede changes in land use. Touring a trail on a periodic basis is another way to check on changes.

Responding to threats takes many forms. Most trail offices now process compliance notices associated with Federal actions (see subchapter 5.2). One issue is legal standing. Ownership (the province of trail managers) usually entitles an agency or landowner be involved in the consultative process required by NEPA, at least for Federal actions. A trail's administrator may or may not have standing, depending on the circumstances. In such cases it may be more effective to rely on trail organizations to conduct advocacy actions that help minimize or prevent damaging threats.

## 8.8 FURTHER REFERENCE

### *Code of Federal Regulations:*

- 7 CFR 3100 — Dept. of Agriculture cultural environment
- 36 CFR 2 — NPS resource protection, public use, and recreation
- 36 CFR 60 and 63 — National Register of Historic Places
- 36 CFR 61 — State, tribal, and local government historic preservation programs
- 36 CFR 62 — National historic landmarks program
- 36 CFR 68 — Interior Secretary's standards for treatment of historic properties
- 36 CFR 241 — Forest Service fish and wildlife protection
- 36 CFR 296 — Protection of archeological resources (USFS)
- 40 CFR 50 — Air quality standards (EPA)
- 43 CFR 3 — Preservation of American antiquities (Interior)
- 43 CFR 7 — Protection of archeological resources (Interior)
- 43 CFR 10 — Native American Graves Protection and Repatriation Regulations (Interior)
- 43 CFR 19 — Wilderness preservation and management (Interior)
- 43 CFR 8223 — BLM natural areas research
- 43 CFR 8560 — BLM wilderness management
- 50 CFR 35 — Wilderness preservation and management (FWS)
- 50 CFR 17, 81, 402, 424, 450, 451 — Endangered and threatened wildlife and plants (FWS and National Marine Fisheries Service)

National Park Service, 1999, *Comprehensive Management and Use Plan, Final Environmental Impact Statement for the California, Pony Express, Oregon, and Mormon Pioneer National Historic Trails*, pp. 66-67 (principal author was NPS historian Dr. Susan Calafate Boyle).

### National Park Service Director's Orders

- #12 – Conservation Planning, Environmental Impact Analysis, and Decision-Making
- #18 – Wildland Fire Management
- #28 – Cultural Resources Management
- #28A – Archaeology
- #28B – Ethnography Program
- #41 – Wilderness Stewardship
- #47 – Soundscape Preservation and Noise Management
- #53 – Special Park Uses (including Telecommunications)
- #77-1 – Wetland Protection
- #77-2 – Floodplain Management
- #77-7 – Integrated Pest Management (in development)
- #77-8 – Endangered Species (in development)
- #78 – Social Science

U.S. Department of the Interior, 1983

*Secretary of the Interior's Standards for Archeology and Historic Preservation*  
See 48 CFR 44716.

*The Secretary of Interior's Standards for the Treatment of Historic Properties*  
See 36 CFR 68

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## CHAPTER 9 – INFORMATION AND RECORDS

### 9.1 FEDERAL PAPERWORK POLICY

The Paperwork Reduction Act of 1995 (PL 104-13) offers government-wide direction in streamlining and making accessible all information managed by Federal agencies. Much of this guidance pertains to National Trails System partners and how they generate, store, use, and make accessible trail-related information. Specifically, some of the principles required by PL 104-13 include:

- The overall effort is coordinated by the Office of Management and Budget (OMB).
- Each Federal agency will have uniform information resource standards and guidelines, under the direction of a designated information officer.
- Each agency shall establish an information locator service.
- Information technology shall be used, to the extent possible, to make Federal information accessible to the public.
- Information collection burdens on the public shall be minimized.

Building on this and other authorities, NPS has now issued four Director Orders related to records management:

- DO #11A – Information and Technology Management
- DO #11B – Ensuring Quality of Information Disseminated by the NPS
- DO #11C – Web Publishing
- DO #11D – Records and Electronic Information Management

In the near future all records and documents will be handled electronically, minimizing the use of paper.

### 9.2 OFFICIAL ROUTE DOCUMENTATION

Several authorities in the NTSA outline how trail corridor rights-of-way should be determined and made available to the public. Section 7(a)(2) states:

*... the appropriate Secretary shall select the rights-of-way for national scenic and historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register; ...*

This sentence is followed by a series of conditions, such as

- minimizing adverse effects on adjacent landowners
- harmonizing with established multi-use plans affecting the area
- developing agreements to document the ROW if under jurisdiction of another agency

- seeking advice and assistance from States, local governments, private groups, and affected landowners.

Officially recognized trail rights-of-way are then mentioned in the rest of NTSA sections 7 and 9 in several contexts:

<u>Section</u>	<u>Issue</u>
7(b)	relocation of trail right-of-way [See reference manual subchapter 5.6]
7(c) and 7(j)	allowed trail uses [See reference manual Chapter 7]
7(d)	types of trail corridor protection authorized on Federal lands
7(e)	types of protection available for non-Federal lands
7(f)	exchanges and whole tract purchase
7(h)(2)	reservation of trail ROW in land conveyances
9(a)	granting of crossing easements
9(e)	Federal release and quitclaim of rights-of-way

Most of this language was crafted when the National Trails System consisted primarily of NSTs, where locating trail rights-of-way (and their possible re-locations) was a major issue. In retrospect, only for trails where there has been an active land acquisition program have *Federal Register* notices showing proposed rights-of-way been published. (See table below).

For NHTs—even though this language applies to them, too—the establishment and documentation of rights-of-way has been a minor issue. For these trails, the emphasis has been on the mapping and recognition of remnant trail ruts and traces (what the NTSA calls high potential sites and segments). For NHTs, with a few exceptions, no detailed right-of-way has been mapped, published, or otherwise negotiated under the authorities of the NTSA.

Under the authorities of the NTSA, the rights-of-way of the following trails have been published in the *Federal Register* as shown in table 5.

### **9.3 TRAIL DATABASES, BIBLIOGRAPIES, AND INVENTORIES**

Each trail office develops data sets as needed, often starting with the mailing list of contacts for public meetings during the CMP process and maturing into a comprehensive set of trail-related sites and segments. Later data sets may involve the development of trail facilities (such as wayside exhibits and signs), local and State government contacts, historic sites, challenge cost-share recipients and their projects, photographs of trail sites and segments, demographic information for communities along the trails, related visitor sites (such as campgrounds), and publications describing the trail and its history. Many data sets are established in the face of an urgent need or crisis, such as a Congressional inquiry or budget initiative.

Some of these data sets stand alone, some are integrated with others. Some are computerized, others kept on index card or map drawers. For a mature trail, especially one with detailed property records, the data responsibilities of the trail office can be enormous. Many of these data fields can be displayed geographically and consolidated into a trailwide Geographic Information System (see 9.4

below). Some can be displayed (or at least summarized) in a trail website. Others will always be stand-alone data sets, perhaps relegated to the back of a file drawer until needed. In many cases,

**Table 5. Trails where the Rights-of-Way Have Been Published in the Federal Register.**

<u>Trail</u>	<u>Date (pages) Published</u>	<u>Content</u>
Appalachian NST	2/9/71 (pp. 2676-8)	Entire route segment mapped, 1 in.=2 miles
	10/9/71 (pp.19802-93)	Entire route segment mapped, 1 in.=2 miles
	8/21/79 (p. 49023)	Authority for AT Land Acq. Field Office
	1/23/81 (pp. 7464-83)	Minor relocations mapped in ME, NH, CT, NY, NJ, and VA
	3/23/81 (p. 18075)	Same relocation declared official
	10/2/81 (pp. 48782-90)	Minor relocations mapped in GA, TN, NC
	11/16/81 (p. 58370)	Same relocation declared official
	11/19/84 (pp. 45664-70)	Minor relocations mapped in ME, VA
	1/22/85 (p. 2866)	Same relocation declared official
	2/19/86 (pp. 6044-50)	Minor relocations mapped in ME, MA, VA
	4/11/86 (p. 12575)	Same relocation declared official
	3/18/86 (p. 9276)	Notice of sale of surplus lands in VA
	7/9/86 (pp. 24941-44)	Minor relocations mapped in PA
	8/22/86 (p. 30133)	Same relocation declared official
	2/24/88 (pp. 5471-3)	Minor relocations mapped in NY
8/24/93 (pp. 44692-95)	Minor relocations mapped in VT	
Pacific Crest NST	1/30/73 (pp. 2832-2944)	Entire route segment mapped, 1 in.=2 mi.
	5/10/79 (pp. 27464-68)	Minor relocation mapped in CA
	6/13/79 (p. 33918)	Correction to 5/10/79 Notice
	5/30/86 (p. 19579)	Minor relocation mapped in OR
North Country NST	8/2/83 (pp.35030-33)	Notice of availability of CMP, including route selection and first 51 certified segments
Ice Age NST	7/27/84 (p. 30251)	Very general Statewide map of route Scale 1"=c. 30 miles
Santa Fe NHT	4/11/91 (pp. 14714-5)	Notice of availability of CMP, including route selection
Trail of Tears NHT	2/26/93 (p. 11623)	Notice of availability of CMP, including route selection

These data sets develop historic value as conditions change. Some may be readily available for the public, some by request only, and some (such as the location of archeological sites) protected from public scrutiny.

Each of the agencies involved in the National Trails System has guidelines for the proper development, care, public access, and disposition of records and information (see Further Reference



below). Ideally, systematic, integrated data bases should be established early in the life of a trail office so that records are easy to retrieve and maintain – both for trail staffers and partners, and the general public (where appropriate).

#### **9.4 GIS AND OTHER AUTOMATED INFORMATION SYSTEMS**

Geographic Information Systems (GIS) and Global Positioning Systems (GPS) provide Federal national trail staff and their partners with high-powered tools for presenting the trails to the public, for managing trail resources effectively, and for integrating a wide variety of data sources available in no other way. Once captured electronically, trail-specific data can be combined with additional map information to provide an interactive picture of each trail. This multi-scenario mapping (with associated databases) has proven to be an invaluable tool in trail planning.

With GIS in hand, trail partners can often quickly, accurately, and easily share trail data. They can also easily participate in State and local planning and manage and protect trail resources and landscapes. By developing consistent methodologies for collecting and maintaining geographic data, trail offices can share data, increase communication between the administering agencies, and better manage the National Trails System as a whole. GIS and GPS together offer an unparalleled opportunity to link to State and local governments, balance resource protection with the impacts of visitor services, optimize the educational value of these trails, and promote accurate accountability.

For the Federal agencies responsible for national trails, most of the investment in GIS so far has been largely confined to the local offices such as national parks, national forests, and BLM field offices. Increasingly, however, GIS plays a significant role for entire national systems. GIS can inform policy makers and legislators on the potential impact of policy or legislation on the system as a whole.

Most national trails are now using GIS technology to great advantage. At the same time, information demands from trail users and the business community – especially telecommunications and energy companies and their consultants – have revealed how unprepared the national trails community is to use GIS in a consistent and coherent manner to locate, promote, and protect the national trails. Also, many miles of national trails lie within existing NPS, BLM, and USFS data sets, but these databases do not yet feature or locate the trails.

- GIS and GPS can help address the following National Trails System questions:
- Where is the trail?
- What features are located along the trail?
- How long is the trail?
- Who owns property along the trail?
- How close are specific features to the trail?
- What kinds of maps can you make of the trail?
- Who uses the trail?

To capitalize on the universality and flexibility of GIS and related relational database systems, a Federal interagency task, starting in 2000, compiled the Federal Trail Data Standards (FTDS)

designed to establish a foundation of commonly agreed-to terms that will underlie all NST and NHT data sets and GIS data dictionaries in the future. These were approved as the government-wide standard by the Federal Geospatial Data Committee in 2012. With such standards in hand, data can then be compiled in trailwide and national totals as needed. The current definitions and attributes of the FTDS can be found at the website [www.nps.gov/gis/trails](http://www.nps.gov/gis/trails).

## **9.5 PUBLIC BROCHURES AND PUBLICATIONS**

The public has benefitted for many years from a variety of publications describing the National Trails System as a whole and its various components. Some of the earliest were guidebooks and data books associated with the Appalachian Trail. Since the early 1990s, national trail brochures produced and published with NPS funds have followed the Unigrid format associated with the Harpers Ferry Center. In recent years, even special typefaces (Rawlinson and Frutiger) have been purchased by NPS to give its publications a distinctive image and “look.” Trails flyers and books published exclusively by NPS should follow these style formats. However, other styles and formats should be chosen for interagency products may to distinguish them from NPS publications.

Despite the growing prevalence of internet media, printed materials are still essential to portraying information to the public. In 2010, for example, NPS-administered NSTs and NHTs recorded 2.6 million website hits while distributing 334,100 publications of various kinds (mostly trail brochures).

## **9.6 WORLDWIDE WEB GUIDELINES**

The internet has revolutionized communications. Agency and Departmental guidance – as well as technological and security requirements—seem to change constantly. National trails have been incorporated into the NPS web system, and staff have been creative in applying agency requirements to the unique and long-distance challenges of the NPS-administered trails. Even offering a current list of National Trails System websites as an appendix would be largely fruitless in the long run, since their addresses keep changing. One relatively current list of NST and NHT-related websites can be found on the text side of the *National Trails System Map and Guide*. Links can also be found on the NPS website [www.nps.gov/nts](http://www.nps.gov/nts).

When developing trail-related websites, please check with the NPS Web Council and ensure that all publically-accessible sites comply with current ADA, section 504, and section 508 requirements and guidelines to ensure maximum accessibility by the public.

## **9.7 FURTHER REFERENCE**

*Code of Federal Regulations:*

- 7 CFR 2700 — USDA Office of Information Resources Management
- 36 CFR 200.6 and 200.7 — Freedom of Information Act (USFS)
- 36 CFR 1222 and 41 CFR 101-11 — Creation and maintenance of Federal records
- 36 CFR 1252 to 1254 — Public use of records, historic materials, etc.
- 36 CFR 1250 — NARA Records Subject to FOIA (generic)

43 CFR 2 — Freedom of Information Act (Interior)

Federal Interagency Council on Trails, 2010, National Trails System Annual Report For FY2010, Table 5

National Park Service, 2001, *GIS for the National Trails System: An Action Plan*, Washington, DC: NPS National Center for Recreation and Conservation, draft.

National Park Service Director's Orders

#5 – Paper and Electronic Communications

#11 – Information Management (see parts 11A, 11B, 11C and 11D)

#15 – NPS Frequency Management Guidance for Radio Communications, Electronics, and

Wireless Systems

#17 – Tourism

NPS Staff Directive 80-4: Geographic Names Proposals

#66 – FOIA and Protected Resource Information (in development)

#70 – Internet and Intranet Publishing

#82 – Public Use Data Collecting and Reporting Program (in development)

U.S. Department of the Interior, *Departmental Manual* section

380 DM 1 — Records Program Management and Responsibilities

380 DM 2 — Adequacy of Documentation

380 DM 3 — Files Management

380 DM 6 — Vital Records Program

382 DM 11 — Managing Records in Electronic Form

384 DM 1-4 — Records Disposition

## Chapter 10 – MEASURING PERFORMANCE AND SUCCESS

### 10.1 STATISTICAL MEASURES FOR NSTS AND NHTS

Various attempts have been made to quantify the characteristics, accomplishments, and conditions of NSTs and NHTs. This has proven difficult for a variety of reasons. There has been no guidance for unified data sets for trails. Each trail seems to have a unique combination of resource types, demographic and political characteristics, mapping conditions, etc. Often the data structures implied by each trail's CMP work fine for that trail but do not reflect a more unified data collection system that accommodates all the trails in the System.

Starting in 2000, an interagency working group developed the Interagency Trails Data Standards (now the Federal Interagency Trail Standards, or FTDS), as described in Subchapter 9.4. This set of attributes strives to develop universal definitions for terms and conditions common to all trails.

In a parallel effort, various Federal agencies cooperated through a variety of agreements (for the 2006 MOU see **Appendix 0**) to develop a National Trails System Annual Report. These have been largely compiled by NPS staff on behalf of the Federal Interagency Council on Trails. Recent reports are available online at <https://www.nps.gov/nts>. From time to time partner groups, such as the Partnership for the National Trails System, have also issued annual or multi-year summary reports.

Sample data fields collected annually, by fiscal year, for the Interagency Annual Report include:

#### 10.1.1 Agency Data Fields

- Participation in the Federal Interagency Council on Trails
- Completion of agency-wide policy pertaining to the National Trails System
- Number of trails actively using FTDS standards
- Accuracy of NRTs entries public database
- Up to date agency staff and partner contact list
- Participation in interagency annual meetings

#### 10.1.2 Trail Data Fields

- New miles of trail opened to the public
- (Total miles of trail now open for public use and maintained)
- (for NHTs only) Miles of auto tour route signed
- (NHTs only — Total miles of auto tour route now signed)
- Acres inventoried and/or surveyed
- Acres protected by Federal agencies
- Acres protected by non-Federal agencies
- (NHTs only) Total number of high potential sites and segments

- (NHTs only) Number of high potential sites and segments protected
- (NHTs only) Number of high potential sites and segments experiencing threats
- Miles of trail improved or constructed
- Number of major structures installed
- Number of new certified sites and segments
- Number of compliance actions and reviews
- Number of trailwide partner meetings
- Number of new partnership agreements
- Number of volunteer hours contributed that are officially recognized by Federal agency
- Number of instances where other programs are consulted and involved
- Participation in Statewide, metropolitan, and local planning
- Number of local trail corridor plans underway
- Number of partners involved in trail planning (regional, State, district, regional, park, forest, and metropolitan area plans)
- Number of interagency projects, including coordination and consultation
- Yes, trail has full-time or part-time data steward
- Trail data sets are updated and publicly accessible
- Number of website hits
- Number of publications distributed
- Level of GIS/GPS activity
- Frequency that trail is shown on national or State maps
- (NSTs only) Number of miles of trail still to be built to complete the trail
- (NHTs only) Number of miles of auto tour route still to be signed or marked
- Number of key natural and cultural resource sites still to be protected
- Innovative Actions (narrative)

## **10.2 MEASURING THE QUALITY OF VISITOR EXPERIENCE**

Several research and survey instruments exist within Federal agencies to assess the quality of visitor experience on public lands. These include visitor satisfaction surveys, Visitor Experience and Resource Protection (VERP), and the Forest Service's Limits of Acceptable Change. To be applied to the visiting public, such surveys require prior approval by the Office of Management and Budget.

**Visitor satisfaction surveys** – These surveys attempt to measure the level of visitor satisfaction to a specific site or facility. The NPS has developed a standard visitor survey card for park areas, rating such factors as facilities, services, and experiences. This approach, however, has not proven workable (so far) along a long-distance linear corridor, such as a national trail.

The BLM uses a similar site-oriented survey instrument that seeks key factors about the visitor (age, economic status, etc.) and asks for a rating of facilities, quality of management, interpretation and

education services, interaction with staff, passes and permits, and desired uses of the site. To date, however, this has only been used for selected trail sites, not along an entire national trail.

So far, attempts to develop visitor satisfaction surveys along components of the National Trails System have not yet yielded replicable results.

**VERP** – This survey method attempts to balance resource protection and visitor experience through a series of assessments designed to determine the breaking point when satisfaction levels begin to drop due to perceptions of adverse conditions (resource deterioration, overcrowding, etc.). The theoretical foundation for this technique is based on “Limits of Acceptable Change.” VERP is currently considered the primary way within national park areas to determine visitor carrying capacity. It is often conducted in association with park general management plans. However, VERP has not yet been applied to components of the National Trails System. In general trail CMPs (the analog to park GMPs) occur before patterns of visitor use along trail have been established.

### **10.3 STATUS REPORTS ON IMPLEMENTING TRAIL PLANS**

According to NTSA requirements, every CMP should include management objectives. If properly contrived, these objectives could give measurable yardsticks against which to measure the progress of a trail’s development, use, condition, and support. In theory, they could become the basis for periodic reporting on the progress of each trail. However, for a variety of reasons (including the incompleteness of many CMP objectives), such reports have seldom been issued. Specific factors (such as acres protected, sites and segments certified, or miles open to the public) are reported as opportunity allows—perhaps in a trail association’s annual report. All too often, once a CMP is completed, trail staff and partners move on to other issues and crises, and never return to see how well the CMP is being carried out.

### **10.4 AN APPROACH TO PERFORMANCE MANAGEMENT FOR NSTS AND NHTS**

When the National Trails System was first established, it consisted of two trails (the Appalachian and Pacific Crest NSTs), thousands of miles apart, administered by two different agencies in two different Federal departments. Precedent was thus set for many years to work in parallel, developing different methods by which to assess results. As long as each of these trails was unique, little thought was given to a Systemwide assessment of accomplishment.

The Government Performance and Results Act of 1993 (GPRA) set the stage, for the first time in the Federal Government, for objective reporting in a systematic way, using unchanging goal statements, about the accomplishments of every agency and program. Applying GPRA to the components of the National Trails System was difficult since the trails were managed on the ground by myriad agencies and administered by three different agencies. At first, each agency applied GPRA in its own way – and even within one agency, the characteristics of the trails varied so much that they chose a wide variety of different goals to report to.

In recent years, the National Trails System Annual report, described in subchapter 10.1 above has

been the common ground for reporting on both statistical and informational accomplishments.

## **10.5 FURTHER REFERENCE**

National Park Service, Director's Order #54 – *Management Accountability* (in development)

Ibid, 1997, *VERP: A Summary of the Visitor Experience and Resource Protection (VERP) Framework*,  
Denver: Denver Service Center NPS D-1214, 35 pp.

# **NATIONAL TRAILS SYSTEM**

## **REFERENCE MANUAL**

### **APPENDICES A THROUGH U**



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# APPENDIX A

## OUTLINE OF NATIONAL TRAILS SYSTEM ACT AUTHORITIES

(Updated through March, 2009, PL 111-11)

This outline of the NTSA for NSTs and NHTs divides its authorities into those which are compulsory or **regulatory** (“musts” and “shalls”) and those which are **discretionary** (“mays”). The authorities are broken down by topic, with references to the Act’s sections subsections shown in ( ). Authorities should not be implemented without full reference to the appropriate language in the Act. The full text of the Act, updated as amendments occur, is found at [www.nps.gov/nts/](http://www.nps.gov/nts/).

### **MUSTS/SHALLS (REGULATORY)**

#### **Definition and Identity of National Trails System**

The National Trails System is made up of national scenic trails (NSTs), national historic trails (NHTs), national recreation trails (NRTs), and connecting and side trails (3(a)).

NSTs and NHTs may only be authorized by Congress (5(a)).

NSTs and NHTs must be extended trails (100+ miles in length, although shorter NHTs are also allowed). Along NHTs, designation of the trail shall be continuous, but not necessarily development or preservation (3(a)(3) and 3(b)).

NHTs must meet all three criteria given in subsection 5(b)(11):

- a. follow the actual route of historic use and be well enough documented to be located.
- b. be of national significance.
- c. provide significant potential for public recreation and/or interpretation.

The Secretaries of Agriculture and Interior shall establish a uniform marker for the trail system (3(a)(4)).

A uniform marker system shall be established, with a distinctive and appropriate marker for each national trail. These markers shall be provided by the appropriate Secretary to non-Federal landowners who shall erect and maintain them to set standards (7(c)).

#### **Planning Requirements**

The Secretaries of Interior and Agriculture shall conduct a trail feasibility study within three fiscal year for each proposed trail according to the outline given in 5(b). Trails to be studied are listed in subsection 5(c), some with shortened due dates.

The Secretaries of Interior and Agriculture shall complete a comprehensive management plan for each trail within two fiscal years for each proposed trail according to outlines given in 5(e) or 5(f).

### **Administrative Responsibilities**

NSTs and NHTs are assigned for administration to various agencies, by trail, and the official trail maps and documents shall be found in those agencies' Washington, DC, offices (5(a)).

Secretaries of departments to which each trail is assigned shall appoint an advisory council for that trail within one year, each to last 10 years (Iditarod NHT 20 years). Scope of duties includes selection of ROWs, marker standards, and trail administration. General membership qualifications are listed. The Secretary appoints the chairman. Councils are composed of up to 35 members, each appointed for 2 year terms without compensation (5(d)).

The administering agency shall develop and maintain NSTs, NHTs, and NRTs within Federal areas and encourage States to operate, develop, and maintain non-Federal parts of these trails (7(h)).

Substantial trail right-of-way relocations shall only be by Act of Congress (7(b)).

Along the Trail of Tears NHT, the Secretary of the Interior shall give serious consideration to establishing interpretive sites at the places listed (5)(a)(16B).

### **Coordination and Consultation**

Administrating agencies shall consult with all affected State and Federal agencies (7(a)(1A)).

Consultations with and assistance to States and subdivisions shall encourage landowner protection from trespass, unreasonable liability, and property damage due to trail use, as well as compatible land use within or adjacent to trails (7(h)).

The secretary of the Interior shall urge States to include national trail needs in State Comprehensive Outdoor Recreation Plans (SCORPs), include NHT needs in comprehensive Statewide historic preservation plans, and establish State and local historic trails (8(a)).

### **Trail Uses and Regulations**

The Secretaries of Interior and Agriculture shall develop and publish uniform trail use regulations as necessary, with fines and imprisonment as given (7(i)).

Sufficient access shall be provided along NSTs and NHTs, and incompatible activities shall be avoided (7(c)).

Motorized vehicles are prohibited on NSTs, with exceptions for emergency and adjoining landowner uses (7(c)).

On the Continental Divide NST, motorized vehicles shall be allowed on certain road sections (5(a)(5)).

## **Trail Lands Protection**

Trail rights-of-way shall be selected by the appropriate Secretary with broad input and published in the *Federal Register*. Such route selection shall minimize adverse impact on adjoining landowners and land uses and complement multiple use plans. Rights of way across other Federal lands shall be mutually agreed upon (7(a)(2)).

Fee acquisition is only a last resort if other methods of land protection do not suffice. After relocations, original owners of old ROWs shall be offered right of first refusal (7(e)).

Proceeds from disposed lands shall benefit that trail's land acquisition (7(f)).

Federal-side Land and Water Conservation Fund monies shall be used to buy trail lands (7(g)).

Federal agencies shall cooperate with Interior and Agriculture in disposing of properties useful to the national trails system (9(b)).

Any Federal interest in abandoned rights-of-ways described in 43 U.S.C. 912 shall be retained, unless used for a public highway within one year of abandonment. If these are within the boundaries of a conservation system unit or national forest, they shall be added to and managed within such units. If they are outside such boundaries, but adjoin public lands, they shall be managed under the Federal Land Policy and Management Act of 1976. Such ROWs outside Federal boundaries determined useful for recreation or recreation trails shall be managed by Interior (9(c-d)).

All sales proceeds from Federal surplus ROWs shall be credited to the Land and Water Conservation Fund and reported annually to Congress (9(e)(3-4)).

Donation or conveyance of any interest in land for national trails is deemed to further Federal conservation policy and yield a significant public benefit (7(k)).

Appalachian Trail land acquisition shall be completed within 3 years. Until completed, annual reports shall be submitted to Congress with amount bought in fiscal year, land remaining to be bought, and the projected amount and cost of future land acquisition (10(a)(2)).

Along NHTs, only lands associated with high potential segments may be Federally acquired. With certain exceptions, no NHT (or Continental Divide NST) segments are subject to DOT 4(f) provisions (7g).

Along the Santa Fe NHT, before easement or cooperative agreements are consummated, landowners shall be notified of liability hazards (5(a)(15)).

## **Volunteers**

Along the De Anza NHT, volunteer trail groups shall be encouraged to participate (5(a)(17)).

## **MAYS (DISCRETIONARY)**

### **Definition and Identity of National Trails System**

Methods and standards are given for adding additional components of the National Trails System (2(b)).

Federally owned high potential sites and segments of NHTs are to be considered "Federal protection components" (3(a)(3)).

Along the Nez Perce and Santa Fe NHTs, acceptable markers may be accepted as donations (5(a)(14), 5(a)(15)).

Connecting and side trails within the boundaries of Federal recreation areas may be established as a component of the trail. On other lands, written permission of the landowners is required (6).

### **Funding**

Such sums as may be necessary to implement the Act may be appropriated for trails established in section 5(a) (with certain limitations (10(c)(1), 10(c)(2))).

### **Planning**

The State of Wisconsin may prepare the comprehensive management plan for the Ice Age NST (5(a)(10)).

### **Administrative Responsibilities**

Secretaries may certify other lands as components of NHTs, as long as they are administered without Federal expense (3(a)(3)).

Advisory council members may be compensated for claimed expenses (5(d)).

Minor trail relocations may occur to preserve a trail's purpose or to promote sound land management (7(b)).

Trail lands management may be transferred from one Federal agency to another under memorandum of agreement (7(a)(1B)).

## **Trail Uses and Regulations**

NSTs and NHTs may contain campsites, shelters, and other public use facilities, as well as other non-interfering uses. NHTs may be marked along non-historic portions of the route. Other compatible uses along NHTs and the Continental Divide NST may be allowed. Trail interpretation sites may also be provided, at lowest possible cost, emphasizing the trail in that State and best managed by the State (7(c)).

Regulations concerning national trails system use, protection, management, development, and administration may be issued after consultation with affected States and local organizations and jurisdictions (7(i)).

The Secretary responsible for any segment of any component of a national trail may use appropriate national park or national forest authorities (7(i)).

Allowed uses, vehicles, and access are defined, subject to subsequent Federal and other State or local laws and regulations (7(j)).

Along the Ice Age NST snowmobiles may be allowed (5(a)(10)).

## **Trail Lands Protection**

Where NSTs, NHTs, (and NRTs) lie within Federal boundaries, agencies may use those lands for trail purposes and acquire lands for trails (7(d)).

Outside Federal boundaries, the Secretaries of Agriculture and Interior shall encourage States and local governments to protect NST and NHT corridors. If this fails, the Secretaries may work directly with landowners through cooperative agreements and easements, or may acquire lands provided that sale and donation of public lands is done with consent of sellers (7(e)).

Land exchanges to enhance trail corridors may be conducted using other Federal lands in that State (7(f)(1)).

Whole tracts may be acquired, and the acreage outside the trail corridor may be considered surplus. Later conveyance of these lands may include reservations and covenants to further the purposes of this Act (7(f)(2)).

Condemnation (where authorized) may be used only if all reasonable efforts by other means have failed. It shall be limited to an average of 125 acres per mile (7(g)).

A trail's administering secretary may enter into cooperative agreements with States and political subdivisions, landowners, organizations, and individuals to operate, develop, and maintain any portion of the trail. These agreements may include limited financial assistance and volunteer programs under VIP and VIF statutes (7(h)(1)).



In any conveyance of land, the Secretary of the Interior may reserve a trail right-of-way to carry out the purposes of this Act (7(h)(2)).

The Secretaries of Interior and Agriculture may grant easements and ROWs across any component of the national trails system, compatible with national park and forest laws, provided that easement conditions relate to policy and purposes of this Act (9(a)).

Federal ROWS outside conservation system units or national forests may be declared surplus, if application is made by a qualified State, local government or other organization, and only if it is to be used for public recreation, if the Federal government is held harmless for liability or hazard (9(e)(1)).

Interior may sell retained ROWs outside Federal boundaries if it is not adjacent to public lands and meets disposal criteria. State and local government shall be afforded right of first refusal (9(e)(2)).

## **Volunteers**

The Act encourages and assists volunteer citizen involvement (2(c)).

Federal agencies administering trails are to encourage volunteers to help plan, develop, maintain, and manage trails (11(a)(1)).

Administering secretaries are to use VIP, VIF, and SCORP Acts (11(a)(2)).

Trail agencies may assist volunteers and volunteer organizations who support components of the National Trails System and trails which might qualify to be part of the System. A broad range of possible tasks are listed (11(b)).

To assist volunteers, Federal facilities, equipment, tools, and technical assistance may be used (11(c)).

# **APPENDIX B**

## **INTERPRETING THE NATIONAL TRAILS SYSTEM ACT – A GUIDE AND INDEX**

(7-24-13 version approved by Michael Tiernan, SOL)

### **INTRODUCTION**

The NTSA is a complex set of authorities that was first passed in 1968 and amended almost 25 times since then. This discussion looks at the Act, as amended through March 30, 2009.

The words “shall” and “may” are associated with most of the Act’s legal authorities and indicate which authorities are mandatory (the shalls) and discretionary (the may)s. A full listing of those two types of NTSA authorities is given in **Appendix A**.

In addition, most of the NTSA authorities apply to the entire National Trails System – or at least to a specific category of many trails, such as NHTs. Those broad authorities will be the focus of this paper. Other authorities pertain only to one or a few trails (or make exceptions to the broad authorities for a particular trail or category of trails), and those will only be discussed minimally as relevant.

Some of these authorities have been used over and over again—and others perhaps not at all. None of the Federal agencies responsible for carrying out these authorities have had any guiding policy until recently, so practice has diverged over the years. The discussion will first present the various sections of the Act and then go back and discuss key authorities that have been significant, problematic, or often misunderstood. An index of the Act is presented below following the text.

### **SECTION BY SECTION DISCUSSION**

**Section 1** – The National Trails System Act’s title.

**Section 2 – Statement of Policy** – This section gives the general purposes of the National Trails System—to offer America’s expanding population outdoor recreation and historic experiences—with an emphasis on urban areas. Its purpose is to establish methods and standards by which trails can be established and made part of the System, beginning with the Appalachian and Pacific Crest NSTs. It also highlights the important roles of volunteers in carrying out the purposes of the Act.

**Section 3 – National Trails System** – This section defines the four types of trails created under this act: NRTs (see also Section 4), NSTs and NHTs (see Section 5), and connecting and side trails (see

Section 6). This section also describes “Federal protection component” for NHTs and gives authority for certification of non-Federal NHT segments. It gives authority for a uniform National Trails System marker and defines an “extended trail” as over 100 miles in length.

**Section 4 – National Recreation Trails** – This section further defines the category of NRTs and outlines how they are recognized through secretarial action. The current NRT application procedures (different in Interior from Agriculture) are based closely on this wording.

**Section 5, National Scenic and National Historic Trails** – Subsection (a) of this long section lists all the NSTs and NHTs established by Congress under this Act. Each authorizing paragraph gives the name and category of the trail, the approximate length of the trail, and the geographic scope of the trail — supplemented by a reference to a map in the related feasibility study of the trail. The “nature and purpose” of some trails is given in this paragraph; for others only the generic definitions in section 3(a)(2) and (3) can be used. Authorities specific to individual trails, such as the “willing seller” provisions, are cited for each trail. (These passages seldom give the significance of a trail — for that information, see each trail’s feasibility study.)

Subsection (b) gives the requirements for NST and NHT feasibility studies, including the three required criteria for NHTs.

Subsection (c) lists all the trails authorized to be studied, sometimes naming specific geographic components or other conditions. As in subsection (a), recent entries have expanded to subparagraphs. Subsection (g), just added in 2009, lists dozens of supplemental routes associated with four NHTs to be studied for possible addition to those trails. A 1998 Interior solicitor’s opinion asserts that the geographic scope of a trail is defined in the feasibility study, if adopted by Congress in the designating legislation.

Subsection (d) outlines the process for establishing and operating an advisory council for each NST and NHT. These are conducted under the rules and requirements of the Federal Advisory Committee Act (FACA). The generic authority calls for an advisory council to be established and operate for the first 10 years after establishment of a trail to guide it through its comprehensive planning and initial stages of development and administration.

Subsections (e) and (f) outline the content requirements of NST and NHT comprehensive management plans.

**Section 6, Connecting and Side Trails** – This type of trail may be established and designated by either the Secretary of the Interior or the Secretary of Agriculture. However, this authority has now been used just seven times. In the absence of a clear application procedure for this type of trail, Federal agencies have adapted the application form for NRTs to document the nominated trails for Secretarial approval.

**Section 7, Administration and Development** – This section is the heart of the NTSA and defines a

wide variety of authorities pertaining primarily to the administration of NSTs and NHTs (a few make reference to NRTs as well). These authorities relate to land acquisition, trail marking, facility development, management agreements, cooperative agreements, use regulations, land exchanges, and even tax benefits for donated interests in land. This section also has many passages that are open to variable interpretations. Many of the more notable or controversial authorities in Section 7 are discussed under “Discussion By Topic” below. In general, this section’s authorities pertain to federal administration of these trails—only in certain circumstances can they be shared with or delegated to trail partners.

**Section 8, State and Metropolitan Area Trails** – This section gives authorities to the secretaries of the Interior, Housing and Urban Development, Agriculture, and Transportation. The aim of this section is to incorporate trails and opportunities to create trails into a broad array of federal activities, such as HUD block grants and State comprehensive outdoor recreation plans, as well as State and local outreach programs. EO 13195, *Trails for America in the 21<sup>st</sup> Century*, signed January, 2001, updates ways that these authorities can be implemented throughout the Federal Government. Subsections (d) and (e) lay the foundation for the preservation of railroad rights-of-way (ROWs) proposed for abandonment as recreational trails (see also subsections 9(c) and (d)).

**Section 9, Rights-of-Way and Other Properties** – This section is a set of discretionary powers to preserve and protect Federal rights-of-way (ROWs) for use as trails. It also gives powers to grant ROWs across trails to others, using laws pertaining to national forests and national parks. Subsections (c) and (d) give details about abandoned railroad ROWs and jurisdictions for management.

**Section 10, Authorization of Appropriations** – With certain limits for specific trails, this section gives general authority for all necessary appropriations needed to carry out the Act. Significant amendments to this section in 1978 launched the land protection program for the Appalachian NST and in 2009 eliminated the prohibition of Federal funds for land acquisition for nine NSTs and NHTs.

**Section 11, Volunteer Trails Assistance** – This section encourages volunteerism for trails in general and components of the National Trails System specifically. Volunteers are encouraged to “plan, develop, maintain, and manage” trails of all types, as well as conduct research and provide education and training. Various volunteer act authorities are to be used as necessary. Federal facilities, equipment, tools, and technical assistance may be made available to volunteers.

**Section 12, Definitions** – Four terms are defined here: “high potential historic site,” “high potential route segment,” “State,” and “without expense to the United States.” The first two relate to NHTs and limit where Federal agencies may acquire lands and waters for NHTs. “States” include all U.S. States, territories, and possessions. “Without expense” makes an exception for Land and Water Conservation funds made available through State agencies.

## **DISCUSSION BY TOPIC, IN ALPHABETICAL ORDER**

Another way to look at the NTSA is by topic. This is especially true for authorities which appear in several sections or reference each other. To give an overview of these subjects, Appendix B offers a subject matter index to the Act, citing the sections and subsections where specific authorities occur. The most used, complex, or controversial topics are discussed below.

### **Advisory Councils**

The intent of the NTSA is that each new trail will enjoy the guidance of a citizen advisory council as outlined in section 5(d). This requirement was added to the Act in 1978 (PL 95-625). The first such council pertained to the Appalachian NST. It ended up offering invaluable access to high levels of State agencies in the trail's 14 States. Many of the councils over the years have greatly helped guide comprehensive management plans in the early days of a trail. The main problems faced by these councils are the biennial re-chartering and re-appointment requirements under FACA (The Federal Advisory Committee Act). Sometimes it takes 3-5 years just to get a council appointed in the first place. Often in the early days of a trail there is not even sufficient funding to support a council. Such councils can be waived if there is "lack of adequate public interest."

### **Carrying Capacity**

Sections 5(e) and 5(f) of the NTSA outline the requirements for newly established trail comprehensive management plans (CMPs). Each section begins with calls for "specific objectives and practices to be observed in the management of the trail . . ." and ends with the phrase, ". . . and an identified carrying capacity for the trail and a plan for its implementation."

