

**Appendix 5**

**WORKING WITH LANDOWNERS**

The question of liability often arises when working with local landowners to secure trail passage. Landowners are concerned that if they allow trail passage and someone gets injured they will be liable. Several responses to this concern can be shared with the landowner. The landowner's first line of defense is the liability insurance they already carry. Second, each of the trail states has a Recreation Use Statute. These laws generally exempt landowners from liability (when the recreationist has not paid a fee for the privilege of outdoor recreation).

Another avenue of defense is that the landowner can be offered National Park Service Volunteer-In-the-Parks (VIP) status. In most circumstances, under this program, the landowner can have the power of the federal government and the services of federal attorneys to back them should they be sued. However, to be sheltered by this safeguards, the landowner must sign up as a National Park Service VIP. To receive VIP status the landowner must complete and submit the VIP form on the following page.

The landowner must also enter into a Memorandum of Understanding (MOU) with the NPS regarding trail passage across their land. The attached, generic MOU can be used to fulfill the agreement. All that is required to complete the MOU is: the landowner's name at the top of page 1, attachment of a standard township plat map(s) showing the land and trail route covered in the agreement (see Article II-B-1 on page 4), insertion of the landowner's address in Article IV on page 6, and their signature on the last page.

These documents should be sent to the NPS for approval.

## Analysis of State Recreation Use Statutes



### North Country NST

State	Year Passed	Duty to Warn	Duty to Keep Safe	Assurance of Safety	Liability for Willful/Wanton Misconduct	Protection Lost if Fee Charged
<b>New York</b> N.Y. Gen. Oblig. Law §9-103	1963	No	No	No	Yes	Yes: fees from land leased to public agency allowed
<b>Pennsylvania</b> Pa. Stat. Ann. Title 68 §§477-1 to 8	1965	No	No	No	Yes	Yes: fees from land leased to public agency allowed
<b>Ohio</b> Ohio Rev. Code Ann. §1533.18 §1533.181	1963	Not Specified	No	No	Not Specified	Yes
<b>Michigan</b> Mi Comp. Laws Ann §300.201	1953 (1993)	Not Specified	Not Specified	Not Specified	Yes	Yes: May charge a fee for U-pick crops, fishing, hunting.
<b>Wisconsin</b> Wi Stat. Ann. §895.52	1963 (1983)	No	No	No	Yes	No-so long as total revenues do not exceed \$2000 annually
<b>Minnesota</b> Mn Stat. Ann. §§87.01-.03	1961	No	No	No	Yes	Yes: fees from land leased to public agency allowed
<b>North Dakota</b> ND Cent. Code §§53-08-1 to 06	1965	No	No	No	Yes	Yes: fees from land leased to public agency allowed

AREA

AGREEMENT FOR INDIVIDUAL VOLUNTARY SERVICES  
(Act of July 29, 1970 Public Law 91-357)

NAME, Last, first, middle initial (please print)

TELEPHONE

ADDRESS (Street, city, state, zip code)

Brief description of work to be performed, including minimum time commitment required. (Attach complete job description to this form)

I understand that I will not receive any compensation for the above work and that volunteers are NOT considered to be Federal employees for any purpose other than tort claims and injury compensation, and I understand that volunteer service is not creditable for leave accrual or any other employee benefits. I also understand that either the National Park Service or I may cancel this agreement at any time by notifying the other party.

I hereby volunteer my services as described above, to assist the National Park Service in its authorized work.

Signature of Volunteer

Date

The National Park Service agrees, while this arrangement is in effect, to provide such materials, equipment and facilities as are available and needed to perform the work described above, and to consider you as a Federal employee only for the purpose of tort claims and compensation for work related injuries.

Signature of Park VIP Coordinator

Date

TERMINATION OF AGREEMENT

Agreement Terminated on

Month, Day, Year

Signature of Park VIP Coordinator

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
NATIONAL PARK SERVICE  
AND

---

(landowner)

Article I - Background and Objectives

This agreement is made and entered into, by and between the National Park Service, hereinafter referred to as the "NPS," and the above named landowner, hereinafter referred to as the "landowner," in furtherance of the purposes of and pursuant to the powers and authorities contained in the National Trails System Act of October 2, 1968, as amended [16 U.S.C. 1241 et seq.], hereinafter referred to as the "Act."

On March 5, 1980, Congress amended the Act to authorize and establish the North Country National Scenic Trail, hereinafter referred to as the "Trail," as a component of the National Trails System [94 Stat. 67; 16 U.S.C. 1244(a)(8)]. The trail extends approximately 3,200 miles from the vicinity of Crown Point, New York, to the Missouri River in North Dakota, in the vicinity of Lake Sakakawea State Park and Garrison Dam. The Missouri River is the route of the Lewis and Clark National Historic Trail. The Secretary of the Interior was assigned administrative responsibility for the Trail.

The Act provides, in Section 7(h) [16 U.S.C. 1246(h)], that when determined to be in the public interest, the Secretary of 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 a national scenic trail either within or outside a Federally-administered area. Such agreements may include provisions for limited financial assistance to encourage participation in the acquisition, protection, operation, development, or maintenance of such a trail, provisions providing volunteer in the park status (in accordance with the Volunteers in the Parks Act of 1969) to individuals, private organizations, or landowners participating in such activities, or provisions of both types.

The Act also provides in Section 7(e), that the Secretary charged with the administration of a national scenic or national historic trail may enter into agreements with landowners, private organizations, and individuals for the use of lands for trail purposes.

This agreement is for the purpose of cooperating in the completion and long-term management of the Trail and clarifying the responsibilities of each party for the Trail.

Because the Trail involves only a small portion of Federal lands and the Act provides that the development, operation, and maintenance of the Trail shall be a cooperative venture, with special emphasis on the participation of private volunteer trail organizations, the Secretary of the Interior has determined it to be in the public interest to enter into this agreement.

The Secretary of the Interior has delegated overall administrative responsibility for the Trail to the NPS. The NPS, in cooperation with other public and private interests, completed a Comprehensive Plan for Management and Use of the Trail in September 1982. The NPS is responsible at the Federal level for carrying out the provisions of the Act as they relate to the Trail by coordinating, guiding, and assisting the efforts of others to acquire, develop, operate, protect, and maintain the Trail in accordance with the comprehensive plan.

## Article II - Statements of Work

### A. The NPS agrees:

1. To recognize the landowner as a Volunteer-in-Park (VIP) through execution of an agreement for individual voluntary services. The purpose of a VIP agreement is to formalize the commitment of a volunteer to the Trail and provide them with the protection enjoyed by Federal employees in

circumstances of tort claims and injury compensation. Recognition of the landowner as a VIP shall be contingent on their agreeing to meet the record keeping and reporting requirements of the program.

Essentially, this is an annual reporting of any hours spent maintaining the trail.

The Volunteers in the Parks Act (16 U.S.C. 18g) authorizes the Secretary of the Interior to accept the services of volunteers for activities in and related to areas administered by the Secretary. While acting within the scope of their agreed responsibilities, individual volunteers would be considered as Federal employees for purposes of tort claim provisions of Title 28 of the United States Code and with regard to compensation for work injuries.