The term "carrying capacity" derives from field ecology and attempts describe the nutritional substrate on which a species or multi-species community subsists. In theory, if the capacity is inadequate the species or community declines. Applied to recreation, carrying capacity implies that there may be a maximum amount of human use beyond which resource deterioration or human crowding are likely to occur. This concept is quite difficult to apply to long-distance trails that cross many physiographic regions and widely varying types of terrain. As a result, the concept was not even addressed in most trail planning documents until very recently. Meanwhile, lawsuits involving management of wild and scenic rivers (especially along the Merced River in Yosemite National Park) have caused a coalition of Federal agencies to re-examine the ways they define and implement carrying capacity and seek to widen the discussion to the more comprehensive term, "visitor use management."

### **Certification**

The authority given for this in the NTSA is found in section 3(a)(3) and pertains only to non-Federal segments of NHTs which are already protected and are administered "without expense to the Federal Government." Building on this authority, some NHT offices have also certified trail-related

sites and sites far from certain trails (but related to them thematically). In addition, some NST offices use the concept of certification to document fully completed sections of trail.

NHT segment certification is usually documented through some type of agreement citing this authority. Some of these are limited to five years, some are perpetual or until mutually terminated. For some trails certification was seen as a voluntary alternative to Federal land protection, and in some cases that has worked well. Partners have found certification a welcome and non-coercive way to gain recognition as an officially recognized part of a trail. Although the NTSA limits certification to segments, the demand for certification often comes from partners associated with specific sites. In the absence of commonly agreed-to guidelines and practices both within agencies and from one agency to another, many potential certifications have been put on hold.

## **Compliance**

Compliance with related Federal laws is not specifically mentioned in the NTSA. However in many of the activities associated with national scenic and historic trails—as Federal actions—compliance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other regulatory and environmental laws, executive orders, and regulations, occupies significant time and effort. This also relates to trail staffs reacting to project proposals (highways, pipelines, solar plants, wind farms, etc.) that may adversely impact a trail and its land or water corridor.

NEPA requires that an environmental impact statement (EIS) be completed before any Federal action is taken that may have a significant effect on the quality of the human environment. Similarly, Federal actions are subject to review under section 106 of the National Historic Preservation Act (NHPA) that requires Federal agencies to consider the effects of their actions on historic properties and provide the Advisory Council on Historic Preservation an opportunity to comment on such actions. The Council's regulations (36 CFR Part 800) implement section 106 and outline the process by which "historic properties" (those listed on or eligible for listing on the National Register of Historic Places) are considered in plans and treatment actions. In general feasibility studies and comprehensive management plans are conducted as environmental assessments (EAs) unless the level of controversy moves it into a more complex environmental impact statement (EIS) process.

For national trails, both the feasibility study and management planning stages offer ideal opportunities to establish ongoing consultation with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), the USFWS (for rare and endangered species), and Federally recognized Indian tribes. At the planning stage – when the exact trail route, site details, and impacts may not yet be fully known — one strategy that may work well is development of a Programmatic Agreement (PA). For historic preservation issues, a PA is often developed in consultation with the Advisory Council on Historic Preservation and other partners as needed, including SHPOs, THPOs, Federally recognized Indian tribes, local governments, and non-profit organizations.

For Federal agencies, section 504 of the Rehabilitation Act relates to requirements for full accessibility along trails and related facilities. Section 508 of the same act deals with electronic equipment and information (especially websites). Soon the U.S. Access Board will issue rules about applying accessibility standards to new trails and trail-related facilities on Federal lands. Everyone involved with these trails will need to become familiar with the requirements of the new rules and the methods for seeking exceptions as appropriate to various trails and trail-related resources.

Compliance with a number of other laws and executive orders (EOs) may also be required, including, the American Indian Religious Freedom Act, the Archaeological Resources Protection Act of 1979, EO 13007 (*Indian Sacred Sites*), EO 13175 (*Consultation and Coordination with Indian Tribal Governments*), floodplain management EOs 11988 and 12148, the Native American Graves Protection and Repatriation Act, EO 11989 (*OHVs on Public Lands*), Prime and Unique Farmlands, Endangered Species Act (16 U.S.C. 1531-1544), and EOs 11990 and 12608 on Wetlands Protection.

In addition to the Federal requirements, many States and local governments have legal procedures for adhering to important laws safeguarding water quality, wildlife management, public safety, and other issues. Unless a trail under consideration for action (or planning) is completely on Federal land, there is a strong likelihood that applicable State and local laws will apply, especially for large-scale local actions.

Many Federal and State agencies have no idea that there are portions of the National Trails System on their lands or waters. For example, section 3(a)(3)'s term "Federal Protection Component" implies that any Federally-controlled high potential site or segment of an NHT should be considered a protected resource. Guidance on how to conduct compliance varies from agency to agency. This becomes complex when two or more Federal Agencies are conducting a plan or operating a trail together. One approach to optimize proactive compliance and minimize misunderstandings among agencies and partners is to foster continuing consultation, coordination, and concurrence on key issues.

## Comprehensive Management Plans

The NTSA guidance for comprehensive management plans (CMPs) is given in sections 5(e) and 5(f) which are almost identical. 5(e) is intended primarily for NSTs and 5(f) for NHTs. Most CMPs conducted over the years (since the first was published in 1981) have roughly complied with these requirements, but many have chosen to ignore key sections, such as identification of all significant resources to be preserved, a discussion of carrying capacity, an acquisition plan, and site-specific development plans.

A working paper about CMPs—how to fully carry out the NTSA requirements and provide a helpful guiding document applicable to all trail partners at reasonable cost—is being completed by the NPS National Trails System Office, in partnership with the Office of Park Planning and Special Studies.

## Cooperative Agreements

The NTSA has some of the broadest cooperative agreement authorities available to Federal agencies. Since 1977, cooperative agreements providing federal financial assistance have been governed by the Federal Grant and Cooperative Agreement Act of 1977, as amended. It, in turn, is implemented through Department of the Interior regulations codified at 43 CFR 12 and a variety of OMB and agency circulars and agency guidelines.

Specifically, the NTSA authorizes cooperative agreements to provide federal financial assistance in the following sections:

- to be shown as models in trail comprehensive management plans (NTSA sections 5(e)(1) and 5(f)(1)), and
- with States and their political subdivisions and others to operate, develop, and maintain either Federal or non-Federal trail segments (7(h)).

Other NTSA sections use the term “cooperative agreement,” but not for financial assistance:

- to define exceptions for motor vehicles on or across trails in certain circumstances (7(c)),
- to accommodate suitable trail markers on non-Federal lands (7(c)),
- to acquire lands or interests in lands (7(d)), and
- for States to protect trail lands (7(e)).

In general, cooperative agreements have been stimulatory in nature, providing funding to enable partner groups, in partnership with Federal agencies, to carry out activities that implement the NTSA. Most cooperative agreements must be renewed every five years. In some cases, other types of agreements, such as a memorandum of agreement (MOA) or a memorandum of understanding (MOU), or even a contract, may be more suitable ways to carry out collaborative activities with partners.



## Feasibility Studies

The NTSA guidance for feasibility studies is given in section 5(b) and specific criteria for NHTs in subsection 5(b)(11). Feasibility studies are only conducted when authorized by Congress for the trails listed in NTSA section 5(c). Sometimes trails (such as the Washington-Rochambeau Revolutionary Route NHT) are studied as “special resource studies,” of which one alternative (and the one chosen) is to be a NHT. In such cases, these studies require that all the study requirements of the Trails Act be met.

Feasibility studies are very important for defining and assessing what a trail actually is. The first national trail studies were conducted by the Bureau of Outdoor Recreation and emphasized local and regional recreation demand. Later ones have been more resource and significance oriented. Most have been conducted by the NPS, with a few by other agencies as funds have allowed. In 1998, a U.S. Department of the Interior solicitor ruled that a trail feasibility study defines the geographic scope of a trail (when it is cited by Congress in the trail’s establishment act). If additional or significant changes are needed to more fully define the trail’s scope, then Congressional action is required.

A working paper about feasibility studies—how to fully carry out the NTSA requirements and provide a complete analysis of any potential trails at reasonable cost—is being completed by the NPS National Trails System Office in Washington, DC.

## Federal Protection Components

NTSA section 3(a)(3) states, “Only those selected land and water based components of a historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act are included as **Federal protection components** of a national historic trail.”

This implies that many Federally-owned sites and segments associated with NHTs receive some type of protection due to their Federal ownership. In fact, NHTs cross the jurisdictions of many Federal agencies—including branches of the military—where multi-use missions or non-recreation missions immediately set up conflict with this assumption. An example of a multi-use agency fully setting aside a significant NHT corridor is the nomination of the 42-mile long Barlow Road along the Oregon NHT through the Mount Hood National Forest as a property listed on the National Register of Historic Places.

A more controversial setting is west of South Pass, Wyoming, where the Oregon NHT passes across Federal lands rich in oil and gas and the mineral trona (sodium carbonate ore). The BLM has worked hard to craft mining and drilling permits in this area which allow extraction while minimizing the visual and noise effects to trail visitors.

Federal protection components should be systematically described in each trail’s feasibility study and evaluated in the trail’s CMP so that all affected agencies agree to their location and extent. From

then on, all possible management measures should be taken to ensure the long-term protection of those trail sites and segments.

## Land Acquisition

The NTSA was primarily passed to protect two well-known hiking trails, the Appalachian and Pacific Crest NSTs. In fact, the most comprehensive land protection program associated with the Act has been carried out along the Appalachian NST. Generally, Federal land acquisition has been limited to NSTs, although almost all the NHTs have had access to willing seller authority (see below) since 1983. Funds for land protection have come from both the Federal and State sides of the Land and Water Conservation Fund. Between 1980 and 2009, seven trails were restricted by the NTSA where no Federal funds could be used for land acquisition. That restriction was abolished in 2009 by P.L. 111-11.

There are a variety of NTSA authorities to help Federal agencies and others protect national trail corridors and the resources that give them enduring value. Section 7(d) of the Act provides the basic structure of methods that may be used to acquire lands for trail protection:

*Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or national historic trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange.*

Section 7(e) expands on this with authority for cooperative agreements and acquisition of lands and interests in lands. The agency charged with trail administration shall encourage States and local governments to:

1. Enter into written agreements with landowners, private organizations, and individuals to provide for the necessary use of the trail right-of-way, or
2. Acquire such lands as are needed for the trail right-of-way.

Should States and local governments fail to act, section 7(e) also provides Federal authority to:

3. Enter into written agreements with landowners, private organizations, and individuals to provide for the necessary use of the trail right-of-way, or
4. Acquire such lands as are needed for the trail right-of-way.

In addition, section 7(e) includes two important caveats:

- The land should be acquired in fee if other methods of public control are not sufficient to assure their intended use, and
- Land may be acquired from local governments only with the consent of such entities.

Section 7(f) provides authority to convey any Federally owned property in a given State—and classified as suitable for disposal—in exchange for any non-Federal property within the trail right-of-way. This section also provides authority to acquire whole tracts with the consent of the landowner, even though portions of the tracts may lie outside the area of trail acquisition. The excess lands may be used for exchange or sale, with the funds from such a conveyance being returned to the appropriation bearing the land-acquisition costs for that trail.

Section 7(g) provides authority to use eminent domain proceedings to acquire lands (or interests in lands) without the consent of the owner. This authority should be used only when all reasonable efforts to acquire the land through negotiation have failed. In such cases, the Secretary may acquire only such title as is reasonably necessary to provide passage across such lands. Further, the Secretary may not use such proceedings to acquire more than an average of 125 acres per mile. This section also limits direct Federal acquisition on NHTs to areas identified in the study report or comprehensive management plan as high-potential route segments or sites.

Others important land protection authorities in the NTSA, by section, include:

- 7(h)(2) Federal rights-of-way (ROWs) may be reserved for national trails
- 7(k) Donations of lands are considered a conservation tax credit.
- 9(a) Easements and ROWs may be granted across Federal trail lands, with conditions related to the purposes of the Act.
- 9(b) Other agencies with Federally-owned linear corridors shall make them available for components of the National Trails System.
- 9(c) Federally ceded railroad grants, when abandoned, will revert to U.S. ownership, unless used for a public highway within one year.
- 9(d) Retained ROWs, both inside and outside Federal boundaries, may be used for national trails.
- 9(e) Rules are outlined for releasing abandoned Federal ROWs.

In short, the NTSA land protection authorities can be summarized as:

**Land acquisition authority** which authorizes Federal Government agencies to acquire national trail lands. Land acquisition can be carried out through easement, full-fee, exchange, or donation. The appropriate Secretary may acquire local government lands with owner consent (willing seller).

**Exchanges** are allowed for non-Federal property within a right-of-way. Any property that the Secretary of the Interior deems suitable for disposal may be used for exchange. (Non-financial) cooperative agreements with States to encourage them to use State authorities to acquire land to protect national trails.

**Federal financial assistance agreements** with partners, local jurisdictions, organizations, and landowners to support and stimulate protection of national trail corridors.

**Disposal** can occur if a national trail right-of-way is relocated. The former owner must be informed and have first rights to re-acquiring the land.

## Markers and Logos

A variety of NTSA authorities frame Federal involvement with trail markers, logos, and signs—both for trail specific logos (section 7(c)) and a systemwide logo (section 3(a)). (A systemwide logo has never been developed to date). The general authority in 7(c) states:

*The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national scenic, and national historic trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriate points along the trails and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established.*

This has been largely carried out, with the design of each trail marker logo usually occurring at the time of the trail's comprehensive management plan. In recent years, a set of guidelines has been developed to assure consistent lettering, sizing, and proportions so that two or more National Trails System signs can harmonize when shown together. NTSA section 5(f) for requires that NHT comprehensive management plans outline how these marking requirements will be implemented for specific trails. And section 8(e), under *State and Metropolitan Area Trails*, allows Federal agencies to mark rail-trails and other trails relating to this section as part of the National Trails System. In fact, this authority has been used to provide a generic NRT logo for trails recognized as NRTs under section 4 authorities.

NST, NHT, and NRT trail markers have significant symbolic value. It is often very difficult to develop a graphic for the center which fully captures the spirit and character and uniqueness a specific trail. However, once a graphic is found that people like, it may endure for years. These graphics should be simple and bold so that they will show up well on highway signs and other forms of public display. As Federal insignia, they are protected against unauthorized uses by Federal law (18 USC 701), especially if public notice has been made through the *Federal Register*. It has been the practice of Federal agencies that control and policing of a trail logo is the responsibility of each trail's administration office, with assistance, as requested, from that agency's Washington Office.

## Regulations

Section 7(i) of the NTSA gives trail administering agencies broad powers to issue regulations “governing use, protection, management, development, and administration” of national trails. These should be developed in close consultation with State, local, and nonprofit partners. Even authorities pertaining to units of the National Park System and National Forest System can be used. However, to date, a minimum number of these regulations have been formally adopted. Three have been published in the *Code of Federal Regulations* (CFR):

36 CFR 7.100 – Use restrictions for the Appalachian NST (NPS)

36 CFR 212.21 – Use restrictions for the Pacific Crest NST (FS)

43 CFR 8351.1-1 – Prohibitions and exceptions for motorized vehicles on NSTs (BLM)

## Rights-of-Way

This section of the NTSA (section 9, *Rights-of-Way and Other Properties*) includes permitting crossings of trail rights-of-way and converting abandoned railroad corridors to recreational trails (usually not by Federal agencies). This section offers some very helpful authorities summarized below, by subsection:

9(a) – trail administering agencies may grant easements and ROWs along NSTs, NHTs, and NRTs with certain conditions.

9(b) – DOD, DOT, ICC, FCC, and FPC and other Federal agencies shall cooperate with trail agencies to provide properties or information about properties useful to the National Trails System.

9(c)-(e) – Abandoned railroad grants may be retained for trails, unless used for a highway within one year, with certain conditions.

9(f) – The terms “conservation system unit” and “public lands” are defined for this section.

## Volunteers

The NTSA was first crafted with the Appalachian Trail as its model. Volunteers have been key to the success and longevity of that Trail since the 1920s. However, the vibrant culture of volunteerism which characterized the Appalachian NST was not part of the original NTSA in 1968, but a provision was added in 1983 (as NTSA section 11) acknowledging volunteer trail assistance and authorizing participation in planning, development, maintenance, and management. Since volunteers had already shown they could carry out myriad functions necessary to operate a trail successfully this was an appropriate Congressional action.

These volunteer authorities were some of the broadest in any Federal statute and also incorporated by reference are the Volunteers in the Parks Act of 1969 and the Volunteers in the Forest Act of 1972. These authorities are not limited to components of the National Trails System but also are available, where appropriate, for trails that could qualify for designation.

Section 11 also outlines the many functions volunteers can carry out, including research, education and training, planning, construction, and maintenance. Federal facilities, equipment, tools, and technical assistance can all be made available to support such volunteer work.

## **Willing Seller**

When the NTSA was first passed in 1968 it initially established two trails – the Appalachian and Pacific Crest NSTs. As a result, section 7(g) was made applicable to both trails and authorized the use of eminent domain as a last resort when all other means of trail corridor protection has failed. This was one of the most controversial aspects of the Act during Congressional hearings when it was being considered in 1967. The issue raised its head 10 years later when a new wave of trails was being considered for addition in the Act, and as things turned out, most of the trails added in 1978 and 1980 were not only prohibited from using this eminent domain authority, they were denied use of any federal funds at all to protect the trail corridor (with one minor exception).

Starting in 1983, newly established NSTs and NHTs enjoyed (but seldom used) a compromise authority called the “willing seller” clause. Although there are variations, the basic language in each trail’s establishment clause stated:

*No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.*

Almost all of the trails added to the Trails System since 1983 have had some variation of this language. However, some of the 1978-1983 trails were stuck without even access to funds, with a minor exception “one trail interpretive site per trail per State.” (This exception was actually used in several cases to purchase parcels used for visitor centers and interpretive sites.) Starting in 1999, advocates for the Trails System worked long and hard with members of Congress to bring these unfunded trails at least into a parallel status as the “willing seller” trails. That finally occurred in section 5301 of the Omnibus Public Land Management Act of 2009 (P.L. 111-11). Now all the national scenic and historic trail components of the National Trails System have access to willing seller authority.

## **CONCLUSION**

The NTSA has enabled several Federal agencies—in close partnership with many partners—to establish and operate a truly nationwide system of trails—of many types—that bring recreational, heritage, health, and economic benefits to many Americans (and international visitors). Its emphasis on partnerships and the significant roles for volunteers has been landmark among the Federal land-managing agencies.

One test of the solidity of Federal law is legal challenge. Only two authorities of the NTSA have

resulted in court cases: the use of eminent domain along the Appalachian NST and railbanking. Of 29 cases that appeared in the Federal appellate courts between 1985 and 2008, five related to the Appalachian NST and the rest concerned railbanking. One case, *Presault vs. Interstate Commerce Commission*, went to the Supreme Court where the NTSA railbanking powers were upheld unanimously.

Some people have commented that the National Trails System authorities are too often an “empty bag” of tools compared, for example, to highway law or even the development of pipelines and publicly-supported utility infrastructure. The fact that eminent domain can only be used as a last resort and on very few trails makes all the other trails that much more vulnerable to threats and interruptions. For many years section 10(c) prohibited Federal funds from being used on specified trails—fortunately that prohibition was abolished in 2009. In fact, the evolution of the implementation of the NTSA and its many amendments accurately reflects changes in public and political trends across the United States.

The NTSA was an experiment when it was first passed. In those days, the concept of “trail” meant largely a backcountry hiking or horseback experience. Later, the concept of historic trails was added onto the Act, and today, NHTs form the greatest mileage of the various types of trails created by the Act. The NTSA is an evolving law. It was amended 37 times since first passed in 1968 (averaging almost once a year). With public input, Congress will continue to refine and reshape it to suit the changing needs of operating this far-flung system of many types of trails and trail uses.

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## APPENDIX C

### NATIONAL TRAILS SYSTEM TIMELINE

#### Early 20th Century

- 1906-35 Ezra Meeker retraces Oregon Trail, placing commemorative markers
- 1910-17 Many historic roads and trails are monumented by the Daughters of the American Revolution.  
Benton MacKaye proposes Appalachian Trail
- 1926-46 Oregon Trail Memorial Association erects stone monuments to mark the Trail.
- 1930s Westerners Gilmore Clarke and William Rogers propose Pacific Crest Trails.
- 1945 First Federal trails funding bill introduced (not passed).

#### The 1960s

- 1964 Lewis and Clark Commission established for 5 years to build interest in this expedition.
- 1965 President Johnson's Beautification Speech
- 1966 Department of the Interior publishes *Trails for America*.  
National Historic Preservation Act is passed (P.L. 89-655).
- 1968 Passage of National Trails System Act (P.L. 90-543), creation of Appalachian (1) and Pacific Crest (2) NSTs
- 1969 Establishment of Federal Interagency Council on Trails.

#### The 1970s

- 1971 First National Trails Symposium, Wash., D.C.
- 1976 House hearings critical of NPS Appalachian NST land acquisition.  
BLM's organic legislation passed.  
American Hiking Society founded.
- 1978 NPS Omnibus Act includes stronger Appalachian NST authorities and the new category of historic trails. Oregon (3), Mormon Pioneer (4), Continental Divide NST (5), Lewis & Clark (6), and Iditarod (7) NHTs established.

#### The 1980s

- 1980 North Country (8) and Ice Age (10) NSTs and Overmountain Victory (9) NHT established.
- 1981 Interagency trails council halted by Interior Secretary Jim Watt.  
Hike-A-Nation brings national visibility to trails.
- 1982 Railbanking provisions proposed.
- 1983 NTSA amendments dramatically curb post AT/PCT trail protection, add railbanking concept to law. Potomac Heritage (11), Natchez Trace (12), and Florida (13) NSTs established.

- 1986 Rails-to-Trails Conservancy founded.  
 Nez Perce NHT (14) established.  
 NPS's River and Trails Program launched, bringing NPS trails expertise to local communities.  
 Federal agencies produce *Nationwide Trails Assessment*.  
 Continental Divide NST extended into Canada as an international trail.
- 1987 Santa Fe (15) and Trail of Tears (16) NHTs established.
- 1988 First national conference for NST and NHT partners, Hartland, WI.  
 Most recent assessment of NPS park trail conditions; 30% rated "poor."
- 1989 NPS national account and office established to lead National Trails System activities.

### The 1990s

- 1990 Juan Bautista de Anza NHT (17) established.  
*Trails for All Americans* published, interagency council re-convened.  
 Two connecting-and-side trails recognized by Secretary of the Interior.
- 1990 American Discovery Trail launched, roughly following Hike-A-Nation route.  
 First edition of *National Trails System Map and Guide*.  
 Supreme Court unanimously upholds railbanking.  
 ISTEA passed with numerous funding programs for trails, including Symms Fund (now called the Recreational Trails Fund or "RTP") which motivated all States to start Statewide trails councils.
- 1992 California (18) and Pony Express (19) NHTs established.
- 1993 NPS Challenge Cost-Share launched, 1/3 earmark for National Trails System
- 1996 Selma to Montgomery NHT (20) established.  
 13th National Trails Symposium held in DC area.
- 1997 American Hiking Society launches National Endowment for Trails.
- 1998 Four secretaries and 10 agencies sign MOU to collaborate on Lewis and Clark Bicentennial.  
 TEA-21 signed, with all trail funding programs intact and/or increased.  
 Millennium Trails Program launched by White House and USDOT.

### The 21st Century

- 2000 El Camino Real de Tierra Adentro (21) and Ala Kahakai (22) NHTs established.
- 2001 Executive Order, *Trails for the 21<sup>st</sup> Century*, signed by President Clinton.  
 Interagency MOU of NHTs and NSTs signed by BLM, USFS, NPS, FHWA, and NEA.
- 2002 Old Spanish NHT (23) established.
- 2004 El Camino Real de los Tejas NHT (24) established.

- 2005 SAFETEA-LU replaces TEA-21 for surface transportation reauthorization. All programs benefiting trails remain intact and/or increased.
- 2006 New 10-year MOU signed by BLM, USFS, NPS, FHWA, USFWS, and USACE. Captain John Smith Chesapeake NHT (25) established.
- 2008 Star Spangled Banner NHT (26) established  
Oct. 2 — 40<sup>th</sup> anniversary of National Trails System Act
- 2009 Passage of Public Lands Omnibus Act (PL 111-11) which established the Arizona NST (27), the New England NST (28), the Washington-Rochambeau NHT (29), and the Pacific Northwest NST (30). It also added new routes to the Trail of Tears NHT, annulled section 10(c), and added willing-seller authority for the nine trails formerly listed in 10(c) for funding restrictions.
- 2010 President Obama announces “America’s Great Outdoors” (AGO) initiative.
- 2012 Four more connecting and side trails recognized by Sec. of the Interior  
National Trails System included in AGO-based Collaborative Landscape Planning  
BLM issues 3-manual policy guidance for National Trails
- 2013 National Trails Symposium becomes International Trails Symposium  
*Pathways Across America* commemorates its 25<sup>th</sup> anniversary  
NPS issues DO #45, a statement of National Trails System policy
- 2015 One connecting trail designated by the Secretary of the Interior

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## **APPENDIX D**

### **HISTORY SKETCH OF THE NATIONAL TRAILS SYSTEM ACT**

The legislation that established America's national system of trails is the result of many years of effort by American citizens, trails organizations, governmental agencies, and members of Congress. This appendix lists events that led up to the passage of the NTSA of 1968 (Public Law 90-543) and describes amendments that have been added to it during its first 40 years (from 1968 to 2008).

#### **EARLY IDEAS**

Short- and long-distance trails were the only means of overland travel across North America long before the coming of Europeans and the later canals, railroads, and paved highways. Recreational trekking on foot became popular in New England after the Civil War, and the first long-distance hiking trail—Vermont's Long Trail—was established in 1910. Benton MacKaye, visionary regional planner and outdoorsman, proposed the idea of the Appalachian Trail in 1921.

During the 20th Century the popularity and use of trails increased dramatically, particularly after World War II. In 1958, the Outdoor Recreation Resources Review Commission (ORRRC) was established to examine national recreation needs. In 1960, a national recreation survey conducted by ORRRC reported walking for pleasure as the most popular outdoor recreation activity. The Commission projected a three-fold increase in the use and need for all types of recreational opportunities and facilities by the year 2000. It also cited trails as a recreation resource in short supply and confirmed what many had begun to suspect: trail opportunities were declining in number and quality.

#### **RELATED LEGISLATION**

During the 1960s, Congressional interest in resource conservation, the environment, and outdoor recreation produced several major laws: the Outdoor Recreation Act of 1963 (P.L. 88-29), the Wilderness Act of 1964 (P.L. 88-577), the Land and Water Conservation Fund Act of 1965 (P.L. 88-578), the National Historic Preservation Act of 1966 (P.L. 89-665), the Wild and Scenic Rivers Act of 1968 (P.L. 90-542), the National Trails System Act of 1968 (P.L. 90-543), and the National Environmental Policy Act of 1969 (P.L. 91-190).

Both the Wilderness Act of 1964 and the Land and Water Conservation Fund Act of 1965 directly influenced the nature of the NTSA. The Wilderness Act created a precedent-setting system of wilderness areas in national forests, and set the stage for the designation of wilderness areas in national parks, national wildlife refuges and other Federal lands. The designated wildernesses were to be kept free of roads and other forms of development. Travel within them could only be accomplished by foot or horseback, and any trail development therein would be subject to the Act's



strict regulations.

The Land and Water Conservation Fund Act established a fund, subject to Congressional appropriation, for purchasing land of natural and recreational significance. It also provided funds to State and local governments for developing and expanding outdoor recreation facilities. It figured prominently in the creation of the NTSA by its use in Senate Bill 287 for land acquisition along the Appalachian and Pacific Crest Trails.

## **PRESIDENT JOHNSON'S NATURAL BEAUTY SPEECH AND ITS EFFECT**

As an integral part of his Great Society's interest in raising the quality of American life, President Lyndon B. Johnson delivered a speech on February 8, 1965, enjoining Americans to clean up their surroundings. It had many aspects, one of which was trails:

*The forgotten outdoorsmen of today are those who like to walk, hike, ride horseback, or bicycle. For them we must have trails as well as highways. Nor should motor vehicles be permitted to tyrannize the more leisurely human traffic. Old and young alike can participate. Our doctors recommend and encourage such activity for fitness and fun.*

*I am requesting, therefore, that the Secretary of the Interior work with his colleagues in the Federal Government and with State and local leaders and recommend to me a cooperative program to encourage a national system of trails, building up the more than hundred thousand miles of trails in our national forests and parks.*

*There are many new and exciting trail projects underway across the land. In Arizona, a county has arranged for miles of irrigation canal banks to be used by riders and hikers. In Illinois, an abandoned railroad right-of-way is being developed as a "Prairie Path." In New Mexico utility rights-of-way are used as public trails.*

*As with so much of our quest for beauty and quality, each community has opportunities for action. We can and should have an abundance of trails for walking, cycling, and horseback riding, in and close to our cities. In the back country we need to copy the great Appalachian Trail in all parts of America, and to make full use of rights-of-way and other public paths.*

— (Proceedings, White House Conference on Natural Beauty, May 24-25, 1965)

In response to President Johnson's statement, Secretary of the Interior Stewart L. Udall sent a bill to members of Congress urging them to work toward a national system of trails. He stated:

*A nationwide system of trails will open to all the opportunity to develop an intimacy with*

*the wealth and splendor of America's outdoor world for a few hours at a time, or on one-day jaunts, overnight treks, or expeditions lasting a week or more. A system of trails carved through areas both near to, and far from, man and his works will provide many varied and memorable experiences for all who utilize trails. — (Parks and Recreation, Trails Across the Nation, August, 1966)*

In April 1966, an interagency steering committee was appointed to coordinate a nationwide trails study. It included members of the Bureau of Outdoor Recreation, U.S. Forest Service, National Park Service, and Bureau of Land Management. The Bureau of Sport Fisheries and Wildlife, the Bureau of Reclamation, and the Bureau of Indian Affairs also participated, as did members of State and local agencies, private organizations, and individual citizens.

The committee aspired to:

1. describe existing trail systems;
2. assess the adequacy of existing trail programs to serve present and prospective users;
3. suggest appropriate roles for the Federal government, State governments, local governments, and private interests in providing new recreation trails; and
4. recommend Federal legislation to foster development of a balanced and adequate nationwide system of trails.

The resulting report, *Trails for America*, was published in December, 1966, by the U.S. Bureau of Outdoor Recreation. *Trails for America* echoed the ORRRC predictions of the importance of trails to meet the growing outdoor recreation needs of the American public and identified ways that a national trails system could be provided. The significant points of the report are as follows:

- The Appalachian Trail should be authorized as the first NST in the national trails system.
- The Pacific Crest Trail, the Potomac Heritage Trail, and the Continental Divide Trail should be added to the system after feasibility studies were completed.
- Three types of trails should be authorized: NSTs, which would provide long-distance hiking and riding experiences; Federal and State park and forest trails, to allow hikers access to sites of scenic, historic and cultural interest; and metropolitan area trails, to provide walking, cycling and horseback riding opportunities near population centers.

## **PRELIMINARY ROUNDS OF LEGISLATION**

Efforts to protect the Appalachian Trail in the 1960s became the catalyst for a series of Senate bills that culminated in the NTSA. Senator Gaylord Nelson (D-WI) sought Federal recognition for this unique pathway and introduced S. 622 in 1965 to preserve and protect the Trail and to promote Federal cooperation with the various agencies involved in its perpetuation. Public hearings on S. 622, the "Appalachian Trail Bill," were held by the Senate Interior and Insular Affairs Committee. Coupled with the Appalachian Trail bill was S. 2590, which Nelson introduced to establish a national hiking trail system on Department of Interior and Department of Agriculture lands. In addition,

money was to be allocated to States for their trail planning and construction needs. Little action came from these bills that year.

A bill (S. 3171) that encompassed the objectives of S. 622 and S. 2590 was introduced by Senator Nelson in April 1966. It contained several key elements:

- The establishment of a "National Scenic Trail" category with the Appalachian Trail as the first so designated.
- The creation of an Appalachian Trail Advisory Council comprised of Federal, State and private citizens concerned with uniform, consistent management of the Trail.
- Research for nine additional potential trail routes, several of which played a part in frontier history.
- Authorization for the Secretary of the Interior to condemn land, as a last resort, along trail corridors needing protection.

Several other trail bills were introduced in the 1966-1967 session of the House of Representatives (no separate hearings were held for them) by members from Pennsylvania, New Jersey, Minnesota, Nebraska, New York, Georgia, Massachusetts, and Maine. No Congressional action was taken on these bills.

## **THE FINAL ROUND OF LAWMAKING**

Congress began serious deliberations on development of a national trail system in 1967. On February 3, Senator Henry M. Jackson (D-WA), chairman of the Senate Committee on Interior and Insular Affairs and a former member of ORRRC, introduced trail bill S. 827. It came from the Administration and drew largely from *Trails for America*. Co-sponsors were Senators Nelson (D-WI) and Dominick (D-CO). Many elements of Senator Nelson's former bill were incorporated into this bill, which had the support of the Department of the Interior.

Hearings on the bill were conducted before the Senate Committee on Interior and Insular Affairs in March 1967, with strong support from conservation groups and the public. Opposition came from those who wished to reduce States' costs and from those who opposed certain trails in order to receive funds for the establishment or maintenance of trails in their home States.

The significant points of S. 287 were:

- Three categories of trails were to be established: NSTs, NRTs, and connecting or side trails.
- The Appalachian and Pacific Crest Trails were to be designated as the first NSTs.

- The NSTs could be established only by act of Congress; NRTs and connecting trails were to be designated by the Interior and Agriculture Secretaries.
- Authority for land acquisition and land-use agreements by condemnation would be permitted, but only if agreements could not be secured within two years.
- An appropriation of \$5 million for land acquisition along the Appalachian Trail and \$500,000 for the Pacific Crest Trail would be authorized. Funds from the Land and Water Conservation Fund also could be available for States to protect and develop their trails.
- Studies by the Secretaries of Interior and Agriculture were to be conducted of 14 other trails for possible inclusion in the scenic trails system.

Because of disagreements about eminent domain and other issues, the bill was not considered by the full executive committee until March, 1968. On June 13, the amended bill returned to the Senate with these additions:

- Condemnation without owner consent was prohibited whenever 60% or more of the acreage of the entire trail was publicly owned.
- NSTs were redefined as "...extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural or cultural qualities of the areas through which such trails may pass."
- The Continental Divide Trail was separated into northern and southern parts. The northern portion (Montana and northern Wyoming) would remain as part of the initial trail system and the southern section (southern Wyoming, Colorado and New Mexico) would be considered for future designation after further study.
- Missouri Senator Stuart Symington restricted the Potomac Heritage Trail to a "footpath" between Great Falls Park and Spout Run in Virginia, believing that mechanized vehicles and horses would adversely affect the ecology and beauty of the area.

On July 1, 1968, the bill passed the Senate, establishing four NSTs (the Appalachian Trail, the Pacific Crest Trail, the northern section of the Continental Divide Trail and the Potomac Heritage Trail) and the authorities by which they would be administered.

Meanwhile, Representative Roy A. Taylor (D-NC) introduced H.R. 4865 in the House of Representatives. Hearings for the bill were held on March 6 and 7, 1968. On July 3, the House Interior and Insular Affairs Committee reported its amended version after considering such issues as condemnation, mining, trail widths, government liability and easements. The House passed its bill on July 15.

The Senate disagreed with the House amendments, and the proposals went to conference on September 9 and 10, 1968. A compromise was made, placing both the Appalachian Trail and the Pacific Crest Trail into the National Trails System. The House and Senate finally agreed to the conference report on September 18. The wording of the House bill was incorporated in the Senate bill, and the compromise form was passed. The vote in the House was 378 (213-D/165-R) to 18 (0-

D/18-R). President Johnson signed The NTSA, (P.L. 90-543), into law on October 2, 1968.

In 1969, by agreement, the Secretaries of Interior and Agriculture established an inter-agency trails council to discuss the implementation of the Act among the agencies affected by it. The council included representatives of the BOR, the NPS, the USFS, the USACE, the BLM, the USFWS, and OMB. The Council established standards for trail logos and discussed criteria for recreation trails. In addition, it reviewed and coordinated hundreds of applications for NRTs. This group was suspended in 1981 but re-established on an informal basis in 1990 and has met regularly ever since. By EO 13195 it was re-confirmed as an official interagency body (see **Appendix N**).

## **AMENDMENTS TO THE NATIONAL TRAILS SYSTEM ACT**

Since 1968, a variety of amendments have been added to the NTSA to broaden its scope, clarify administrative authorities, and add trails.

### **Key Amendments**

**P.L. 94-527** (Oct. 17, 1976) requested feasibility studies for eight additional trails: Bartram, Dominguez-Escalante, Florida, Indian Nations, Nez Perce, Pacific Northwest, Desert, and Daniel Boone.

**P.L. 95-248** (March 21, 1978) re-established advisory councils and comprehensive management plans for the Appalachian and Pacific Crest NSTs. It also stated 125 acres/mile average maximum for condemnation and land acquisition ceilings.

**P.L. 95-625** (Nov. 10, 1978) Section 551 broadened advisory councils and comprehensive management plans for all trails, established the category of NHTs, establishes four NHTs (Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod) and the Continental Divide NST. Recommended the Overmountain Victory Trail for study, and prohibited funds for Federal land acquisition for five trails.

**P.L. 96-199** (March 5, 1980) established the North Country NST and added Section 10(c) with prohibition of funds for land acquisition for six trails (North Country, Continental Divide, Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod).

**P.L. 96-344** (Sept. 8, 1980) section 14 established the Overmountain Victory NHT.

**P.L. 96-370** (Oct. 3, 1980) established the Ice Age NST (with no study) to be administered by the Department of Interior.

**P.L. 98-11** (March 28, 1983) requested six additional trails for study (Juan Bautista de Anza, Trail of Tears, Illinois, Jedediah Smith, General Crook, and Beale Wagon), authorized three new trails (Potomac Heritage, Natchez Trace, Florida), requested a biennial national trails plan, strengthened

support for volunteers and landowners, defined "extended trail," required written consent for NRTs on private lands, gave a better definition of feasibility, provided a refined process for connecting and side trails, offered protections for existing on-ground jurisdictions and transfer authority, enhanced authorities for interpretive sites, purchase from local governments, purchase of whole tracts, authority to use NPS unit regulations, and defined allowed trail uses. Also stated that donated easements qualify as conservation tax deductions, authorized acceptance of donated markers, enjoined Federal agencies to secure abandoned railroads to be preserved as trails, and offered additional definitions.

**P.L. 98-405** (Aug. 28, 1984) requested feasibility studies for the California and Pony Express Trails. Also authorized acceptance of donated markers for placement at appropriate locations on Federally administered lands with the concurrence of the secretary or other appropriate federal agency head.

**P.L. 99-445** (Oct. 6, 1986) "An Act... designating the Nez Perce (Nee-Me-Poo) Trail" to be administered by the Secretary of Agriculture.

**P.L. 100-35** (May 6, 1987) "An Act ...to designate the Santa Fe Trail as a National Historic Trail" to be administered by the Secretary of the Interior.

**P.L. 100-187** (Dec. 11, 1987) requested a feasibility study for the De Soto Trail.

**P.L. 100-192** (Dec. 16, 1987) established the Trail of Tears NHT consisting of water routes and overland routes that the Cherokee Nation traveled during removal from the East in 1838 to 1839.

**P.L. 100-470** (Oct. 4, 1988) provided for Federal retention of interest in abandoned railroad rights-of-way on Federal Lands for use as trails in national conservation areas or national forests. It also expanded secretarial control of rights-of-ways, especially abandoned railroads, plus reversion of Federal 43 USC 912 ROWs back to the Federal Government unless used for highways. Extended the Iditarod NHT advisory council to 20 years.

**P.L. 100-559** (Oct. 28, 1988) requested the Coronado National Trail Study.

**P.L. 101-321** (July 3, 1990) requested a study for the Selma to Montgomery Trail to commemorate events leading to the Voting Rights Act of 1965.

**P.L. 101-365** (Aug. 15, 1990) established the Juan Bautista de Anza NHT.

**P.L. 102-328** (Aug. 3, 1992) established the California and Pony Express NHTs.

**P.L. 102-461** (Oct. 23, 1992) requested feasibility studies for the Ala Kahakai and American Discovery Trails.

**P.L. 103-144** (Nov. 17, 1993) requested a feasibility study for El Camino Real de Tierra Adentro.

P.L. 103-145 (Oct. 17, 1993) requested a feasibility study for El Camino Real para los Tejas.

P.L. 104-333 (Nov. 12, 1996) section 501 established the Selma to Montgomery with certain special provisions. It also requested feasibility studies for the Old Spanish and Great Western Trails.

P.L. 106-135 (Nov. 12, 1996) requested a feasibility study for the Star-Spangled Banner NHT.

P.L. 106-307 (Oct. 13, 2000) established El Camino Real de Tierra Adentro NHT.

P.L. 106-473 (Oct. 13, 2000) requested the Washington-Rochambeau Revolutionary Route feasibility study.

P.L. 106-509 (Oct. 13, 2000) established the Ala Kahakai NHT.

P.L. 107-214 (Aug. 21, 2002) requested a feasibility study for the Long Walk Trail NHT.

P.L. 107-325 (Oct. 13, 2002) established the Old Spanish NHT.

P.L. 107-338 (Dec. 16, 2002) requested a feasibility study for the Metacomet-Monadnock-Mattabesett Trail.

P.L. 108-342 (Oct. 18, 2004) established El Camino Real de Los Tejas NHT.

P.L. 109-54 (Aug. 2, 2005) section 134 requested a feasibility study for the Captain John Smith Chesapeake Historic Watertrail. (Note: this is the only feasibility study request ever passed as part of an appropriations bill.)

P.L. 109-378 (Dec. 1, 2006) requested feasibility study of additional routes for Trail of Tears.

P.L. 109-418 (Dec. 19, 2006) established the Captain John Smith Chesapeake NHT.

P.L. 110-229 (May 8, 2008) sections 341-343 established the Star-Spangled Banner NHT and a feasibility study for an extension of the Lewis and Clark NHT, as well as authorizing a land conveyance for the creation of an historical interpretive site along the Lewis and Clark NHT.

P.L. 111-11 (March 30, 2009) Title V, Subtitles C and D relate to the National Trails System establishing the Arizona, New England, and Pacific Northwest NSTs as well as the Washington-Rochambeau Revolutionary Route NHT and extending the Trail of Tears NHT. It also calls for feasibility studies for the Great Western and Chisholm NHTs, revises suitability and feasibility studies of four existing NHTs, amends the Willing Seller authority to standardize it across most of the National Trails System, eliminating section 10(c).

*Contributors to this section included Tullia Limarzi and Bill Townsend, Student Conservation Association interns, as well as Neil Davis, STEP intern.*

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**APPENDIX E**  
**APPELLATE AND SUPREME COURT DECISIONS**  
**RELATED TO THE NATIONAL TRAILS SYSTEM ACT, 1985-2014**

**INTRODUCTION**

Numerous cases involving the NTSA have been brought before the Federal Judicial system. These cases reveal that the substance of the Act has never been significantly challenged—no plaintiffs have taken issue specifically with the right of the Federal Government to set aside land for national trails. However, a number of parties have objected to the way the Act has been administered. Particularly contentious has been the conversion of railroad easements to trail use. The rail-to-trail amendment was meant to address two priorities: it created more public recreation trails, and maintained railway easements and right-of-ways to ensure the continued viability of the national rail system. In so doing it addresses the two challenges that the Surface Transportation Board (STB, previously the ICC) faces when considering abandonments of railways: balancing the economic viability of the route for the rail carrier with preservation of railway easements to insure the integrity of the national rail system. A potential trail partner must agree to assume financial liability for the easement from the railway operator. In this way, railbanking was seen by many as a win-win.

A good summary of the process of rail-to-trail conversion appears in the case *Goos vs. ICC* (1990):

*The procedure established to carry out this statutory scheme is as follows. When a railroad has filed a petition for abandonment under 49 U.S.C. § 10903, or a petition for an exemption under 49 U.S.C. § 10505, an interested prospective interim trail user may file a petition with the I.C.C. indicating its willingness to acquire and assume financial responsibility for the right of way. 49 C.F.R. § 1152.29(a)(2) (1989). If the railroad indicates a willingness to enter into an interim trail use agreement, the I.C.C. will issue either a Certificate of Interim Trail Use (CITU) in a regular abandonment proceeding, 49 C.F.R. § 1152.29(c), or a Notice of Interim Trail Use (NITU) in an exempt abandonment proceeding. 49 C.F.R. § 1152.29(d). An NITU or CITU gives the railroad and the prospective trail user 180 days in which to reach agreement. If an agreement is reached, then no abandonment can result until the trail user terminates trail use in an I.C.C. proceeding. Absent agreement within 180 days, the CITU or NITU converts into a notice of abandonment.*

Those cases that do not revolve around the process of rail-to-trail conversions relate to land acquisitions for the NSTs, particularly the use of eminent domain by the Federal Government.

## CASES

(\* = as cited in respective Westlaw case summaries)

### ***United States vs. Goodin, U.S. Court of Appeals, Fourth Circuit, 1985***

**Significance.** The issue revolved around whether or not the USFS could condemn 12.22 acres lying adjacent the Appalachian NST's pathway. Defendants claimed that the Secretary had no authority to take this land, asserting that only parcels actually crossed by the Trail footpath could be condemned under the NTSA. The court rejected this idea, upholding the condemnation by saying that "... a straightforward reading of the National Trails System Act ... and its legislative history reveal a Congressional intent to authorize the Secretary to condemn land adjacent to scenic trails in order to preserve the scenic environment of the trail (and thus its location)... The condemnation power is not limited to land sufficient for a mere footpath." Note, this ruling applies only to States in the 4<sup>th</sup> Circuit: MD, VA, NC, SC, and WV.

### ***Washington State Department of Game vs. Interstate Commerce Commission, U.S. Court of Appeals, Ninth Circuit, 1987\****

Washington State Department of Game (WASHDOG) petitioned for review of ICC order interpreting section of NTSA. The Court of Appeals, Poole, Circuit Judge, held that Commission's interpretation of the Act's section as conditioning so-called rail-to-trail conversions on negotiation of voluntary agreements between abandoning railroads and prospective interim trail users was not unreasonable.

**Significance.** Primary debate focused around whether a railroad could be forced to turn over a right-of-way to a willing trail manager who was willing to accept legal and financial responsibilities over the right-of-way. ICC policy held that rail-to-trail conversions were dependent on a voluntary agreement between the railroad and the trail manager. Washington Department of Game challenged this policy, claiming that if a willing trail operator exists, the railroad should be compelled to turn over the right-of-way as opposed to abandoning it. At issue was wording in 16 U.S.C. § 1247(d) which states that "if a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the Commission shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use." In trying to interpret congressional will in regards to the ICC policy regarding railbanking, the court of appeals found that the ICC policy that they do not have the power to compel conversion of a right-of-way to a trail "is a permissible construction of § 1247(d)." Following this rationale the court ruled against the plaintiff, finding that to overturn the ICC policy would be a political act, not a legal one.

***National Wildlife Federation vs. Interstate Commerce Commission, United States Court of Appeals, District of Columbia Circuit, 1988\****

Petitions were brought for review of ICC's final rules implementing section of NTSA governing conversion of abandoned railroad rights-of-way to nature trails. The Court of Appeals, D.H. Ginsburg, Circuit Judge, held that: (1) rules provided only for voluntary transfers of rights-of-way from railroads to trail operators, and (2) remand was required to determine whether conversion of right-of-way, thereby postponing reversionary interest that would otherwise vest under State law, amounted to taking of private property for which just compensation was required.

**Significance.** A railroad cannot be compelled to enter into a railbanking agreement with a potential trail partner. It must be a voluntarily agreed upon transfer on the part of the rail carrier.

***Illinois Commerce Commission vs. Interstate Commerce Commission, U.S. Court of Appeals, District of Columbia Circuit, 1988\****

The ICC ordered deregulation of abandonments of out-of-service rail lines, exempting from compliance with provision of Staggers Rail Act segments of line that had not been used for at least two years and those upon which no traffic had originated or terminated for two years. On petitions for review, the Court of Appeals, Spottswood W. Robinson, III, Chief Judge, 787 F.2d 616, remanded. Following remand, the Court of Appeals, held that: (1) on remand, ICC adequately considered whether abandonment regulations from which it was exempting eligible rail lines were necessary to effectuate relevant goals of the national rail transportation policy; (2) procedures were not in conflict with National Environmental Policy Act; and (3) procedures did not violate Historic Preservation Act.

**Significance.** The court of appeals also ruled that under this deregulation there was still a process in place for potential trail managers to submit a proposal for railbanking, and therefore the ICC decision was not in conflict with the NTSA, even though the exact process may have differed from the normal railbanking process.

***Glosemeyer vs. Missouri-Texas-Kansas Railroad, U.S. Court of Appeals, Eighth Circuit, 1989\****

Owners of property adjacent to unused railroad line brought suit challenging ICC order under the NTSA, permitting right of way to be used on interim basis as recreational trails. On motions for summary judgment, the U.S. District Court for the Eastern District of Missouri, George F. Gunn, Jr., entered judgment for defendants, and appeal was taken. The Court of Appeals, McMillian, Circuit Judge, held that: (1) provision of NTSA authorizing ICC to enter orders permitting railroad rights-of-way to be used on interim basis as recreational trails did not violate either substantive due process or commerce clause, and (2) provision of NTSA authorizing ICC to enter orders permitting railroad

rights-of-way to be used on interim basis as recreational trails did not constitute violation of taking clause of Fifth Amendment.

**Significance.** Here a group of landowners challenged the ICC's use of section 8(d) of the NTSA (16 USC, section 1247(d)), which allows railroad rights-of way to be used for recreational trails. The court ruled in favor of the Commission, finding that the Tucker Act provided the plaintiffs with possible compensation for their lands and therefore trail use did not constitute a "taking."

***Preseault vs. Interstate Commerce Commission, U.S. Court of Appeals, 1990\****

Property owners, who owned land adjacent to railroad right-of-way, sought review of order of ICC permitting discontinuance of rail service and transfer of right-of-way to public body for interim use as public trail under amendment to the NTSA. The U.S. Court of Appeals for the Second Circuit, 853 F.2d 145, George C. Pratt, Circuit Judge, affirmed, rejecting claims that Act took private property without just compensation and was not valid exercise of Congress' commerce clause power. The Supreme Court, Justice Brennan, held that: (1) even assuming that taking of reversionary interest of adjacent landowners occurs when railroad rights-of-way are converted to interim public trail use under Trails Act, Tucker Act remedy was available for such taking claims, and thus Act could not be deemed to take private property without just compensation; (2) failure to make use of available Tucker Act remedy for alleged taking rendered adjacent landowners' challenge to ICC's order premature; and (3) Trails Act represented valid exercise of congressional power under commerce clause.

**Significance.** In this first high-level major challenge to the NTSA, the Supreme Court ruled that compensation under the Tucker Act gives redress for a taking, even though the NTSA contains no explicit promise to pay for taking, and the Act's 1983 amendments are a valid exercise of Congress's Commerce Clause power. According to the court, compensation under the Tucker Act represents an implied promise, which individuals need not reiterate, but that the petitioners' failure to make use of the provisions of the Act rendered their takings challenge premature. In supporting Congress' actions, the courts stated that "the purposes of encouraging additional recreational trails on an interim basis and preserving railroad rights of way for future reactivation are valid objectives."

***Goos vs. Interstate Commerce Commission, United States Court of Appeals, Eighth Circuit, 1990\****

Landowners filed a petition for review of an ICC decision granting an exemption for a transaction involving a railroad line in which the ICC characterized the landowners' challenges not to the exemption but to the issue of notice of interim trails use under the Trails Act, rejected the environmental and constitutional challenges raised by the landowners and reaffirmed the grant of an exemption from the requirements imposed by ICC statute. On review, the Court of Appeals, Beam, Circuit Judge, held that: (1) the Court of Appeals did not have jurisdiction over parties listed in petition for review as "et al" under the specificity requirement; (2) landowner pleaded a sufficient

personal stake in outcome to meet injury in fact requirement for standing purposes; and (3) court would review ICC's decision that National Environmental Policy Act (NEPA) did not require the ICC to consider environmental impact of a conversion of a railroad right-of-way to interim trail use pursuant to the Trails Act.

**Significance.** In this case, Goos and other landowners wanted to stay the conversion of the right-of-way of Iowa Southern Railroad Company holdings to a trail, barring an Environmental impact assessment of said conversion. The ICC held that just as it doesn't have the power, as established in *Preseault vs. US*, to compel unwilling parties to enter into a railbanking agreement, it cannot keep willing partners from entering a railbanking agreement on environmental grounds. The Court of Appeals upheld the ICC's decision, concluding that "the I.C.C. can exercise little discretion in issuing an NITU or CITU, no purpose can be served by requiring the I.C.C. to conduct an EA as to trail use in an abandonment proceeding."

***U.S. vs. 27.93 Acres of Land, More or Less, Situated in Cumberland County, Commonwealth of Pa. Tract No. 364-07, United States Court of Appeals, Third Circuit, 1991\****

In a condemnation proceeding, the U.S. District Court for the Middle District of Pennsylvania, Sylvia H. Rambo, J., entered judgment in favor of property owners for \$213,000, and they appealed. The Court of Appeals, Seitz, Circuit Judge, held that: (1) District Court properly rejected property owners' argument for requiring Government to produce prior appraisals of property; (2) appraisal valuing property as having commercial use was properly excluded in light of owners' failure to establish reasonable probability that agricultural use property would be rezoned commercial; and (3) property owners were not entitled to relief from judgment due to post-judgment enactment of enterprise district.

**Significance.** The Disantos, the landowners in the condemnation proceeding, held that the government opposed a potential re-zoning of their property from agricultural to commercial use, solely to depress the value of the 27.93 acres to be condemned for use for the Appalachian NST. The courts found that the US government's opposition to a zoning change was merited as an adjoining landowner concerned with a potential rezoning. The government held that a change from agricultural to commercial use would negatively impact the Appalachian Trail which runs through adjoining US government-owned land.

***Collins vs. United States, United States Court of Appeals, Federal Circuit, 1991 \****

Property owners whose property had been acquired by Federal Government claimed reimbursement under Uniform Relocation Assistance and Real Property Acquisition Policies Act for State tax assessed on transferors for gains from sale of property in State. The Claims Court, Harkins, J., denied claim, and property owners appealed. The Court of Appeals, Clevenger, Circuit Judge, held that: (1) Government could not argue that actual price it paid included State tax; (2) Act was not intended to

ensure that relocated persons would suffer no possible economic loss from government land acquisition; (3) “transfer taxes, and similar expenses” as used in Act was limited to those expenses customarily and necessarily paid in order to complete legal title transfer or to perfect recording of new deed; and (4) State tax did not qualify as such expense.

**Significance.** While the case revolved around land purchased by the U.S. government for use for the Appalachian NST, the point of contention related to tax laws and was not a challenge to the taking of the land, or the NTSA.

### ***Consolidated Rail Corporation vs. ICC, United States Court of Appeals, District of Columbia Circuit, 1994\****

Property owners sought issuance of abandonment certificate for section of elevated railroad track adjacent to owners' property. The railroad corporation that owned track opposed abandonment. The ICC issued certificate, on condition that property owners post surety bond. Railroad petitioned for review and property owners and city and State authorities cross-petitioned for review of surety bond issue. The Court of Appeals, Karen LeCraft Henderson, Circuit Judge, held that: (1) abandonment was supported where continued use of track was neither practicable nor economically feasible, and (2) surety bond condition was proper.

**Significance.** This case is somewhat unique, as it deals with an abandonment against the will of the rail operator. In this case, brought by adjacent landowners and New York City on a line which was deemed economically infeasible for continued rail use, Consolidated Rail Corporation attempted to oppose abandonment of the Highline in Manhattan which they held, and partially justified this by citing the NTSA and “railbanking.” However, the court found that the NTSA was not applicable to the case because no party had invoked it. Consolidated Rail Corporation argued that the NTSA amendment allowing for railbanking was a sign of congressional intent to preserve rail lines and avoid abandonment. However, the court ruled that “Trails Amendments are not a blanket prohibition of all abandonments.”

### ***US, DOI vs. 16.03 Acres of land, More or Less, Located in Rutland County, Vermont; U.S. Court of Appeals, Second Circuit, 1994\****

Secretary of Interior sought to condemn 16.03 acres for Appalachian Trail. The United States District Court for the District of Vermont, Franklin S. Billings, Jr., J., permitted condemnation of only 6.7 acres. The United States appealed. The Court of Appeals, Carman, J., U.S. Court of International Trade, sitting by designation, held that: (1) standard of review required Court of Appeals to determine whether Secretary acted *ultra vires*; (2) Secretary may take more than minimal interest in land that will accommodate protection of trail and passage across lands; and (3) district court should not have relied on testimony of government's real estate officer that government would have accepted 10.95 acres.

**Significance.** Landowners of condemned land argued that 16.03 acres exceeded the amount of land necessary to “to provide passage across' [appellees'] lands,” and that the Secretary of the Interior's decision to condemn all 16.03 acres in fee (as opposed to some in easement) was “vindictive, arbitrary and capricious.” In ruling on this case, the court established precedent to review condemnation decisions. In the case of this condemnation it ruled that the Secretary of the Interior was within his authority and acted in good faith. However, while it upheld the Secretary's decision to condemn the land, it remanded the case to decide how much compensation the landowners were due for the takings.

***Fritsch vs. ICC, United States Court of Appeals, District of Columbia Circuit, 1995 \****

Owners of land over which rail line ran pursuant to easement moved to reconsider the ICC's decision to issue notice of interim trail use in abandonment proceeding concerning line. The ICC denied reconsideration and affirmed decision, and landowners filed petition for review. The Court of Appeals, Sentelle, Circuit Judge, held that: (1) petition for review was timely, even though it was filed more than 60 days after original decision, since landowners' motion presented

new material, and (2) ICC's imposition of public use condition in initial order authorizing abandonment of line did not prevent reversion of landowners' property interest, as rail line owner had already consummated abandonment of line.

**Significance.** In this case, the court of appeals found that prior to negotiating an agreement for conversion of an out of use portion of rail-line to a trail, CSX Transportation had already legally abandoned said tract (by removing all rail equipment and notifying the ICC in writing about their intent to abandon the railway), and the railway's easement had reverted to the property owners. Therefore, the court ruled that ICC had no power to go back and enforce a conversion to a trail, since all property rights had already converted to the landowner.

*Note: Jurisdiction over interstate rail commerce (which includes abandonments and rail-banking) passed from the Interstate Commerce Commission (ICC) to the Surface Transportation Board (STB) upon the dissolution of the former body on January 1<sup>st</sup>, 1996.*

***Birt vs. STB, U.S. Court of Appeals, District of Columbia Circuit, 1996\****

Landowner petitioned for review of an order of the STB, which held that a railroad had not abandoned its right-of-way across the landowner's property. The Court of Appeals Circuit Judge, Wald, held that: (1) railroad's continued negotiations with city for “rails to trails” conversion showed an intent not to abandon the right- of-way, and (2) Interstate Commerce Commission (ICC) acted within its discretion in extending the negotiating period.

**Significance.** This case's ruling is very different from *Fritsch vs. ICC*. In this case, the court ruled against the landowner, Birt, to whom property rights would have vested. Melinda Birt filed a



challenge to a decision by the STB that a railroad had not abandoned its right-of-way across her property. The ICC had extended the negotiating period between the city of Napa and the Union Pacific Railroad Company for possible rail-to-trail conversion. The court of appeals ruled in favor of the defendants, finding that these negotiations with the city demonstrated an intent not to abandon the right-of-way, and that the ICC had acted within its discretion in extending the negotiation period. A dissenting opinion written by Judge Sentelle, argued that the case is the same as *Fritsch vs. ICC* (1995) and therefore the decision should be the same. The STB, which succeeded the ICC, has no power to negotiate a rail-to-trail agreement after abandonment of the rail line—they cannot undo the abandonment of a right-of-way.

***Dave vs. Rails-to-Trails Conservancy, U.S. Court of Appeals, Ninth Circuit, 1996 \****

Property owners brought action against corporation which converted inactive railroad corridors into recreational trails and against director and commissioners of Washington State Parks and Recreation Commission, alleging they took private property without just compensation, they violated NPSA by not acquiring rights to rail corridor through negotiation and/or condemnation, and corporation committed conversion, trespass and nuisance. The U.S. District Court for the Eastern District of Washington, Alan A. McDonald, J., 863 F. Supp. 1285, dismissed action for lack of jurisdiction. Owners appealed. The Court of Appeals, Noonan, Circuit Judge, held that district court lacked jurisdiction to consider just compensation claim arising out of taking allegedly effected by transfer of railroad easement.

**Significance.** Just compensation claim for takings during a conversion from a rail to a trail right of way. Court of Appeals affirmed the District Court's ruling that the Federal Claims Court had jurisdiction over such a case, and it was remanded.

***Grantwood Village vs. Missouri Pacific Railroad, U.S. Court of Appeals, Eighth Circuit, 1996\****

The Village brought quiet title action in State court against railroad and party to whom railroad executed quitclaim deed seeking declaration of parties' rights in right of way. Following removal of case to federal court, cross-motions for summary judgment were filed. The U.S. District Court for the Eastern District of Missouri, Terry I. Adelman, United States Magistrate Judge, ruled against village. The Village appealed. The Court of Appeals, Beam, Circuit Judge, held that village lacked interest in property.

**Significance.** The Village of Grantwood held that a right of way transferred from the Missouri Pacific Railroad Company to Trailnet was invalid because the right of way had already been abandoned. The Village claimed that jurisdiction in this case should go to the State Court of Missouri since it was a battle about property held in said State, however the Court of Appeals reinforced that the case was really about railway abandonment, over which the ICC (now STB) has sole jurisdiction. Therefore the case was properly heard in a District Court. Echoing previous decisions, the Court

also found that the ICC had the right to stay abandonment while the railway was negotiating with a potential trail partner, and the expiration of the initial 180 day period (which was extended) did not void the agreement.

***Becker vs. STB, United States Court of Appeals, District of Columbia Circuit, 1997\****

Petitioner claiming reversionary interest in railroad right-of-way sought judicial review of decisions of STB and ICC authorizing conversion of right-of-way to trail use under the NTSA. The Court of Appeals, Karen LeCraft Henderson, Circuit Judge, held that railroad's abandonment of railroad right-of-way was consummated when first notice of interim trail use (NITU) expired, and therefore ICC lost jurisdiction over line and lacked jurisdiction to issue second NITU.

**Significance.** In this case, a 180 day public-use period followed notice of intended abandonment of a railway. During this time a NITU was issued. However, once negotiations for conversion of the easement to a recreation fell through, the NITU expired with no transfer of the easement. Later the National Trail Association and the railroad company (T&P Railway, Inc.) worked out an agreement and requested that another NITU be issued. The ICC issued a new NITU, which was challenged by a landowner, Daryl Becker. Becker claimed that the right of way had been abandoned and that the ICC had no jurisdiction to issue another NITU. The Court of Appeals concurred with Becker, finding that substantial evidence supported the fact that the railway had already been abandoned prior to the issuing of the second NITU. This case differs from *Birt vs. STB*, in that when the T&P Railway was asked to extend the public-use period to continue negotiations for trail-use (at the time with the Kansas Department of Transportation), they unequivocally expressed a desire not to extend the negotiation period.

***Nebraska Trails Council vs. STB, U.S. Court of Appeals, Eighth Circuit, 1997\****

Organizations interested in fostering recreational trails sought review of decision of the STB establishing \$150 fee on requests to use or acquire proposed-to-be-abandoned railroad rights-of-way for interim recreational trail use and railbanking. The Court of Appeals, Bowman, Circuit Judge, held that STB fee was not arbitrary, capricious, abuse of discretion, or otherwise not in accordance with law.

**Significance.** Originally, the STB intended to implement a \$650 fee on requests to acquire railroad right-of-ways for interim trail use, but given public cries that this would prove an impediment to future groups wishing to establish rails-to-trails, the STB lowered the fee to \$150.

***Jost vs. STB, United States Court of Appeals, District of Columbia Circuit, 1999\****

Railroad filed notice of exemption regarding out-of-service line, and private organization filed statement of willingness to serve as sponsor for recreation trail on railroad right-of-way. The STB issued notice of interim trail use (NITU) for the railroad line, and, subsequently, denied landowner's petition to reopen abandonment proceeding. Landowner petitioned for review. The Court of

Appeals, Wald, Circuit Judge, held that: (1) STB failed to adequately articulate its rationale for refusing to reopen proceeding when faced with landowner's evidence that railroad had sold off full-width rights-of-way, thus requiring remand; but (2) Board's policy of applying rebuttable presumption that any private organization that filed a statement of willingness met statutory requirement to serve as trail sponsor was reasonable interpretation of Board's obligation under Trails Act; and (3) Board was not arbitrary and capricious in refusing to reopen proceedings to examine private organization's financial fitness to be a trail sponsor.

**Significance.** In this case the court ruled that the STB is not obligated to look into the financial fitness of a potential trail sponsor in railbanking situations. However, the court remanded the case to the STB finding that sale of a right-of-way should be considered when determining whether a line is abandoned in regards to issuance of an NITU, just as cessation of rail service and removal of tracks and equipment are taken into account. In this case, the STB did not consider the fact that the railroad company had sold part of the right-of-way in determining their desire to abandon the right-of-way.

### **RLTD Railway Corporation vs. Surface Transportation Board, U.S. Court of Appeals, Sixth Circuit, 1999\***

Railroad filed an application to abandon a segment of its rail line, and associations supported this application and submitted its own application for imposition of a "trail condition." The STB determined that it did not have jurisdiction, and petition for review was filed. The Court of Appeals, Norris, Circuit Judge, held that: (1) the STB does not have jurisdiction over lines that are no longer part of the national rail system, and the National Trail System Act does not broaden the jurisdiction of the STB so that the STB may undertake railbanking proceedings where it would not otherwise hear an abandonment application, thus (2) once a line of railroad track has been properly abandoned, the STB generally loses jurisdiction and cannot issue a trail condition.

**Significance.** The STB has no authority impose a railbanking agreement on railways which are not part of the national rail system. Reiterates previously stated point that the STB has no authority to issue a trail use condition once a right-of-way has been abandoned.

### **Redmond-Issaquah Railroad Preservation Association vs. Surface Transportation Board, U.S. Court of Appeals, Ninth Circuit, 2000\***

Organization of homeowners appealed decision of STB rejecting organization's offer of financial assistance (OFA) to acquire railroad line which owner sought to abandon. The Court of Appeals, D. W. Nelson, Circuit Judge, held that: (1) STB's interpretation of statute governing OFAs to require it to consider continuation of rail services when it approves or disapproves OFA was reasonable, and (2) STB's rejection of organization's OFA was not arbitrary and capricious.

**Significance.** The Redmond-Issaquah Railroad Preservation Association (RIRPA) attempted to use an OFA, also known as a forced purchase, to stop abandonment and railbanking of a right-of-way

owned by Burlington Northern Santa Fe. The STB denied this petition citing that the intent of the OFA process was to maintain rail service, and there was little indication that rail service was a viable option in the future on the line. The petition by RIRPA was motivated by a desire to halt the creation of a nature trail on the right-of-way, which is not in keeping with the intent of an OFA. The court upheld the STB's decision.

### ***Citizens Against Rails-to-Trails vs. STB, U.S. Court of Appeals, Ninth Circuit, 2001\****

Following partial affirming of a decision of the STB's predecessor to permit discontinuance of rail operations on a rail line, 35 F.3d 585, issue of predecessor's conditional authorization of salvage was remanded. On remand, the Board authorized the railroad company to salvage a portion of the rail line, subject to certain environmental conditions, and issued a certificate of interim trail use (CITU), authorizing use of the railroad right-of-way as a trail. A coalition of landowners whose property adjoined the right-of-way petitioned for review of the Board's issuance of the CITU. The Court of Appeals, Rogers, Circuit Judge, held that: (1) the Board did not err in determining that its decision to issue a CITU under the NTSA was not subject to the National Environmental Policy Act (NEPA), and (2) the Board could reasonably have concluded that the Trails Act itself did not require it to conduct a separate environmental assessment before issuance of the CITU.

**Significance.** As the STB's role is purely ministerial in the issuance of a CITU (they cannot compel an unwilling railroad company to enter a rail-to-trail agreement (just as they cannot deny such a deal between willing partners), the NEPA does not apply to such a decision, and an environmental assessment is not necessary prior to the issuance of an NITU or CITU.

### ***Mauler vs. Bayfield County, U.S. Court of Appeals, Seventh Circuit, 2002\****

Landowners sued county claiming title to part of an old railroad corridor that crossed their private property and was used as a public trail. The U.S. District Court for the Western District of Wisconsin, 204 F.Supp.2d 1168, Barbara B. Crabb, Chief Judge, granted the county's motion for summary judgment, and landowners appealed. The Court of Appeals, Flaum, Chief Judge, held that: (1) former corridor was subject to an implied right of reverter in the United States; (2) landowners did not possess a legal interest in the corridor; and (3) landowners lacked standing to pursue constitutional due process challenge to county's use of the strip as a public trail.

**Significance.** Landowners who purchased land with a recreational trail converted from a railway right-of-way sued claiming that under the law, the right-of-way had reverted to them as adjacent landowners. The Court upheld the District Court's ruling that the transference of the right-of-way from the rail carrier to Bayfield County was legal, and that the Mauler's had no claim to the land, and in turn no takings case either. Strengthens idea that right-of-ways should be maintained for public use as opposed to reverting to adjacent landowners.

### ***King County vs. Rasmussen, U.S. Court of Appeals, Ninth Circuit, 2002\****

County filed suit to quiet title to 100-foot-wide strip of land that bisected landowners' property and to obtain declaration of its rights to use former railroad right of way for public trail. Landowners filed counterclaims and removed action. The U.S. District Court for the Western District of Washington, Barbara J. Rothstein, Chief District Judge, 143 F.Supp.2d 1225, entered summary judgment for the County, and landowners appealed. The Court of Appeals, Betty B. Fletcher, Circuit Judge, held that: (1) action was properly removed under federal question jurisdiction; (2) original homesteader of surrounding tract had power to convey either easement or fee simple title at time of conveyance to railroad; (3) under Washington law, landowner conveyed fee simple title and thus landowners had no reversionary interest when railway was abandoned; (4) district court did not have authority to review action of the STB under the NTSA; (5) the County did not violate First or Second Amendment rights of landowners; and (6) landowners' due process and rights to compensation for taking of land were not violated.

**Significance.** The court upheld the railbanking of a railroad easement running through the Rasmussen's property. The trail condition was reached under normal proceedings, and the fact that the right-of-way had been granted to the railroad in fee-simple, meant that the Rasmussen's had no claim to the right-of-way bisecting their property.

### ***Toews vs. U.S., U.S. Court of Appeals, Federal Circuit, 2004\****

Landowners who claimed to own fee interests in segments of rail corridor brought suit against the United States, alleging that interim trail use of the corridor pursuant to the NTSA constituted a taking under the Fifth Amendment. The U.S. Court of Federal Claims, Eric G. Bruggink, Senior Judge, granted judgment for landowners, 53 Fed.Cl. 58. The United States appealed, and the Court of Appeals, Plager, Senior Circuit Judge, held that: (1) public transportation easement for railroad purposes was converted into new and different easement as result of interim use of land as public recreational trail and linear park; (2) certification of question to State court was not warranted; and (3) fact that city, and not federal government, actually established a public recreational trail upon land that was formerly railroad easement did not preclude finding that Federal Government was liable for taking of property.

**Significance.** The court ruled that the shift from railroad to trail and linear-park use constituted a fundamental shift in use of right-of-way, and upheld the Federal Claims decision that landowners were entitled to compensation for a Fifth Amendment taking. The establishment of said linear-park/trail was within the jurisdiction of the government, but adjacent landowner's who have a fee-simple interest in the right-of-way are entitled to financial compensation.

### ***Hash vs. U.S., U.S. Court of Appeals, Federal Circuit, 2005***

Landowners brought a class-action takings claims under the Little Tucker Act challenging conversion of abandoned railroad right-of-way traversing their lands into recreational trails. The

U.S. District Court for the District of Idaho, Mikel H. Williams, U.S. Magistrate Judge, entered judgment for the government. Landowners appealed. The Court of Appeals, Pauline Newman, Circuit Judge, held that: (1) land patents to settlers that were made “subject to” pre-existing railroad right-of-way over public lands conveyed fee title to land underlying right-of-way; (2) successors to such patentees suffered taking when government converted land into recreational trails upon railroad's abandonment of right-of-way; and (3) under Idaho law, adverse occupancy of right-of-way did not confer on railroad any greater interest in the land than that of a right-of-way easement. Reversed in part, vacated in part, and remanded.

**Significance.** The case stratified landowners in class-action suit into multiple categories depending on the way in which the railway right-of-way was established and how the contract was worded. The case deals heavily in State law specific to Idaho. However, for many of the categories of landowners, the District Court decision that fee simple ownership remained with the government following railroad abandonment was overturned. This opened the door for Fifth Amendment takings, and the case was remanded to the District Court in light of this fact.

### ***Barclay vs. U.S., U.S. Court of Appeals, Federal Circuit, 2006\****

Landowners brought actions against the United States to recover for takings when railroad rights-of-way were converted to trails under the NTSA. The U.S. District Court for the District of Kansas, Wesley E. Brown, Senior Judge, 351 F.Supp.2d 1169, and the U.S. Court of Federal Claims, George W. Miller, J., 64 Fed.Cl. 609, dismissed the suits as time barred. Landowners appealed. The Court of Appeals, Dyk, Circuit Judge, held that takings claims accrued, and statute of limitations began to run, upon issuance of original Notices of Interim Trail Use or Abandonment (NITU).

Barclay and others brought suit against the United States, citing a Fifth Amendment taking and seeking compensation. The point of contention in this case was not whether a taking had taken place, but whether suit was limited by the statute of limitations. The original Notices of Interim Trail Use (NITU) for the land in question were filed between March 31, 1995 and May 24, 1996. The suit was not filed until April 7, 2004. The United States District Court for the District of Kansas ruled in favor of the defendants, finding that the six year statute of limitations took effect upon filing of the NITU, and therefore had been exceeded in this case. The Court of Appeals affirmed the lower court's decision, ruling against the plaintiffs. However, a strong dissenting opinion was provided by Judge Newman who argued that the filing of an NITU merely opened the door to the possibility of railbanking, and no takings are certain until an agreement is reached between a trail operator and the railroad which provided for the transfer of operations of the easement from the railroad to the trail. Therefore, the statute of limitations should not take effect when the NITU is filed but instead when said agreement is reached. In so doing, Judge Newman brought into question the precedent established in *Caldwell vs. U.S.* that the statute of limitations took into effect following the NITU. Drawing on this flaw in precedent regarding NITUs and the statute of limitations Judge Newman wrote that “to the extent that *Caldwell* is construed to hold otherwise, as does the panel majority, *Caldwell* warrants review. We should sit *en banc* for this purpose, for the government advises that

there are some 22 pending cases arising from the NTSA. It is appropriate and necessary for this court to clarify the inconsistencies in our precedent.”

### **Fletcher vs. Burlington Northern and Santa Fe Railway Company, U.S. Court of Appeals, Eighth Circuit, 2007\***

Owners of land adjacent to railroad brought action in State court against railroad claiming it failed to comply with its statutory duty to maintain property and against the mayor and town alleging they improperly entered into negotiations with railroad to convert railroad right of way to trail use. Following removal, cases were consolidated. The U.S. District Court for the Western District of Missouri, Richard E. Dorr, J., granted summary judgment to all defendants and landowners appealed. The Court of Appeals, Murphy, Circuit Judge, held that: (1) Missouri statutes requiring railroad corporations to maintain its railroad lines did not apply to railroad after Notice of Interim Trail Use (NITU) had been issued, and (2) landowners lacked standing to pursue *mandamus* claim alleging improper entrance into negotiations with railroad.

**Significance.** Of primary importance is that adjacent landowners sued Burlington Northern Santa Fe (BNSF) for damages due to maintenance failures on right-of-way after BNSF had applied for abandonment and an NITU had been issued. The court ruled that after the move to abandon and the issuance of an NITU, BNSF was no longer obligated to perform the duties of a rail operator in maintaining the right-of-way.

### **Moody vs. Great Western Railway Company, U.S. Court of Appeals, Tenth Circuit, 2008\***

Property owners brought State court action against railway company and trail authority, seeking to quiet title to real property formerly used as a railroad right-of-way. After company and authority removed the case, the U.S. District Court for the District of Colorado, Lewis T. Babcock, Chief Judge, denied motion to dismiss filed by company and authority and granted owners' motion for remand. Company and authority appealed. The Court of Appeals, Paul J. Kelly, Jr., Circuit Judge, held that: (1) remand was based on subject-matter jurisdiction; (2) remand was colorably characterized as based on subject-matter jurisdiction; (3) collateral-order doctrine did not apply to allow appellate review of remand order; (4) exception to bar on review of remand orders, that an order nominally based on subject-matter jurisdiction but primarily based on unrelated factors was reviewable, did not permit review; and (5) remand could not be characterized as a discretionary remand based on a refusal to exercise supplemental jurisdiction. Appeal dismissed.

**Significance.** The district court remanded a case involving railbanking to State court citing a lack of jurisdiction. The court of appeals affirmed the decision, ruling against a motion by defendants to dismiss the case outright. (Little actual significance for the rails-to-trails process.)

### ***Ellamae Phillips vs. US, U.S. Court of Appeals, Federal Circuit, 2008***

Property owner brought suit against the United States, alleging that conversion of railroad right-of-way across its land to a biking and hiking trail pursuant to NTSA constituted a taking. The U.S. Court of Federal Claims, Lawrence M. Baskir, J., 77 Fed.Cl. 387, granted owner's summary judgment motion. United States appealed. The Court of Appeals, Lourie, Circuit Judge, held that trial court was not precluded from deciding scope of easement or if scope was broader than railroad use, whether easement was abandoned. Vacated and remanded.\*

**Significance.** This decision provides a good summary of the process by which a court decides whether or not a rail-to-trail conversion constitutes a Fifth Amendment taking:

*Under Preseault II, the determinative issues for takings liability are (1) who owns the strip of land involved, specifically, whether the railroad acquired only an easement or obtained a fee simple estate; (2) if the railroad acquired only an easement, were the terms of the easement limited to use for railroad purposes, or did they include future use as a public recreational trail (scope of the easement); and (3) even if the grant of the railroad's easement was broad enough to encompass a recreational trail, had this easement terminated prior to the alleged taking so that the property owner at the time held a fee simple unencumbered by the easement (abandonment of the easement).*

In addition, this case deals heavily with precedence from Hash, which the plaintiff cited as justification for a taking. However, the court found that this case varied from Hash, in that the government had ceded that the easement in the Hash case was limited to railroad use only, which it had not done in this case. The court stated that no previous decisions had decided the scope of “the 1875 Act,” which deals with railroad right-of-ways. In particular, the court stated a need for consideration of whether the 1875 Act limits easements to only use for railroads, which then effects abandonment and takings. In light of this point of contention being unresolved, the Court voided the decision of Federal Claims Court, and remanded the case.