Individual Volunteers-in-the-Parks (VIPs) receive protection under the Federal Tort Claims Act and the Federal Employee Compensation Act while working within the scope of their responsibilities. Under the Federal Tort Claims Act (FTCA), any tort claim filed by a citizen, against trail club organizations and their members or other individuals who have entered into a Cooperative Agreement with the NPS, for personal or property injury sustained while using the North Country NST, arising from VIP activities, would be handled by the NPS as it does claims against employees. An investigation of facts is made by a designated Tort Claims Officer and reported to the Solicitor's Office for review.

A determination of Federal Government liability in each case is made and any award paid to a claimant(s) is borne by the Government. The FTCA grants jurisdiction for actions on monetary claims for injury, property loss or death "caused by the negligent or wrongful act or omission of any employee of the Government"....

It is also possible that an injured party may choose to proceed against a participating trail club or individual personally, pursuant to the legal action, rather than following the Federal Tort Claim procedure. In this case, we would expect the Department of Justice to defend the action. It is Department of Justice practice to represent Federal officials who are sued personally for actions that arise while within the scope of their employment. This should also be true for VIPs acting within the scope of their volunteer agreement. Therefore, if the claimant chooses to file suit, VIPs should normally be represented in court and court costs covered by the Government...As with Government employees, volunteers are protected for their negligent actions as long as it can be shown that they were acting within the scope of their responsibilities.

2. To provide training and assistance on trail development, operation, maintenance, protection, publicity, and public relations, as needed--should the landowner take an active interest in constructing or maintaining the trail across his/her property,. Much of this will be accomplished by encouraging the local North Country Trail Association (NCTA) chapter or individual members to work closely with the landowner.

3. To facilitate communication and contact between the landowner and local NCTA members or

chapter if it is not occurring satisfactorily.

4. To include the landowner in our address list of individuals who receive the 1-2 issue per year *North Country NST Administrative Update* newsletter--published by NPS.

B. The Landowner agrees:

1. To allow passage of the North Country NST across his/her property. The original route location and any subsequent changes shall be as approved by the landowner. Property is shown on the attached plat map(s). **NOTE:** Please submit along with this agreement to NPS.

2. To allow members of the NCTA to follow the trail route as needed to construct and maintain the trail to commonly accepted standards. Typically, the trail consists of cleared space 4 feet wide and 8 feet high; tread width of about 18 inches; and blue 2 X 6 inch painted blazes or 4 X 7 inch plastic diamonds affixed to trees or posts at reasonable intervals. If affixed to trees, aluminum nails will be used. No trees shall be removed without explicit permission of the landowner except for small saplings and limbs encroaching into the trail clearing.

3. To allow recreational passage by members of the NCTA and the general public free of charge.

4. To protect the trail, to the extent possible, from activities which destroy or damage the tread or the trail markings.

5. To protect the trail, to the extent possible, from unauthorized motorized activities and to report such activities to the local NCTA representative.



6. To restrict activities such as dumping of trash, garbage, and other unsightly or hazardous materials on or in close proximity to the trail and strive to protect the natural scenic values of the area.

7. To provide for the protection of the trail, through contractual restrictions--if timber is cut immediately adjacent to the trail. This could include prohibitions on skidding along or across the trail except at reasonable intervals, slash removal from the trail and an adjacent reasonable distance, and protection of trees bearing the painted or plastic trail markings. It also includes notifying the local NCTA representative of the anticipated cutting so that provisions can be made for temporary or permanent trail rerouting.

8. To provide an annual verbal or written estimate to the NPS by September 15 of the number of hours that he/she has spent actively working on the trail.

9. To permit the removal of trail markings and any other trail improvements (that are removable) within a reasonable time after this agreement expires or is terminated, if and when it does.

C. The NPS and Landowner agree:

1. To coordinate their activities and programs related to the Trail to assure that the efforts of each party complement those of the other.

2. That uses are restricted to foot travel only--including snowshoeing and possibly cross country skiing. Bicycles, horses, and all motorized vehicles are excluded.

3. That the landowner shall have the right to incidental, occasional passage along the trail by

motorized vehicle for non-recreational activities such as the gathering of firewood, routine farming practices, and other similar personal activities.

#### Article III - Term of Agreement

This agreement shall continue in effect for 5 years from the date of the last signatory party unless terminated at an earlier date in accordance with Article V. At the expiration of this agreement, it may be successively renewed for additional periods by mutual agreement of both parties after reviewing its benefits.

#### Article IV - Key Officials

The key NPS officials are the Superintendent, Ice Age, North Country, and Lewis and Clark National Trails, and the Coordinator, North Country NST, both located at 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711.

The key landowner is as shown above, located at \_\_\_\_\_  
\_\_\_\_\_

#### Article V - Termination

This agreement may be terminated upon 60 days advance written notice given by one party to the other, or it may be terminated earlier or revised by mutual consent of both parties. Termination of this agreement does not affect any operation and maintenance agreements which either party may have with other cooperators.

## Article VI - Standard Provisions

The obligation of the NPS and the Landowner to perform the responsibilities specified in this agreement is contingent upon the necessary funds being available through governmental appropriations or other sources. No legal liability on the part of the NPS or the Landowner to carry out such responsibilities shall arise unless and until funds are available to cover the expenses associated with performing the responsibilities specified herein.

### Additional NPS Provisions

Nothing in this agreement shall affect or interfere with fulfillment of the obligations or exercise of the authority of the NPS or any other Federal Agency to manage the lands along the Trail route (within the boundaries of areas they administer) and the programs under their jurisdiction in accordance with their basic land management responsibilities.

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

During the performance of this agreement, the participants agree to abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the last date written below.

\_\_\_\_\_  
Superintendent, Ice Age, North Country, and Lewis and Clark  
National Trails, National Park Service

\_\_\_\_\_  
Date

\_\_\_\_\_  
Landowner

\_\_\_\_\_  
Date



# United States Department of the Interior



## NATIONAL PARK SERVICE

Ice Age, North Country, and  
Lewis and Clark National Trails  
700 Rayovac Drive, Suite 100  
Madison, Wisconsin 53711

IN REPLY REFER TO:

L6017(IATR)  
NOCO

JUN 14 1995

Dear North Country Trail Enthusiasts:

The enclosed table listing various land protection options may be helpful in your deliberations about how to best protect any sections of the trail crossing private property.

An earlier draft was reviewed by David Cornell, a retired attorney working with the North Country Trail Association. While he commented that it is generally accurate, he did emphasize that it is not cast in stone since the laws vary from state-to-state. Therefore, before presenting this as an absolute to any of your landowner contacts, you may want to double check with a local expert regarding the specifics of your state laws.

Good luck in your negotiations.

Sincerely,

William R. Menke  
Coordinator, North Country  
National Scenic Trail

Enclosure

cc:

Pat Allen, 3777 Sparks Dr., SE., Suite 105, Grand Rapids, MI 49546  
Derek Blount, 906 North Alexander, Royal Oak, MI 48067  
James W. Sprague, 4406 Maplecrest Avenue, Parma, OH 44134  
Howard Beye, 202 Colebourne Rd., Rochester, NY 14609  
Arden Johnson, 600 Tennyson, Rochester Hills, MI 48307  
Gene Elzinga, 12 Middle Island, Marquette, MI 49855  
Gaylord Yost, 2925 W. Bradley Rd., River Hills, WI 53209  
Hans Erdman, 116 E. Rose Pl., Little Canada, MN 55117  
Dale Anderson, RR1, Box 10, Oslo, MN 56744  
Arlen Mason, 1045 Draka Rd., Traverse City, MI 49684  
Bill Van Zee, 7744 Thornapple Bayou Dr. SE, Grand Rapids, MI 49512

**North Country NST - Options to Achieve Permanent Trail Protection**

<b>Protection Options [best to worst (1)]</b>	<b>Description</b>	<b>Results</b>	<b>Income Tax Deduction (2)</b>	<b>Estate Tax Deduction (2)</b>	<b>Property Tax Deduction (2)</b>
Conservation easement	Legal agreement between landowner and NCTA or government agency permanently limiting a property's uses.	Trail passage/conservation values permanently protected. Landowner continues to own, use, live on land.	Yes	Yes	Maybe (4)
Outright land donation	Land donated to NCTA or agency.	Organization owns/protects land. (3)	Yes	Yes	Maybe (4)
Donation of undivided partial interests	Land donated to NCTA or agency over several years until organization has full ownership.	Organization owns/protects land. Income tax deductions spread over several years. (3)	Yes	Yes	Maybe (4)
Donation of land by will	Land donated to NCTA or agency at death.	Organization owns/protects land. (3)	No	Yes	Maybe (4)
Donation of remainder interest in land with reserved life estate	Land donated to NCTA or agency, but owners (or others designated) continue to live there--usually until death.	Organization owns/protects land. (3)	Yes	Yes	Maybe (4)
Bargain sale of land	Land sold to NCTA or agency for less than fair market value.	Organization owns and protects land. (3)	Yes	Yes	Maybe (4)
Sale of land	Land sold to NCTA or agency at fair market value.	Organization owns/protects. Expensive. (3)	No	Yes	Maybe (4)
Lease	Trail corridor or land leased to NCTA or agency for a specified number of years--with restrictions placed on how it can be used.	Postpones development. Still expensive.	No	No	No
Memorandum of Understanding and VIP Agreement	A somewhat formal agreement between NPS and landowner allowing trail passage for a specified time period--usually 5-10 years (renewable).	Secures passage. Can be nullified at any time. Need to renegotiate with future owners. May or may not be more effective than options below.	No	No	No
Written Agreement	Between NCTA and landowner allowing trail passage for specified years or until changed.	Secures passage. Can be nullified at any time. Need to renegotiate with future owners.	No	No	No
Handshake Agreement	Between NCTA and landowner allowing trail passage for specified years or until changed.	Secures passage. Can be nullified at any time. Need to renegotiate with future owners--even less permanent.	No	No	No

(1) In terms of land protection only. Not necessarily the most economical. Also, the relative positions are not fixed--they may move up or down somewhat.

(2) Any person contemplating a donation should talk to a tax advisor. The value of any deduction is based on an individual's tax status.

(3) For acquired properties best left in private ownership, the organization may place a conservation easement on the property to provide permanent protection and then resell the property. Any deduction may be subject to a limitation if an attempt is made to take a deduction in more than one category.

(4) Depends on local tax appraisal system.

Appendix 5D is a collection of things that have worked for various trail clubs when dealing with landowners.

## Study of Potential Route

Project Leaders should begin their study of the potential new section by examining aerial photographs, USGS topographic maps and property books to learn more about the locale. Location of both ends of the proposed section should be carefully considered so that the trail does not become an isolated section. Driving through the area to become familiar with various land uses and developments is also helpful. Is the land actively farmed? Does it look wet?

Once a potential route has been determined, two jobs evolve:

1. Contacting property owners for permission to cross their land.
2. Developing the footway.

The job of locating property owners can be accomplished by a study of tax records at the County offices. Land holdings may be large or small. Owners may reside on the property or at some other location. Owners of key parcels should not be contacted until some knowledge of their situation is garnered and a successful negotiation is likely. This can often be obtained by visiting neighboring property owners. Personal visits to landowners are a must and it may be helpful to work in teams of two.

During negotiations for trail access, the property owner will surely have lots of questions. Some of these are listed on the following page. You should be familiar with these issues and ready to answer some basic questions. If you don't know, simply say that you will find out.

All agreements with land owners or managers must be made in the name of the North Country Trail Association and are signed by the President. Because of the significant work required to locate and build a trail section, it is important to seek an agreement lasting at least three years. If that is not possible, then, of course, we need to deal with the landowners wish to be able to cancel the agreement easily.

If written agreements are required, the Land Use Agreement attached may be reproduced and used. Copies must be made for the landowner, the Vice-President of Trail Management, and the NCTA office.

Do not enter into such agreements without contacting your State Coordinator for guidance and approval.

## Determining Property Ownership

Start with the proposed route on the topographic maps and outline a trail corridor that is generally about 1/10th of a mile wide to give space for dealing with alternative property owners and locations on parcels. Determine Range and Township coordinates and Section numbers.

At the county offices be prepared to ask for assistance the first time and take a notebook to list owners and addresses. Look at the Index Map and note numbers of detail sheets through which proposed trail passes. On detail sheets, obtain parcel numbers.



Look up the names and addresses in the property register. Be sure to inquire about aerial property maps. Copies of the aerial photographs may also be available from the local Soil Conservation Service. Their information will also contain recommendations regarding soil types and recreational suitability.

## Questions Frequently Asked By Property Owners

**Liability.** Owners are afraid they might be sued by someone who is injured while crossing their property. This concern should be expected and you may be able to reassure them in several ways. First, Michigan and other NCT states have recreational use statutes which provide immunity to landowners who grant recreational use of their property. A copy of the statute is included and can be duplicated.

Additionally, the National Park Service can offer private landowners Volunteer in the Parks (VIP) status which would provide assistance with tort claims to the landowner. NPS would only want to give the VIP status to owners willing to grant multi-year or permanent access for the trail. Volunteers who are working on private lands and who report their work hours are also given this VIP assistance for injuries incurred while volunteering.

The record to date shows no successful suits for injuries to hikers on the North Country National Scenic Trail.

**Routing.** The Association will only place the trail where the owner fully approves. All routing details should be placed on a map before the trail is constructed. You will want to walk the proposed route with the owner if possible.

**Access.** Trail signs should indicate that the property is private and users must stay on the designated trail. Property owners will continue with the normal use of their property including farming or hunting.

**Uses.** Trails on private property will normally be constructed for foot travel only. It is beyond the normal budget and skills of the Association volunteers to construct the trail for multiple use including bikes or horses.

**Camping.** Owners are encouraged to consider whether they will permit camping and whether they wish to designate a camping site. Maps should reflect this information and signs should indicate whether camping is prohibited.