### ***Marvin M. Brandt Revocable Trust, et al., vs. United States, U.S. Supreme Court, 134 S.Ct. 1257, 2014***

United States filed quiet title action against landowners to resolve ownership of abandoned railroad right-of-way. The United States District Court for the District of Wyoming, Alan B. Johnson, J., 2008 WL 7185272, granted summary judgment to United States. Owners appealed. The United States Court of Appeals for the Tenth Circuit, 496 Fed.Appx. 822, affirmed. Certiorari was granted. The Supreme Court, Chief Justice Roberts, held that railroad's right of way was simple easement that terminated upon abandonment. 496 Fed.Appx. 822, reversed and remanded.

Congress passed the General Railroad Right-of-Way Act of 1875 to provide railroad companies “right[s] of way through the public lands of the United States,” 43 U.S.C. § 934. One such right of



way, obtained by a railroad in 1908, crosses land that the United States conveyed to the Brandt family in a 1976 land patent. That patent stated, as relevant here, that the land was granted subject to the railroad's rights in the 1875 Act right of way, but it did not specify what would occur if the railroad later relinquished those rights. Years later, a successor railroad abandoned the right of way with federal approval. The Government then sought a judicial declaration of abandonment and an order quieting title in the United States to the abandoned right of way, including the stretch that crossed the land conveyed in the Brandt patent. Petitioners contested the claim, asserting that the right of way was a mere easement that was extinguished when the railroad abandoned it, so that Brandt now enjoys full title to his land without the burden of the easement. The Government countered that the 1875 Act granted the railroad something more than a mere easement, and that the United States retained a reversionary interest in that land once the railroad abandoned it. The District Court granted summary judgment to the Government and quieted title in the United States to the right of way. The Tenth Circuit affirmed. The Supreme Court held the right of way was an easement that was terminated by the railroad's abandonment, leaving Brandt's land unburdened.

**Significance.** The issue in this case was whether the federal government retains an interest in railroad rights-of-way that were created by the federal General Railroad Right-of-Way Act of 1875, after the cessation of railroad activity on the corridor. The Rails-to-Trails Conservancy believes that the vast majority of rail-trails and rail-trail projects are not directly affected. Those rail-trails that have been built on railbanked corridors or fee simple land purchases will remain safe. Railbanked corridors are preserved for future rail use by being converted to a trail in the interim.

### **CLAIMS CASES (1985-2010)**

In addition to cases heard by the U.S. Court of Appeals and Supreme Court, a number of cases involving the NTSA have been heard by the U.S. Court of Federal Claims. Many of the cases were seen before an appellate court and remanded to claims court to determine compensation for a Fifth Amendment taking –necessitated by either a rail-to-trail conversion or the exercise of eminent domain by the Federal Government.

The following cases heard by the Court of Federal Claims relate to the NTSA:

Florida Rock Industries, Inc. v. the United States, 1985

Chevy Chase Land Company of Montgomery Country, Maryland vs. US, 1997

Fauvergue vs. US, 1998

Moore vs. US, Unites States Court of Federal Claims 1998

Fauvergue vs. US, 1999

Glosemeyer vs. US, 2000

Moore vs. US, 2002

Toews vs. US, 2002  
WMATA vs. US, 2002  
Hubbert vs. US, 2003  
Illig vs. US, 2003  
Moore vs. US, 2004  
Beres vs. US, 2005  
Miller vs. US, 2005  
Renewal Body Works vs. US, 2005  
Blendu vs. US, 2007  
Biery vs. US, 2009  
Ladd vs. US, 2009  
Rogers vs. US, 2009  
Haggart vs. US, 2009  
Jannsen vs. US, 2010  
Rasmuson vs. US, 2010  
Singleton vs. US, 2010

**APPENDIX F**  
**SOLICITOR’S OPINIONS, 1979-2002**

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The Solicitor of the Department of the Interior has provided a number of legal opinions regarding various aspects of the laws that govern administration and management of national scenic and historic trails. Summaries of these opinions are provided below, in chronological order, with key word subjects **highlighted**.

**FEB. 23, 1979**

***Opinion regarding Section 551(23) of the National Parks and Recreation Act of 1978, P.L. 95-625***

Section 551(23) of this Act amended section 10 of the NTSA by adding language **prohibiting any Federal funds from being spent on acquisition of lands** to protect five national trails (Continental Divide, Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod). This opinion explains that the plain meaning of this amendment clearly prohibits all forms of funding to Federal acquisition for these trails.

**AUG. 22, 1980**

***Rocky Mountain regional solicitor’s opinion regarding the meaning of “administered without expense to the United States” as it relates to NHTs***

NPS staff requested this opinion to determine if **cooperative agreements** could be established with States, municipalities, or owners of non-Federal trail segments as provided in 16 U.S.C. 1246(h) in view of the restrictions in Title V of the National Parks and Recreation Act of 1978 which limited the authority of the Secretary to certify only those sites and segments that would be administered **“without expense to the United States.”** The opinion states that: 1) this provision only applies to NHTs (not NSTs), and 2) “entering into cooperative agreements would be possible, although the Secretary will be very limited in what he can agree to do in cooperating with non-Federal entities if he has certified the non-Federal segment as protected.” Conversely, the solicitor states that “[i]f the non-Federal segment has not been certified, there seems to be no limitation on what may be accomplished while cooperating on non-Federal segments.”

**OCTOBER 22, 1980**

***Opinion regarding permission to use the National Recreation Trail logo, registered***

**July 3, 1979**

It is inappropriate to allow partners to sell a patch of the **NRT logo** (at that time trademarked), however it could be used on a partner organization's letterhead under an authorized licensing agreement.

**JUNE 12, 1981**

***Rocky Mountain Regional Solicitor's opinion regarding interpretation of legislative acts affecting the Continental Divide NST***

This opinion supplements a memorandum issued by the U.S. Department of Agriculture's Denver Regional Office of General Counsel that responded to the same questions as they apply to Forest Service administration of NSTs and NHTs. It states:

- a) 54 U.S.C.1246(d) provides authority for the NPS to **acquire private lands within the boundaries of national parks** crossed by the Trail, through cooperative agreement, donation, or purchase.
- b) While the legislation (and their legislative histories) that created the National Trail System and authorized this trail do not define "**exterior boundaries**," it is assumed this means the legislated boundaries of national parks, national monuments, wildlife refuges, and national forests. However, BLM lands do not have such boundaries.
- c) While the authority to use eminent domain exists in the NTSA, Congress has directed that **no funds** are to be made available for acquisition of lands to protect the CDNST outside the boundaries of Federal areas.
- d) It is inappropriate for Federal agencies to give **legal advice** to private persons regarding liability and other matters. Information may be shared with private persons, however, it should always be emphasized to individuals that they consult an attorney for legal opinions.

**SEPT. 30, 1981**

***Opinion concerning connecting and side trails***

When asked what process should be used in considering **connecting and side trails**, the opinion states that "a connecting or side trail is an independent component of the trail system, and, hence, a method of designation particular to it applies."

**MAR. 17, 1983**

***Opinion concerning delegation of responsibilities through a cooperative agreement with a nongovernmental organization***

When deemed in the public interest, the secretary of Agriculture or the Interior may enter into written cooperative agreements with States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of the national scenic or historic trail either within our outside Federally administered areas (54 U.S.C. 1246(h)). This section and its legislative history must be viewed as a clear Congressional endorsement of the role of the Appalachian Trail volunteer community and a specific **grant of authority** to perpetuate those efforts. There may be limits on the geographic portions of the trail subject to this authority and limits on the functions that may be delegated. Specifically, the NPS **is not authorized to delegate** to a non-governmental organization responsibilities for law-enforcement, the transfer of lands or interests in lands, selection or re-location of the trail right-of-way, land acquisition, or use of proceeds.

**APRIL 15, 1988**

***Rocky Mountain Regional Solicitor's opinion regarding acquisition authority outside federal areas along the Ice Age NST***

NTSA subsection 54 U.S.C. 1249 (c)(2) that appropriates funds for certain national trails, including the Ice Age NST, does not amend subsection (c)(1) of the Act or allow expenditure of funds to acquire lands or interests in lands.

**JULY 26, 1988**

***Southwest regional solicitor's opinion regarding Federal tort liability for the Santa Fe NHT and the applicability of other laws and regulations (including 36 CFR regulations, the National Historic Preservation Act, and the Endangered Species Act)***

The NPS should take reasonable care to determine that non-NPS-managed areas along the Trail (whether by designation of auto tour routes, identification as official trail segments, or otherwise) are **safe from dangers** that should reasonably be known by the agency. Pamphlets or signs may be appropriate to warn visitors that they are entering a non-Federally maintained segment of a national trail, perhaps identifying the known hazards. However, the NPS should **not be expected to ensure the safety** of visitors and should not be held responsible, for example, for conditions which exist along State and county roads over which it has no control.

36 CFR regulations apply on Federal lands owned by the United States and to other lands to the extent that they are controlled, leased, administered, or otherwise subject to the jurisdiction of the NPS. **These regulations are not applicable on privately owned lands and waters**, except as provided in the regulations. Status as an NST or NHT would not in and of itself deprive a State or political subdivision thereof of its civil and criminal jurisdiction in and over lands acquired by the United States.

The National Historic Preservation Act amendments of 1980 apply to lands under Federal ownership or control and allow for **cooperation with other entities to preserve non-Federally owned cultural resources**. The Endangered Species Act applies to any person subject to the jurisdiction of the United States who takes or otherwise deals with endangered species, regardless of land ownership.

**OCT. 14, 1998**

***Pacific Southwest Regional solicitor's opinion concerning additional routes to the California NHT***

NPS staff requested interpretation of the phrase “all routes and cut-offs” found in the establishment language for the California NHT. Specifically, clarification was sought as to whether or not **newly discovered sections of the Trail** (that is, discovered subsequent to the feasibility study and establishment of the trail) could be added to the Trail through an administrative process without Congressional action. The solicitor determined that any additions or deletions to the Trail could only be made with the approval of Congress.

**SEPT. 20, 2002**

***Southwest Regional solicitor's opinion concerning side and connecting trails associated with the Trail of Tears NHT***

NPS staff sought clarity on how to address myriad cutoffs, side trails, and alternative routes associated with the Trail of Tears. The solicitor laments the lack of established procedure to recognize **side and connecting trails** (NTSA section 6). He then goes on to state that a national trail can only include those routes covered by the feasibility study and defined in the establishment language. However, if a side or connecting trail is officially recognized through secretarial action, it “should be treated in the same manner as the Congressionally-designated national historic trail” with which it is associated.

## **APPENDIX G**

### **STATUS OF NATIONAL TRAILS SYSTEM STUDIES AND PLANS**

(As of August 2013)

The usual process for inclusion of a trail into the National Trail System consists of the following procedure:

- first, a study is authorized by Congress;
- second, a feasibility study is completed by the Department of the Interior or Agriculture and sent to Congress;
- third, Congress has the option of acting on the recommendation and designating the trail; and finally,
- if the trail is designated an NST or NHT, a federal land management agency is assigned to administer the trail and complete a comprehensive management plan for protection of the trail corridor.

As of 2009 (PL 111-11), 45 trails have been authorized for study and 26 of these have been designated NSTs or NHTs. This does not include the two original trails that were established by the 1968 Act or the "instant" designations of the Ice Age NST in 1980 and the Arizona NST in 2009.

#### **TRAILS DESIGNATED WITHOUT STUDIES**

##### **Appalachian (designated c. 2,000 miles in length)**

Established as NST October 2, 1968 (P.L. 90-543)

CMP completed September, 1981, and updated June, 1987, by NPS

Trail administered by NPS-APPA, Harpers Ferry, WV.

##### **Pacific Crest (designated 2,350 miles)**

Established as NST October 2, 1968 (P.L. 90-543)

CMP completed January, 1982, by USFS

Trail administered by USFS, Vallejo, CA.

### **Ice Age (1,000 mile designated corridor)**

Established as NST October 3, 1980 (P.L. 96-370)

CMP completed September, 1983, by NPS

Trail administered by NPS, Madison, WI.

### **Arizona (807 mile designated corridor)**

Established as NST March 30, 2009 (P.L. 111-11)

CMP underway by USFS

Trail administered by USFS, Tucson, AZ.

## **ADDITIONAL TRAILS STUDIED AND DESIGNATED, IN ORDER OF REQUESTING LAW**

### **P.L. 90-543, October 2, 1968 (Authorized study of these 14 trails)**

(1) **Continental Divide (3,100 mile designated corridor)**

Study completed 1973 by USFS

Qualified as NST, recommended for designation

Established as NST November 10, 1978 (P.L. 95-625)

CMP completed 1985 by USFS

Trail administered by USFS, Denver, CO.

(2) **Potomac Heritage (704 mile designated corridor)**

Study completed December, 1974, by BOR

Qualified as NST, recommended for designation.

Established as NST March 28, 1983 (P.L. 98-11)

CMP never completed

Trail administered by NPS, Harpers Ferry, WV.



- (3) **Old Cattle Trails of the Southwest**
  - Study completed May, 1975, by BOR
  - Did not qualify as NST, not recommended for designation
  
- (4) **Lewis and Clark (3,700 mile designated corridor)**
  - Study completed January, 1978, by BOR
  - Qualified as NST, recommended for designation
  - Established as NHT, November 10, 1978 (P.L. 95-625)
  - CMP completed January, 1982, by NPS
  - Trail administered by NPS, Omaha, NE.
  
- (5) **Natchez Trace (694 mile designated corridor)**
  - Study completed October, 1979, by HCRS
  - Qualified as NST, recommended for designation.
  - Established as NST March 23, 1983 (P.L. 98-11)
  - CMP completed April, 1987, by NPS
  - Trail administered by NPS Natchez Trace Parkway, Tupelo, MS.
  
- (6) **North Country (3,200 mile designated corridor)**
  - Study completed June, 1975, by BOR
  - Qualified as NST, recommended for designation
  - Established as NST March 5, 1980 (P.L. 96-199)
  - CMP completed September, 1982, by NPS
  - Trail administered by NPS, Lowell, MI
  
- (7) **Kittanning Path**
  - Study completed August, 1976, by BOR
  - Did not qualify as NST, not recommended for designation.

- (8) **Oregon** (2,000 mile designated corridor)  
Study completed April, 1977, by BOR  
Qualified as NHT, recommended for designation  
Established as NHT, November 10, 1978 (P.L. 95-625)  
CMP completed August, 1981, by NPS, updated 1999  
Trail administered by NPS, Santa Fe, NM
- (9) **Santa Fe** (950 mile designated corridor)  
Study completed 1976 by BOR  
Did not qualify as NST, but recommended for designation as NHT  
Established as NHT, May 8, 1987 (P.L. 100-35)  
CMP completed May, 1990, by NPS  
Trail administered by NPS, Santa Fe, NM
- (10) **Long Trail**  
Study completed 1976 by BOR  
Qualified as NST, not recommended for designation at that time.
- (11) **Mormon Pioneer** (1,300 mile designated corridor)  
Study completed May, 1979, by HCRS  
Qualified as NHT, recommended for designation.  
Established as NHT November 10, 1978 (P.L. 95-625)  
CMP completed 1981 by NPS, updated 1999  
Trail administered by NPS, Santa Fe, NM
- (12) **Gold Rush Trails in Alaska**  
Wamcats, Valdez, Koyukuk-Chandalar, Dalton,  
Chilkoot, White Pass

Studies completed March, 1978, by BOR

Did not qualify as NSTs, not recommended for designation

Qualified as Iditarod NHT (c. 2,000 mile designated corridor), recommended for designation

Established as NHT November 10, 1978 (P.L. 95-625)

CMP completed March, 1986 by BLM.

Trail administered by BLM, Anchorage, AK.

(13) **Mormon Battalion**

Study completed September, 1975, by BOR

Did not qualify as NST, not recommended for designation.

(14) **El Camino Real in Florida**

Study completed July, 1977, by BOR

Did not qualify, not recommended for designation.

**P.L. 94-527, October 17, 1976 (Authorized study of these 8 trails)**

(15) **Bartram**

Study completed February, 1982, by HCRS

Did not qualify as NST, not recommended for designation.

(16) **Daniel Boone**

Study completed August, 1990, by NPS

Did not qualify as NST or NHT, not recommended for designation.

(17) **Desert**

Study completed May, 1980, by NPS

Did not qualify as NST, not recommended for designation.

- (18) **Dominguez-Escalante**  
Study completed August, 1981, by NPS  
Did not qualify as NST, not recommended for designation.
- (19) **Florida** (1,300 mile designated corridor)  
Study completed July, 1982, by NPS  
Qualified as NST, recommended for designation  
Established as NST March 28, 1983 (P.L. 98-11)  
CMP completed December, 1986, by USFS  
Trail administered by USFS, Tallahassee, FL.
- (20) **Indian Nations**  
Study completed 1981 by NPS  
Did not qualify as NST or NHT, not recommended for designation.
- (21) **Nez Perce (Nee-Me-Poo)** (1,170 mile designated corridor)  
Study completed March, 1982, by USFS and NPS  
Qualified as NHT, recommended for designation  
Established as NHT October 6, 1986 (P.L. 99-445)  
CMP completed 1990 by USFS  
Trail administered by USFS, Missoula, MT, and Orofino, ID.
- (22) **Pacific Northwest**  
Study completed June, 1980, by NPS and USFS  
Qualified as NST, not recommended for designation at that time  
Established as an NST March 30, 2009 (P.L. 111-11)  
CMP underway  
Trail administered by USFS, Everett, WA.

**P.L. 95-625, November 10, 1978 (Authorized study of this one trail)**

(23) **Overmountain Victory**

Draft study completed 1980 by NPS

Qualified as NHT, recommended for designation

Established as NHT September 8, 1980 (P.L. 96-344)

CMP completed September, 1982, by NPS

Trail administered by NPS, Blacksburg, SC.

**P.L. 98-11, March 28, 1983 (Authorized study of these 6 trails)**

(24) **Juan Bautista de Anza**

Study completed August, 1986, by NPS

Qualified as NHT, recommended for designation

Established as NHT Aug.15, 1990 (P.L. 101-365)

CMP completed in 1996 by NPS

Trail administered by NPS, San Francisco, CA.

(25) **Trail of Tears**

Study completed June, 1986, by NPS

Qualified as NHT, recommended for designation

Established as NHT, December 12, 1987 (P.L. 100-192)

CMP completed June, 1992, by NPS

Trail administered by NPS, Santa Fe, NM

Additional routes studied as requested (P.L. 109-378)

Additional routes added to the Trail (P.L. 111-11)

(26) **Illinois**

Study completed September, 1987 by NPS

Qualified as NHT, recommended for designation.

(27) **Jedediah Smith**

Study completed May, 1987 by NPS

Did not qualify as NST or NHT, not recommended for designation.

(28) **General Crook**

Study never completed by USFS.

(29) **Beale Wagon Road**

Study never completed by USFS.

**P.L. 98-405, August 28, 1984 (Authorized study of these two trails)**

(30) **Pony Express**

Study completed 1987 by NPS

Qualified as NHT, recommended for designation.

Established as NHT Aug. 3, 1992 (P.L. 102-328)

CMP completed by NPS in 1999

Trail administered by NPS, Santa Fe, NM

(30) **California Trail**

Study completed 1987 by NPS

Qualified as NHT, recommended for designation

Established as NHT Aug. 3, 1992 (P.L. 102-328)

CMP completed by NPS in 1999

Trail administered by NPS, Santa Fe, NM

**P.L. 100-187, December 11, 1987 (Authorized study of this trail)**

(31) De Soto Trail

Study completed March, 1990, by NPS

Did not qualify as NST or NHT, not recommended for designation

**P.L. 100-558, October 28, 1988 (Authorized study of this trail)**

(32) Coronado Trail

Study completed March, 1992, by NPS

Did not qualify as NST or NHT, not recommended for designation

**P.L. 101-321, July 3, 1990 (Authorized study of this one trail)**

(33) Selma to Montgomery Trail

Study completed in 1993 by NPS

Qualified as NHT, recommended for designation

Established as NHT Nov. 12, 1996 (P.L. 104-333)

CMP completed by NPS in 2005

Trail administered by NPS, Whitehall, AL

**P.L. 102-461, October 23, 1992 (Authorized study of these two trails)**

(34) American Discovery

Study completed December, 1996 by NPS

Qualified as new category: national discovery trail (NDT)

Recommended for designation, legislation under consideration by Congress ever since, but no establishment bills passed into law

(35) Ala Kahakai Trail

Study completed July, 1997, by NPS

Qualified as NHT, recommended for designation

Established as NHT Nov. 13, 2000 (P.L. 106-509)

CMP completed by NPS in 2009

Trail administered by NPS, Kailua Kona, HI

**P.L. 103-144, November 17, 1993 (Authorized study of this trail)**

- (36) El Camino Real de Tierra Adentro (1,800 mile designated route)

Study completed May, 1997, by NPS

Qualified as NHT, recommended for designation

Established as NHT Oct. 13, 2000 (P.L. 106-307)

CMP completed by BLM and NPS in 2004

Trail administration jointly conducted by BLM and NPS, Santa Fe, NM.

**P.L. 103-145, November 17, 1993 (Authorized study of this trail)**

- (37) El Camino Real para Los Texas

Study completed by NPS in 1998

Qualified as NHT, recommended for designation

Established as El Camino Real de los Tejas NHT Oct. 18, 2004

(P.L. 107-325)

CMP completed by NPS 2011

Trail administration by NPS, Santa Fe, NM

**P.L. 104-333, November 12, 1996 (Authorized study of two trails)**

- (38) Old Spanish Trail

Study completed by NPS in 2001

Qualified as NHT, recommended for designation

Established as NHT Oct. 4, 2002 (P.L. 107-325)



CMP underway jointly by NPS and BLM

Trail administration jointly conducted by NPS, Santa Fe, NM, and BLM, Salt Lake City, UT

(39) **Great Western Trail**

Study completed in 2000 (but not yet published) by USFS

**P.L. 106-135, December 7, 1999 (Authorized study of this trail)**

(40) **Star-Spangled Banner**

Study completed by NPS in 2004, coordinated with inventory of sites associated with the War of 1812.

Qualified as NHT, recommended for designation

Established as NHT May 8, 2008 (P.L. 110-229)

CMP completed by NPS 2012

Trail administration by NPS, Annapolis, MD

**P.L. 106-473, November 9, 2000 (Not an amendment of the National Trails System Act)**

(41) **Washington-Rochambeau Revolutionary Route**

Study complete by NPS in 2006, coordinated with inventory of sites associated with the Revolutionary War

Qualified as NHT, recommended for designation

Established as an NHT March 30, 2009 (P.L. 111-11)

CMP underway by NPS

Trail administration by NPS, Philadelphia, PA

**P.L. 107-214, August 21, 2002 (Authorized study of this one trail)**

(42) **The Long Walk**

Study completed by NPS in 2010

Qualified as NHT, but not recommended for designation

**P.L. 107-338, December 16, 2002 (Authorized study of this one trail)**

(41) **Metacomet-Monadnock-Mattabesett Trail**

Study completed by NPS in 2006

Qualified as NST, recommended for designation

Established as New England NST, March 30, 2009 (P.L. 111-11)

CMP underway by NPS

Trail administration by NPS, Boston, MA

**P.L. 109-54, August 2, 2005 (Authorized study as part of an appropriations bill)**

(43) **Captain John Smith Chesapeake National Water Trail**

Studied completed by NPS in 2006

Qualified as NHT, recommended for designation

Established as NHT Dec. 19, 2006 (P.L. 109-418)

CMP completed by NPS in 2010

Trail administration by NPS, Annapolis, MD

**P.L. 111-11, March 30, 2009 (Authorized three studies)**

(44) **Chisholm Trail**

Study underway by NPS

(45) **Great Western [Cattle] Trail**

Study underway by NPS

(Section 5g) **Revision of Feasibility and Suitability Studies for the Oregon,**

**Pony Express, California, and Mormon Pioneer NHTs**

This study of 64 additional routes and cutoffs is underway by NPS

### Summary Chart of Study and Plan Status

Trail	Study Completed	Qualified	Recommended	Established	CMP Completed
Appalachian	n/a	n/a	n/a	Y (NST)	Y
Pacific Crest	n/a	n/a	n/a	Y (NST)	Y
Ice Age		Y		Y (NST)	Y
Continental Divide	Y	Y	Y	Y (NST)	Y
Potomac Heritage	Y	Y	Y	Y (NST)	N
Old Cattle Trails of the Southwest	Y	N	N	N	
Lewis and Clark	Y	Y	Y	Y (NHT)	Y
Natchez Trace	Y	Y	Y	Y (NST)	Y
North Country	Y	Y	Y	Y (NST)	Y
Kittanning	Y	N	N	N	
Oregon	Y	Y	Y	Y (NHT)	Y updated 1999
Santa Fe	Y	N (as NST)	Y (as NHT)	Y (NHT)	Y
Long	Y	Y	N	N	
Mormon Pioneer	Y	Y	Y	Y (NHT)	Y updated 1999

<b>Trail</b>	<b>Study Completed</b>	<b>Qualified</b>	<b>Recommended</b>	<b>Established</b>	<b>CMP Completed</b>
Gold Rush Trails in AK	Y	Y (as Iditarod)	Y	Y (NHT)	Y
Mormon Battalion	Y	N	N	N	
El Camino R in Florida	Y	N	N	N	
Bartram	Y	N	N	N	
Daniel Boone	Y	N	N	N	
Desert	Y	N	N	N	
Dominguez-Escalante	Y	N	N	N	
Florida	Y	Y	Y	Y (NST)	Y
Indian Nations	Y	N	N	N	
Nez Perce (Nee-Me-Poo)	Y	Y	Y	Y (NHT)	being updated
Pacific Northwest	Y	Y	Y	Y (NST)	underway
Overmountain Victory	Y	Y	Y	Y (NHT)	Y
Juan Bautista de Anza	Y	Y	Y	Y (NHT)	Y
Trail of Tears	Y	Y	Y	Y (NHT)	Y
Illinois	Y	Y	Y	N	
Jedediah Smith	Y	N	N	N	

<b>Trail</b>	<b>Study Completed</b>	<b>Qualified</b>	<b>Recommended</b>	<b>Established</b>	<b>CMP Completed</b>
General Crook	N				
Beale Wagon Road	N				
Pony Express	Y	Y	Y	Y (NHT)	Y
California	Y	Y	Y	Y (NHT)	Y
De Soto	Y	N	N	N	
Coronado	Y	N	N	N	
Selma to Montgomery	Y	Y	Y	Y (NHT)	Y
American Discovery	Y	Y (as NDT)	Y	N	
Ala Kahakai	Y	Y	Y	Y (NHT)	Y
E.C.R. Tierra Adentro	Y	Y	Y	Y (NHT)	Y
E.C.R. Tejas	Y	Y	Y	Y (NHT)	Y
Old Spanish	Y	Y	Y	Y (NHT)	underway
Great Western	Y (but not published)				
Star-Spangled Banner	Y	Y	Y	Y (NHT)	Y
Washington-Rochambeau Rev. Rte	Y	Y	Y	Y (NHT)	underway
The Long Walk	Y	Y	N		

<b>Trail</b>	<b>Study Completed</b>	<b>Qualified</b>	<b>Recommended</b>	<b>Established</b>	<b>CMP Completed</b>
New England	Y	Y	Y	Y (NST)	underway
Captain John Smith Chesapeake	Y	Y	Y	Y (NHT)	Y
Arizona		Y		Y (NST)	underway
Chisholm	underway				
Great Western [Cattle]	underway				
Totals:  51	43 completed	31	28	11 NSTs 19 NHTs	23 completed 5 underway 2 updates done  1 update underway

## APPENDIX H

### GETTING STARTED: TAKING YOUR FIRST STEPS WITH A NATIONAL SCENIC OR HISTORIC TRAIL

#### WHAT IS A NATIONAL TRAIL?

The NTSA was established by law in October, 1968, and is now found in section 54 of the *United States Code*, sections 1241 to 1251. The intent of this System is to create a web of many types of trails nationwide to foster outdoor recreation and fitness, heritage understanding, commemoration of important events, and economic opportunity.

The NTSA creates four types of trails:

NSTs = National Scenic Trails

NHTs = National Historic Trails

NRTs = National Recreation Trails

Connecting and Side Trails

This appendix concentrates primarily on **National Scenic** and **Historic Trails** which together form a backbone network of long-distance trails – the core of a broader “national system of trails.” In the NTSA, definitions are given for both types of trails (with sections and subsections of the Act cited where necessary):

**NSTs** . . . will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. (section 3(a)(2))

**NHTs** . . . will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historic significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. NHTs shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. (section 3(a)(3))

Each of these trails is established through an amendment to the NTSA. Examples of NSTs are the Appalachian or Ice Age NSTs. Historic trails may be more variable and include such examples as the Lewis & Clark, Oregon, Selma to Montgomery, Captain John Smith Chesapeake, and Ala Kahakai NHTs.

On the ground, the two types of trails are often quite distinct. NSTs are primarily continuous

backcountry footpaths designed primarily for hiking (or hiking and horseback in the West). NHTs are discontinuous corridors of remnant traces and ruts joined together by an auto tour route. Several occur largely in bodies of water. Often the best sites to access NHT information are visitor centers on or near the route.

**Attachment A** lists all the NSTs and NHTs established to date, with the year established, each trail's administering agency(s), corridor lengths, and States crossed.

## **Am I an Administrator or a Manager?**

Federal rules relating to national scenic and historic trails are based on the authorities of the NTSA and other relevant laws, such as the National Historic Preservation Act of 1966 and the National Environmental Policy Act of 1969 (1970).

These trail authorities are carried out at two levels:

**Administration** – trailwide coordination, planning, interagency coordination, standards, assistance, and

**Management** – on-the-ground maintenance, visitor services, maintenance, installation of signs, supervision of volunteers, etc.

A fuller explanation of trail administration and management is found in Chapter 3 of this reference manual. Often one Federal agency serves as trail administrator while many others manage segments of a trail on the ground (or in the water).

When a new trail is created – or when you find yourself in a park or public land district – and you realize you have a relationship with a national scenic or historic trail, it helps to know which of these roles yours may be.

### **A. Administration of National Trails**

Either the Secretary of the Interior or the Secretary of Agriculture, as designated by Congress, assigns the administration of each National Trail to one (occasionally two) National Trails agencies. Subject to available funding, these National Trails agencies exercise trailwide responsibilities under the Act and the enabling legislation for that specific trail. These responsibilities include coordination with planning, oversight of trail site and segment development, development of trail maintenance standards, trail marking, trail segment certification, resource protection, trailwide resource inventories and mapping (often using geographic information system or GIS), interpretation, cooperative and interagency agreements, and financial assistance to other cooperating government agencies, landowners, interest groups, and individuals.



## B. Management of Trail Sites and Segments

Many government entities and private groups and individuals own and/or manage lands and waters along each National Trail. Management responsibilities of these landowners or land managers often include inventorying resources and mapping (including GIS and data automation), planning and development of trail segments and sites along the trails, compliance, mitigation of resource damage, provision of appropriate public access, interpretation, trail maintenance, trail marking, resource and viewshed protection, and management of visitor use.

### What Authority Do I Have?

If you are a local land manager, you have a large toolbox of authorities, most tied to the laws and regulations pertaining to your agency and area (park, forest, resource district, etc.). In addition you may be able to use all or most of the authorities found in the NTSA.

The basic authorities of the Trails Act include [with subsection cited]:

- Consultation [7(a)(1)(A), 7(a)(2), 7(h) and 7(i)]
- Conducting feasibility studies [5(b), 7(g)]
- Appointment of advisory councils [5(d), 5(e), 5(f)]
- Conducting comprehensive management plans (CMPs) [5(e), 5(f), 7(g)]
- Appropriation of funds [10]
- Limited financial assistance [7(h)]
- Supporting volunteers [2(c), 7(h), 11]
- Trail corridor land protection [5(e)(2), 7(d), 7(e), 7(f), 7(g), 7(h), 7(k), 9(a), 9(b)]
- Rights of way [7(a)(2), 7(d), 7(e), 7(f)(1), 7(h), 8(d), 9]
- Facilities [7(c)]
- Auto tour routes [7(c)]
- Trail markers and signs [3(a), 5(f)(2), 7(c), 8(e)]
- Cooperative agreements [7(c), 7(d), 7(e), 7(h), and 11(a)]
- Recognizing Federal protection components [3(a)(3)]
- Certification of non-federal NHT segments [3(a)(3)]
- Transfer of management through agreement [7(a)(1)]
- Application of national park and forest authorities [7(i) and 9(a)]
- Historic preservation planning [8(a)]
- Maintenance [7(h)]
- Regulations [7(i), 7(j)]
- Relocation of trail segments [7(b), 7(e)]

Some of these authorities are mandatory and some discretionary. In addition, Federal management agencies may have additional authorities from their agency organic acts, special legislation for specific areas, and generic legislation, such as the National Environmental Policy Act, which affects all Federal agencies. See **Appendix B** for more details interpreting this Act.

Executive Order 13195, *Trails for American in the 21<sup>st</sup> Century*, enjoins all relevant Federal agencies to do what they can to protect and promote trails nationwide. The full text is given in **Appendix O**.

In 2006, six Federal agencies signed a Memorandum of Understanding (MOU) that encourages close working collaborations and interagency cooperation on National Trails System matters. A summary of that MOU can be found in **Appendix O**, and the most recent annual report on the accomplishments of this MOU can be found on-line at [www.nps/nts/](http://www.nps/nts/) under “What’s New?.” The six agencies are the BLM, FHA, NPS, USACE, USFWS, and the USFS.

## **How Does This Relate to My Regular Job?**

The answer this question depends in large part on what your “regular job” is. Here are some typical scenarios.

**Park superintendent or forest supervisor.** If a component of a national trail crosses or touches your park or forest you should welcome its existence and encourage your staff to become familiar with the trail, its users, and its special resource requirements. It helps the travelling public to have the trail incorporated into your interpretive messages and to have it adequately marked for those following it on maps or on the ground. When the park or forest plan is being crafted or updated, the trail corridor should be shown and policies stated which protect and the trail, mark it clearly, and make it accessible to the public.

**Newly hired trail office staffer.** In this role you will be responsible for some or all of a national trail – either as administrator or manager. The authorities of the NTSA may be a little different from other authorities with which you are familiar. If you were hired as a specialist (interpreter, historian, GIS, etc.) you will be applying this discipline to the complexities of a trail corridor. If you are a generalist with a wide array of duties, you will need to be flexible and persistent. The key skill in both areas is respecting and fostering strong and enduring partnerships.

**Regional director (NPS), regional forester (USFS), State director (BLM).** This level usually first hears about a national trail when it is under study. Then, if the trail is established as a national scenic or historic trail, it is assigned to a specific agency and an activation memo comes to you. The memo may merely re-cap the legislation and give little or no instruction. Your role is oversight—to make sure that the necessary funding and staff are available to fully administer the trail, or in the case of trail management responsibilities, ensure that your field staff are well informed about the trail and know who to contact in other agencies to carry out their work.

**State office or regional office staff contact.** When a national trail “falls in your lap,” it may be due to some crisis: a compliance issue, a faulty agreement, personnel problems, or unpaid bills. Keep in mind that the care and feeding of national trails may be somewhat different than other work within your agency and is governed, in part, by the authorities of the NTSA (see p. 4).

**Local district line officer (branch chief, division chief).** You are the locally responsible official whose staff meets the public on a regular basis and also monitors resources to make sure they are not being damaged or threatened. You are the eyes and ears of your agency – and certainly the eyes and ears of the local piece or pieces of the nearby national trail. Your attitude often determines whether or not volunteers feel welcome. Your staff welcomes trail visitors. Your programs serve the visitors and orient them (or not) to the trail within the broader context of your landscape unit.

**Administrative Officer (AO).** You manage money and contracts and personnel. Cooperative agreements are very important to carrying out National Trails System partnerships. If you are inexperienced with them, please get help so that they are well-run. Trail budgets may be messy, coming from several different sources. Clear bookkeeping is critical to good trail administration and management. Please make sure your project and contract status reports and completion reports are submitted on time and that your record-keeping is clear.

**Public Information Officer (PIO).** In general the public is unaware of the National Trails System and its components, so there is a great need to inform local residents, visitors, and the community at large about each trail – and the National Trails System as a whole. Press releases, newsletters, special events, and a well-updated websites all have their place in a trail communications program.

**Interpretive Ranger.** You are often the major point of contact with the travelling public. Your stories and attitude often make the difference to visitors about what they remember. If a new trail shows up in your area, learn about it and weave its stories into yours. Network with interpreters at other sites along the trail and strive to create a seamless story from one site to another so that visitors see the bigger story unfolding as they travel the trail.

**Local law-enforcement officer.** If you are a law-enforcement ranger, local sheriff, or other certified officer of the law you will be interested in investigating accidents and crimes on or near the trail, as well as poaching, destruction of signs and markers, and vandalism. You may also have a role in laying out the safety requirements for special events. Try to keep accurate statistics about trail-related incidents – they may be very useful to managers in the future.

## **What Should I Do First?**

Imagine for a moment that you have been assigned to start-up a new trail administration office (even in an acting position). This may be the first time that you have encountered the NTSA and its authorities. Suddenly a lot needs to be done, and all at once. These tasks are presented in groups since each situation is different and starting up a trail seldom turns out to be a predictable linear experience.

### **Out of the Starting Block (First two to six months).**

Study the NTSA, know your authorities

Become familiar with pertinent policies and reference materials

Introduce yourself to major partners (including other Federal and State agencies)

Study the trail's feasibility study and other maps to learn as much about the trail's resource base as possible

Listen, listen, listen

**Next steps (Next 6-12 months).**

Explore with your budget people how to build an ongoing budget for the trail.

Explore with your planning people how to program for the comprehensive management plan.<sup>1</sup>

Explore with your FACA (Federal Advisory Committee Act) people how to lay the foundations for the advisory council.

Explore with your Administrative Officer how to do cooperative agreements and similar partnership instruments.

Network with your counterparts on other trails and in other agencies.

Develop ideas for a trail marker logo.

Develop project proposals that could be funded as challenge cost-share projects.

Explore the trail to understand its character, challenges, and opportunities.

Meet with your major trail partner group or groups (or, if there aren't any, explore ways to develop such a group).

**Getting Fully Up to Speed.**

Submit a proposal for a trailwide map brochure

Finalize the logo and get it published in the *Federal Register*

Start the comprehensive management plan as funds allow

Organize a trailwide volunteer program to document hours worked and skills needed

Be ready to counter a major threat, such as a wind farm, solar generator, or land fill

Start to issue a monthly or semi-annual report on accomplishments

Be ready to report annual statistics for the 6-agency Annual Report

Consider reporting your accomplishments in monthly update reports.

Note: 1) The comprehensive management plan should not be conducted by the trail administrator for a number of reasons. The ideal situation is when a planning team is assembled to conduct the plan (perhaps coordinated by the regional office or the Denver Service Center), and the administrator serves as client and consultant, free to carry out the many other tasks facing the trail.

### **And Then, What Will Happen Next?**

Once a trail administration office is well-established, the diversity of tasks and direction of partnership can go in many directions. Hopefully by now the comprehensive management plan (CMP) is well enough along that staff have a sense of what its priorities are. By now you should have an established office, a partnership base, experience with cooperative agreements and other partnership documents, a financial tracking system, and integration into your agency's financial, travel, and personnel systems.

When the CMP is completed, celebrate it. Take time to publicize its completion and travel the trail, "selling" the completed plan to major partners and communities along the way. Try your best to get them to buy into the recommendations of the plan. Use the CMP to open doors with other State and Federal land managing agencies (or even units or districts of your own agency) where the trail may not be all that well known. Consider the completion of the CMP as a kind of "coming of age" event, akin to graduating from kindergarten to move onto first grade. A well-crafted CMP should provide you good direction for resource protection, a comprehensive listing and analysis of trail-related features and resources, a listing of partners who can help, and some priorities about actions. At this point, aim for where you and the various partners want the trail to be 10-20 years in the future.