**Gates and Fences.** If there fences which are to remain in place, volunteers should include construction of a stile as part of the work plan. Gates should always be left as found.

**Signs.** The NPS and the Association provide and install necessary signs and trail markings. The owner should be advised of the proposed method of signing and any special signs needed.

**Enforcement.** The NCTA will work with the property owner on enforcement problems. This can include signs, barrier placement, or contact with law enforcement.

**Appendix 5D #2**

Taken from NCTA Working With Private Landowners Workshop 12/94

Notes from Terry Giarrosso, Finger Lakes Trail Conference

Dear Pat,

There are no set rules for contacting landowners -- so I just put together the enclosed notes.

The County tax office can give you owners name and address. If a post office box is part of the address it is difficult to find owner so you ask neighbors. Landowners are curious about property lines of their neighbors.

The Soil and Water Office keeps current aerial photos of farm land and gave us a copy for our use. By the way, these people know the farmers and can help you find their homes or give info about them. Sometimes you have to research abandoned roads with the Township. Abandoned railroads ownership has to be researched and permission asked. Power lines passed under - permission needed.

I did my calls alone -- but a team of two is ideal. In the FLT manual it says women have good luck in contacts. I did and I met some really nice people. We had some "no" responses but a lot of yes!!

I made up a packet of info and I'd have a rolled up larger plan-type paper that I carried. You look less like a salesperson -- and the landowner should be curious and not just turn you away -- anyway it worked for me.

Rural people are hard to find at home so you need to adjust your calls to their timing. The family dog usually heralds your approach. I'd call out "anyone at home" etc. Many times there is neither door bell or front step! Calling out worked.

With packet ready - I explained who I was and why I was there and used map of the FLT across New York for interest. Asked if they had knowledge of FLT or had seen Trail Head Posters etc. or knew where our trail was located nearby.

Right up front I mentioned the General Obligations Law (liability) because the immediate concern is for liability. I told owners that 60% of our trail was on private land -- I dropped names of nearby landowners that had given permission etc.

Told owners that we would place stiles over active fences on their land. Asked for their ideas of trail after telling them we like to place trail where it is scenic -- along streams next to large trees, etc. Told them we would flag a route and let them know so they could check to see if they approved. Explained how we cleared trail and marked it and also that a steward would be assigned to keep it clear.

When all is agreeable we just do a handshake agreement which can be revoked at any time for any reason. When we have trail finished we send the landowner a letter thanking them and enclosed a postcard for him to return for our records.

Remember, this is the least durable of options. WRM 8/96

SUGGESTED STEPS IN TRAIL PLANNING, BUILDING AND MARKING

1. Make out a Trail Sponsor's application and send it to the FLTC Trails Chairman.
2. Set general route of the proposed trail on topographic maps.
3. Generally select and scout a route on foot. Do not trespass. Let the landowner know what you are doing.
4. Submit the final route on the topographic map to the FLTC Trails Chairman.
5. Determine the ownership of the land in your selected route.
6. Visit the owners and obtain verbal or written permission. Show the owner FLTC trail brochures, newspaper articles, a map of the proposed route and anything else that may help you get permission from him. A receptive landowner should be offered a free subscription to the FLTC News if he wants it. Send his name and address to the FLTC Service Center.
7. If the owner has only given verbal permission, compose and send him a permission letter. (See sample letter in this section for suggested wording.) One copy should be sent to the FLTC Trails Chairman and one kept in the files of the sponsoring organization, or individual. Use the sponsors letterhead or that of the FLTC.
8. Following FLTC approval of your application and the owner's permission to build, proceed to flag the route with strips of cloth or brightly colored survey tape.
9. Review the flagged route with the owner if he wishes.
10. Construct the trail using the FLTC Trail Manual as a guide.
11. Paint-blaze the trail.
12. Install all trail signs and posters that are needed for your section of trail.
13. Measure trail length with a surveyor's wheel. Record the results and send it with any other pertinent information to the FLTC Trails Chairman.
14. Perform maintenance work each spring before Memorial Day and frequently during the hiking season.

**NOTE:** When the sponsor has completed a substantial portion of the route, he may apply to the FLTC Trails Chairman for Class I membership. If the FLTC Board of Managers approves, the sponsor will then not be required to pay dues so long as he remains a Class I member.

**STATE LANDS -** A special permit system is required when building on state lands. See page 44 for details.

TO BUILD A TRAIL

There is a general way to go about building a trail route but it is impossible to say that everyone must go about it exactly the same way since different problems arise on different trail sections. However, sponsors are expected to build trail according to FLTC specifications.

Different landowners must be approached in different ways because they have different lifestyles or different personalities. You can't talk to a farmer the same way as you would to someone who has always lived in a big city. In other words, you need to be able to relate to who and what they are.

The people in your own groups having their own personalities must learn to adjust to meeting landowners along the trail in a way that will bring results.

Keeping accurate records about your landowners and your trail section is very important and they must be kept up to date. You never know when the Conference or others may suddenly need accurate information about any part of the trail. When you are recording this information copies should be sent to the Conference and should be kept up to date.

\* \* \* \* \*

We feel the guidelines on the following pages will be a great help to trail builders. They were developed by Winston Braxton while he was Trail Chairman of the Adirondack Mountain Club-Onondaga Chapter. It need not be followed exactly but is an excellent guide.

For sake of brevity we have only included a part of the data that is needed in order to have good records on the trail you are building.

## TRAIL PLANNING AND MARKING

### Owner (State and Private) Permits

A first general overview of the territory to be traversed will indicate the route to be followed. In this case you are looking for hurdles you may have to cross such as rivers, bridges, or highways, now obstructing your trail or may in the future.

The latter condition should be detected at an early date and the permanent trail established to generate grandfather rights. The critical and most difficult should be handled first although connecting to existing segments of trail may seem more desirable.

In any event an overall plan of sequential action should be laid out, with dates when various sections might be constructed and priorities established. As time passes priorities may have to be re-directed to suit changing conditions.

In no event should efforts to clear trail be spread in a helter-skelter or opportunistic way. There will be enough owner changes occurring or other reasons for making changes to existing trail that will add unanticipated efforts and delay the best of plans.

It is not unusual to spend 2 to 4 years from the time the first owner is contacted in say a 3 to 5 mile section, until that entire section has received permits and the trail is actually cleared and blazed.

### PERMITS, PRELIMINARIES

The first action in asking for either state or private owner's permission to use a portion of the land under their control for the trail, is to know where you would like the trail to be located. It is important that you go to them with as nearly an exact future route location as you can. Too many changes later on may turn the owners against you.

A study of topographic maps and a preliminary survey by road of the area one wishes to pass through is important. Most topographic maps do not indicate recent reforestation and the road survey will prove of the upmost value in cutting down the time required to lay out the trail. This preliminary work can be complemented by studying aerial photographs of the territory as well as geological maps, if these are readily available. Such preliminary studies will permit the trail to be directed to the most scenic points in the area including cascades, waterfalls, gorges and high points for vistas.

### OWNERS

The most logical step is to visit the Tax Map Office at the county seat of the area in which the trail is being planned. These tax maps are generally maintained by the Township and the scale is fairly large, so a single map will cover only a small

portion of the trail being laid out. The number codes on each lot refer to a master listing where additional details are kept such as: owner's name, address, tract size, assessed value, etc. These records also indicate lands owned by New York State entities.

A separate record should be made of the owner's name and address by map number and a copy of the section of map you are interested in purchased for your use in the field. Cost varies from about \$2.00 up.

After you have these maps, make copies of them for your use so they can be marked up with the preliminary trail path with the name of the owner added. If possible, pick a route on state land. State land seldom, if ever, changes hands.

If the owner's address is no longer valid due to death or some other circumstance, you may have to visit the Surrogate Court to obtain the very latest data on ownership.

#### PERMISSION FROM THE PRIVATE LANDOWNER

The private landowner sequence of action is:

- a. Contact and obtain verbal permission.
- b. Flag, clear, blaze (mount signs, stiles etc. as needed).
- c. Write a trail description and final permit acknowledgement.
- d. Obtain signed "receipt of trail description" if needed.

State permits require that private owner permits be obtained, before a state permit can be issued, if access to a public road from state property is over private land. In other words, trail on state land starting and ending at public roads needs no private permit acknowledgement. Very few sections of trail currently being planned fit this criterion.

Private owners generally are rural types interested in the soil and are difficult to reach except in late afternoon and sometimes on weekends. In any event we have found the best way to gain acceptance is a direct contact at the end of a hike or work party.

Owners should be given the FLTC brochure showing the extent of the trail; information on names and addresses of sponsoring organization officials, contact person, etc.; rough sketch (Copy of Tax map) of the proposed trail route and a copy of an extract of the "General Obligation Law" which states that the owner has no responsibility to hikers and other selected users on his land. (see exhibit I)

If the owner cannot be contacted directly, a preliminary conversation by phone may be made. You can then follow this with a mailing to confirm the phone conversation. This may be the case with an absentee landowner and in some cases the contact is made entirely by mail but this is often not very satisfactory.

In all cases, it must be explained that the initial permission is preliminary, and will be confirmed in detail when

the trail is cleared in its final location. The color of blazes or markers, stile locations, private landowners signs, other types of signs and locations should also be spelled out; and that this permission can be rescinded by writing to the sponsor or to the Trails Chairman of the Finger Lakes Trail Conference. If the property is sold, the sponsor is obligated to seek permission from the new owner.

If the private land is to be included in a state permit, then on delivering the final owners permit and Acknowledgement of Receipt of Letter Describing Trail should be signed by the owner. Again, this usually requires a visit to get the landowners signature and receipt. We have not always been successful in obtaining such a receipt by mail, even if we have sent the owner a stamped pre-addressed envelope to put it in.

(see exhibit II for typical Private Owners Permission)

## How to secure permission for a trail to cross private property

by Howard S. Beye  
Trails Chairman, FLTC  
reprinted from *Pathways Across America*

For the past 27 years the Finger Lakes Trail Conference, through its 33 trail sponsor organizations and individuals, has been securing hand-shake agreements from landowners to allow the trails of the Finger Lakes Trail System to cross their lands.

The Finger Lakes Trail System is presently proposed to consist of the main trail of 532 miles -- from Allegany State Park in the southwestern part of New York State to the Catskill Park in the eastern part -- and six branch trails that when completed will total 254 miles. The main trail passes through mostly dairy farm and forest land in its course across the southern tier of New York.

The North Country National Scenic Trail follows the Finger Lakes Trail for 350 miles.

There are now 648 miles of the proposed 786-mile system completed and ready for hiking and backpacking. Approximately 60 percent (390 miles) of existing trail is on private land.

Before Finger Lakes Trail representatives actually contact landowners to secure permission for the trail to cross their land, we make some preliminary decisions on the route. The best general route can be established by using highway, topographic, and (if available) aerial maps. We then determine the specific trail route by driving and walking through the area and contacting local landowners and local and state officials.

We give priority to using local, state and federal land as much as possible for the trail route. We also consider using existing trails, abandoned railroads, and power, pipeline and other rights-of-way.

### Identifying the landowners

When we have established the specific route, we secure tax maps. By plotting the proposed route on these maps, we can determine who the landowners are and where they live. If the landowner does not live on the land where we wish to put the trail,

When the route has been plotted on the tax maps it is easier to determine which landowners hold the key to success of establishing the trail. We contact these landowners first so we can make adjustments early in the

process if we cannot secure their permission.

Another advantage of the tax maps is that they enable us to plot a route involving the fewest possible number of landowners. Limiting the number of landowners makes securing permissions much less time-consuming.

The speed with which we feel the trail can be built affects the length of the route we initially try to gain permission to cross. We normally work in sections of about 10 miles. Generally, the processes of obtaining permission and building the trail are ongoing and concurrent. Our experience is it usually takes two to five years to complete a 10-mile section across private land with many owners.

### Fact-to-face contact

The initial contact with the landowner is very important. If the landowner is a farmer, we feel the best time to find him around his home is at the end of the day.

Often we attempt to make contact in the late afternoon at the conclusion of a trail route scouting or work session. We try to have two persons work as a team to make the contact, usually including one of our women trail workers. In general, we find women are more successful than men at securing permissions.

### What to bring

The contact team needs certain items with them to be successful:

1. A brochure or flyer telling about the organization building the trail. It should mention the fact that the work is being done by volunteers and tell about the trail size and type of use that will be allowed.

2. Maps of the immediate area that show the completed and proposed trail route.

3. A copy of the General Obligations or similar law that provides protection for landowners from claims of those whom he/she has given permission to use the land. The landowner should be given a copy.

4. The signs that would be used to identify and mark the trail. It helps to have a sign that tells of the landowners' generosity in allowing the trail on their land and the courtesies expected of users.

### What to discuss

We also discuss the following with the landowner.

1. The material listed above.
2. That the trail is only for foot travel. (If other uses are planned they

must be discussed and detail provided.)

3. That this is a handshake agreement that can be revoked at any time for any reason by the landowner.

4. Any suggestions the landowner has for a route across the property. This makes the interested landowner a part of the process.

5. That the Finger Lakes Trail Association closes the trail the first Monday in February each year to protect the landowners from having a public right-of-way open continuously across their land.

If the landowner gives permission we do the following:

1. Thank the landowner and ask if he/she would like to receive copies of the newsletter of the organization building the trail.

2. Tell the landowner that the route will be established and marked with flagging tape. When that task is completed he/she will be contacted to get his/her approval for the route or to make suggestions for changes.

3. Tell the landowner a letter acknowledging his/her allowing the trail on the land will be mailed. A return receipt will be included with a stamped return envelope.

When securing permissions from second home, non-agricultural, and absentee landowners, the time and method of making contact are different, but the same items need to be covered.

Using these methods, over the past 27 years the Finger Lakes Trail Conference sponsors have secured hundreds of handshake agreements from landowners. Very few of these have been revoked.

For a volunteer organization with limited resources we feel this is the only initial way to secure a trail route across private land. Protection of the route in years to come may require actual purchase of land or securing of conservation easements along selected sections of the trail.