### **What About the Long-term, What Should I Expect?**

It takes a generation or two (25-50 years) for a typical national scenic or historic trail to achieve "maturity." This is an important stage that seems far away in the trail's early days. Yet this "desired future condition" is where most of the efforts growing the trail should be aimed. A good CMP will have taken the time to articulate what this mature stage of the trail might look like.

Another way to describe a trail at this stage is to call it a "full-performance trail." It may be characterized by most, if not all, of these factors:

- The Trail is readily recognized and supported by local communities along its route.
- It is usually or always shown on State and local maps.
- The Trail is supported by one or more independent organizations that know how to raise money – perhaps even have an endowment. Such groups are an abundant source of volunteer

labor and project partnerships over the years. Ideally such a group (or groups) have a membership that exceeds 5,000 people paying dues.

- The Trail survives tough economic times by creative financing.
- The public visitor can easily find the Trail and enjoy special features along it. International visitors make up a significant percentage of trail visitation.
- The Trail has a coherent marking and interpretive system that spins out the story in a layered, evocative way through contemporary media.
- Trail staff, visitors, and the trail organization truly reflect the ethnic mix and topography of the areas along the Trail. All groups involved in the Trail's history and evolution feel comfortable being involved in it.
- The trail appeals to the full spectrum of age groups, so there are activities for children and teens, challenges for young adults, space for families, and programs that engage seniors and retired travelers.

### **Will This Trail Ever be “Finished?”**

The short answer is “probably not.”

National scenic and historic trails reach several points of completion:

- When you can hike or travel it from end to end.
- When all the resources along it are adequately protected.
- For NHTs, when the auto tour route is fully marked.
- When the trail's land corridor is fully protected to ensure the perpetuation of key views, structures, and other trail-related amenities.
- When the trail's interpretive program is complete from end to end.

Curiously, not one of the national trails established as a component of the National Trails System has yet fully achieved all these goals – however, some are close.

### **Are There Good Models to Follow – or Best Practices?**

The answer to this question depends on the topic. The National Trails System is an unfolding grand experiment – and the results vary from trail to trail and task to task. Some obvious examples for everyone to learn from include, by topic:

**Advisory council** – Iditarod NHT (The group was extended to 20 years and morphed into the Iditarod Historic Trail Alliance.)

**Auto tour route marking** — Oregon NHT. Most route markers show both trail and partner group logos, and most were installed by the partner group, the Oregon-California Trails Association.

**Comprehensive management plans (CMPs)** – Ala Kahakai NHT. This CMP was recently

completed and sensitively blends NEPA requirements with native Hawaiian consultations and recommendations.

**Cooperative agreements** – There are many good examples of these. The key is demonstrated public benefit and substantial involvement by the Federal partners. In FY 2010, the NPS made available more than \$4.5 million in National Trails System cooperative agreements (exclusive of challenge cost-shares).

**Facilities** – The Lowndes County Interpretive Center along the Selma to Montgomery NHT. This facility was built using Scenic Byway funds, but its operations and staffing now fall to the NPS trail administrator.

**Innovative educational programs** – “Trail to Every Classroom.” Appalachian NST staff began teacher training to bring trail lore and skills into schools, and this model is now spreading to other trails.

**Organizational Development** – The Appalachian Trail Conservancy and Oregon-California Trails Association are both nonprofit organizations, and the volunteers they attract are essential to the full operations of a national trail. Each group has its problems, but these two have mastered leadership succession, staffing, fund raising, and public relations.

**Recognizing Federal protection components** – The BLM in Wyoming has had a long-standing challenge in its efforts to protect South Pass as land use demands change. BLM’s use of sophisticated viewshed simulations and National Register/National Historic Landmark registration have also helped protect several NHTs.

**Relocation of trail segments** – Small relocations occur on NSTs all the time. The largest so far is the Arrowhead Reroute in northern Minnesota along the North Country NST, requiring an Act of Congress.

**Supporting volunteers** – The Appalachian NST and its constituent clubs continue to provide the largest share of volunteers of any national trail – some having served more than 50 years.

**Trail corridor land protection** – The Appalachian and Florida NSTs regularly engage the help of the NPS National Trails Land Resource Program Center in Martinsburg, WV.

**Trail markers and signs** – The Ice Age NST is appropriately marked along the segments that are complete and open to the public.

## Where Can I Turn for Help?

Each trail is a complex network of partners and officials. Each NST or NHT has been assigned to one (sometimes two) Federal agencies to administer. Contacting trail administrators will also enable you to reach out to on-the-ground partners, nonprofit trail organizations, and trail segment managers as needed. Also, FS, BLM, and NPS have national office program leaders for the National Trails System.

**(List valid as of 3-7-2014)**

<b>Trail</b>	<b>Contact</b>	<b>Phone</b>	<b>e-mail</b>
Ala Kahakai NHT	Arik Arakaki	808-326-6012	<a href="mailto:arik_arakaki@nps.gov">arik_arakaki@nps.gov</a>
Appalachian NST	Wendy Jansson	304-535-6278	<a href="mailto:wendy_jansson@nps.gov">wendy_jansson@nps.gov</a>
Arizona NST	Laura White	520-388-8328	<a href="mailto:laurawhite@fs.fed.us">laurawhite@fs.fed.us</a>
California NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Captain John Smith Chesapeake NHT	Chuck Hunt	443-321-3610	
	<a href="mailto:charles_hunt@nps.gov">charles_hunt@nps.gov</a>		
Continental Divide NST	(vacant)		
El Camino Real de los Tejas NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
El Camino Real de Tierra Adentro NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Florida NST	Megan Eno	850-523-8528	<a href="mailto:meno02@fs.fed.us">meno02@fs.fed.us</a>
Ice Age NST	John Madden	608-441-5610	<a href="mailto:John_madden@nps.gov">John_madden@nps.gov</a>
Iditarod NHT	Kevin Keeler	907-267-1207	<a href="mailto:kevin_keeler@blm.gov">kevin_keeler@blm.gov</a>
Juan Bautista de Anza NHT	Naomi Torres	510-817-1438	<a href="mailto:naomi_torres@nps.gov">naomi_torres@nps.gov</a>
Lewis & Clark NHT	Mark Weekley	402-661-1804	<a href="mailto:mark_weekley@nps.gov">mark_weekley@nps.gov</a>
Mormon Pioneer NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Natchez Trace NST	Calvin Farmer	662-680-4014	<a href="mailto:calvin_farmer@nps.gov">calvin_farmer@nps.gov</a>
New England NST	Charlie Tracy	617-223-5210	<a href="mailto:charles_tracy@nps.gov">charles_tracy@nps.gov</a>
Nez Perce (Nee-Me-Poo) NHT	Sandi McFarland	202-401-4494	<a href="mailto:smcfarland@fs.fed.us">smcfarland@fs.fed.us</a>
North Country NST	Mark Weaver	616-430-3495	<a href="mailto:mark_weaver@nps.gov">mark_weaver@nps.gov</a>
Old Spanish NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Oregon NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Overmountain Victory NHT	Paul Carson	864-936-3477	<a href="mailto:paul_carson@nps.gov">paul_carson@nps.gov</a>
Pacific Crest NST	Beth Boyst	707-562-8881	<a href="mailto:bboyst@fs.fed.us">bboyst@fs.fed.us</a>
Pacific Northwest NST	Matt McGrath	425-783-6199	<a href="mailto:mtmcgrath@fs.fed.us">mtmcgrath@fs.fed.us</a>
Pony Express NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Potomac Heritage NST	Don Briggs	304-535-4016	<a href="mailto:don_briggs@fs.fed.us">don_briggs@fs.fed.us</a>
Santa Fe NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Selma to Montgomery NHT	Barbara Tagger	334-727-6390	<a href="mailto:barbara_tagger@nps.gov">barbara_tagger@nps.gov</a>
Star-Spangled Banner NHT	Jonathan Doherty	443-321-3610	<a href="mailto:charles_hunt@nps.gov">charles_hunt@nps.gov</a>
Trails of Tears NHT	Aaron Mahr	505-988-6098	<a href="mailto:aaron_mahr@nps.gov">aaron_mahr@nps.gov</a>
Washington-Rochambeau Revolutionary Route NHT	Joe DiBello	215-597-1581	<a href="mailto:joe_dibello@nps.gov">joe_dibello@nps.gov</a>
National Program Leads			
Bureau of Land Management	Deb Salt	406-862-2630	<a href="mailto:deb_salt@blm.gov">deb_salt@blm.gov</a>
National Park Service	(vacant)	202-354-6938	
USDA Forest Service	Jonathan Stephens	202-205-1701	<a href="mailto:jstephens02@fs.fed.us">jstephens02@fs.fed.us</a>





## ATTACHMENT A: THE NATIONAL SCENIC AND HISTORIC TRAILS

BLM = Bureau of Land Management, FS = USDA Forest Service, NPS = National Park Service

<u>Trail</u>	<u>Year Established</u>	<u>Administering Agency</u>	<u>Designated Length (miles)</u>	<u>States Crossed</u>
1 Appalachian NST	1968	NPS	2,175 <sup>1</sup>	14 States ME to GA
2 Pacific Crest NST	1968	FS	2,650 <sup>1</sup>	CA, OR, WA
3 Continental Divide NST	1978	FS	3,200	CO, ID, MT, NM, WY
4 Oregon NHT	1978	NPS	2,170	ID, KS, MO, NE, OR, WY
5 Mormon Pioneer NHT	1978	NPS	1,300	IL, IA, NE, UT, WY
6 Lewis and Clark NHT	1978	NPS	3,700	11 States MO to OR
7 Iditarod NHT	1978	BLM	2,350	AK
8 North Country NST	1980	NPS	3,200 <sup>2</sup>	7 States NY to ND
9 Overmountain Victory NHT	1980	NPS	270	NC, SC, TN, VA
10 Ice Age NST	1980	NPS	1,000	WI
11 Florida NST	1983	FS	1,300	FL
12 Potomac Heritage NST	1983	NPS	700	DC, MD, PA, VA
13 Natchez Trace NST	1983	NPS	65 <sup>3</sup>	AL, MS, TN
14 Nez Perce (Nee-Me-Poo) NHT	1986	FS	1,170	OR, ID, MT, WY
15 Santa Fe NHT	1987	NPS	1,200	CO, KS, MO, NM, OK
16 Trail of Tears NHT	1987	NPS	4,930 <sup>4</sup>	7 States from NC to OK
17 Juan Bautista de Anza NHT	1990	NPS	1,200	AZ, CA
18 California NHT	1992	NPS	5,665	10 States, MO to CA
19 Pony Express NHT	1992	NPS	1,966	8 States from MO to CA
20 Selma to Montgomery NHT	1996	NPS	54	AL
21 El Camino Real de Tierra Adentro NHT	2000	NPS & BLM	404	NM, TX
22 Ala Kahakai NHT	2000	NPS	175	HI
23 Old Spanish NHT	2002	NPS & BLM	2,700	AZ, CA, CO, NM, NV, UT
42 El Camino de los Tejas NHT	2004	NPS	2,600	LA, TX
25 Captain John Smith Chesapeake NHT	2006	NPS	3,000	DE, DC, MD, VA
25 Star-Spangled Banner NHT	2008	NPS	290	DC, MD, VA
27 Arizona NST	2009	FS	761	AZ
28 New England NST	2009	NPS	190	CT, MA
29 Washington-Rochambeau Revolutionary Route NHT	2009	NPS	2,020	9 States from RI to VA
30 Pacific Northwest NST	2009	FS	1,200	ID, MT, WA

### Notes:

- 1) For these trails, this is the actual "completed" length.
- 2) Proposed legislation may extend this trail closer to 4,600 miles in total potential length.
- 3) This mileage describes the completed sections of historic trace open for public recreational uses. The full length of the historic Natchez Trace is over 485 miles.
- 4) This trail was more than doubled in length by additional routes added in P.L. 111-11.

## ATTACHMENT B: SUMMARY OF 2006 MOU

Summary of the THE NATIONAL TRAILS SYSTEM MEMORANDUM OF UNDERSTANDING, Signed Dec. 2005- Dec. 2006 by BLM, NPS, FWS, USFS, USACE, and FHWA (See **Appendix O** for the full text of this agreement)

Guiding principles:

A. **Administration** of National Trails means trailwide coordination such as planning, development of standards, trail marking, segment certification, resource inventories, mapping, oversight of interpretation, cooperative and interagency agreements, and financial assistance to partners.

B. **Management** of trail sites and segments means on-the ground responsibilities, such as site planning and development, compliance, mitigation of resource damage, provision of appropriate public access, interpretation, trail maintenance, trail marking, resource and viewshed protection, and management of visitor use.

C. **Cooperation** through partnerships improves the administration and management of National Trails and their associated resources, enhances public service, and minimizes duplication of efforts.

D. Provide National Trails System visitors an **enjoyable and memorable trail experience**. National Trails integrate recreational, health, environmental, cultural, economic, and transportation objectives.

E. **Cultural values** shall be enhanced by strengthening the cultural values of the National Trails. Each Trail has meaning for specific populations as well as to all Americans. The National Trails are invaluable showcases for the rich diversity of America's cultural heritage.

F. Each agency has its own **budget or funding system** for administering and managing National Trails. Within the limits of their respective authorities, the National Trails agencies shall coordinate requests for and obligation of funds related to the National Trails System to eliminate duplication of effort and increase effectiveness.

Specific tasks for all signatory agencies:

1. Regularly attend the Federal Interagency Council on Trails meetings, with field staff as appropriate, and jointly issue an annual report on the accomplishments achieved of this MOU.
2. Compile appropriate trail policy statements to provide for uniform and coherent practices across agency boundaries.
3. Participate in Statewide, metropolitan, local, and project planning when these planning efforts affect agency responsibilities for National Trails.

4. Coordinate plans, in coordination with each other and trail segment landowners, with regional, State, district, regional, park, forest, and metropolitan area plans that include segments of National Trails.
5. Prepare and implement trail corridor, local management, and other plans related to the National Trails System to ensure top quality visitor experiences and to protect trail resources and preserve trail rights-of-way.
6. In planning and management activities for other programs, consider potential impacts to National Trails and disclose that consideration as appropriate.
7. Foster interagency trail training with partners and others.
8. Support national meetings, publications, and websites that promote the National Trails System, its components, its partners, its authorities, and its values.
9. Where waterways associated with the Corps substantially overlap waterborne segments of a National Trail, the Corps shall strive to protect trail resources and to support the purposes and principles of this MOU.
10. As possible, develop coordinated and standardized interagency data sets, mapping, and GIS for National Trails.
11. Collect and manage data to identify conservation and protection opportunities and to prevent adverse impacts.
12. Provide updated NRT information to the National Registry of NRTs.

Additional tasks for agencies that administer national trails (BLM, USFS, and NPS):

13. Formulate a unified set of administrative policies to address resource protection, trail development and maintenance, use of trail markers and logos, site and segment certification, visitor centers, interpretation, promotion, and the identity of National Trails within agency structures.
14. Establish a contact for each National Trail and maintain a list of management offices and administrators. Identify personnel who regularly work with National Trails plus other specialists who can help in such fields as resource identification, cartography, history, archeology, environmental compliance, and interpretation.
15. Gather the National Trail administrators together at an annual meeting to discuss issues related to the implementation of this MOU and other mutual business.
16. Execute supplemental and trail-specific interagency agreements to implement this MOU.

17. Cooperate in planning and conducting environmental analysis and meeting other legal compliance requirements associated with the planning and managing of National Trails.
18. Encourage regularly scheduled meetings for each National Trail to enhance communications and cooperation.
19. Coordinate trail administration and management staff to take maximum advantage of each agency's expertise.
20. Coordinate with each other to maximize public benefits, to avoid duplication of effort and public misunderstanding, to prevent adverse impacts to resources and visitor experiences, and to ensure that interagency actions affecting National Trails are consistent with the NTSA.
21. Conduct collaborative planning efforts affecting National Trails.
22. Enhance administration and management of National Trails through local and Statewide agreements, land use authorizations and permits, regulations, resource management, protection and development projects, interpretive services, trail marking, site-specific planning, and law enforcement.
23. Encourage innovative implementation of the purposes and work elements of this MOU, to the extent resources and authorities permit.
24. Develop and encourage the use on every National Trail of a unified tracking system, including statistical and descriptive items for trail-specific and systemwide factors that can be used to report on the achievement of GPRA goals. This data will be reported annually to agency and departmental heads related to this MOU.

## APPENDIX I

### TRAIL LENGTHS AND STATUS

(In miles, as of January 2014, ranked by type and length)

#### TRAIL LENGTHS

<u>Trail</u> (ranked by designated length)	<u>Authorized/ designated</u>	<u>Existing/ actual</u>
<b>National Scenic Trails</b>		
North Country Trail	3,200	2,723
Continental Divide Trail	3,200	783 +
Pacific Crest Trail	2,600	2,650
Appalachian Trail	2,110	2,185
Florida Trail	1,300	1,036
Pacific Northwest	1,200	c. 1,206
Ice Age Trail	1,000	643
Arizona	761	819
Potomac Heritage Trail	700	694
Natchez Trace Trail	485	65
New England	<u>190</u>	<u>215</u>
NST Total	16,746	c. 13,019 (78 % “completion”)
<b>National Historic Trails</b>		
		<u>auto tour route</u>
California Trail	5,665	3,274
Trail of Tears	4,930	993
Lewis and Clark Trail	3,700	7,000 +
Cpt. John Smith Chesapeake	3,000	195

Old Spanish	2,700	?
El Camino Real de los Tejas	2,600	80
Iditarod Trail	2,350	?
Oregon Trail	2,170	2,130
Washington-Rochambeau	2,020	?
Pony Express	1,966	1,776
Mormon Pioneer Trail	1,300	1,495
Santa Fe Trail	1,200	1,202
Juan Bautista De Anza	1,200	900
Nez Perce (Nee-Me-Poo)	1,170	?
Star Spangled Banner	560	150
El Camino Real de Tierra Adentro	404	25
Overmountain Victory Trail	270	104
Ala Kahakai	175	?
Selma to Montgomery	<u>54</u>	<u>54</u>
NHT Total	37,434	c. 19,378 (52 % “completion”)
Grand Totals	54,180	c. 32,397

Once the FTDS standards have been applied to every trail and consistent physical statistics are available for each trail, these numbers may be refined. For example, the FTDS differentiates three types of NHT lengths:

NHT 1 – the designated route (original routes(s) of travel),

NHT 2 – the length of remnant segments discernible today, and

NHT 3 – the length of commemorative, highway, or recreational components used to retrace the trail today.)

**STATUS of DESIGNATED ROUTE**

Note: this does not account for individual sites nor lengths of motor tour routes.

**Distances of Total Trail Corridor (in miles)**

<u>Trail / Administering Agency</u>	<u>FS</u>	<u>BLM</u>	<u>NPS</u>	<u>Other Fed./Ind. Ress.</u>	<u>State/Local</u>	<u>Private</u>
<b>National Scenic Trails</b>						
Appalachian (NPS)	804		351		348	554
Arizona (FS)		46				
Continental Divide (FS)	1,887	389	192		570	175
Florida (estimate) (FS)	155		90	325	500	300
Ice Age (rough estimate only) (NPS)	60				340	600
Natchez Trace (NPS)			65			
New England (NPS)						
North Country (rough estimate only) (NPS)	300		45	75	250	1,930
Pacific Crest (FS)	2,118	233	249			
Pacific Northwest (FS)		12				
Potomac Heritage (NPS)		3	c.200			
	_____	_____	_____	_____	_____	_____
Totals	5,324	683	1,192	400	2,008	2,559

Total Federal 7,599 (62%)

17%

21%

Note: BLM figures for both charts updated Sept., 2012.



**Distances of Total Trail Corridor (in miles)**

<u>Trail / Administering Agency</u>	<u>FS</u>	<u>BLM</u>	<u>NPS</u>	<u>Other Fed./Ind. Resvs.</u>	<u>State/Local</u>	<u>Private</u>	
<b>National Historic Trails</b>							
Ala Kahakai (NPS)			30	7	57	80	
California (NPS)	486	1,493		151	1,158	2,336	
Captain John Smith Chesapeake (NPS)		2					
El Camino Real de los Tejas (NPS)							
El Camino Real de Tierra Adentro (NPS + BLM)	11	60		90	24	202	
Iditarod (primary + connectors) (BLM)	38	149		407	829	38	
Juan Bautista de Anza (recreational trail) (NPS)	8	103		88	212	800	
Lewis and Clark (rough estimate only) (NPS)	300	369		2,800	150	100	
Mormon Pioneer (NPS)		498		214	822		
Nez Perce (FS)	234	70	86		54	728	
Old Spanish (NPS + BLM)		887					
Oregon (high potential segments only) (NPS)	37	848		7	29	99	
Overmountain Victory (NPS)	10			2	301		
Pony Express (NPS)	75	596		16	416	698	
Santa Fe (high potential segments only) (NPS)	3		1			180	
Selma to Montgomery (NPS)					54		
Star-Spangled Banner (NPS)	2						
Trail of Tears (NPS)	77			1,226	2,142		
Washington-Rochambeau Rev. Route (NPS)		1					
	-----	-----	-----	-----	-----	-----	
Totals	1,279	5,078	117	5,008	6,248	5,261	
	-----						
		Total Federal 11,482 (50%)				27%	23%

## Sources for Lengths and Status:

- Ala Kahakai: NPS, 1998, *National Trail Study and Final Environmental Impact Statement*, p. G3.
- Appalachian NST: ATPO, 1981, *Comprehensive Plan for the Protection, Management, Development, and Use of the Appalachian National Historic Trail*, page D-2, Appendix D.
- BLM, 2003, “National Scenic and Historic Trails, Table 5-7”
- Continental Divide NST: USDA Forest Service, Rocky Mountain Region, 1985, *Continental Divide National Scenic Trail Comprehensive Plan*, App. E, page E-1.
- El Camino Real de Tierra Adentro NHT: NPS, 1997, *National Historic Trail Feasibility Study and Environmental Assessment*, p. 38.
- Federal Interagency Council on Trails, 2005, “America’s National Historic and Scenic Trails – Statistical Profile for FY 2004,” 15 pp.
- Florida NST: Debbie Allen, USDA Forest Service, Forests in Florida, 2/9/93 phone call.
- Ice Age NST: Pam Schuler, NPS Ice Age Trail Coordinator, Madison, WI, phone call 2/9/93.
- Natchez Trace NST: National Park Service, 1987, *Comprehensive Trail Plan, Natchez Trace National Scenic Trail*, pp. 12-16.
- North Country NST: NPS staff estimate.
- Pacific Crest NST: USDA Forest Service Pacific Northwest Reg., *Pacific Crest National Scenic Trail Comprehensive Plan*, p. 4.
- Potomac Heritage NST: NPS staff estimate.
- California NHT: National Park Service, 1987, *Eligibility/Feasibility Study, Environmental Assessment, California and Pony Express Trails*, pp. 115, 119.
- Iditarod NHT: BLM Anchorage District Office, 1986, *The Iditarod National Historic Trail, Seward to Nome, A Comprehensive Management Plan*, pp. 90-91.
- Juan Bautista de Anza NHT: Meredith Kaplan, NPS Western Region, phone call, 2/9/93.
- Lewis and Clark NHT: Dick Williams, Lewis and Clark NHT Coordinator, Madison, WI, phone call, 2/9/93.
- Mormon Pioneer NHT: NPS Rocky Mountain Region, 1981, *Comprehensive Plan and Finding of No Significant Impact, Mormon Pioneer National Historic Trail*, p. 14.

- Nez Perce NHT: USDA Forest Service, Northern Region, 1990, *The Nez Perce [Nee-Me-Poo] National Historic Trail, Comprehensive Plan*, p. 43.
- Oregon NHT: National Park Service, 1981, *Comprehensive Management and Use Plan, Oregon National Historic Trail*, p. 31.
- Overmountain Victory NHT: National Park Service, 1982, *Comprehensive Management, Overmountain Victory National Historic Trail*, p. 14.
- Pony Express NHT: National Park Service, 1987, *Eligibility/Feasibility Study, Environmental Assessment, California and Pony Express Trails*, pp. 115, 119.
- Santa Fe NHT: National Park Service, 1990, *Santa Fe National Historic Trail, Comprehensive Management and Use Plan*, p. 57.
- Trail of Tears NHT: National Park Service, 1992, *Comprehensive Management and Use Plan, Trail of Tears National Historic Trail*, p. 22.

## APPENDIX J

### NPS POLICIES AND REGULATIONS AFFECTING NATIONAL TRAILS

This appendix lists official selected NPS [policy documents](#) under the major subject matter headings of this reference manual. There many other policy titles not mentioned that may pertain to specific circumstances. For BLM policies see [www.blm.gov/informationcenter](http://www.blm.gov/informationcenter).

The second part of this appendix lists relevant sections of the *Code of Federal Regulations*, organized by reference manual chapter.

#### Abbreviations:

BLM = Bureau of Land Management

BLM Man. = BLM Manual series

DO = National Park Service Director's Order

FOIA = Freedom of Information Act

FS = USDA Forest Service

FSH = Forest Service Handbook

FSM = Forest Service Manual

NPS = National Park Service

USDA = United States Department of Agriculture

#### PART 1 – RELEVANT NPS DIRECTOR'S ORDERS (BY REFERENCE MANUAL SECTION)

DO #45 – National Trails System

#### 2. Authorities

DO #3 – Delegations of Authority

#### 3. Administration and Management

DO #1 – The Directives System

DO #8 – Budget and Programming

DO #9 – Law Enforcement Program

DO #22 – Fee Program

DO #45 – National Trails System

DO #52A – Communicating the National Park Service Mission

DO #87C – Transportation Systems Funding

#### **4. Partnerships**

DO #7 – Volunteers in Parks

DO #20 – Agreements

DO #21 – Donations and Fundraising

DO #26 – Youth Programs

DO #27 – Challenge Cost-Share Program

DO #32 – Cooperating Associations

DO #69 – Serving on Boards of Directors

DO #71A – Government to Government Relationships With Indian Tribes

DO #91 – Advisory Committees

DO #93 – Conflict Resolution

#### **5. Planning, Compliance, and Liability**

DO #2 – Park Planning

DO #2-1 – Resource Stewardship Planning

DO #74 – Studies and Collecting

#### **6. Trail Corridor Protection**

DO #14 – Resource Damage Assessment and Restoration

DO #25 – Land Protection

#### **7. Trail Development and Use**

DO #6 – Interpretation and Education

DO #17 – Tourism

DO #42 – Accessibility for Park Visitors

DO #48B – Commercial Use Authorizations  
DO #50C – Public Risk Management Program  
DO #52B – Graphic Design Standards  
DO #52C – Park Signs  
DO #52D – Use of the Arrowhead Symbol  
DO #53 – Special Park Uses  
DO #64 – Commemorative Works and Plaques  
DO #65 – Explosives Use and Blasting Safety  
DO #67 – Copyright and Trademarks  
DO #80 – Asset Management  
DO #83 – Public Health  
DO #87A – Park Roads and Parkways  
DO #87B – Alternative Transportation Systems  
DO #87D – Non-NPS Roads

## **8. Natural and Cultural Resource Management**

DO #12 – Environmental Impact Analysis  
DO #13B – Environmental Leadership  
DO #18 – Wildland Fire Management  
DO #28 – Cultural Resources Management  
DO #28A – Archaeology  
DO #28C – Oral History  
DO #29 – Ethnography Program  
DO #41 – Wilderness Preservation and Management  
DO #47 – Sound Preservation and Noise Management  
DO #71B – Indian Sacred Sites

DO #77 – Natural Resource Protection

DO #77-1 – Wetland Protection

DO #77-2 – Floodplain Management

DO #77-7 – Integrated Pest Management

DO #77-8 – Endangered Species

DO #78 – Social Science

## **9. INFORMATION AND RECORDS**

DO #5 – Paper and Electronic Communications

DO #11A – Information Technology Management

DO #11B – Ensuring Quality of Information Disseminated by the NPS

DO #15 – Wireless Telecommunications

DO #19 – Records Management

DO #63 – Geographic Names

DO #66 – FOIA and Protected Resource Information

DO #70 – Internet and Intranet Publishing

DO #75A – Civic Engagement and Public Involvement

DO #75B – Media Relations

DO #82 – Public Use Data Collecting and Reporting

## **10. Measuring Performance and Success**

DO #54 – Management Accountability

## **PART 2 -- INDEX OF *CODE OF FEDERAL REGULATION* SECTIONS RELEVANT TO THE NATIONAL TRAILS SYSTEM**

### **2. Authorities**

Forest Service organization, function, administration, and appeals, 36 CFR 200 and 211

### **3. Administration and Management**

Administrative and auditing requirements and assistance (incl. grants) (Interior), 43 CFR 12

Auditing of grants to universities and nonprofits, OMB circulars A-110 and A-133

Auditing of grants to States and local governments, OMB circulars A-102 and A-128

Employee responsibilities and conduct (Interior), 43 CFR 20

Grant requirements for abandoned railroad ROWS, 36 CFR 64

Grants for State, tribal, and local historic preservation, 36 CFR 61

Land and Water Conservation Fund, 36 CFR 59

### **4. Partnerships**

Cooperative agreements (see Grants)

Federal advisory committee management (by GSA), 41 CFR 105-54

Lobbying restrictions for Dept. of the Interior partners, 43 CFR 18

### **5. Planning, Compliance, and Liability**

Public lands resource management planning, etc., 43 CFR 1600 and 1610

### **6. Trail Corridor Protection**

Areas designated unsuitable for mining (OSMRE), 30 CFR 761

NPS rights-of-way, 36 CFR 14

### **7. Trail Development and Use**

36 CFR 1191-1192, etc. — Accessibility for the disabled

NPS resource protection, public use, and recreation, 36 CFR 2



NPS special regulations for specific areas, 36 CFR 7

(see especially section 7.100 for the Appalachian NST)

## **8. Natural and Cultural Resource Management**

Air quality standards (EPA), 40 CFR 50

Endangered and threatened wildlife and plants, 50 CFR 17, 81, 402, 424, 450, 451

Interior Secretary's standards for treatment of historic properties, 36 CFR 68

Native American Graves Protection and Repatriation Regulations, 43 CFR 10

National historic landmarks program, 36 CFR 62

NPS resource protection, public use, and recreation, 36 CFR 2

National Register of Historic Places, 36 CFR 60 and 63

Preservation of American antiquities (Interior), 43 CFR 3

Protection of archeological resources (Interior), 43 CFR 7

Protection of archeological resources (USFS), 36 CFR 296

State, tribal, and local government historic preservation programs, 36 CFR 61

Wilderness preservation and management, 43 CFR 19 (Interior) and 50 CFR 35 (FWS)

## **9. Information and Records**

Creation and maintenance of Federal records, 36 CFR 1222 and 41 CFR 101-11

NARA Records Subject to FOIA, 36 CFR 1250

Freedom of Information Act (Interior), 43 CFR 2

Public use of records, historic materials, etc., 36 CFR 1252 to 1254

## APPENDIX K

### COMPARISON OF LAND PROTECTION AUTHORITIES

#### GENERIC LAND PROTECTION AUTHORITIES

In the NTSA (54 USC 1241-1251):

- Sec. 7(a)(2) Right-of-way selection shall minimize adverse effects on adjacent landowners.
- Sec. 7(e) State and local governments encouraged to protect trail corridors; if not, Federal government may take action, including willing-seller purchase.
- Sec. 7(f)(1) Exchange of Federal lands allowed within a State.
- Sec. 7(f)(2) Whole tracts may be purchased, the balance of which may be exchanged.
- Sec. 7(g) Condemnation may be used as an action of last resort.
- Sec. 7(h)(2) Federal R.O.W.s may be reserved for trails in land transactions.
- Sec. 7(k) Donations of lands or interests in lands a public benefit for tax purposes.
- Sec. 8(d) Use of abandoned railroads authorized if qualified manager found.
- Sec. 9(b) Other Federal agencies shall cooperate in identifying and providing trail corridors.

#### SPECIFIC LIMITATIONS FOR INDIVIDUAL TRAILS

In chronological order by trail establishment:

(NST = National Scenic Trail, NHT = National Historic Trail)

[Subsections in [ ]s indicate specific citations from the NTSA.]

<b><u>Trail</u></b>	<b><u>Year Established</u></b>	<b><u>Limitation (with pertinent NTSA section)</u></b>
Appalachian NST	1968	(none cited)
Pacific Crest NST	1968	(none cited)
Oregon NHT	1978	No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority

of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than 1/4 mile on either side of the trail. [5a3]

Mormon Pioneer NHT	1978	(same as Oregon NHT)
Continental Divide NST	1978	(same as Oregon NHT)
Lewis and Clark NHT	1978	(same as Oregon NHT)
Iditarod NHT	1978	(same as Oregon NHT)
North Country NST	1980	No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land.
Overmountain Victory NHT	1980	(none cited)
Ice Age NST	1980	(same as North Country NST)
Potomac Heritage NST	1983	Excluded from State of West Virginia [5a11]. (Otherwise same as North Country NST)
Natchez Trace NST	1983	(none cited except \$500,000 acquisition ceiling)
Florida NST	1983	Only willing seller acquisition outside Fed. boundaries. Other trail segments may be designated upon application if they meet criteria of Act and are administered without expense to the U.S. [5a13].
Nez Perce	1986	(same as Oregon NHT)
(Nee-Me-Poo) NHT		
Santa Fe NHT	1987	Only willing seller acquisition outside Fed. boundaries [5a15].
Trail of Tears NHT	1987	Only willing seller acquisition outside Fed. boundaries [5a16A and D].
Juan Bautista de Anza NHT	1990	Only willing seller acquisition only outside Fed. boundaries [5a17].
California NHT	1992	Only willing seller acquisition outside Fed. boundaries [5a18].
Pony Express NHT	1992	Only willing seller acquisition outside Fed. boundaries [5a19].

Selma to Montgomery NHT	1996	(none cited)
El Camino Real de Tierra Adentro NHT	2000	Only willing seller acquisition outside Fed. boundaries [5a21D].
Ala Kahakai NHT	2000	Only willing seller acquisition outside Fed. boundaries [5a22D].
Old Spanish NHT	2002	Only willing seller acquisition outside Fed. boundaries [5a23D].
El Camino Real de los Tejas NHT	2004	Only willing seller acquisition outside Fed. boundaries [5a24F].
Captain John Smith Chesapeake NHT	2006	Only willing seller acquisition outside Fed. boundaries [5a25D].
Star-Spangled Banner NHT	2008	Only willing seller acquisition outside Fed. boundaries [5a26D].
Arizona NST	2009	(none cited)
New England NST	2009	The United States shall not acquire for the trail any land or interest in land without the consent of the owner. [5a28]
Washington-Rochambeau Revolutionary Route NHT	2009	Only willing seller acquisition outside Fed. boundaries [5a29D].
Pacific Northwest NHT	2009	Only willing seller acquisition outside Fed. boundaries [5a30D].

## **TRAILS GROUPED BY TYPE OF AUTHORITY**

### **Full Access to all NTSA Authorities (no limitations)**

Appalachian NST

Arizona NST

Natchez Trace NST

Overmountain NHT

Pacific Crest NST

Selma to Montgomery NHT

### **Limited to willing seller outside Federal boundaries**

California NHT

Captain John Smith Chesapeake NHT

El Camino Real de los Tejas NHT

El Camino Real de Tierra Adentro NHT

Florida NST

Ice Age NST

Juan Bautista de Anza NHT

North Country NST

Old Spanish NHT

Pacific Northwest NST

Pony Express NHT

Potomac Heritage NST

Santa Fe NHT

Star-Spangled Banner NHT

Trail of Tears NHT

Washington-Rochambeau Revolutionary Route NHT

**Limited to willing seller outside Federal boundaries with ¼ mile average corridor width**

Continental Divide NHT

Iditarod NHT

Lewis & Clark NHT

Mormon Pioneer NHT

Nez Perce NHT

Oregon NHT

**Limited to willing seller everywhere along the trail**

New England NST

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# APPENDIX L

## THE PROS AND CONS FOR DIFFERENT TRAIL CORRIDOR PROTECTION STRATEGIES

Note: \*d items can be performed by cooperating land trusts and conservancies which are often more acceptable as purchasers to private landowners.

General rules of thumb:

- Landowner liability decreases as degree of government (or conservancy) interest in lands increases.
- Tailor your anticipated protection tools to the intended visitor experience and expected land uses.
- Trail and river plans should identify the minimum interest necessary to protect the resource and provide the desired visitor experience.

### No Action

Advantages: Low cost; reduces short-term stress.

Disadvantages: No corridor; no permanence; no protection.

### \* Letter or Handshake Agreement

Advantage: Goodwill.

Disadvantages: Not permanent; often stops when land is sold.

### \* Cooperative Agreement or License (Certification for National Trails)

Advantages: Leaves land in private or non-governmental ownership.  
Often best Federal/State partnership type.

Disadvantages: Not permanent, usually for 5-year time periods.  
Changes easily as ownership changes.

### \* Lease of Trail or River Corridor from Others

Advantages: Cheap; permits continuing local land use.

Disadvantages: Short-term at best; a headache to administer.

### \* Easement (including both positive and negative interests in lands)

Advantages: Encourages land use by occupant; best done by cooperators (such as land trusts) and not government; keeps land on local tax rolls; can be tailor-made to the situation (either positive or negative); must be



carefully written to be effective.

Disadvantages: Expensive to manage; often expensive to buy.  
May be ineffective if not carefully written and monitored.

### **Local Zoning**

Advantages: Low cost; keeps control of land local; flexible (within the limits of State and local law); provides opportunity for holding action; can provide forum for consensus-building and education about resource values.

Disadvantages: Weak in the long-term; reactive; suspect in certain regions of the country; limited legally; often poorly administered; limited in actual use due to local fears of "taking" restrictions; not flexible from site to site.

### **Tax Incentives**

Advantage: Useful in estate planning.

Disadvantage: Can be easily changed or waived by local authorities.

### **\* Term Retentions and Life Estates**

Advantage: Good for long-term project.

Disadvantages: May need easement also in short-term to protect property during residual occupancy; unreliable -- occupants often unhappy at time of final departure; hard to administer.

### **\* Donations (may qualify for conservation tax credits)**

Advantages: May help reduce property taxes; good for future exchanges if not right on river or trail corridor; interests may be split; can help with bargain sales or donations.

Disadvantages: Wishes of donor may restrict recipients; title may be clouded and not easily resolved; property may contain hazardous materials or other unpleasant problems; property may have unacceptable retained conditions.

### **\* Option and Right of First Refusal**

Advantage: Little or no cost in the short-term.

Disadvantage: May obligate future funds illegally.

**\* Full Fee Acquisition**

Advantages: Most satisfactory in most cases; includes full rights and title to land; avoids complex long-term administration and/or management.

Disadvantages: May not include mineral and water rights; often needs boundary inspections; may need ongoing management and maintenance that cooperators may not be able to do.

**\* Leaseback (once land has been acquired)**

Advantages: Promotes appropriate land uses; often used to continue existing agricultural practices; long-term leases provide less hassle for both owners and lessors.

Disadvantage: May be difficult to police and monitor.

**Condemnation (including Declaration of Taking, not available for “willing-seller trails”)**

Advantages: Immediate; stops adverse threats; often only way to get attention of unwilling landowners; may provide tax advantages to seller; under "friendly condemnation," helps clear title; under declaration of taking, title immediately passes to government.

Disadvantages: Highly political; may be very controversial; government rights are often limited; sometime subject to high court price awards.

**FURTHER REFERENCE**

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Land Trust Alliance, 1996, *The Conservation Easement Handbook*, Washington, DC: Land Trust Alliance, 269 pp., \$35.

Land Trust Alliance, 2000, *Appraising Easements: Guidelines for Valuation of Historic Preservation*, Washington, DC: Land Trust Alliance, \$30.

Small, Stephen J., *Preserving Family Land* (2 volumes), Washington, DC: Land Trust Alliance.

U.S. Department of the Interior, 2001, *Public Land Statistics, 2000*, Washington, DC: Bureau of Land Management, 257 pp.

# ACQUISITION OF PROTECTIVE INTERESTS FOR THE APPALACHIAN NATIONAL SCENIC TRAIL

By Mike Walsh, Land Resources Division, National Park Service

## ALTERNATIVE TYPES OF PROTECTIVE INTERESTS

To ensure continuity of the Trail and maximize recreational values, only permanent interests in land within the Trail corridor are sufficient to meet the Trail protection objectives of the Act. Cooperative agreements are used with governmental agencies to assure that a commitment exists to the permanent protection of the Trail. Because zoning and land use regulations can be easily changed, they are useful only as a form of temporary protection for the Trail or as a desirable means of encouraging compatible land uses adjacent to the Trail corridor.

Private land uses that are compatible with Trail protection will vary according to the particular situation. The definition of compatible and incompatible uses for land within the Trail corridor varies with the type of landscape and trail experience. Although compatible private uses of the footpath itself are extremely limited, there are often more options for the trail corridor adjoining the footpath. For example, in remote ridgeline areas with limited access, carefully restricted timber harvest, tapping for maple sugar, and other traditional rural uses may be compatible. Continued agricultural uses including crops and grazing livestock are often compatible in rural countryside areas where farming is part of the cultural landscape. For connectors near towns and road crossings, some development may be compatible if it is carefully sited and designed.

The trail corridor planning process addresses the question of compatible and incompatible uses for each segment in more detail. If the land in question is remote from road access or has unusual importance for its natural, cultural or scenic qualities that cannot be protected by other means, the NPS will seek to acquire most if not all of the real property interest. Where the Trail will be located near farms, in areas of timber production or in areas already partially developed, a wider range of compatible land uses exist. Fields, pastures and older structures add to the scenic and cultural quality of the Trail experience and interpretation. Federal acquisition of a less-than-fee interest in land can sometimes be sufficient to protect such resources. Alternative approaches that may be used in applicable situations are discussed below:

### Zoning and Regulations

State and local governments have authority to manage growth and development to protect the public health, safety, and welfare. Regulations concerning land uses may address the density, height, and location of new construction in areas that have important natural or scenic values. State and local regulations also can address the impacts of agricultural practices on soil erosion, water quality, and the use of chemicals that may impact public health.

Cooperation with local planning and regulatory agencies can help protect the rural character of the lands adjacent to the Trail corridor and reduce the potential for adverse impacts on important resources. However, regulations cannot provide for public use and cannot prohibit all reasonable private uses that may conflict with the purposes of the Trail. Regulations are not a substitute for acquisition of interests in land, but cooperation with local government on regulatory matters can contribute to the overall Trail protection program.

## **Agreements**

A cooperative agreement is a legal instrument that outlines the responsibilities of two or more parties. Agreements may be formal or informal, recorded or unrecorded. Throughout the early history of the Appalachian Trail, agreements were used to allow for public use of the footpath and Trail corridor.

In adopting the 1968NTSA, Congress recognized that agreements with private landowners could not provide permanent protection of the Appalachian Trail. As land ownership changes and pressure for changes in use increases, private owners have terminated agreements and closed sections of the Trail to the public. Since agreements with landowners can be broken by either party, they do not provide the necessary protection and rights for public use in the future. However, agreements can provide a useful interim measure for protecting certain segments of the Trail pending acquisition of a permanent interest. Agreements also are appropriate where land is owned by State or local governments that can be expected to protect the Trail.

## **Easements**

An easement is an interest in land that affects some, but not all rights of ownership. Easements can be positive or negative. Positive easements usually convey rights to enter, cross, or use property. Negative easements usually restrict specific rights to develop or use the land, such as the right to cut trees or to build new structures. Both positive and negative provisions can be included in a single easement.

Advantages of easements include flexibility in meeting the needs of the public, the landowner, and the conditions of a specific tract. They can allow for public use and protection of natural or scenic values while allowing private ownership and compatible uses to continue.

Disadvantages of easements include difficulty in monitoring and enforcement, limited ability to develop facilities for public use such as campgrounds or shelters, and landowner concerns about liability for tort claims and property taxes. Based upon experience with acquisition for the Appalachian Trail, the average cost of easements has not been significantly lower than the cost of full fee purchases. Nevertheless, easements can provide significant benefits in terms of cooperative relationships with landowners and, in some instances, may be a reasonable alternative.

## **Fee**

When all rights in land are acquired, it is owned in fee. Fee acquisition is necessary and appropriate when land is needed for public use or where desired resource management requirements preclude reasonable private uses of the land. Fee acquisition provides permanent protection and flexibility for Trail management, relocation, maintenance, and public use.

## **Compatible and Incompatible Uses**

The definition of compatible and incompatible uses for land within the Trail corridor varies with the type of landscape and trail experience. Although compatible private uses of the footpath itself are extremely limited, there are often more options for the trail corridor adjoining the footpath. For example, in remote ridgeline areas with limited access, carefully restricted timber harvest, tapping for maple sugar, and other traditional rural uses may be compatible. Continued agricultural uses including crops and grazing livestock are often compatible in rural countryside areas where farming is part of the cultural landscape. For connectors near towns and road crossings, even more intense development may be compatible if it is carefully sited and designed. The trail corridor planning process addresses the question of compatible and incompatible uses for each segment in more detail.

## **Recommendations**

The selection of the appropriate degree of protection for each tract in the Appalachian Trail program reflects the corridor planning and design process. The Appalachian Trail is a unique land protection project in that the location of the corridor and the interest to be acquired are determined by planning in cooperation with landowners. Planning for the Trail and the interests to be acquired must also consider the management responsibilities of the volunteer organizations. This approach reflects the history of the trail and legislative direction that encourages cooperation with landowners.

As a general rule, fee acquisition is recommended. Easements are sometimes considered when some private use of the corridor such as farming or grazing is compatible with the Trail. Terms and conditions of an acquisition are established early in the negotiations, with decision-making on the interest to be acquired being completed following initial discussions with affected landowners. In each case, the planning process seeks to identify the minimum interest necessary. This depends on the attributes of each tract and segment including:

- current and potential use of the land
- topography
- vegetation
- size and shape of the tract
- intensity of public use
- access to and across the Trail
- need for facilities (shelters, campgrounds, parking, etc.)

Based on past experience, fee acquisition often meets the objectives of the landowner as well as those of the government. In many cases, landowner concerns about legal liability and property taxes make an outright sale preferable. Many owners also do not live close enough to continue monitoring and management of their land when public use will be taking place on or near the property. In certain instances, easements may be considered a viable option in order to reach a negotiated agreement.

## **ALTERNATIVE METHODS OF ACQUISITION**

**Exchanges** offer an extra option to landowners when an acceptable property for exchange can be found. Because of the relatively narrow protection corridor, there are not many lands available for exchange. Current Federal law allows such transactions if the lands to be exchanged are located in the same State.

**Donations** and partial donations (bargain sales) of land may yield substantial savings in acquisition costs. Additionally, donations of easements have received specific encouragement in section 7(k) of the NTSA. Section 7 (k) makes it clear that donations of easements near national trails qualify for favorable tax treatment. Individuals should consult a qualified tax advisor, however, for more detailed information on potential tax advantages.

**Purchase – Sellback/Leaseback:** In a few cases, land acquired by the NPS may be sold to the former owner or another party after adding conservation restrictions to the deed. This allows land or interests in land not required for permanent protection of the Trail to be returned to private ownership and the tax rolls, while protecting its recreation and conservation values. The NPS also may offer to lease acquired lands or issue special use permits for specific purposes consistent with Trail objectives.

## **Cooperation with State and Local Governments and Land Trusts**

In addition to the alternative described above, cooperation in protecting the Trail will continue to be sought from commercial and private groups. Authority in section 7(h) of the Act is designed to make it possible to enlist help from State agencies, local governments and private land trusts. The Appalachian Trail Conference has established a land trust dedicated exclusively to protection of Appalachian Trail lands.

## **TRAIL RELOCATIONS**

Trail relocations are sought to remove the Trail from roads and to provide separation from development. Relocations may also result from requests of landowners and communities to have the Trail in a location which conflicts less with other land uses or to take advantage of lands already in public ownership. Most relocation is minor but some involves lateral distances of several miles from the existing Trail route. Relocations benefit the recreation experience and reduce conflicts with existing land uses.

Relocations are sometimes controversial because they involve new landowners in the Trail protection process, many of whom are unfamiliar with the Trail or doubtful about the impacts the Trail will have on their properties. Community representatives become involved in the planning process along with the Trail clubs and other interested organizational representatives. In working out compromise solutions in these situations, concerns of landowners and communities are addressed. Efforts to satisfy their concerns may continue long after the relocation decision has been made.

**APPENDIX M**  
**SAMPLE CERTIFICATION AGREEMENT**

**Santa Fe National Historic Trail**  
National Park Service  
US Department of the Interior



**Partnership Certification Agreement**

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\_\_\_\_\_  
(Name of Trail Site or Segment)

\_\_\_\_\_  
(Location and State)

**Type of Property: Historic Site**

**Owner:** \_\_\_\_\_

**General**

This agreement represents the Secretary of the Interior's certification, under section 7(h) of the NTSA, that \_\_\_\_\_, located \_\_ miles north of \_\_\_\_\_ west of \_\_\_\_\_, \_\_\_\_ meets the NHT criteria established by the NTSA and any supplemental criteria prescribed by the Secretary of the Interior.

The NPS and (**owner**) agree voluntarily to strive to achieve the highest level of resource protection and visitor appreciation of trail resources and history at the historic site, as provided for in the Comprehensive Management and Use Plan for the Santa Fe NHT for "...the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment." (National Trails System Act 54 U.S.C. - 1241 et seq. section 3(a)(3)).



Through this agreement, the NPS and the **(owner)** agree, if mutually deemed appropriate, to work jointly on planning, interpretation, resource management, and other matters that relate to the Santa Fe NHT at the historic site and to strive to meet the goals and objectives of the Comprehensive Management and Use Plan for the Trail.

**(Owner)** retains all legal rights to the property and nothing in this agreement is to be construed as granting any legal authority to the NPS over the property or any action by **(owner)**.

The agreement may be canceled by either party at any time by providing written notice to the other party. The NPS and **(owner)** agree, whenever possible, to identify issues or concerns to allow for resolution.

This agreement will remain in effect unless cancelled by either party, or until the ownership of the property is transferred to another entity.

### **Signatures**

I hereby agree to a partnership with the NPS for **(site name)**, an historic site on the Santa Fe NHT.

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
Date

On behalf of the Secretary of the Interior, I agree to a partnership with (owner) for (site name), an historic site on the Santa Fe NHT.

\_\_\_\_\_  
Aaron Mahr Yáñez, Superintendent  
National Trails Intermountain Region

\_\_\_\_\_  
Date

**APPENDIX N**  
**EXECUTIVE ORDER NO. 13195**  
***TRAILS FOR AMERICA IN THE 21ST CENTURY***

**THE WHITE HOUSE**

Office of the Press Secretary

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For Immediate Release

January 18, 2001

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of purposes of the National Trails System Act of 1968, as amended (16 U.S.C. 1241-1251), the Transportation Equity Act for the 21st Century (Public Law 105-178), and other pertinent statutes, and to achieve the common goal of better establishing and operating America's national system of trails, it is hereby ordered as follows:

Section 1. Federal Agency Duties.

Federal agencies will, to the extent permitted by law and where practicable — and in cooperation with Tribes, States, local governments, and interested citizen groups — protect, connect, promote, and assist trails of all types throughout the United States. This will be accomplished by:

- (a) Providing trail opportunities of all types, with minimum adverse impacts and maximum benefits for natural, cultural, and community resources;
- (b) Protecting the trail corridors associated with national scenic trails and the high priority potential sites and segments of national historic trails to the degrees necessary to ensure that the values for which each trail was established remain intact;
- (c) Coordinating maps and data for the components of the national trails system and Millennium Trails network to ensure that these trails are connected into a national system and that they benefit from appropriate national programs;
- (d) Promoting and registering National Recreation Trails, as authorized in the National Trails System Act, by incorporating where possible the commitments and partners active with Millennium Trails;

- (e) Participating in a National Trails Day the first Saturday of June each year, coordinating Federal events with the National Trails Day's sponsoring organization, the American Hiking Society;
- (f) Familiarizing Federal agencies that are active in tourism and travel with the components of a national system of trails and the Millennium Trails network and including information about them in Federal promotional and outreach programs;
- (g) Fostering volunteer programs and opportunities to engage volunteers in all aspects of trail planning, development, maintenance, management, and education as outlined in 54 U.S.C. 1250;
- (h) Encouraging participation of qualified youth conservation or service corps, as outlined in 41 U.S.C. 12572 and 42 U.S.C. 12656, to perform construction and maintenance of trails and trail-related projects, as encouraged in sections 1108(g) and 1112(e) of the Transportation Equity Act for the 21st Century, and also in trail planning protection, operations, and education;
- (i) Promoting trails for safe transportation and recreation within communities;
- (j) Providing and promoting a wide variety of trail opportunities and experiences for people of all ages and abilities;
- (k) Providing historical interpretation of trails and trail sites and enhancing cultural and heritage tourism through special events, artworks, and programs; and
- (l) Providing training and information services to provide high-quality information and training opportunities to Federal employees, Tribal, State, and local government agencies, and the other trail partners.

## Section 2. The Federal Interagency Council on Trails.

The Federal Interagency Council on Trails (Council), first established by agreement between the Secretaries of Agriculture and the Interior in 1969, is hereby recognized as a long-standing interagency working group. Its core members represent the Department of the Interior's Bureau of Land Management and National Park Service, the Department of Agriculture's Forest Service, and the Department of Transportation's Federal Highway Administration. Other Federal agencies, such as those representing cultural and heritage interests, are welcome to join this council. Leadership of the Council may rotate among its members as decided among themselves at the start of each fiscal year. The Council's mission is to coordinate information and program decisions, as well as policy recommendations, among all appropriate Federal agencies (in consultation with appropriate nonprofit organizations) to foster the development of America's trails through the following means:

- (a) Enhancing federally designated trails of all types (e.g., scenic, historic, recreation, and Millennium) and working to integrate these trails into a fully connected national system;

- (b) Coordinating mapping, signs and markers, historical and cultural interpretations, public information, training, and developing plans and recommendations for a national trails registry and database;
- (c) Ensuring that trail issues are integrated in Federal agency programs and that technology transfer and education programs are coordinated at the national level; and
- (d) Developing a memorandum of understanding among the agencies to encourage long-term interagency coordination and cooperation to further the spirit and intent of the NTSA and related programs.

### Section 3. Issue Resolution and Handbook for Federal Administrators of the National Trails System.

Federal agencies shall together develop a process for resolving interagency issues concerning trails. In addition, reflecting the authorities of the NTSA, participating agencies shall coordinate preparation of (and updates for) an operating handbook for Federal administrators of the National Trails System and others involved in creating a national system of trails. The handbook shall reflect each agencies' governing policies and provide guidance to each agencies' field staff and partners about the roles and responsibilities needed to make each trail in the national system fully operational.

### Section 4. Observance of Existing Laws.

Nothing in this Executive Order shall be construed to override existing laws, including those that protect the lands, waters, wildlife habitats, wilderness areas, and cultural values of this Nation.

### Section 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, enforceable in law or equity by any party against the United States, its agencies, its officers or employees, or any other person.

WILLIAM J. CLINTON

THE WHITE HOUSE,

January 18, 2001.

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## **APPENDIX O**

### **THE NATIONAL TRAILS SYSTEM**

## **MEMORANDUM OF UNDERSTANDING**

06-SU-11132424-196

among the

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT,  
NATIONAL PARK SERVICE,  
UNITED STATES FISH AND WILDLIFE SERVICE**

**UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

**UNITED STATES DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS**

and the

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION**

This memorandum of understanding (MOU) is entered into by the United States Department of the Interior, Bureau of Land Management (BLM), National Park Service (NPS), and United States Fish and Wildlife Service (USFWS); the United States Department of Agriculture, Forest Service (USFS); the United States Department of the Army, United States Army Corps of Engineers (USACE); and the United States Department of Transportation, Federal Highway Administration (FHWA), collectively, “the Agencies.”

### **I. STATEMENT OF MUTUAL BENEFIT AND INTEREST**

The NTSA of 1968, as amended, (the Act) establishes four types of national trails: National Scenic, National Historic, National Recreation, and connecting and side trails. The network of NHTs and NSTs commemorates America’s rich natural and cultural heritage. Many of these trails represent a mosaic of partnerships among citizens, landowners, trail users, and public agencies at the national, tribal, State, county, and local levels.

This MOU applies to NSTs and NHTs because they are congressionally designated, are typically interstate, and cross lands under multiple Federal jurisdictions. In addition, this MOU applies to NRTs because they are governed by the same authorities and because all the Agencies manage NRTs. For purposes of this MOU, National Scenic, National Historic, and NRTs shall be referred to collectively as “National Trails.”

Since passage of the Act, BLM, NPS, and the FS have become administrators of one or more national trails. These agencies shall be referred to collectively in this MOU as “the National Trails agencies.” In addition, BLM, NPS, FS, FWS, and USACEs also manage many of the sites and segments along the National Trails and operate dozens of NRTs. Federal transportation funds, administered by the States through FHWA, are a major funding source for trails and trail-related projects through Federal surface transportation funding programs.

This MOU builds on two previous interagency MOUs: the Service-Wide Memorandum of Understanding for Cooperative Management and Administration of NHTs between the U.S. Department of the Interior, BLM and NPS, and the USFS, spanning 1995-2000, and the five-year Memorandum of Understanding for the Administration and Management of National Historic and Scenic Trails signed by BLM, NPS, USFS, FHWA, and the National Endowment for the Arts.

Representatives of the agencies meet regularly as part of the Federal Interagency Council on Trails (the Council), a group chartered by the Secretaries of the Interior and Agriculture in 1969. The Council is the primary forum where actions related to this MOU will be carried out and where reports concerning accomplishments related to the MOU will be issued.

## **II. AUTHORITIES**

This MOU is entered into under the NTSA of October 2, 1968 (54 U.S.C. 1241-51) as amended, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) as amended, the Department of Transportation General Duties and Powers Act (49 U.S.C. 301 *et seq.*), the Intergovernmental Personnel Act (5 USC 3371-3375), and the Government Performance and Results Act of 1993 (GPRA) (31 U.S.C. 1101 *et seq.*). This MOU also implements Executive Order 13195, “Trails for America in the 21<sup>st</sup> Century,” signed January 18, 2001.

## **III. PURPOSES AND PRINCIPLES**

This MOU encourages long-term interagency coordination and cooperation under the authorities of the Act to enhance visitor satisfaction, to coordinate trailwide administration and site-specific management, to protect resources, to promote cultural values, to foster cooperative relationships, to share technical expertise, and to fund lands and resources associated with the National Trails. In implementing this MOU, the Agencies shall emphasize quality public service and efficient and effective expenditure of funds. To achieve these goals, the Agencies shall adhere to the following principles:

## **A. Administration of National Trails**

Either the Secretary of the Interior or the Secretary of Agriculture, as designated by Congress, assigns the administration of each National Trail to one (occasionally two) National Trails agencies. Subject to available funding, these National Trails agencies exercise trailwide responsibilities under the Act and the enabling legislation for that specific trail. These responsibilities include coordination with planning, oversight of trail site and segment development, development of trail maintenance standards, trail marking, trail segment certification, resource protection, trailwide resource inventories and mapping (often using geographic information system or GIS), interpretation, cooperative and interagency agreements, and financial assistance to other cooperating government agencies, landowners, interest groups, and individuals.

## **B. Management of Trail Sites and Segments**

Many government entities and private groups and individuals own and/or manage lands along each National Trail. Management responsibilities of these landowners or land managers often include inventorying resources and mapping (including GIS and data automation), planning and development of trail segments and sites along the trails, compliance, mitigation of resource damage, provision of appropriate public access, interpretation, trail maintenance, trail marking, resource and viewshed protection, and management of visitor use.

## **C. Cooperation and Partnerships**

Cooperation improves the administration and management of National Trails and their associated resources, enhances public service, and minimizes duplication of efforts. The Agencies recognize the critical role of private organizations, tribal governments, State and local governments, and private landowners who cooperate in many aspects of National Trail administration, management, and funding. Written agreements—such as cooperative agreements, assistance agreements, partnership agreements, etc.—are good ways to formalize these trail partnerships. In addition, the Agencies will engage other.

Federal partners as needed to broaden Federal support for the components of the National Trails System.

## **D. Recreational Opportunities and Visitor Satisfaction**

The agencies shall strive to provide visitors to National Trails with opportunities for an enjoyable and memorable trail experience. The agencies shall work together to ensure that their jurisdictional boundaries are not viewed as impediments to quality recreational opportunities and services. National Trails serve communities best when they integrate recreational, health, environmental, cultural, economic, and transportation objectives.



## **E. Enhancement of Cultural Values**

The Agencies seek to promote and strengthen the cultural values of the National Trails. Each National Trail has meaning for specific populations as well as to all Americans. The National Trails are invaluable showcases for the rich diversity of America's cultural heritage.

## **F. Funding**

Each National Trails agency has its own budget or funding system for administering and managing National Trails. Within the limits of their respective authorities, the National Trails agencies shall coordinate requests for and obligation of funds related to the National Trails System to eliminate duplication of effort and increase effectiveness. To the extent feasible and appropriate, the National Trails agencies shall assist each other in carrying out specific projects relating to National Trails.

## **IV. SPECIFIC TASKS**

To the extent appropriate and feasible, the Agencies shall carry out together the following tasks in the areas of policy formulation, planning, budget coordination, staff exchanges, and interagency data standards.

1. The agencies shall regularly attend Council meetings to discuss, coordinate, and develop policy, budget, and other matters pertaining to the National Trails System and this MOU. Encourage field staff to attend these meetings as appropriate. As part of the Council, the agencies shall mutually issue an annual report on the accomplishments achieved under this MOU. As relevant, the agencies shall participate in the NRT Roundtable.
2. The National Trails agencies shall compile appropriate trail policy statements and determine whether they provide for uniform and coherent practices across agency boundaries. They shall formulate, as needed, additional policies or policy revisions to provide uniform implementation of the Act across jurisdictions.
3. The agencies shall participate in Statewide, metropolitan, local, and project planning to the extent that these planning efforts affect agency responsibilities for National Trails.
4. The agencies shall coordinate National Trail plans with regional, State, district, regional, park, forest, and metropolitan area plans that include segments of National Trails.
5. The National Trails agencies shall prepare and implement trail corridor, local management, and other plans related to the National Trails System to ensure top quality visitor experiences and to protect trail resources and to preserve trail rights-of-way. They shall coordinate planning and management for National Trails with each other and with owners and managers of land along National Trails.

6. In conducting planning and management activities for other programs, the Agencies shall consider potential impacts to National Trails and disclose that consideration as appropriate pursuant to the National Environmental Policy Act and the National Historic Preservation Act.

7. The Agencies together shall foster interagency trail training with partners and others.

8. The Agencies shall support national meetings, publications, and websites that promote the National Trails System, its components, its partners, its authorities, and its values.

9. Where waterways associated with the Corps substantially overlap waterborne segments of a National Trail, the Corps shall strive to protect trail resources and to support the purposes and principles of this MOU.

10. As funds allow, the Agencies shall develop coordinated and standardized interagency data sets, mapping, and GIS for National Trails, incorporating the Interagency Trail Data Standards (ITDS) and adhering to the metadata standards of the Federal Geographic Data Committee.

11. The Agencies shall collect and manage data to identify conservation and protection opportunities and to prevent adverse impacts from development projects. They shall locate all components of the National Trails System on appropriate maps.

12. The Agencies shall provide updated information about NRTs to the National Registry of Trails in order to supply the general public with accurate information about each NRT.

In addition, as appropriate and feasible, the National Trails agencies shall:

13. Formulate a unified set of administrative policies, as needed, to interpret the Act concerning resource protection, trail development and maintenance, use of trail markers and logos, site and segment certification, visitor centers, interpretation, promotion, and the identity of National Trails within agency structures.

14. Establish a contact for each National Trail and maintain a list of National Trail management offices and administrators. Identify personnel at all levels of each agency who regularly work with National Trails. Provide the services of these individuals, including interagency crews and contractors, to cooperatively implement the terms of this MOU in such fields as resource identification, cartography, history, archeology, environmental compliance, and interpretation.

15. Gather the National Trail administrators together at an annual meeting to discuss issues related to the implementation of this MOU and other mutual business.

16. Execute supplemental and trail-specific interagency agreements to implement this MOU.

17. Cooperate in planning and conducting environmental analysis and meeting other legal compliance requirements associated with the planning and managing National Trails.

18. Encourage regularly scheduled meetings for each National Trail to enhance communications and cooperation. These meetings should involve National Trail administrators and cooperators, site and segment managers, nonprofit partners, landowners, State agencies, and others concerned with the Trail.

19. Coordinate trail administration and management staff to take maximum advantage of each agency's programs and expertise.

20. Coordinate with each other to maximize public benefits; to avoid duplication of effort and public misunderstanding; to prevent adverse impacts to National Trail resources and visitor experiences; and to ensure that interagency actions affecting National Trails are consistent with the Act and with National Trail System development and conservation efforts.

21. Conduct collaborative planning efforts affecting National Trails. Each agency with administrative responsibility for a specific National Trail will arrange for trailwide plans in conjunction with other agencies and jurisdictions that have on-the-ground management and planning responsibilities.

22. Enhance administration and management of National Trails through local and Statewide agreements, land use authorizations and permits, regulations, resource management, protection and development projects, interpretive services, trail marking, site-specific planning, and law enforcement. Each trail administrator may assist landowners, as permitted by statutory authority in accomplishing these management responsibilities through subsequent funding agreements.

23. Encourage innovative implementation of the purposes and work elements of this MOU, to the extent resources and authorities permit.

24. Develop and encourage the use on every National Trail of a unified tracking system, including statistical and descriptive items for trail-specific and systemwide factors that can be used to report on the achievement of GPRA goals. When possible, use ITDS in the tracking system. This data will be reported annually to agency heads and

## **V. TERMS OF AGREEMENT**

### **A. Effective Date**

This MOU is executed as of the date of the last signature shown below and shall be in effect for a period not to exceed 10 years, at which time it will be subject to review, renewal, revision, or expiration. However, at the end of five years, the parties to this MOU will conduct an interim review of its language, tasks, and direction and make any necessary corrections as mutually agreeable.

### **B. Modifications**

Modifications to this MOU shall be made in writing and shall be signed and dated by the agencies.

### C. Additional Signatories

Additional Federal agencies may be added to this MOU with the concurrence of all the agencies. Concurrence may be given in writing, including e-mail, or by vote of the parties at a meeting. The addition of a Federal agency shall be effected by attaching to the MOU a page with the agency representative's dated signature.

### D. Termination

Any agency may withdraw from this MOU after 60 days written notice to the other agencies.

## VI. PRINCIPAL CONTACTS

The principal contacts for this MOU are:

NPS: Steve Elkinton, Program Leader, National Trails System  
Address: National Park Service (org code 2220)  
US Department of the Interior, 1849 C Street NW  
Washington, DC 20240  
(202) 345-6938; fax (202) 371-5179  
E-Mail: [steve\\_elkinton@nps.gov](mailto:steve_elkinton@nps.gov)

BLM: Deborah Salt, National Trails Coordinator  
Address: Bureau of Land Management  
U.S. Department of the Interior  
1335 Highway 93 West  
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(406) 863-5406; fax (406) 863-5437  
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FWS: Nathan Caldwell, Refuge Roads Program  
Address: U.S. Fish & Wildlife Service  
4401 North Fairfax Drive  
Arlington, VA 22203  
(703) 358-2205; fax (703) 358-2248  
E-Mail: [nathan\\_caldwell@fws.gov](mailto:nathan_caldwell@fws.gov)

FS: Jonathan Stephens, Program Manager for Trails and Congressionally  
Designated Areas Recreation and Heritage Resources Staff  
Address: USDA Forest Service  
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## VII. SPECIAL PROVISIONS

**A. Non-Fund Obligating Document.** This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties of the MOU will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Specifically, this MOU does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

**B. No Member of Congress to Benefit.** Pursuant to the *United States Code*, Title 41, section 22, no member of Congress shall be admitted to any share or part of this MOU, or any benefits that may arise therefrom.

**C. Participation in Similar Activities.** This MOU in no way restricts any signatory from participating in similar activities with other public or private agencies, organizations, and individuals.

**D. Responsibilities to the Act.** Nothing in this MOU abrogates the accountability of the Trail Agencies and FHWA from achieving the purposes of the Act. In addition, nothing in this MOU abrogates the responsibility of any Federal land managing agency to manage its trail resources according to the laws, rules, and regulations providing its management authority over such lands.

**E. Nondiscrimination.** During the performance of this MOU, the parties agree to abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, age, religion, disability, sex, or national origin. The participants will take

affirmative action to ensure that applicants are employed without regard to their race, color, age, religion, disability, sex, or national origin.

**F. Conduct of Activities.** The agencies shall handle their own activities and use their own resources, including the expenditure of their own funds, in pursuing the objectives enumerated in this MOU. In implementing this MOU, each agency will be operating under its own laws, regulations, and policies, subject to the availability of appropriated funds.

**G. Existing Authority.** Nothing in this MOU is intended to alter, limit, or expand the Agencies' statutory and regulatory authority.

**H. No Enforceable Rights.** This MOU does not create any substantive or procedural right that is enforceable at law or equity against the United States or its officers, agents, and employees.

AUTHORIZED REPRESENTATIVES. By signature below, the cooperator certifies that the individuals listed in this document are representatives of the cooperator and are authorized to act in their respective areas for matters related to this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

#### VIII. APPROVALS

\_\_\_\_\_/signed/\_\_\_\_\_ 2/2/06  
Kathleen Clarke, Director Date  
Bureau of Land Management

\_\_\_\_\_/signed/\_\_\_\_\_ 12/22/05  
Fran Mainella, Director Date  
National Park Service

\_\_\_\_\_/signed/\_\_\_\_\_ 2/14/06  
Dale Hall Date  
Chief, US Fish and Wildlife Service

\_\_\_\_\_/signed\_\_\_\_\_ 8/24/06  
Dale N. Bosworth, Chief Date  
USDA Forest Service

\_\_\_\_\_/signed\_\_\_\_\_ 12/19/06  
LTG Carl A. Strock, Commander Date  
U.S. Army Corps of Engineers

\_\_\_\_\_/signed/\_\_\_\_\_  
J. Richard Capka, Administrator  
Federal Highway Administration

10/3/06  
Date

**APPENDIX P**  
**NATIONAL TRAILS SYSTEM VISITOR CENTER FACILITIES**

**ABBREVIATIONS**

AKNHT	Ala Kahakai NHT
ANST	Appalachian NST
AZNST	Arizona NST
BLM	Bureau of Land Management
CSNHT	Capt. John Smith NHT
CDNST	Continental Divide NST
CNHT	California NHT
CRdeTANHT	El Camino Real de Tierra Adentro NHT
CRdeLTNHT	El Camino Real de los Tejas NHT
FNST	Florida NST
USFS	USDA Forest Service
IANST	Ice Age NST
INHT	Iditarod NHT
JBdeANHT	Juan Bautista de Anza NHT
L&CNHT	Lewis and Clark NHT
MPNHT	Mormon Pioneer NHT
NENST	New England NST
NCNST	North Country NST
NPNHT	Nez Perce (Nee-Me-Poo) NHT
NTNST	Natchez Trace NST
OSNHT	Old Spanish NHT
ONHT	Oregon NHT



OVNHT	Overmountain Victory NHT
PCNST	Pacific Crest NST
PWNST	Pacific Northwest NST
PENHT	Pony Express NHT
PHNST	Potomac Heritage NST
SFNHT	Santa Fe NHT
SMNHT	Selma to Montgomery NHT
SBNHT	Star Spangled Banner NHT
ToTNHT	Trail of Tears NHT
WRNHT	Washington Rochambeau Revolutionary Route NHT

\* = Visitor centers with significant displays about national scenic and historic trails. The other facilities are located in close approximation to the trails, but may have no thematic relation (yet) to the nearby trail(s).

### Alabama

NPS:	-- * Lowndes County Interpretive Center (SMNHT)
State of AL:	-- Guntersville, Lake Guntersville State Park (ToTNHT) -- Rogersville, Joe Wheeler State Park (ToTNHT)
Other:	-- * Selma, National Voting Rights Museum (SMNHT) -- Selma, Slavery & Civil War Museum (SMNHT)

### Alaska

BLM/NPS/FWS:	-- Coldfoot Visitor Center, Dalton Highway, (INHT) -- * Wasilla, Knik Dog Musers Hall of Fame (INHT)
FWS:	-- Innoko National Wildlife Refuge (INHT)
State of AK:	-- Anchorage, Chugach State Park (INHT)

## Arizona

- USFS and NPS:-- Kaibab Plateau Visitor Center (AZNST)
- NPS: -- Casa Grande Ruins National Monument, Coolidge (JBdeANHT)
- Coronado National Monument (AZNST)
- Grand Canyon National Park Visitor Center (AZNST)
- Saguaro National Park, Rincon Mountain District Visitor Center (AZNST)
- Saguaro National Park, Tucson Mountain Ranger District (AZNST)
- Tonto National Monument (JBdeANHT)
- \* Tumacacori National Historical Park (JBdeANHT)
- Walnut Canyon National Monument, Visitor Center (AZNST)
- State of AZ: -- Superior, Boyce Thompson Arboretum State Park
- Oracle, Oracle State Park (AZNST)
- Payson, Tonto Natural Bridge State Park (AZNST)
- \* Picacho, Peak State Park (JBdeANHT)
- Tubac Presidio State Historic Park, Tubac (JBdeANHT)
- \* Yuma, Crossing State Historical Park (JBdeANHT)

## Arkansas

- NPS: -- Fort Smith National Historic Site, Ft. Smith (TTNHT)
- Pea Ridge National Military Park (TofTNHT)
- State of AR: -- Marianna, Mississippi River State Park (TofTNHT)
- Hampson Archeological Museum State Park (TofTNHT)
- Lake Dardanelle (TofTNHT)
- Prairie Grove Battlefield State Park (TofTNHT)

## California

- USFS: -- Myers Interagency Information Center, South Lake Tahoe  
(PCNST, CA and PE NHTs)

- NPS: -- Golden Gate National Recreation Area, NPS and Presidio Foundation,  
San Francisco (JBdeANHT)
- John Muir National Historic Site, Martinez (JBdeANHT)
- Mojave National Preserve (OSNHT)
- Santa Monica Mountains National Recreation Area, Visitor Center,  
Thousand Oaks (CNHT)
- Sequoia & Kings Canyon National Parks, Three Rivers (PCNST)
- Sequoia & Kings Canyon National Parks, Foothills & Lodgepole Visitor  
Centers (PCNST)
- Yosemite National Park, Tuolumne Meadows Visitor Center (PCNST)
- State of CA: -- Borrego Springs, Anza-Borrego Desert State Park Visitor Center,  
(PCNST, JBdeANHT)
- Burney, McArthur Burney Falls Memorial SP (PCNST)
- Carpinteria, Carpinteria State Beach, (JBdeANHT)
- Castella, Castle Crags State Park (PCNST)
- Colamba, Marshall Gold Discovery State Historic Park (CNHT &  
PENHT)
- Columbia, Columbia State Historic Park (CNHT)
- Morgan Hill, Henry Coe State Park Visitor Center (JBdeANHT)
- Los Encinos State Historic Park (JBdeANHT)
- Monterey State Historic Park (JBdeANHT)
- Mount San Jacinto State Park (PCNST)
- Old Sacramento, BF Hastings Museum, (PENHT)
- Plumas-Eureka State Park (PCNST)
- San Juan Bautista State Historic Park (JBdeANHT)
- Santa Barbara, El Presidio de Santa Barbara SHP (JBdeANHT)

- Silverwood Lake State Park (PCNST)
- South Lake Tahoe, Washoe Meadows State Park (PENHT)
- \* Sacramento, Sutters Fort State Park (CNHT)
- Truckee, Donner Memorial State Park (CNHT)

Other: -- State of CA National Guard: Camp Roberts Historical Museum, Camp  
 Roberts (JBdeANHT)

- \* Camino, Eldorado Information Center (O, C, MP, PE NHTs)
- Carmel, San Carlos Borromeo de Carmelo Mission (JBdeANHT)
- Folsom History Museum (PENHT)
- Jolon, Mission San Antonio de Padua (JBdeANHT)
- Los Angeles, Los Angeles River and Gardens (JBdeANHT)
- Los Angeles, Wells Fargo History Museum (CNHT & PENHT)
- Sacramento Historic Museum (PENHT)
- San Luis Obispo, Mission San Luis Obispo de Tolosa (JBdeANHT)
- San Francisco, Mission Dolores (JBdeANHT)
- San Gabriel Mission (JBdeANHT & OSNHT)
- San Jose, Peralta Adobe (LBdeANHT)
- San Juan Bautista Mission (JBdeANHT)
- Santa Barbara Mission (JBdeANHT)
- \* South Lake Tahoe, Lake Tahoe Visitors Center at Taylor Creek,  
 (C and PE NHTs)

## Colorado

- USFS: -- Comanche National Grassland (SFNHT)
- NPS: -- Bent's Old Fort National Historic Site, La Junta (SFNHT)
- Curecanti National Recreation Area, Gunnison (OSNHT)
- Great Sand Dunes National Park, Visitor Center, Mosca (OSNHT)

-- Rocky Mountain National Park, Grand Lake Visitor Center (CDNST)

State of CO: -- Arboles, Navajo State Park (OSNHT)

-- Fruita, James M. Robb-Colorado River State Park (OSNHT)

-- Mancos State Park (OSNHT)

-- Trinidad Lake State Park (SFNHT)

Other: -- Julesburg, Fort Sedgewick Depot Museum (PENHT)

-- \* Las Animas, Bogsville Historic Site (SFNHT)

-- \* Trinidad, Trinidad History Museum (State) (SFNHT)

### Connecticut

State of CT: -- Dart Island State Park (WRNHT)

-- Housatonic Meadows State Park (ANST)

-- Millers Pond State Park (WRNHT)

-- Mount Riga State Park (ANST)

-- Talcott Mountain State Park (NENST)

-- Wallingford, Trimountain State Park (WRNHT)

-- Watertown, Black Rock State Park (ANST, WRNHT, NENST)

### District of Columbia

NPS: -- Lincoln Memorial (PHNST)

-- Old Stone House and other sites (PHNST)

-- Rock Creek Park, Visitor Center (PHNST)

### Florida

USFS: -- Apalachicola National Forest Visitor Center (FNST)

-- Ocala National Forest, Pittman Visitor Center (FNST)

-- Ocala National Forest, Salt Springs Visitor Center (FNST)

-- Osceola National Forest, Olustee Depot Visitor Center (FNST)

-- Silver Springs, Ocala NF, Ocklawaha Vis. Center, (FNST)

- FWS: -- St. Marks National Wildlife Refuge, St. Marks (FNST)
- NPS: -- Big Cypress National Preserve, Oasis Visitor Center (FNST)  
 -- Big Cypress National Preserve, Ranger Station, Ochopee (FNST)  
 -- Gulf Islands National Seashore, Gulf Breeze (FNST)
- State of FL: -- Blue Springs State Park (FNST)  
 -- Ed Ball Wakulla Spring State Park (FNST)  
 -- Hontoon Island State Park (FNST)  
 -- Lower Wekiva River Preserve State Park (FNST)  
 -- Mike Roess Gold Head Branch State Park (FNST)  
 -- Stephen Foster Folk Culture Center, White Springs (FNST)
- Other: -- White Springs, Florida Heritage & Nature Tourism Ctr. (FNST)