## How about a model NCT?

The 118 mile Penn Central railroad grade through the Adirondacks, which may possibly become a route of the NCT, as shown in the article on the rails to trails survey, is very commonly modeled by model railroaders. There have been many model railroad layouts that feature Saranac Lake, Tupper Lake, Lake Placid and surrounding areas featured in *Model Railroader* and *Railroad Model Craftsman*.

Saranac Lake, along the route, is perhaps best known for the many tuberculosis sanitariums in the area during the first half of the century.



# Adirondack Mountain Club, Inc.

File L55 C55

Onondaga Chapter  
SYRACUSE, NEW YORK



208 Sherwood Drive  
DeWitt, New York 13214

May 8, 1980

Mr. Emery Gast  
Mariposa Road  
DeRuyter, New York 13052

Subject: Hiking Trail

Dear Mr. Gast:

The members of our Club who visited you some time ago enjoyed your hospitality, when we discussed our proposed public hiking trail, which our Club has taken on as a public service volunteer project for the Finger Lakes Trail Conference, Inc. You may recall how we believe this to be a way to help visitors to the countryside to enjoy and protect the things of nature.

We sincerely appreciate your kind permission to construct this footpath across your land, from the east-west old road bed that separates your farm from MR. Arthur Gast's farm, northward to State land.

Attached to this letter you will find Attachment T "Trail Route Description" and Attachment L describes our trail design standards, marking and signs. The paint blaze markers will be white.

If you should ever decide to rescind your permission, you may do so by written notice to the Trail Chairman, Adirondack Mountain Club-Onondaga Chapter, Box 194, Nedrow, New York 13120. If your property should change ownership (we would appreciate your letting us know), it will be our responsibility to request permission from the new owner. Your favor in allowing this permission is appreciated.

Sincerely,

Winston B. Braxton  
Chairman, Trails Committee

Attachment T-TRAIL ROUTE DESCRIPTION (for E-1)

L55 C55

The trail length across your property is approximately .9 kilometers(.6 mile).

The trail, which, in the Town of Otselic, follows the old east-west roadbed which separates Mr. Arthur Gast's farm from Mr. Emery Gast's farm, heading westward toward the town line, veers to the right at a small angle into Mr. Emery Gast's land, but stays south of the east-west fence bordering the cultivated field north of the roadbed. The point at which the trail angles off the roadbed is roughly 40 to 50 meters or yards east of the town line. The trail stays south of the gate that is immediately east of the town line, which opens into the cultivated field. At the town line, the trail crosses a north-south fence on a stile, entering a woodlot just north of the roadbed in the Town of Lincklean, on Mr. Emery Gast's farm.

The trail immediately bends right and runs northward through the woodlot, just west of, and parallel to, the north-south fence along the town line. From the northeast corner of the woodlot, the trail continues northward a short distance across open pasture and reaches the southwest corner of woodland. Here, the trail crosses the fence on a stile back into the Town of Otselic, into the woodland, also part of Mr. Emery Gast's farm. After going northward a short distance parallel to, and just east of, the fence, within hardwoods, the trail bends right and goes generally northeast through woods, staying south and east of a low wet area. Beyond this, many hemlocks are mixed with the hardwoods. Before reaching the north-south property line about .24 kilometer(.15 mile) east of the town line, the trail curves left and continues northward through woods, parallel to, and not far west of, the property line, staying within Mr. Emery Gast's land. Not much further, the trail reaches the east-west boundary of State land and crosses the boundary a few meters or yards west of the southeast corner of State land. This ends the section within Mr. Emery Gast's land. (The trail continues northwest and west through State land to Bandbury Road).

Identification and direction signs will be on State land.

Attachment L -- HIKING TRAIL, DESIGN AND MARKING

This footpath is designed for foot travel only. It will resemble the Appalachian Trail or lower-elevation Adirondack trails. Vegetation will be trimmed enough to keep it from touching the hiker or his pack in any season (even if snow-laden), with extra allowance for seasonal growth; and it will be trimmed so that the hiker can see into the trail ahead and see at least one or two markers ahead. We keep the path natural and ungraded, except in seeps and on steep slopes, where some simple and crude design measures may be necessary. We do not cut timber or pulpwood trees, but only ground vegetation, brush, and small trees -- only enough to avoid an unduly twisty trail or to keep the markers ahead visible. Trail markers are short vertical stripes of paint facing the approaching hiker, on trees, posts, and so forth -- to guide the hiker at all points along the trail. At trail heads and trail junctions we provide small signs that identify the trail and that give directions, destinations, and distances. We find it advisable to place posters on private land that remind hikers to observe good manners and to protect property: ". . . Start no fires. Leave no rubbish. Protect trees and crops. Please do not leave the trail"; -- at entrances, and not more than a half-mile apart.

Where necessary (for example, to avoid gates left open or stretched wires) devices for crossing fences will be provided, of A-frame or other design, called "stiles".

ACKNOWLEDGMENT OF RECEIPT OF LETTER DESCRIBING TRAIL

Adirondack Mountain Club Inc.-Onondaga Chapter, Syracuse, New York  
For Finger Lakes Trail Conference Inc.

I acknowledge receipt of your letter dated May 8, 1980, describing the following trail:

Name of trail Finger Lakes Trail Kilometers .9  
Approximate miles .6

From the east-west old road bed that separates my farm from Mr. Arthur Gast's farm, northward

To State land

Town s Otselic; Lincklaen County Chenango New York State

ADK-ON File L55 C55

(Signature) Emery Gast

Name Emery Gast

Address Mariposa Road

Date June 3 1980

DeRuyter, New York 13052



## NORTH COUNTRY TRAIL ASSOCIATION

NATIONAL HEADQUARTERS  
P.O. BOX 311  
WHITE CLOUD, MICHIGAN 49349

### LAND USE AGREEMENT

This land use agreement is between Edward J. Frey Jr. (OWNER) and North Country Trail Association (NCTA). OWNER is the owner and possessor of land on which NCTA wishes to obtain a Right-of-Way. NCTA is a not-for-profit Michigan corporation designated by the National Park Service to build, operate and maintain the North Country National Scenic Trail.

### AGREEMENT

- A. OWNER shall permit NCTA to build, operate and maintain a portion of the North Country Scenic Trail across the northeast corner of property identified as: NW 1/4 of Section 11, Little Traverse Township, T.35N-R.5W, Emmet County. A copy of the plat of Little Traverse Township is attached, showing the property involved. A sketch of the property corner showing the proposed route is also attached.
- B. Usage of the trail shall be as follows:
  1. The trail shall be open to the public.
  2. There shall be no fees charged for the use of the trail.
  3. The trail shall be used for hiking, snowshoeing and cross country skiing. Motorized use is not permitted.
- C. Construction of the trail shall be as follows:
  1. The original route and any subsequent changes shall be as approved by OWNER.
  2. Trail shall consist of cleared space 4 feet wide and 8 feet high. Tread shall be 14" - 18" wide and 2" -3" deep where required. No trees shall be removed except for small saplings necessary to obtain clearance.
  3. Assurance markers shall consist of painted blue diamonds 4" on each side, placed at reasonable intervals on trees or posts.
  4. Trailhead markers, private property courtesy signs and signs prohibiting undesired uses shall be installed at pertinent locations. They shall be attached to trees with aluminum nails or attached to posts.