### **Georgia**

- State of GA: -- \* Dahlonega, Amacalola Falls State Park (ANST)  
 -- New Echota State Historical Park, Calhoun (ToTNHT)
- Other: -- Chatsworth, Van House Historical Site, (ToTNHT)

### **Hawaii**

- NPS: -- Hawaii Volcanoes National Park, Kailua Visitor Center (AKNHT)  
 -- Koloko-Honokohau National Historical Park, Visitor Center (AKNHT)  
 -- Pu'uhonua O Honaunau National Historical Park (AKNHT)  
 -- Pu'ukohola Heiau National Historic Site (AKNHT)

### **Idaho**

- USFS: \* Lolo Pass Visitor Center (FS) (NPNHT, L&CNHT) (also in MT)  
 -- Orofino, Clearwater National Forest HQ (L&C NHT)  
 -- Orofino, Powell Campground (L&C NHT)  
 -- Salmon, Lewis and Clark Byway Tour Kiosk (L&C NHT)
- NPS: -- \* City of Rocks National Reserve, Almo (C NHT)

- Hagerman Fossil Beds Nat. Mon. Visitor Center (ONHT)
- \* Nez Perce National Historic Site, Spaulding (NPS), (38 sites 4 States),  
(NP, L&C NHTs)

- State of ID: -- Pocatello, Idaho Museum of Natural History, (L&C & C NHTs)
- Other: -- Fort Hall, Shoshone-Bannock Tribal Museum (ONHT)
- \* Lewiston, Nez Perce City Museum, Lewiston (NPNHT)
- \* Montpelier, National Oregon/California Trail Center (C, O NHTs)
- Salmon, Sacajawea Interp. Cultural & Edu. Ctr. (L&CNHT)

### Illinois

- NPS and State of Illinois: -- Camp Dubois, Wood River (L&CNHT)
- USACoE: -- \* Alton, National Great Rivers Museum (L&C NHT)
- State of IL: -- Dixon Springs State Park (TofTNHT)
- Golconda Marina State Recreation Area (TofTNHT)
- Lewis & Clark State Historic Site (L&CNHT)
- Other: -- \* Nauvoo, Temple Information Center (MPNHT)

### Iowa

- FWS: -- Desoto National Wildlife Refuge, Missouri Valley (L&CNHT)
- NPS and Iowa Historical Society: -- \* Council Bluffs, National Western Historic Trails Center  
(L&C, MP, and C NHTs)
- State of IA: -- Green Valley State Park (MPNHT)
- Lacey-Keosauqua State Park (MPNHT)
- Missouri Valley, Wilson Island State Park (L&CNHT)
- Onawa, Lewis and Clark State Park (L&CNHT)
- Sioux City, Sgt. Floyd Museum & Welcome Ctr. (L&CNHT)
- Waubonsie State Park Visitor Center (L&CNHT)
- Other: -- \* Council Bluffs, Kanesville Tabernacle (MPNHT)

-- Sioux City: Lewis & Clark Interpretive Center (L&CNHT)

-- Sioux City Public Museum (L&CNHT)

-- Sioux City: Snyder Bend County Park (L&CNHT)

## **Kansas**

USFS: -- Elkhart, Cimarron National Grassland (SFNHT)

NPS: -- \* Fort Larned National Historic Site, Larned (SFNHT)

U.S. Army: -- \* Fort Leavenworth, Frontier Army Museum (L&CNHT)

State of KS: -- Council Grove, Kaw Mission State Historical Site, (SFNHT)

-- Hollenberg Station State Historic Site (CNHT, ONHT, PENHT)

Other: -- Bonner Springs, Wyandotte County Hist. Museum, (L&CNHT)

-- Elkhart, Morton County Historical Society Museum (SFNHT)

-- Hanover, Hollenberg/Cottonwood Ranch (PENHT)

-- \* Larned, Santa Fe Trail Center (SFNHT)

-- Lyons, Coronado Quivera Museum (SFNHT)

-- \* Marysville, Station #1 Museum (PENHT)

-- Olathe, Mahaffie Farmstead & Stagecoach Stop (SFNHT)

## **Kentucky**

State of KY: -- Louisville, Columbus-Belmont State Park (ToTNHT)

Other: -- \* Hopkinsville, Trail of Tears Commemorative Park (ToTNHT)

## **Louisiana**

State of LA: -- Los Ades State Historic Site (CRdeLTNHT)

-- North Toledo Bend State Park Visitor Center (CRdeLTNHT)

## **Maine**

State of ME: -- Baxter State Park, Togue Pond Visitor Center (ANST)

-- Grafton Notch State Park (ANST)

-- Rangeley Lake State Park (ANST)



## Maryland

- FWS: -- Cambridge, Blackwater National Wildlife Refuge (CSNHT)
- NPS: -- Chesapeake & Ohio Canal National Historical Park, Canal Place Visitor Center, Cumberland (PHNST)
- C & O Canal NHP, Great Falls Visitor Center, Potomac (PHNST)
- C & O Canal NHP, Hancock Visitor Center (PHNST)
- C & O Canal NHP, Sharpsburg (PHNST)
- C & O Canal NHP, Williamsport Visitor Center (PHNST)
- \* Fort McHenry National Monument and Historic Shrine, Baltimore (SCNHT, SBNHT)
- Fort Washington Park, Fort Washington (PHNST)
- Glen Echo Park, Glen Echo (PHNST)
- Piscataway Park, Accokeek (PHNST)
- NPS and Accokeek Foundation: -- National Colonial Farm, Accokeek (PHNST)
- State of MD: -- Big Pool, Fort Fredrick State Park, Big Pool (PHNST)
- Calvert Cliffs State Park (SBNHT, CSNHT, PHNST)
- Colton's Point, St. Clements Island/Potomac River Museum, (PHNST)
- Edgemere, North Point State Park (SBNHT, CSNHT)
- Elk Neck State Park (CSNHT, SBNHT)
- Flintstone, Rocky Gap State Park (PHNST)
- Gathland State Park (ANST)
- Greenbrier & South Mountain State Parks (ANST)
- Gunpowder Falls State Park – Hammerman Area (CSNHT)
- Havre de Grace, Susquehanna State Park (CSNHT)
- James Island State Park (CSNHT)
- Lonaconing, Dans Mountain State Park (PHNST)

- Marbury, Smallwood State Park (PHNST)
- Rohrersville, Washington Monument State Park, (ANST)
- St. Leonard, Jefferson Patterson Park & (SBNHT, CSNHT)
- Sandy Point State Park (CSNHT)
- Scotland, Point Lookout State Park (PHNST)
- Other: -- Cumberland, City of Cumberland Visitor Center (PHNST)

**Massachusetts**

- NPS: -- Boston National Historical Park, Bunker Hill Museum (WRNHT)
- State of MA: -- Holyoke Range State Park (NENST)
- Hampton Ponds State Park (NENST)
- JA Skinner State Park (NENST)
- Mount Greylock State Reservation Visitor Center (ANST)
- Mount Tom Summit House and State Reservation (NENST)
- Robinson State Park (NENST)

**Michigan**

- USFS: -- Hiawatha National Forest Visitor Center (NCNST)
- Huron-Mainstee National Forest Visitor Center (NCNST)
- Ottawa NF, Watersmeet Ranger District (NCNST)
- NPS: -- Pictured Rocks National Lakeshore, Munising (NCNST)
- State of MI: -- Craig Lake State Park (NCNST)
- Fort Michilimackinac State Park (NCNST)
- Newberry, Muskallonge Lake State Park (NCNST)
- Petoskey State Park (NCNST)
- St. Ignace, Father Marquette National Memorial (NCNST)
- Silver City, Porcupine Wilderness State Park (NCNST)

- Tahquamenon Falls State Park (NCNST)
- Wilderness State Park (NCNST)

**Minnesota**

- USFS: -- Chippewa National Forest Visitor Center (NCNST)
- Superior National Forest Visitor Center (NCNST)
- NPS: -- Grand Portage National Monument, Heritage Center (NCNST)
- State of MN: -- Itasca State Park (NCNST)

**Mississippi**

- NPS: -- \* Natchez Trace Parkway, Kosciusko Welcome Center (NTNST)
- \* Natchez Trace Parkway, Tupelo (NTNST)

**Missouri**

- FWS: -- Mound City, Squaw Creek Wildlife Refuge (L&CNHT)
- NPS: -- \* Jefferson National Expansion Memorial, St. Louis (L&C, O, C NHTs)
- State of MO: -- Arrow Rock State Park (L&CNHT)
- Blue Springs, Fort Osage (L&C and SF NHTs)
- East Prairie, Big Oak Tree State Park (ToTNHT)
- \* Jackson, Trail of Tears State Park (ToTNHT)
- Katy Trail State Park (L&CNHT, SFNHT)
- Other: -- \* Independence, National Frontier Trails Center (City) (L&C, O, C, SFNHTs)
- Kansas City, Alexander Major House Museum (SFNHT)
- Lexington Historic Museum (L&CNHT, (SFNHT)
- \* St. Charles, Lewis and Clark Center (L&CNHT)
- St. Joseph, Patee House (PENHT)
- St. Joseph Museum (L&C and PE NHTs)
- \* St. Joseph, Pony Express Museum (PENHT)

## Montana

- BLM: -- \* near Billings, Pompeys Pillar (L&CNHT)  
-- \* Fort Benton, Upper Missouri W&S River VC (L&CNHT)  
-- Helena, Canyon Ferry Recreational Complex (L&CNHT)  
-- Lewiston, Upper Missouri Visitor Center (L&CNHT)
- USFS: -- \* Great Falls, Lewis and Clark Interpretive Center (L&CNHT)  
-- \* Lolo Pass, Lolo Visitor Center (L&C NHT, NPNHT)  
-- \* North Fork, Lost Trail Pass Visitor Center (L&CNHT)
- FWS: -- C M Russell National Wildlife Refuge (L&CNHT)
- NPS: -- Glacier National Park, Logan Pass Visitor Center (CDNST)  
-- \* Big Hole National Battlefield, Wisdom (NPNHT)
- USACoE: -- \* Fort Peck, Fort Peck Dam (L&CNHT)
- State of MT: -- Bozeman, Missouri Headwaters State Park (L&CNHT)  
-- Great Falls, Giant Springs State Park Visitor Center (L&CNHT)  
-- Helena, Montana Historical Society Museum (L&CNHT)  
-- Lolo, Travelers Rest State Park (L&CNHT, NPNHT)
- Other: -- Bellevue, Sarpy County Museum (L&CNHT)  
-- Dillon Visitors Center, Dillon, (L&CNHT)  
-- Hamilton, Ravalli County Museum (L&C and NP NHTs)  
-- Lolo Hot Springs Resort, Lolo (L&C and NP NHTs)  
-- Three Forks, Headwaters Heritage Museum (L&CNHT)

## Nebraska

- NPS: -- \* Chimney Rock National Historic Site, Bayard (O, C, MP, PE NHTs)  
-- \* Scotts Bluff National Monument, Gering (O, C, MP, PE NHTs)
- State of NE: -- \* Fairbury, Rock Creek Station SHP (C and O NHTs)  
-- Ft. Calhoun, Fort Atkinson State Hist. Park (L&CNHT)

- Kearney, Fort Kearney State Historic Park (PENHT)
- \* Lewellen, Ash Hollow State Historical Site (C and O NHT)
- Lincoln, Museum of Nebraska History (L&C, O, C, PE, MP NHTs)
- Niobrara State Park (L&CNHT)
- Ponca State Park (L&CNHT)
- Schubert, Indian Cave State Park (L&CNHT)
- Other: -- Bellevue, Sarpy County Museum (L&CNHT)
- Brownville, Missouri River History Museum (L&CNHT)
- Cozad, Robert Henri Museum & Historic Walkway (CNHT, MPNHT)
- \* Gothenberg, Midway Pony Express Station (PENHT)
- Grand Island, Stuhr Museum of the Prairie Pioneer (CNHT, MPNHT)
- Minden, Harold Warp Pioneer Village (CNHT, ONHT, PENHT)
- \* Nebraska City, Missouri River Basin Lewis & Clark Interpretive Trail & Visitor Center (L&CNHT, CNHT)
- \* Omaha, Great Platte River Road Memorial Foundation (O, C, MP, PE NHTs)
- \* Omaha, Mormon Trail Ctr. at Hist. Winter Quarters (MPNHT)

## Nevada

- NPS: -- Lake Meade National Recreation Area, Alan Bible Visitor Center, Boulder City (OSNHT)
- State of NV: -- \* Carson City, Mormon Station State Historic Park (PENHT)
- Churchill Co., Fort Churchill State Historical Park (PENHT)
- Dayton State Park (CNHT, PENHT)
- Spring Mountain Ranch State Park (OSNHT)
- Valley of Fire State Park (OSNHT)

Other: -- Elko, Northeastern Nevada Museum (C and PE NHTs)  
-- Lake Tahoe Visitor Bureau (PENHT)

### **New Hampshire**

USFS: -- \*White Mountain National Forest Androscoggin VC (ANST)  
State of NH: -- Crawford Notch State Park, Willey House (ANST)  
-- \* Franconia Notch State Park, Flume Visitor Center (ANST)  
-- Mount Washington, Washington State Park (ANST)  
-- \*, Pinkham Notch Visitor Center (ANST)

### **New Mexico**

NPS: -- Pecos National Monument (SFNHT)  
-- \* Fort Union National Monument, Watrous (SFNST)  
State of NM: -- \* Camino Real International Heritage Center (CRdeTANHT)  
Other: -- Las Vegas Rough Riders Museum (SFNHT)  
-- Santa Fe, Palace of the Governors (SFNHT)

### **New Jersey**

NPS: -- Morristown National Historical Park (WRNHT)  
State of NJ: -- Colesville, High Point State Park (ANST)  
-- Vernon, Wawayanda State Park (ANST)

### **New Mexico**

BLM: -- Grants, El Malpais Ranger Station (CDNST)  
USFS: -- Clayton, Kiowa National Grassland (SFNHT)  
NPS -- El Malpais National Monument, Grants (CDNST)  
-- Pecos National Historical Park (SFNHT)  
-- Petroglyph National Monument, Albuquerque (CRdeTANHT)  
State of NM: -- Albuquerque, Rio Grande Nature Center SP (CRdeTANHT)  
-- Clayton Lake State Park (SFNHT)

- El Vado Lake State Park (OSNHT)
- Los Ojos, Heron Lake State Park (OSNHT)
- Mesilla Valley Bosque State Park Visitor center (CRdeTANHT)
- Santa Fe, Museum of NM (SRNHT, OSNHT, CRdeTANHT)
- Other: -- Albuquerque, National Hispanic Cultural Center of New Mexico  
(CRdeTANHT)
- Albuquerque, Indian Pueblo Cultural Center (CRdeTANHT)
- Alcalde, Onate Monument and Visitor Center (OSNHT)
- Las Cruces, New Mexico Farm & Ranch Heritage Museum  
(CRdeTANHT)
- Las Vegas, Storrie Lake State Park (SFNHT)
- Santa Fe, El Rancho de las Golondrinas (CRdeTANHT)
- Truth or Consequences, Geronimo Springs Mus. (CRdeTANHT)

## **New York**

- NPS: -- Fort Stanwix National Monument, Rome (NCNST)
- State of NY: -- Adirondack Forest Preserve (NCNST)
- Allegeny State Park (NCNST)
- Buttermilk Falls State Park (NCNST)
- Chittenango Falls State Park (NCNST)
- Clarence Fahnestock Memorial State Park (ANST)
- Crown Point State Historic Site (NCNST)
- Hudson Highlands State Park (ANST)
- Letchworth State Park (NCNST)
- Old Erie Canal State Park (NCNST)
- Pixley Falls State Park (NCNST)

-- Robert H. Treman State Park (NCNST)

-- Watkins Glen State Park (NCNST)

## North Carolina

NPS: -- \* Blue Ridge Parkway, Mineral Museum, Gillespie Gap (OVNHT)  
-- Great Smoky Mountains National Park, Oconaluftee Visitor Center  
(ANST)

USFS: -- \* Pisgah National Forest, French Broad District Office (ANST)

TVA: -- Fontana Dam Visitor Center (ANST)

USACoE: -- \* W. Kerr Scott Dam and Reservoir Visitor Center (OVNHT)

State of NC: -- Lake James State Park (OVNHT)

Other: -- \* Cherokee, Museum of the Cherokee Indian (ToTNHT)

-- Marion, Joseph McDowell House (OVNHT)

-- Morganton, Charles McDowell House (OVNHT)

-- Morganton, Old Burke County Courthouse (OVNHT)

## North Dakota

USFS: -- Cheyenne National Grasslands (L&CNHT)

FWS: -- Coleharbor, Audubon NWR (NCNST)

NPS: -- Fort Union Trading Post National Historic Site, Williston (L&CNHT)

-- Knife River Indian Villages National Historic Site, Stanton (L&CNHT)

USCofE: -- Pick City, Garrison Dam, Lake Sakakawea (L&CNHT, NCNST)

State of ND: -- Bismarck, North Dakota Heritage Center (L&CNHT)

-- Center, Cross Ranch State Park (L&CNHT)

-- Fort Ransom State Park (NCNST)

-- Mandan, Abraham Lincoln State Park (L&CNHT)

-- Ray, Lewis and Clark State Park (L&CNHT)



- Other: -- New Town, Four Bears Museum (L&CNHT)  
-- \* Washburn, North Dakota L&C Interpretive Center (L&CNHT)

## Ohio

- USFS: -- Nelsonville, Wayne National Forest Visitor Center (NCNST)
- NPS: -- Dayton Aviation Heritage National Historical Park, Huffman Prairie  
Interpretive Center (NCNST)
- State of OH: -- Bainbridge, Pike Lake State Park (NCNST)  
-- Cambridge, Salt Fork Lodge (NCNST)  
-- Chillicothe, Scioto Trail State Park (NCNST)  
-- Defiance, Independence Dam State Park (NCNST)  
-- East Liverpool, Beaver Creek State Park (NCNST)  
-- Friendship, Shawnee State Park (NCNST)  
-- Glouster, Burr Oak State Park (NCNST)  
-- Laurelville, Tar Hollow State Park (NCNST)  
-- Logan, Hocking Hills State Park (NCNST)  
-- Logan, Lake Logan State Park (NCNST)  
-- Minster, Lake Loramie State Park (NCNST)  
-- Peebles, Serpent Mound State Memorial (NCNST)  
-- Waynesville, Little Miami SP/Caesar Creek SP (NCNST)  
-- Yellow Springs, John Bryan State Park (NCNST)

## Oklahoma

- State of OK: -- Cherokee Landing State Park (ToTNHT)  
-- Lake Tenkiller State Park (ToTNHT)
- Other: -- \* Tahlequah, Cherokee National Museum (ToTNHT)

## Oregon

- BLM: -- \* Baker City, National Historic Oregon Trail Interpretive Center (ONHT)
- USFS: -- Multnomah Falls Lodge (L&CNHT, ONHT)  
-- Timberline Lodge (PCNST)
- NPS: -- \* Lewis and Clark National Historical Park (formerly Fort Clatsop  
National Memorial), Astoria (L&CNHT)  
-- Crater Lake National Park, Visitor Center (PCNST)
- USACofE: -- Bonneville Dam Visitor Center, Cascade Locks (L&CNHT)  
-- The Dalles Dam Visitor Center (O and L&CNHTs)
- State of OR: -- Ecola State Park Visitor Center (L&CNHT)  
-- Fort Stevens State Park Visitor Center (L&CNHT)  
-- Hermiston, Hat Rock State Park (L&CNHT)  
-- Troutdale, Lewis and Clark State Park (L&CNHT, ONHT)  
-- Wallowa Lake State Park (NPNHT)  
-- Wolf Creek Tavern State Heritage Site (CNHT)
- Other: -- Astoria Welcome Center (L&CNHT)  
-- Klamath Falls, Klamath County Museum (CNHT)  
-- Medford, Southern Oregon Historical Society (CNHT)  
-- Pendleton, Tamastlikt Cultural Institute (L&C and O NHTs)  
-- Portland, Oregon History Center (L&C, O, and C NHTs)  
-- Sunny Valley, Applegate Trail Interpretive Center, (CNHT)  
-- The Dalles, Fort Dalles Museum (ONHT)  
-- \* The Dalles, Columbia Gorge Discovery Center (O and L&CNHTs)

## Pennsylvania

- USFS: -- Bradford, Allegheny National Forest (NCNST)
- NPS: -- \* Delaware Water Gap National Recreation Area, Bushkill (ANST)

- Delaware Water Gap NRA, Kittatinny Point Visitor Center (ANST)
- Independence National Historical Park, Visitor Center, Philadelphia (WRNHT)
- Valley Forge National Historical Park (WRNHT)

- State of PA:
- Caledonia State Park (ANST)
  - Cooksburg, Cook Forest State Park (NCNST)
  - Moraine State Park/McConnells Mill State Park (NCNST)
  - Ohiopyle State Park (PHNST)
  - Swatara State Park (ANST)

- Other:
- \* Boiling Springs, ATC Mid-Atlantic Field Office (ANST)
  - \* Gardners, Appalachian Trail Museum (ANST)
  - Hawk Mountain Sanctuary (ANST)
  - Jennings Environmental Education Center (NCNST)
  - Ligonier, Laurel Highlands Visitors Bureau (PHNST)

### **South Carolina**

- NPS:
- \* Cowpens National Battlefield (OVNHT)
  - \* Kings Mountain National Military Park (OVNHT)

### **South Dakota**

- NPS/USACoE: -- \* Gavins Pt. Dam, Missouri Nat. Recr. River (L&CNHT)
- USACoE: -- Yankton, Lewis and Clark Lake Visitor Center (L&CNHT)
- State of SD: -- Pierre, South Dakota Cultural Heritage Center (L&CNHT)
- Other: -- Akta Lakota Museum & Cultural Center

### **Tennessee**

- NPS:
- Chickamauga & Chattanooga National Military Park, Lookout Mountain Battlefield Visitor Center (TofTNHT)
  - Great Smoky Mountains National Park, Sugarlands Visitor Center (ANST)

- Stones River National Battlefield (TofTNHT)
- State of TN: -- Buchanan, Paris Landing State Park (TofTNHT)
- Cleveland, Red Clay State Historic Park (ToTNHT)
- Counce, Pickwick Landing State Park (TofTNHT)
- \* Elizabethton, Fort Watauga Historic Museum (OVNHT)
- Henning, Fort Pillow State Historic Park (TofTNHT)
- Linden, Mousetail Landing State Rustic Park (TofTNHT)
- Memphis, T O Fuller State Park (TofTNHT)
- Millington, Meeman-Shelby Forest State Park (TofTNHT)
- Roan Mountain State Park Visitor Center (OVNHT)
- Other: -- Piney Flats, Rocky Mount Museum (OVNHT)
- Savannah, Tennessee River Museum (ToTNHT)
- Vonore, Sequoyah Birthplace Museum (ToTNHT)

## Texas

- NPS: -- Chamizal National Memorial, Visitor Center (CRdeTANHT)
- San Antonio Missions National Historical Park, Visitor Center  
(CRdeLTNHT)
- State of TX: -- Grapeland, Mission Tejas State Park Visitor Ctr. (CRdeLTNHT)

## Utah

- NPS: -- Arches National Park (OSNHT)
- Glen Canyon National Recreation Area (SONHT)
- State of UT: -- Fairfield, Camp Floyd Stagecoach Inn State Park (PENHT)
- Junction, Piute State Park (OSNHT)
- Kanab, Coral Pink Sand Dunes State Park (OSNHT)
- St. George, Gunlock State Park (OSNHT)
- \* Salt Lake City, This is the Place State Park (MPNHT)

-- Sevier, Fremont Indian State Park (OSNHT)

Other: -- \* Echo, Echo Canyon Welcome Center (MPNHT)

### Vermont

USFS: -- Rutland, Green Mountain National Forest (ANST)

NPS: -- Marsh-Billings-Rockefeller National Historical Park, Woodstock (ANST)

State of VT: -- Killington, Gifford Woods State Park (ANST)

-- Plymouth, Calvin Coolidge State Park (ANST)

### Virginia

USFS: -- Marion, Mt. Rogers NRA (ANST)

NPS: -- Arlington House, The Robert E. Lee Memorial National Memorial,  
Arlington (PHNST)

-- Blue Ridge Parkway, Dicky Ridge Visitor Center (ANST)

-- Blue Ridge Parkway, Humpback Rocks Visitor Center (ANST)

-- Blue Ridge Parkway, James River Visitor Center (ANST)

-- Blue Ridge Parkway, Peaks of Otter Visitor Center (ANST)

-- George Washington Birthplace National Monument (PHNST)

-- George Washington Memorial Parkway, Great Falls Visitor Center  
(PHNST)

-- Jamestown National Historic Site, Visitor Center (WRNHT, CSNHT)

-- \* Shenandoah National Park, Byrd Visitor Center (ANST)

-- Shenandoah National Park, Luray (ANST)

-- Yorktown Battlefield, Visitor Center (WRNHT)

State of VA: -- Cape Charles, Kiptopeke State Park (CSNHT)

-- Delaplane, Sky Meadow State Park (ANST)

-- Mouth of Wilson, Grayson Highlands State Park (ANST)

-- Leesylvania State Park (PHNST, WRNHT, SBNHT, CSNHT)

- Lancaster, Belle Isle State Park (CSNHT)
- Lorton, Mason Neck State Park (PHNST)
- Virginia Beach, First Landing State Park (CSNHT)
- Westmoreland State Park Visitor Center (PHNST)
- Williamsburg, York River State Park Visitor Center (CSNHT)

Other:

- Alexandria, Historic Alexandria City (PHNST)
- Arlington, Potomac Overlook Park (PHNST)
- \* Loudon County, Bears Den ATC Hostel (ANST)
- Mason Neck, Gunston Hall (PHNST)
- McLean, Claude Moore Colonial Farm (PHNST)
- Mount Vernon (PHNST)
- Riverbend Park Visitor Center (PHNST)
- Stratford Hall Plantation (PHNST)
- \* Waynesboro, Rockfish Gap Tourism Information Ctr. (ANST)
- Woodlawn Plantation (PHNST)

**Washington**

USFS:

- Mt. Baker-Snoqualmie National Forest VC (PWNST, PCNST)

NPS:

- Fort Vancouver National Historic Site, Vancouver (L&C and ONHTs)
- Lake Chelan National Recreation Area, Golden West Visitor Center,  
Stehekin (PWNST)
- Mount Rainier National Park, Ashford (PCNST)
- North Cascades National Park, Sedro Wooley (PCNST)
- Olympic National Park, Visitor Centers (PWNST)
- Whitman Mission National Historic Site, Walla Walla (ONHT)

USACoE:

- Clarkston, Lower Granite Dam (L&CNHT)
- Ice Harbor Dam Visitor Center (L&CNHT)

- Kahlotus, Lower Monumental Dam Visitor Center (L&CNHT)
- FWS:
  - Cathlamet, Julia B. Hanson Wildlife Refuge (L&CNHT)
  - Cathlamet, Lewis and Clark NWR (L&CNHT)
- State of WA:
  - Clarkston, Chief Timothy State Park (L&CNHT)
  - Daytona, Lewis and Clark Trail State Park (L&CNHT)
  - Deception Pass State Park (PWNST)
  - GoldenDale, Maryhill State Park (L&CNHT)
  - Oroville, Lake Osoyoos State Park (PWNST)
  - Stevenson, Beacon Rocks State Park (L&CNHT, ONHT)
- Other:
  - Clarkston, Alpawai Interpretive Center, Clarkston (L&CNHT)
  - \* Ilwaco, Lewis and Clark Interpretive Center (L&CNHT)
  - \* Pasco, Sacajawea Interpretive Center (L&CNHT)
  - Port Ludlow, Olympic Peninsula Gateway VC (PWNST)
  - Stevenson, Columbia Gorge Interp. Center (L&C and O NHTs)
  - Walla Walla, Fort Walla Walla Museum (L&CNHT)

**West Virginia**

- NPS:
  - Harpers Ferry National Historical Park (ANST and PHNST)
- Other:
  - \* Appalachian Trail Conservancy, Harpers Ferry (ANST)

**Wisconsin**

- State of WI:
  - Baraboo, Devils Lake State Park (IANST)
  - \* Campbellstown, Kettle Moraine Ice Age Unit (IANST)
  - Cornell, Brunet Island State Park (IANST)
  - Hartford, Pike Lake State Park (IANST)
  - Mellen, Copper Falls State Park (NCNST)
  - \* New Auburn, Chippewa Moraine Reserve Unit (IANST)

- New Glarus Woods State Park (IANST)
- Potawatomi State Park (IANST)
- \* St. Croix Falls, Interstate State Park (IANST)
- Superior, Pattison State Park (NCNST)
- Waupaca, Hartman Creek State Park (IANST)
- Wisconsin Dells, Rocky Arbor State Park (IANST)

Other: -- Ashland, Northern Great Lakes Visitor Center (NCNST)

## Wyoming

BLM: -- \* Casper, National Trails Visitor Center (with City of Casper)  
(O, CA, MP, PENHTs)

NPS: -- \* Ft. Laramie National Historic Site (O, C, MP, PE NHTs)  
-- Yellowstone National Park, Visitor Centers (NPNHT, CDNST)

State of WY: -- \* Fort Bridger, Ft. Bridger State Museum (O, C, MP, PE NHTs)  
-- Guernsey State Park Museum (O, C, MP, PE NHTs)  
-- \* Independence Rock State Historic Site (CNHT, MPNHT, ONHT,  
PENHT)

-- \* South Pass, South Pass Visitor Center (O, C, MP, PE NHTs)

Other: -- \* Alcova, Mormon Handcart Visitor Center (MPNHT)  
-- \* Fort Casper Museum (CNHT, MPNHT, ONHT, PENHT)  
-- Wyoming Pioneer Memorial Museum (CNHT)



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## APPENDIX Q

### BRIAN O'NEILL'S 21 PARTNERSHIP SUCCESS FACTORS

Brian O'Neill served as superintendent of Golden Gate National Recreation Area from the mid-1980s until his death in 2009. He was noted for his skill in partnerships and developed this paper in 2005.

As the Superintendent of Golden Gate National Recreation Area, Brian O'Neill and his staff earned a reputation as a model partnership park where partnerships are a way of thinking about how best to accomplish the park's mission and build a community of stewardship. Recently, the park determined that 18.5% of the park services were being delivered by NPS staff and the other 81.5% by a host of park partners. These figures underscore the breadth and value of park partnerships.

One success factor is that Brian and his staff are always honing their edge by being on the lookout for and gathering innovative partnership ideas and best practices from other practitioners around the nation and in other countries. The following 21 partnership success factors reflect two decades at Golden Gate National Parks as a learning laboratory and a synthesis of best practices from many sources.

**FOCUS ON IMPORTANT NEEDS** – Partnerships take time to establish and nurture in order to have successful outcomes. The decision to establish a partnership should begin with the belief that an important need can best be fulfilled through a partnership. Potential partners will always be knocking at your door suggesting partnering arrangements. Often we find ourselves in reactive rather than proactive situations — responding to an idea from an outside party. It is more productive to be proactive. First determine that a partnership is the best way to accomplish an important body of work. Then seek out the partner or partners who might best be able to help. In some cases you may need to create the right partner.

**MAKE THE PARTNERSHIPS A WIN-WIN** – Successful partnerships begin and thrive with a clear understanding that mutual benefits will accrue to the partners involved. Each partner may not benefit equally, but each must realize a value-added benefit. Each partner must constantly assess the needs of their respective partners and ensure that individual and collective actions are responsive to those needs. It is important to tie the partnership and its outcomes to the missions of each partner. Partnership initiatives should not only be a great thing to do but also a benefit to each partner. Sharing resources, benefits and recognition for successes keeps the partnership from becoming lopsided, or dominated by any one player. Each partner needs to see their contribution alongside the benefit gained.

**ADOPT A SHARED VISION** – Development and continuing refinement of a shared vision of the work to be accomplished is key to the success of any partnership. The shared vision should evolve from the full engagement of all partners in the relationship. The vision should reflect both the broad body of work and each project or initiative to be undertaken.

Too often, one entity in a partnership independently develops the vision without full engagement of the other partner(s). This violates the underlying premise of a partnership and often results in insufficient ownership or emotional buy-in. Successful partnerships demonstrate a culture of full engagement from the very beginning that leads to collective enthusiasm and achieving results.

**NEGOTIATE A FORMAL AGREEMENT** – Good intentions and a handshake are not enough. Partnerships need formal written agreements and work plans that define mutual interests and expectations, the roles and responsibilities of each partner, and clear accountability for the work to be performed. The formal agreement serves as a mutually binding contract to ensure that each partner acknowledges and fulfills their responsibility. Most people are overextended with work, and tasks can fall through the cracks. If a given partnership is important, provide structure for the partnership through a formal agreement and specific work plans that lay out what tasks need to be performed for each initiative, by whom, and when. In a busy world, clearly written intent, roles, process, schedules, and accountability procedures guide performance and follow through. If differences arise or performance lags, the formal written agreement provides a touchstone for accountability, revisiting intent and commitments, reconciliation, and getting back on track. When needed, the agreement should be updated or amended to keep it current.

**ENSURE GOOD COMMUNICATION** – The success of every partnership is dependent upon the structure, frequency, and quality of communication between the partners. The most successful partnerships incorporate regularly scheduled meetings or conference calls to review how the relationship is working and progress on individual initiatives or work elements. The work schedule/calendar should reflect the importance of the work. Even the best partnerships do not carry their own momentum for long without a structure for touching base to stay on task and on schedule. The chief executive of each partner entity in a relationship must demonstrate leadership and stay involved to the extent that executive level interest is re-enforced and policy direction is provided on a sustained basis. The executives also are responsible for ensuring that good communication processes are in place within and between each partner entity to maintain the excitement of the collaboration, resolve issues, and advance the work. No partnership can reach its full potential without good communication practices as a core element of the relationship. Partnerships, like any human relationship, are about communication, communication, and communication.

**ENSURE THE PARTNERSHIP IS OWNED BY YOUR WHOLE ORGANIZATION** – To succeed, partnerships need to be truly understood and embraced by the entire staff of the partner organizations. Partnerships often originate as a dream or vision of the CEO or an individual(s) within an organization and the compelling reasons and excitement for the potential outcomes are not shared throughout the organization. This incomplete organizational buy-in inevitably limits or undermines full success when the rationales and commitments are not understood and shared by staff who have responsibilities for implementing the partnership. It is crucial for the leader to invest time and energy to build ownership of the partnership throughout supervisory and staff levels. If the partnership is not understood or accepted as being important, it is difficult to sustain over time, especially when the key individuals responsible for its creation take other jobs or retire. Build a sense of team and a partnership culture so everyone understands the importance and value added by

working collaboratively. You need to instill the importance of continually acknowledging the contributions of each party to the overall effort. In essence, individualism needs to be transformed into shared stewardship and responsibility that is re-enforced by actions as well as words.

**MAINTAIN AN ENVIRONMENT OF TRUST** – Trust is an essential ingredient for successful partnerships and enables collaboration and contribution. Trust must be demonstrated and earned day by day. A single betrayal can be costly and make it hard to regain the same level of trust between the partners. Trust eroding behaviors include: independent action by one partner that has not been shared with the other partner(s); grandstanding at the expense of another partner; not honoring one’s word, commitment or confidentiality; creating suspicion in terms of one’s motives; or acting in any way contrary to the best interests of the overall partnership. You build trust through the consistency and integrity of your actions over time. And you have to trust your partners in order to be trusted.

**LEAVE YOUR EGO AND CONTROL AT THE DOOR** – The most insidious impediment to good partnerships is the unwillingness or inability of a partner to share power and control. This can be the “Achilles heel” of partnerships. At their very basic definition, partnerships are about shared power, shared vision, and shared responsibility. While one entity may possess a superior position, larger budget, more staff, etc. in a relationship, the execution of the work and credit for accomplishments should not reflect this. This is not about a landlord-tenant relationship. This is about two or more entities working in unity to accomplish important work. A “boss – servant” mentality will lead only to frustration and unfulfilled promise. Partnerships are about “we” not “I.” They are about creating an equality of importance—an environment where individual personal egos are subservient to the interests of the whole.

This being said, it is important to help your organization understand that partnering does not mean giving up control or influence, nor does it mean that organizations give up their autonomy. Good partnerships represent a delicate balance between maintaining one’s own identity and adding value to a collective effort.

**UNDERSTAND EACH PARTNER’S MISSION AND ORGANIZATIONAL CULTURE** – Every organization has its own culture that is built over time, based on its mission, its practices, its people, its governing values, its traditions, and its institutional history. In any partnership situation, it is important to acknowledge and understand these different organizational cultures, to respect them, and to find ways that these realities can contribute to strengthen the mutual endeavor. The most successful partnerships recognize and value their differences and find ways to integrate them into a workable overarching partnership culture.

**USE THE STRENGTHS OF EACH PARTNER** – Each entity in a partnership brings special capabilities, unique authorities, and different flexibilities to further the work of the partnership. As specific needs and tasks are addressed, consider the particular strengths of each partner in determining the most cost-effective approach and who best to accomplish a specific task. Successful partnerships are characterized by a flexible approach to how needs and responsibilities are matched given each partner’s funding, policies, political connections, and other considerations.

**FIND WAYS THROUGH THE RED TAPE** – Partnerships regularly face “red tape” barriers in trying to work across organization lines, especially with public sector partners, which tend to have more regulations. Getting through these barriers and complications takes creativity and persistence. This can lead to heightened frustrations and complications in moving desired work forward in a timely manner. The more entities in a relationship, the more likely that legal, policy, attitudinal, and cultural challenges will be part of doing business. Successful partnerships acknowledge and address these realities up front and take satisfaction in resolving them. Convert your stumbling blocks to stepping stones. Successful partnerships map out the red tape barriers and mobilize whatever it takes to overcome them. It is too easy to point fingers or use these impediments as excuses for derailments and not achieving success. How partners overcome adversity and the institutional complexities of individual partner members will determine, in large measure, the success of the partnership.

**BUILD STEP BY STEP** – It is natural for the partners to want early successes. There is a tendency to look at similar partnership arrangements and their results without appreciating all the steps taken that led to the result. You have to invest to get results and process is important to achieve successful outcomes. Every situation presents a different set of opportunities based on the unique social, economic and political realities in which a partnership must operate. Much can and should be learned from the experience of others. Good partnerships take a steady investment of time and energy to build and develop. Successful partnerships are built incrementally by starting at the beginning, and growing gradually and tackling more complex initiatives based on the competencies gained from the previous efforts.

Successful partners understand the value of due process and earned vs. instant gratification. They recognize that investment in building the infrastructure necessary to achieve future success is important and are willing to forgo premature success in order to achieve larger, more important long-term gains. “Go Slow to Go Fast.” Partners will grow as far in the partnership as the other partner(s) are willing to help or let them. Challenge yourself and your partners to collectively raise the bar of expectations and advance the partnership step-by-step.

**STRIVE FOR EXCELLENCE** – A partnership ultimately gains stature and a reputation based on the quality of the work it accomplishes. The most successful partnerships understand the importance of doing everything well. Build an early reputation for excellence and sustain that reputation. This will be an important factor in how others view your partnership and what doors will be opened to you. People, and potential funders, want to associate with important work and a reputation for excellence. Step back and analyze what you want people to say about your partnership’s work and organizations. This standard then should underscore your strategy, behaviors, and actions to ensure your desired reputation is achieved.