- D. The trail shall be maintained by NCTA to keep the path clear, marked and clean. Maintenance shall be accomplished by regularly scheduled work sessions.
- E. OWNER is protected from liability under Michigan State Public Act of 1974 - No. 177. NCTA shall provide liability insurance for members and volunteers working on the trail.
- F. OWNER may revoke this agreement at any time by giving NCTA reasonable notice.
- G. If OWNER sells the land covered in this agreement, this agreement shall not extend to the new owner. OWNER shall provide NCTA with reasonable notice of intent to sell.
- H. Approval of this agreement is effective upon the following signatures:

For Owner

For North Country Trail Assn.

Date 6.6.94  
 Signed [Signature]

Date 6-19-94  
 Signed [Signature]

Title PRESIDENT

Title PRESIDENT

Address LITTLE TRAVERS BAY DEVELOPMENT

Address P.O. BOX 311

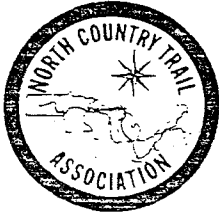
COMPANY, INC. 995 HIDEAWAY

WHITE CLOUD, MI 48349

VALLEY ROAD, HARBOR SPRINGS, MICHIGAN 49740

Phone 616-526-9661

Phone 616-689-1912



# NORTH COUNTRY TRAIL ASSOCIATION

NATIONAL HEADQUARTERS  
P.O. BOX 311  
WHITE CLOUD, MICHIGAN 49349

## Sample Annual Letter of Thanks

Dear \_\_\_\_\_,

I am writing to express the appreciation of the members of the North Country Trail Association for allowing a portion of the North Country National Scenic Trail to cross your property (or your park, forest, etc.). This important recreational resource refreshes and inspires those who use the trail.

I am enclosing a copy of our map of the trail across your property (park, forest, etc.) as well as our most recent newsletter to keep you up to date on the progress of the trail. With supporters like you, the trail continues to grow.

Please feel free to call me or your trail adopter if you have any questions. I can be reached at \_\_\_\_\_.

Sincerely,

Name  
State Coordinator

Section \_\_\_\_\_  
Trail Adopter \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

## TRAIL ACCESS EASEMENT

THIS TRAIL ACCESS EASEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between: (i) IRENE SZABO ("Grantor"), having an address at 6939 Creek Rd., Mt. Morris, NY 14510, and (ii) the FINGER LAKES LAND TRUST ("Grantee"), a New York State Not-for-Profit Corporation, duly authorized under the Laws of the State of New York, with principal offices at 121 E. Buffalo St., Ithaca, NY 14850.

## RECITALS

WHEREAS, Grantor is the sole owner in fee simple of certain real property (the "Servient Estate"), consisting of approximately 12½ acres in the Town of Urbana, Steuben County, State of New York, more particularly described in **SCHEDULE A**, attached hereto and incorporated herein; and

WHEREAS, Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code, whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, educational, historical, agricultural, forested, and/or open space condition; and

WHEREAS, Grantor desires to grant to Grantee an easement (the "Trails Easement Area") across that portion of the Servient Estate, more particularly described in **SCHEDULE B** and shown on the attached Sketch, both being attached hereto and made a part hereof, to maintain a public recreation trail, and Grantee desires to accept said easement; and

WHEREAS, the trail is intended to enhance local and regional hiking and recreational opportunities for the general public by providing an attractive and scenic section of the regional trail known at the time of this grant as the Finger Lakes Trail.

NOW, THEREFORE, in consideration of the foregoing Recitals and for \$1 and other good and valuable consideration, receipt of which is hereby acknowledged by Grantor, the parties agree as follows:

1. Grant of Easement.

Grantor hereby grants, transfers and conveys to Grantee, for the benefit of the public, a perpetual easement and right-of-way (the "Easement") for ingress, egress, and access by the public over and across the Trail Easement Area.

2. Purposes, Conditions, and Restrictions.

a. The Easement is established for non-motorized, passive recreational trail purposes, such as walking, hiking, jogging, running, and cross-country skiing. Should any question arise regarding the propriety of any use of the Trail Easement Area, this Trail Access Easement shall be construed liberally in favor of such use; provided, however, that the Grantee or its designee, in its sole discretion, shall have the right to regulate or restrict uses (including but not limited to those specific uses listed above) which Grantee determines to be unsafe or otherwise detrimental to the continued use and vitality of the Finger Lakes Trail or the condition of the Trail Easement Area.

b. The "trail" shall be indicated on the ground by blazes or other standard markings. The location of the Trail Easement Area on the Servient Estate may be changed from time to time, with the written consent of both parties. Any such change shall be recorded in the official records of the Office of the Clerk of Steuben County, New York State. All costs in connection with such change shall be borne by Grantor unless Grantee waives this requirement.

c. Within the Trail Easement Area, no structures shall be erected by Grantor or Grantee, other than one lean-to or other open-air shelter, not to exceed 150 sq. ft. in footprint; provided, however, that said structure shall be erected only with the written consent of both parties;

3. Right to Suspend Trail Use; Maintenance of Trail Easement Area.

a. Grantee or its designee, in its sole discretion, shall have the right to suspend

public use of the Trail Easement Area from time-to-time.

b. Grantor has no responsibilities for trail maintenance except to the extent necessary to repair damage caused by grantor, nor does Grantee have such responsibilities except as needed to repair damage caused by Grantee.

4. Easement Runs with Land; Successors and Assigns.

This Easement shall bind and run with title to the Servient Estate forever, and shall inure to the benefit of Grantee and Grantee's successors and assigns; provided, however, that any successor or assign of the Grantee must be a Not-for-Profit Corporation qualified under the laws of New York State to hold such easements; and further provided that Grantee may terminate this Easement as provided under Paragraph 5, below.

5. Termination/Modification.

In the event that the Grantee determines that the Trail Easement Area is no longer needed or desirable across the Servient Estate, Grantee may terminate said easement by written instrument duly signed by Grantee and fully acknowledged, and recorded in the land records of Steuben County, New York. This Trail Access Easement may only be modified or amended by written instrument executed by the parties (or their successors in interest) and recorded in the land records of Steuben County, New York.

6. Governing Law.

This Trail Access Easement shall be governed by and construed in accordance with the laws of the State of New York.

TO HAVE AND TO HOLD unto grantee, its successors, and assigns forever.

IN WITNESS WHEREOF grantors and grantee have set their hands on the day and year first above written.