**DIVERSIFY YOUR FUNDING SOURCES** – The ultimate success of any partnership depends on the human and financial resources it is able to garner. Successful partnerships develop multiple and steady sources of support, particularly for covering basic operational costs and launching new initiatives. There are many examples where partnerships become too dependent on one or too few sources of financial support. When these sources are reduced or disappear, sustainability of the partnership is jeopardized. Building a more diverse funding base is the best hedge against the

vagaries of over reliance on fund sources that may be problematic or undependable from year to year. Develop and periodically update a comprehensive business plan that addresses both near and longer term public and private funding sources, and earned as well as contributed funds that will give your partnership staying power and adaptability.

**CONSTANTLY SEEK OUT AND ADOPT BEST PRACTICES** – The best practitioners are those who are a sponge for new ideas and always on the lookout for innovation and creativity that can be adapted to their partnership. Too often, we hear statements such as “We don’t do things that way. We’ve always done it this way.” “It won’t work.” “This is too risky.” “You have to tell them what they need to know.” “Don’t let them set the agenda.” While such cautionary thoughts need to be considered, successful partnerships are open to new ideas and better ways to accomplish their goals. They can readily grasp and adapt best practices. Overcoming resistance to change is one of the major challenges to partnership success.

Partner entities need to seek ways to build in greater flexibility and adaptability in their structure and work in order to take advantage of “partnering moments.” Establish a work environment in which reasoned risk taking and creativity are encouraged and rewarded and people are willing to risk possible failures in order to succeed. Leaders should act as “champions” with the courage to support experimentation and risk taking and run interference when necessary.

Resourcefulness also characterizes successful partnerships. Work together to identify and engage the abundant human talent residing in most communities to participate in and assist your partnership.

**ALWAYS BE COURTEOUS AND DIPLOMATIC** – Sustaining successful partnerships involves hard work, practiced effectively and consistently over time. It is essential that strong ground rules be established by the partner entities that will govern how the organizations and individuals will interact and treat each other. There is no room for disrespectful behavior. It serves only to tarnish how partners interact and work together. Honesty, respect, courtesy, tact, and diplomacy, should govern partner relationships.

A useful partnering technique is for the partners to define all behaviors that are crucial to sustaining good relationships and then ensure that accountability measures are in place to re-enforce their ongoing practice. Successful partnerships work constantly on developing effective relationships built on trust and a shared commitment to each other’s interests and success.

**HONOR YOUR COMMITMENTS** – Partnership work entails perseverance and follow through by each participating organization and individual. Partnerships require a shared commitment to each other’s success. Sustaining any partnership requires that exciting ideas of interest to the participants actually get executed. Progress depends on each person in the partnership honoring their commitment and following up their words with deeds. When work does not get accomplished, it suggests that the work was not really that important to the individual or organization. This, in turn, builds frustration in the other participants and eats at the mutual trust factor so essential to effective partnering. Successful partnerships address these realities by putting in place reliable accountability measures and regular executive base-touching processes to stay on top of commitments and actions.

**CELEBRATE SUCCESS** – It is a mistake to not take time to formally and frequently celebrate successes. Successful partnerships look for every opportunity to celebrate individual project successes or key benchmarks in the evolution of the partnership. Such celebrations allow the partners to recognize good work being done that re-enforces the goals of the partnership; to gain some outside recognition of the partnership; and/or to demonstrate possibilities for the partnership to grow. People often are reluctant to take the time to celebrate but invariably are pleased when it does occur. Recognizing and celebrating accomplishments helps motivate and spur people on to new challenges. It is a lost opportunity when it does not occur. If one’s goal is to build greater community awareness of the partnership, then the partners need to take every opportunity to legitimately “toot their horns” and market their work and successes. Besides many people who pitch in on partnership do so because they believe in the cause and because it is enjoyable. Celebrating success milestones ensures everybody’s “fun-quotient” stays high. Especially when results are going to take time, it is important to have some early successes and milestones to enjoy and celebrate to build a sense of accomplishment and momentum.

**RESPECT THE RIGHT TO DISAGREE; ACT ON A CONSENSUS BASIS** – There are times and circumstances in partnerships where honest differences will surface and where reluctance to take action on a proposal is deeply held and where compelling reasons are presented on why an action cannot be supported. It is important that partners respect these positions with adequate dialogue and understand the basis of the concerns. In successful partnerships, ground rules are established to give each partner a veto power over proposed actions. Partnership work means reaching consensus among the partners. Homework well done should eliminate most of these differences before they become contentious. There simply is too much good work where commonality of support can be achieved for these situations to erode the core working relationship.

**NETWORK AND BUILD RELATIONSHIPS** – A core competency in partnership work is the ability to network and build relationships. People sell ideas to others. People lend support because people ask them to. Partnerships are by definition about people working together and reaching out to others to gain their emotional engagement. Successful partnerships establish formal systems to identify people who can add value and support. They strategically build new relationships and expand networks to accomplish their priorities. Their relationship building work is deliberate and proactive rather than reactive or coincidental. It is based on a clear strategy of engaging the specific organizations and individuals within the broader community who can advance the work of the partnership. Systematically match your needs with potential sources of support and resources to ensure that effective connections occur.

**PUT MECHANISMS IN PLACE TO RE-ENFORCE THE PARTNERSHIP** – To realize its full potential, a partnership needs: a clear vision, dedicated and skilled people, a rewards and recognition program, incentives that stimulate desired partnership activity, sustained management support and involvement, operational funds, and a clear understanding among supervisors and staff of the potential benefits that result from the partnership arrangements. These are complex, but essential, elements to put in place. The seriousness with which they are addressed will determine your degree of success.

It all boils down to how deliberate and strategic you and your partners are in building a “partnership culture” that incorporates these success factors and the commitments you are willing to make. Understand and adapt success behaviors, develop competencies for these behaviors to be regularly practiced, and align your partnership to succeed.



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## APPENDIX R

### HONOR ROLL OF NATIONAL TRAILS SYSTEM LEADERS

The following names were nominated at *Connection '93*, the Third National Conference on National Scenic and NHTs, on Saturday, October 23, 1993. Each nominee has made an essential contribution without which the National Trails System would not be what it is today. Two more were added at the 1997 NST/NHT Conference in Oviedo, Florida.

#### Living (as of 6-15-13)

Doug Beureuter

Congressman from Nebraska who has consistently supported the Lewis and Clark NHT.

Beverly Byron

Former Maryland Congresswoman, a strong and consistent supporter of trails, sponsor of the feasibility study legislation for the American Discovery Trail.

Susan "Butch" Henley

Cross country hiker and cyclist, now executive Director and Vice President of the American Hiking Society, strong supporter of and lobbyist for trails.

Marilyn Hoffman

First person to hike the North Country NST from end to end.

Nancy Kassebaum

Kansas Senator and strong Congressional supporter of trails, especially historic trails.

Jim Kern

Founder of the Florida Trail Association and the American Hiking Society. Now involved with Big City Mountaineers.

David Lavender

Skillful writer on western trails.

Tom Lennon

USFS employee who for many years coordinated and advised on trails issues, overseeing perhaps the world's largest system of trails, over 115,000 total miles.

Carl Levin

Michigan Senator who is a strong supporter of the North Country NST, a watchdog of the National Trails System, and volunteer helper when he can.

George Miller

Advocate in Congress for the Pacific Crest NST, Juan Bautista de Anza NHT, and the proposed American Discovery Trail.

Steve Newman

Ohioan who walked around the world in mid-1980's, bringing attention to fitness walking and proving that humanity is generally welcoming and generous.

David Obey

Strong Congressional supporter for a strong National Trails System until his retirement in 2010.

Bob Paton

Founder of Ohio's Buckeye Trail Association.

Leo Rassmussen

Earlier volunteer with the Iditarod Dogsled Race and first proponent, in 1988, for a national association of scenic and historic trails associations (added 1997).

Joe Reddington, Sr.

Started the modern Iditarod Dog Sled racing tradition in early 1974.

Senator Harry Reid

Nevada Senator who has supported trails in the West.

Bill Shank

Early supporter of the C & O Canal and the Potomac Heritage NST.

Norman Shumway

Former Congressman from California who sponsored the legislation creating the California and Pony Express NHTs.

Marc Simmonds

Historian, writer, and modern "father of the Santa Fe Trail".

Jim Wolf

Driving force behind the Continental Divide NST and President of the Continental Divide Trail Society.

### Deceased

Myron Avery

Explored and organized the early Appalachian Trail.

Ruth Blackburn

Tireless volunteer and advocate for the Appalachian NST.

Congressman Phillip Burton

Protector of wilderness and parks.

George Cardinet

Present at the signing of the NTSA and persistent proponent of the Juan Bautista de Anza NHT. Considered today the "grandfather of long-distance trails."

Elvin "Frenchie" Chuinard

Early proponent of the Lewis and Clark Trail Heritage Foundation.

Clinton Clarke

Early visionary of the Pacific Crest Trail.

William Colby

President of the Sierra Club who publicized trails, especially the Pacific Crest Trail.

Justice William O. Douglas

Dedicated hiker who raised the public visibility of hiking and spearheaded the effort to save the Chesapeake and Ohio Canal towpath, now the route of the Potomac Heritage NST.

Lance Feilds

First supporter of the North Country NST and founder of the North Country Trail Association.

Jeannette Fitzwilliams

Staunch trails supporter and volunteer. Active for many years with the Potomac Appalachian Trail Club, founder of the Rails-to-Trails Conservancy, and founder of the Virginia Trail

Association.

Colin Fletcher

Prominent author about hiking and backpacking, popularized safe and ecologically sensitive outdoor experiences.

Gregory Franzwa

Founder of the Oregon-California Trails Association, publisher of historic trail guides, and strong enthusiast of historic trails.

Ed Garvey

"Grand Old Man" of the Appalachian NST -- an inspiring writer on the AT hiking experience.

Emily Gregor

Tireless hiker and trail building volunteer active with Cleveland Hiking Club, Buckeye Trail Association, North Country Trail Association, and American Hiking Society.

First Lady Bird Johnson

Strong supporter of a National System of Trails.

Stanley Kimball

Pre-eminent historian of the Mormon Pioneer NHT, a great storyteller of the National Trails System.

Bob Lange

Editor of *We Proceeded On* for the Lewis and Clark Trail Heritage Foundation.

Benton MacKaye

Regional planner who conceived of long-distance trails as interstate greenways. Visionary of the Appalachian Trail in 1921.

Bob Marshall

Active conservationist active with the Forest Service, Wilderness Society, and Appalachian Mountain Club.

Louis Marshall

Active with the Appalachian Mountain Club and responsible for the "forever wild" clause in the New York State Constitution.

Louise Marshall

Strong advocate for trails in the Pacific Northwest. Former board member and President of the American Hiking Society. Helped strengthen the Pacific Crest Trail Association.

Dr. Merrill Mattes

Platte River corridor historian, untangling the history of the Oregon, Mormon Pioneer, California, and Pony Express NHTs.

Ezra Meeker

Oregon Trail pioneer who urged that the Oregon Trail be marked and preserved, founding the predecessor organization to the Oregon-California Trails Association.

Bob Morrison

Founder of the Overmountain Victory Trail Association.

John Muir

Conservationist and explorer of remote wilderness. "Go to the mountains and get their glad tidings."

Gaylord Nelson

Senator from Wisconsin in the 1960s and Senate sponsor of the NTSA.

Irene Paden

1930's writer about the Oregon and California Trails.

Ethel Palmer

Past President of the Florida Trail Association and strong advocate for the Partnership for the National Trails System (added 1997).

Warren Rogers

Early proponent of the Pacific Crest Trail.

Congressman Henry Reuss

The Congressman who wrote the book, *On the Trail of the Ice Age*, and sponsored the legislation establishing the trail. A strong trail supporter still.

Representative John Seiberling

Former Ohio Congressman who spearheaded Federal preservation efforts nationwide, especially in Alaska.

Earl Shaffer

First Appalachian Trail end-to-end hiker, 1948.

William T. Spitzer

Lifelong recreation resources career professional with the National Park Service -- strong proponent of river and trails recognition and protection.

Wallace Stegner

Beloved conservationist and writer on the Mormon Pioneer NHT.

Congressman Morris Udall

Congressional leader on behalf of trails and the protection of public lands for many years.

Secretary Stewart Udall

Secretary of the Interior, 1960-8, and strong supporter of the NTSA. He oversaw both the book "Trails for America" and passage of the NTSA.

Heaton Underhill

Distinguished World War II veteran and deputy director of the Bureau of Outdoor Recreation when it was responsible for implementing the NTSA. For many years he chaired the Federal Interagency Council on Trails.

Congressman Bruce F. Vento

Congressional champion of trails when he served as chairman of the House Interior Subcommittee on Parks and Public Lands.

Julius J. Werner

Epitome of a dedicated volunteer on the Ice Age Trail. Vision and dedication carried on by his son, Gary Werner.

Wallace D. Wood

Founder of the Finger Lakes Trail Association.

Congressman Sidney Yates

As chairman of the House Interior Appropriations Committee, a friend of trails and public lands.

Ray Zillmer

Original visionary of an Ice Age Trail in Wisconsin. Founder of the Ice Age Park and Trail Foundation and inspirer of Henry Reuss to write the book. Vision carried on today by his son, John Zillmer.



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## APPENDIX S

### FEDERAL PROGRAMS THAT CAN HELP NATIONAL TRAILS

#### NATIONAL PARK SERVICE

##### Applied Ethnography Program

Using cultural anthropology to focus on contemporary human communities and their relationships to heritage resources in general (and parks especially) this program focuses especially on heritage and minority issues. Special places of attention include sacred sites, legendary places, and subsistence gardens often hidden today. Staff help articulate concerns, conduct and analyze research, provide consultations, identify strategies and links, and bring concerns forward in official planning documents.

Contact: (vacant)

##### Certified Local Government Program

This program is jointly administered by NPS and the State Historic Preservation Officers (SHPOs) in each State. A local government (city or county) must enact legislation to protect historic resources, establish a qualified review board and adopt the Secretary's Standards to be certified. After signing an agreement with the SHPO which outlines the participation requirements, the certified local government (CLG) is eligible for CLG grant monies administered by the SHPO. The grants must be used to further the local preservation program through review board training, board staffing, local survey and inventory, development of brochures or design guidelines or other preservation related activities. For a list of the CLGs in a State, call the SHPO.

##### Challenge Cost-Share Program

Within NPS there is a specific fund (\$1-2 million annually) for use as challenge cost-shares. (In addition, any appropriated funds can also be used for this purpose.) Joint projects are usually sorted out over the summer and consummated by cooperative agreement or contract early in the fiscal year. Most projects should be completed within one year. Partners must ensure documentation of the matches (in-kind services, volunteer hours, as well as cash) when the project is completed.

Contact: Steve Golden (WASO), 202-354-6913

#### Connect Trails to Parks

To help commemorate and prepare for the 50<sup>th</sup> Anniversary of the NTSA in 2018, the NPS receives funds (now about \$850,000 annually) to carry out for projects where Federal

facilities interact with National Trails. Projects must be entered through the NPS Project Management Information System (PMIS). In late summer the qualifying projects are downloaded and ranked by an independent review panel. Selection criteria favor projects with matching funds, strong educational value, and involvement of underserved populations.

**Contact:** Peter Bonsall, 303-969-2620

### **Cultural Resources GIS Facility**

Using advanced technology, this facility combines spatial data and sophisticated information management systems at low cost to better plan cultural resource preservation through resource identification, mapping, databases, and interpretive programs. Linked to GPS, viewshed analysis, and resource atlases, the program offers specialized training and can help set priorities for resource preservation. The MAPIT program links historic resource inventories to maps, charts, tables, and standard forms.

### **Federal Archeological Assistance**

This program offers national leadership and coordination, including encouragement and support for the interpretation, management, preservation, and protection of America's archeological resources inside the National Park System and beyond it. This function includes carrying out the role of the Interior's Departmental Consulting Archeologist.

**Contact:** Stan Bond (WASO), 202-354-2123

### **Federal Land-To-Parks and Historic Surplus Property Programs**

These two programs, administered by NPS field offices, allow the transfer of Federal excess surplus property to State or local governments at no cost. Property transferred for park purposes may include historic structures but the overall utilization program must relate to recreation and public park use. Property transferred for historic monument purposes can be adaptively reused for a variety of uses, including income producing. The property must be listed in or eligible for the *National Register of Historic Places* (NRHP). In both programs any earned money must be earmarked for preservation and maintenance of the property. All work undertaken must comply with the Secretary's Standards.

**Contact:** Wendy Ormont (WASO) 202-354-6915

### **Historic American Landscapes (HALS)**

This documentation program reflects the Federal Government's commitment to record and preserve landscapes that are important to our cultural and scenic heritage. Project teams produce measured drawings, large-format photography, and written histories which are then permanently deposited in the Library of Congress.

**Contact:** HALS: Paul Dolinsky (WASO), 202-354-2116

### **Historic Preservation Tax Incentive Program**

Established in 1976 and modified in 1985, this program is jointly administered by NPS and the SHPOs. It allows the owner of an income-producing property eligible for or listed in the NRHP, or within a NRHP district and contributing to the district to qualify for a tax credit. The owner must file an application with the SHPO who then reviews and forwards it with a recommendation to NPS. Owners must comply with the Secretary Standards and can receive a credit against their federal tax of 20% of the cost of the rehabilitation. For further information about the program and procedures, call the SHPO.

**Contact:** (202) 513-7270

### **Historic Preservation Fund**

The Historic Preservation Fund is an annual allocation from Congress to States, Territories, and the National Trust for Historic Preservation. The fund requires a 60/40 match and, and funds are allocated on a formula distribution basis. Funds are used to further the historic preservation programs of the recipients. States are required to pass through a minimum of 10% to CLGs. States may choose to fund other historic preservation grant programs established by the State. These can include survey and inventory, NRHP nominations, public education, acquisition and development, and preservation planning.

**Contact:** Individual SHPOs by State or Hampton Tucker, 202-354-2020

### **Interpretive Design Center, Harpers Ferry, WV**

**Publications:** NPS staff in this office design, produce, and coordinate distribution of many of the interpretive booklets, posters, map brochures, and other printed products which convey the stories and themes of NPS areas to the public.

**Contact:** Melissa Cronyn (HFC), 304-535-6425

**Waysides:** This technical service provides design and installation guidance for interpretive wayside exhibits to national park areas and their partners.

**Contact:** HFC, 304-535-6049

### **National Center for Preservation Technology and Training**

This Center promotes and enhances the preservation of prehistoric and historic resources in the United States for present and future generations through the advancement and dissemination of preservation technology and training. The Center, created by Congress, is an interdisciplinary effort to advance the art, craft, and science of historic preservation in the fields of archaeology, historic architecture, historic landscapes, objects and materials

conservation, and interpretation. Annual grants for education, technology, and training development are available on a competitive basis. Contact the Center for information about the application process.

Contact: <https://www.ncptt.nps.gov/>

### **National Historic Landmarks (Identification and Registration)**

These sites are designated by the Secretary of the Interior and acknowledged as the Nation's most important historic and archeological properties. The National Historic Landmarks Survey manages the process by which these nationally significant historic properties are identified, evaluated, and designated through historical theme and special studies for their exceptional value in illustrating the Nation's heritage.

Contact: (202) 354-2216

### **National Historic Landmarks Assistance Initiative**

This program monitors the condition of NHLs and provides technical assistance and training to their owners and partner organizations.

Contact: (202) 354-2216

### **NPS Historic Landscape Program**

This program addresses landscapes within the National Park System which are significant, based on *National Register of Historic Places* criteria. Program activities (research, inventory, documentation, analysis and evaluation, and treatment) focus on preserving physical attributes, biotic systems, and contributing land uses. The program uses two primary tools for cultural landscape management—the Servicewide park cultural landscapes inventory and site-specific cultural landscape reports—as well as condition assessments, preservation maintenance guidelines, technical assistance, and training.

Contact: Susan Dolan, 206-220-4132

### **National Register of Historic Places**

The National Register of Historic Places (NRHP) was established with the National Historic Preservation Act of 1966. The NRHP is the official listing of buildings, sites, objects, landscapes, and districts worthy of preservation. The program is jointly administered by NPS and the State Historic Preservation Offices (SHPO). Properties may be significant at the national, State or local level of significance and possess integrity of location, design, setting, materials, workmanship, feeling and association. The property may be associated with historic events or broad patterns of history; the life of a significant person, embody distinctive characteristics or may yield or may be likely to yield information important to prehistory

or history. Nominations are submitted through the SHPO for review and recommendation to NPS. For further information about the nomination process contact individual SHPOs.

National Register information is made widely available for use in planning, preservation, education, tourism, and research through demonstration projects, books, videotapes, the computerized National Register Information System (NRIS), travel itineraries, curriculum materials, the World Wide Web, and other means. Property nominations are considered and approved by each State's historic preservation officer.

**Contact:** on-line information and access

<https://www.nps.gov/subjects/nationalregister/index.htm>

### **Rivers, Trails and Conservation Assistance Program (RTCA)**

The NPS offers a technical assistance program in each region that helps local communities, Statewide advocacy groups, conservation organizations, and others to get projects organized foster conservation, recreation, and open space preservation. Usually invited in while a project is still in the conceptual stage, RTCA staff help identify key partners, share strategies that have worked elsewhere, and guide partners to form the appropriate organization structure that will accomplish the task at hand. Projects are selected each summer for the following year.

Contact: see [www.nps.gov/orgs/rtca/apply.htm](http://www.nps.gov/orgs/rtca/apply.htm)

### **Teaching with Historic Places**

This education partnership, started with the National Trust for Historic Preservation and other partners, uses places listed in the *National Register of Historic Places* to teach heritage concepts. Over 100 lesson plans have been published, and more are on the way. Many have resulted from workshops on specific sites and areas. A number retrace NHTs. Also, an author's packet and other materials provide guidance to those developing or using historic preservation curriculum materials.

**Contact:** Beth Boland, 202-354-2238. (See website:

<https://www.nps.gov/subjects/teachingwithhistoricplaces/index.htm>)

### **Technical Preservation Services**

This service helps Americans citizens, preservation professionals, organizations, and government agencies preserve and protect historic properties by providing readily available education materials on preservation, restoration, and rehabilitation through such means as preservation briefs, technical notes, books, videos, and its home page on the World Wide Web.

**Contact:** 202-513-7270.

### **Volunteers-In-The-Parks (VIPs)**

Authorized by a 1969 law, the VIP program fosters volunteerism throughout the National Park System. It is administered locally and coordinated nationally. Some compensation may be available for tools, travel, training, and other support. Other benefits include Workmen's Comp for on-the-job injuries and tort liability coverage for on-the-job accidents. For trails, the NPS contact is the Federal trail administrator, while local projects may be carried out within other agency volunteer programs.

**Contact:** Joy Pietschmann, (WASO), 202-513-7141

## **USDA-FOREST SERVICE**

### **Windows on the Past**

Evolving from the National Recreation Strategy, this set of public benefit programs includes involvement, partnerships, interpretation, and marketing. The programs are tailored to the needs and resources of each forest. One program, "Passport in Time," involves hands-on volunteers in heritage projects throughout the National Forest System. It combines environmental education, stewardship, recreation, and advocacy. Another program, Heritage Celebration, attracts hundreds of thousands of visitors to heritage fairs in the Pacific Northwest. Most Windows on the Past projects are conducted in partnership with local communities, historical societies, universities, interpretive associations, nonprofit groups, or private individuals.

**Contact:** Forest Service Heritage Program Manager, Washington, D.C.

### **Volunteers-In-The-Forests Program**

Since 1972 the VIF program has fostered volunteerism throughout the National Forest System. Similar to the VIP program in the parks, volunteers in the forests and National Forest programs receive coverage for injuries and liability and may also be compensated for incidental expenses.

Both individuals and groups can aid in interpretation, visitor services, conservation measures and other activities as needed. Such volunteers should be formally enrolled to receive full credit for their contribution.

**Contact:**

## **FEDERAL HIGHWAY ADMINISTRATION (FHWA)**

### **Recreational Trails Program**

Funded through surface transportation funding authorities, this program is limited to a mix of motorized and non-motorized trails projects. Many States have used these funds for projects along NSTs and NHTs. Project applications should be submitted to each State's program manager, usually located in State's natural resource agency (DNR, state parks, etc.). In certain States, the program is managed in the department of transportation (AR, IA, MD, and WV) or jointly with transportation (IL, MA, and RI). See website <https://www.fhwa.dot.gov/environment/rectrails/>



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**APPENDIX T**  
**NATIONAL TRAILS SYSTEM SIGN MANUAL**

(Still in review – to be added later)

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## APPENDIX U

### SIGNIFICANCE CRITERIA FOR NATIONAL HISTORIC TRAILS

This essay is adapted from the report by NPS historian John Sprinkle of an interagency symposium on the topic held August 19-20, 1999, in Santa Fe, NM. It was chaired by Jerry Rogers, then Assistant Regional Director, Intermountain Region (NPS), and staff for the National Historic Landmarks Committee of the National Park System Advisory Board.

**Background:** The NTSA details in section 5(b)(11) the requirements for feasibility studies for NHTs, specifying criteria for national significance. Although trails differ substantially from other types of cultural resources, the historic trail criteria resemble the older and more commonly used National Historic Landmark (NHL) criteria. The NTSA suggests that study reports include “the recommendation of the Secretary of the Interior’s National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935,” that are, in fact, the National Historic Landmark criteria. “Criteria for Parklands” (for new units of the National Park System) are also derived in large part from the authority of the Historic Sites Act, and are almost identical to NHL criteria.

For many years NHT studies prepared under NTSA criteria have been presented to the NPS Advisory Board for its evaluation and recommendation. Unlike NHL nominations, trail studies have traditionally focused less on providing the historical context against which their significance would be judged and more on the planning aspects of establishing a new trail. In general, NHT studies have not directly addressed the Landmark criteria, as distinguished from the NTSA criteria, although the Advisory Board is charged with making its recommendation based on the NHL criteria. In addition, NHL criteria are better understood and documented because of their use in the designation of over 2,300 properties as NHLs.

To the NPS Advisory Board, NHT studies have seemed somewhat similar to Landmark nominations but inferior in historical scholarship and difficult to evaluate. Deferring to the judgments of professional staffers conducting the NHT studies, the Advisory Board has tended to make positive but halfhearted recommendations with inadequate scrutiny. In at least one case, however, the Board declared that the study documentation provided no basis for either a positive or a negative recommendation. Given the role of the Advisory Board in protecting high standards, NHT studies that present weak recommendations are dangerous and inappropriate, and no recommendation at all wastes the work that has gone into the studies. Also, as the most obviously significant trail designations were completed, the work of the trails program has entered a second phase that required more discriminating evaluations and involved more difficult decisions. These problems motivated NPS, BLM, and Forest Service trail administrators to seek a solution in the symposium whose work this paper reports.

**Approach:** A symposium to address this issue was organized by the NPS’ National Center for Recreation & Conservation (Washington, DC) and the Long Distance Trails Group Office in Santa Fe, NM. Participants included Carl Barna, Regional Historian, BLM; John Conoboy, Chief of

Interpretation and Resource Management of the Santa Fe Long Distance Trails Office, NPS; Dr. Art Gomez, Historian, NPS; Dr. Don Hardesty, Professor of Anthropology, University of Nevada; John Haubert, NPS Office of Park Planning; Dr. Jere Krakow, Superintendent, Long Distance Trails Office-Salt Lake City, NPS; Dr. Ramon Powers, Executive Director, Kansas State Historical Society; Dr. Charles Rankin, Editor, *Montana Magazine*; Dr. John Sprinkle, Supervisory Historian, National Historic Landmarks Survey, NPS; Dr. Robert Spude, Historian and Program Manager, NPS; Rich Sussman, Park Planner, NPS; Lysa Wegman-French, Historian, NPS; and Dr. Judy Rose, Archeologist, United States Forest Service. Jerry Rogers, served as Chair and meeting designer, with substantial behind-the-scenes assistance from Nancy Burgas, Managing Director of Phronesis, Inc.

The goals for this symposium included:

- Facilitating the distinction between trails that may be meritorious and the outstanding trails that should have NHT designation.
- Developing a sound basis for significance criteria for NHT proposals.
- Developing a beginning point for a continually growing body of technical information that could explain, illustrate, and elaborate upon the meaning of the NHT criteria for evaluation.
- Developing a first draft of NHT significance criteria.

The participants, chosen for their extensive experience and sound philosophies, were asked to present brief prepared statements. This was followed by group dialogue for the purpose of achieving common understanding and deriving useful ideas. At the end of three intensive days, most participants declared the experience intellectually stimulating, educational, and personally rewarding. The outcomes—very different from what the symposium planners had expected—suggest some workable and relatively easily implemented recommendations.

One anticipated outcome was to be administrative criteria that would pull together in a single statement the intent of the NTSA and the Historic Sites Act/National Historic Landmarks program with regard to national significance. The work of the participants revealed that other steps could be taken that would enable the NTSA criteria for NHTs to function well in tandem with the Landmark criteria. Participants identified a number of “principles” to guide those other steps. The balance of this paper incorporates, combines, and draws upon those principles to recommend steps that could be taken and to cite certain premises upon which the steps are based.

**Premises:** Congress intended that NHTs represent the same high levels of historical association represented by national parks, national monuments, national historic sites, and national historic and natural landmarks. Although the law clearly provides for NHTs to be different in many ways, other laws also countenance substantial differences among individual significant sites under the jurisdiction of the BLM, NPS, and FS. The body of statutes authorizing these units is accepted as broadly reconciled, one law to another, with the National Park System as a whole, and acceptably compatible with the NPS Act of 1916, the Historic Sites Act of 1935, and “Criteria for Parklands.”

National significance, therefore, is a somewhat malleable concept taken to mean the very best and most important—as distinguished from the very good and very important. It implies a high standard of quality against which a place must be tested and proven. It specifically is not an inclusive standard meant to encompass large numbers of similar places.

Congress provided for the differences between NHTs and other nationally significant entities. Historic trails are complex systems, linear in nature, often fragile, and often subject to modern uses related (or unrelated) to the historic uses. Virtually all will have been impacted, penetrated, interrupted, or destroyed in some places to a degree that would not be acceptable in the “districts, sites, buildings, structures, and objects” that are commonly identified as Landmarks. Designation of NHTs, therefore, does not require integrity of location, design, setting, materials, workmanship, feeling, and association in the same way or to the same degree required for NPS units or historic landmarks. Those differences are explicit or implicit in the NTSA, and must be taken into account in evaluating trails against National Historic Landmark criteria. The capacity for public recreation, interpretation, and appreciation are important elements of NHTs, requiring judgments that are not entirely dependent upon integrity.

Congress *did not* intend, however, to authorize designation of NHTs *without* integrity. “Capacity for public recreation, interpretation, and appreciation,” as required by the Act, was not intended to be taken in an entirely abstract sense. This provision is understood to require a substantial degree of integrity, implying that certain segments of the trail would be considered eligible for the National Register of Historic Places.

NHT studies must follow a methodical process that is consistent with National Historic Landmark nominations and NPS new area studies. They must specifically address NH Landmark criteria, which means

- Trail studies, like NHL nominations, must include sufficient context to enable comparative judgments.
- Trail studies, like NHL nominations, must identify a principal period or periods of significance, and must identify the pertinent themes within which the significance exists.
- Trail studies, like Landmark district nominations, must identify the principal components along their linear landscapes that contribute to the nationally significant entity.
- Trail studies, like Landmark nominations, must be based on supportive documentation and physical evidence related to the period(s) of significance.
- Because new information may be discovered, and because history is constantly reinterpreted, Trail studies must set a national significance benchmark or threshold for potential evaluation of other segments and resources that may emerge and be proposed at later dates.

In most cases, the identified principal components that contribute to the nationally significant entity will be the same as “high potential sites or segments,” mentioned in the NTSA. These will almost always be the same as or very similar to “districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture” referred to in the National Historic Preservation Act. In addition to more conventional historic sites or trail remnants, they may

be broad landscapes, or they may be subsurface deposits that possess archeological and information value.

NHT studies are not required to identify every National Register-eligible site within the area proposed to be designated, and NHT designation does not automatically enter resources in the National Register. Statutory creation of historic units of the National Park System automatically enters resources in the National Register, but the differing requirements of the NTSA do not allow the assumption that National Register eligible resources are present without additional work — especially evaluations of integrity. For purposes of compliance with the National Historic Preservation Act and the National Environmental Policy Act, however, NHT designation is a bright and undeniable signal that National Register or Landmark eligible resources are highly likely to exist in designated areas. Any Federal agency contemplating an undertaking affecting an NHT *must* employ the requirements of law and policy to search for eligible resources and to secure determinations of eligibility if necessary to avoid violation of the law.

An NHT is a route established by use—the historic movement of humans and their goods during the identified historic period(s). This point is complex and will require more work before a simple explanation emerges. The use itself must be of national significance, but discerning the meaning of that statement requires examination of the entire body of the National Historic Landmark criteria. Without doing so in detail here, one can infer that the use must be of “exceptional value” in illustrating or interpreting the heritage of the United States. The use may be interpreted as an “event” that has “made a significant contribution to . . . or that outstandingly represent(s) the broad patterns of United States History . . .” These concepts come from Criterion 1 of the NHL criteria.

NHL Criterion 2 deals with places associated importantly with the lives of nationally significant persons. NHL Criterion 3 focuses on places that represent great ideas or ideals. NHL Criterion 4 represent “type specimens” — things that carry information about broader aspects of the past, such as architecture or engineering design. Criterion 5 essentially allows NHL designation of an entity whose total value is larger than the sum of its parts; in other words it recognizes the *tout ensemble* that is important in European thinking. This Criterion appears highly friendly to historic trails, resources where the integrity of whole segments may have been compromised by subsequent development. Trail criteria permit the components that *do* remain to be recognized as representative of the historic trail before it was thus impacted. Criterion 6 allows designation of places that embody important archeological information.

NHT studies should be interdisciplinary, and where appropriate interagency, in nature in order to make best use of available data and to assure comprehensive approaches. NHTs must be identified correctly and comprehensively on their own merits. The professionals who conduct such studies must consciously strive to stand apart from bias, whether derived from within themselves, from the organizational environment in which they are employed, from the culture in which they live, or other sources. Interdisciplinary approaches will minimize accidental oversight of certain categories of resources and opportunities. Interagency approaches will also avoid patchwork designations based on agency land management patterns and preferences, and will help keep all NHTs at comparable levels of quality, regardless of management.

NHT studies must recognize the full range of diversity in American history. The NTSA uses permissive language, for example, in saying that “trails significant in the history of Native Americans may be included,” but permissiveness is not enough. Accuracy and professionalism require comprehensive approaches without artificial constraints. This does not mean that every Tribe nor every ethnic or historical group in the United States must have a study that focuses upon its own history. Nor does it change the national frame of reference from the United States of America to that of Tribes as nations. It does mean that the study program and individual studies must deliberately take broad and comprehensive views of what is American history. It also means that the knowledge and views of specific ethnic groups should be specifically sought out when appropriate to the subjects of the studies.

**Recommendations:** Symposium participants recommended that a number of steps be taken with regard to the identifying and evaluating the national significance of NHTs. They agreed that these steps are relevant to the larger cause of the National Trails System and its relationship and interaction with NPS new area studies, National Historic Landmark, and related programs and activities of both the NPS and other agencies.

**Clarify guidance**—Extract from the guidance provided by the NHL program and the NPS new area studies program essential points that will enable NHT studies to address national significance within the appropriate historical context, identify periods of significance, identify principal components that contribute to the nationally significant entity, and provide thresholds for other evaluations in the future. NPS is charged with managing the National Register of Historic Places and NHL programs – as well as providing coordination, information, and assistance to other agencies on subjects related to cultural resources and historic preservation. NPS, therefore, should take the initiative in working with all National Trails System partners to extract the experiences and developing the technical guidance, drawing upon the other agencies and partner organizations.

**Minimum Scope of Work** — Develop an updated minimum scope of work for NHT studies, including:

- Identification and justification of the trail’s national significance, using the NHL criteria and technical guidance.
- Identification of the entire route where the significant use occurred.
- Identification of a substantial percentage of the resources that contribute to the national significance and that are relevant to the historic period.
- Identification of plans and possibilities for administration and management.
- Identification of options to NHT designation, including designation of selected places as National Historic Landmarks, listing them in the National Register, or development and cooperation with State or local historic trail programs.

**Context study**—Prepare a context study in the National Historic Landmarks Program to provide a background for evaluating the national significance of NHTs. This study might be funded by the NPS trails program, the NHL program, or another agency, but it is essential



that the study adhere to NHL standards and practices. A context study of trails is needed in order to provide a general background for evaluating potential NHTs studies in a manner similar to the evaluation of National Historic Landmark nominations. The National Historic Landmarks Survey has prepared a number of theme studies for specific types of resources or specific aspects of American history or prehistory. For example, context studies of maritime history enable informed evaluation of historic ships. The theme study of the Underground Railroad enabled evaluation of buildings where escaped slaves were fed, sheltered, and directed to freedom. A similar theme study would greatly assist in identifying nationally significant historic trails and developing registration requirements for this property type.

**Resource surveys**—Conduct natural, cultural, and recreational resource surveys within the designated areas of NHTs. These surveys should be similar to those conducted for NPS units, as well as for cultural resources. The minimum benchmark should be recognition through listing in the National Register of Historic Places. Because trails are strongly dependent on partners, much of the work may be done by other organizations and individuals. It is wise to involve partners such as State Historic Preservation Officers who are already involved with NPS, BLM, and FS.

**Diversity and outreach**—Increase efforts to involve other agencies, Native Americans and other cultural groups, and a wide range of disciplines in the conduct of NHT studies. Diversity will broaden perspectives, improve quality, and increase support. Increase efforts to promote and assist the establishment and development of trails programs in other Federal agencies, Native American Tribes and organizations, States, local governments, and the private sector. Many proposed and existing trails that do not meet national criteria are nonetheless very important. The existence of a broad, interactive, partnership of trails programs provides realistic alternatives to inappropriate national designation and makes it easier to hold to the highest standards that NHTs should represent.

**Case study documentation**—Establish a program of identifying lessons learned through experience, extracting, evaluating, writing, editing, and sharing those lessons with all who may benefit from them. (This recommendation replaces the original symposium goal of developing a set of administrative criteria for NHTs.) It recognizes that present criteria in the NTSA and the Landmarks program are adequate, but that specific examples of actual applications of the criteria could significantly increase understanding of those criteria. If “National Historic Trail Bulletins” were produced, in the manner of “National Register Bulletins,” the National Trails System program could gradually evolve an ever-clearer understanding of what the criteria mean in practice. By making the bulletins available to a global audience via a website, the program could increase by orders of magnitude the numbers of people who share interest in national trails and who could function effectively as stewards, partners, and supporters. The bulletins would also function as a valuable form of technical assistance to others and establish the National Trails System Program as the philosophical and practical focal point of the public and private movement on behalf of trails. The bulletins would be “best practices” in identifying, defining, evaluating, designating, managing, developing, maintaining, and operating trails. Although these bulletins should be

interagency and inclusive of all who have experience to contribute, a single focal point is needed and the NPS responsibilities mentioned above make NPS the logical agency to implement this recommendation.

**Outreach**—Efforts should be made to promote and assist the establishment and development of trails programs in any interested federal agency, Native American Tribe or organization, State, Local government, or private organization. Many existing and proposed trails that do not meet national criteria are nonetheless important. The existence of a broad, interactive partnership of trails programs can provide a useful alternative to inappropriate national designation, making it easier to maintain the high standards that NHTs should represent.

**International trails**—Recognize the common heritage among nations and their people, by designating international trails, like international parks, where possible. International connections are cheaper and better than international barriers. Trails, parks, and common heritage bring people together.