\_\_\_\_\_  
Irene Szabo Grantor

Finger Lakes Land Trust, Grantee,  
by \_\_\_\_\_  
Elizabeth D. Darlington  
its Director of Land Protection

State of New York, County of Steuben, ss. On this \_\_\_\_ day of \_\_\_\_\_, in the year nineteen hundred and ninety four, before me came IRENE SZABO, to me known to be the individuals described in, and who executed, the foregoing instrument, and acknowledged that they executed the same.  
Before me,

\_\_\_\_\_  
, Notary Public  
(Type or print name of Notary)

State of New York, County of Tompkins, ss. On this \_\_\_\_ day of \_\_\_\_\_, in the year nineteen hundred and ninety four, before me came Elizabeth D. Darlington and, duly sworn, did depose and say that s/he resides at 204 Fairmount Ave., Ithaca, NY 14850, NY; that s/he is the Director of Land Protection of the Finger Lakes Land Trust, the corporation described in, and which executed the above instrument; that s/he knows the seal of said corporation; that the seal was affixed by order of the Board of Directors of said corporation and that s/he signed his/her name thereto by like order.

\_\_\_\_\_  
, Notary Public  
(Type or print name of Notary)



# FINGER LAKES TRAIL

## NEWS

Over 800 miles of foot trail from  
Canada to Allegany State Park  
to the Catskill Mountains



Volume 33, Number 3

Founded 1962

Fall, 1994

### TRAIL EASEMENT #1...OF MANY?

by Irene Szabo

The most fragile features of the Finger Lakes Trail are not its pathways through the delicate soil of hemlock forests or its steep crumbly inclines that shower stone chips under climbing boots. Rather, the trail's most vulnerable spots are its hundreds of miles of private ownership, with permissions granted over a nod or a handshake, often a generation ago. Some of those miles are already *de facto* trespasses due to ownership changes, lost sponsoring-club records, or subsequent owners from the original family who have forgotten what Pop allowed across the south gully back in '65. So the FLTC holds its path...

The unique climb beside the waterfalls of Lick Brook on FLT map M-17 south of Ithaca was a perfect example of the trail's dilemma statewide. Private owners permitted public access, but there was no guarantee for the future until the Finger Lakes Land Trust found a way to OWN that hillside and waterfalls for all time. Of course, that boon depended on owners who wanted to preserve the place. Will every generous but aging farmer who has allowed us to walk through his woods for years now decide to sell, or will he bequeath his land to descendants of a less sharing spirit?

Chenango County's 72 miles of excellent trail are a perfect example of our worst fears: already several old family farms have been sold to two dozen building lot owners or to a developer who wants to plant curving rows of houses on that high field with the great views. Would that we had enough volunteers with enough time and savvy to convey to every local planning board the value of including a recreational greenbelt in each housing development.

Obviously that landowner who likes the idea of walkers enjoying his or her place deserves a third choice, which permits future sale and bequest of the whole property but protects the FLT's passage. The FLTC Board's Long Range Planning Committee identified private owner permissions as a vital but weak link in the continuity of the trail, and began our learning process toward trail protection by inviting the Finger Lakes Land

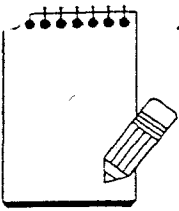
Trust to explain how conservation easements work. However, rather than an easement and therefore restrictions on the owner over the WHOLE property, the FLT wanted only freedom to pass through, preferably not over a paved mall parking lot, just a skinny little wayside through, we'd hope, something scenic. So the FLTC and the FLLT embarked on an experiment to invent a trail easement.

The perfect laboratory was a little chunk of brushy field I own on a hill above Hammondsport, which ownership is the result of a frustrating chain of alternating yesses and no's in attempts to connect the last gap on M-12 across private land. Between the nice lady who said she'd be glad to help out and then even invited the trail to loop past her retreat home to a view up Keuka Lake and the farmer of few words who said, "I don't much care about you being down there," (which I realized in the nick of time meant in country circumlocution, "NO") I had strung together enough permissions to link the Hammondsport Boy Scouts' hard-won section with the Birdseye Hollow State Forest except for one last chunk made up of two lots for sale by a curmudgeonly old lawyer from, no joke, Philadelphia, who had funded his retirement by buying up failed farms for division into country lots. There was no solution except to buy the dammed lots, which I did, fully intending to put them back up for sale again immediately, but of course, I got to liking the deer-berry patches, the white pine grove, and the fall colors in the young maples.

The historic result is that Betsy Darlington and the volunteer lawyers (where are OURS?) of the Finger Lakes Land Trust spent hours fine-tuning a model trail easement agreement, amendable in its small details, that grants the FLT the right forever to pass this way, while allowing the owner to farm, log, play upon, or sell the property. The easement is simple, is recorded at the county clerk's office for a small fee, restricts the landowner very little in usage of the property, but it does guarantee that the FLT can use a defined area as long as it wants to, no matter who owns the land later. Right now, the Land Trust holds the easement on behalf of the FLT, but the process is simple enough that the FLTC can someday hold easements on its own, and it is certainly easier and far cheaper than if the FLTC were to own the land outright. For now, the process

*continued on page 8*

## NEWSLETTER NOTES



*Items from other newsletters  
reviewed by Doris Abbott*

Visions of routing the North Country National Scenic Trail onto the Superior Hiking Trail were shattered on January 22, 1994, when officials of the Superior Hiking Trail Association replied to the request with a "Thanks, but no thanks." *The Ridgeline* (Superior Hiking Trail Association)

For all you computer buffs: a Washington State software company has come out with a program, *Best Foot Forward*, which sorts through a database of trails to find the perfect hike to fit your need. After this has been determined, you can print from the program a map to the trailhead and a detailed description of the trail. And if this isn't enough, the software provides such information as permits required, pets allowed, whether or not there is fishing available, nearby restaurants, wheelchair access, which topographic maps cover the trail, and contact names and phone numbers for more information. Currently, databases are available for the states of California, Montana, Oregon, and Washington. The program runs on both Macintosh computers and under PC versions of Microsoft Windows (3.1 or higher). For information, contact GrizzlyWare, 1-800-258-4453. *American Hiker* (American Hiking Society)

Ferry service has once again been made available for Appalachian Trail hikers crossing the Kennebec River in Maine. Hikers are advised not to attempt to ford the river, but to use the ferry instead. The service is free during the summer months, from 10 a.m. until noon. The river crossing is described as "the most formidable along the entire A.T." A recent study completed by the ATC recommended using ferry service rather than installing a bridge or relocating the trail as "more in keeping with the concept of a simple footpath." *The Register* (The Appalachian Trail Conference)

What are the current trends in trail use? An article in the *Colorado State Trails News* reports backcountry trail use has been dropping steadily during the last few decades. Statistics show that fifty to sixty percent of current users are on trails for fewer than two hours. And what do these day hikers want? "...better trail head signs, better directions and parking, better directional signs, better trail maps, loop trails, and rest rooms especially at trailheads." *Trailblazer* (Buckeye Trail Association)

Until ecologists decided last May to burn a grassy patch on Peters Mountain, located in western Virginia, there were only four Peters Mountain mallow plants

growing in the wild. This perennial, which grows to shoulder height and bears pink hibiscus-like flowers, grows only on the mountain for which it was named. Seeds from the endangered plant had lain dormant for decades. A month after the fire, when more than 500 sprouts were poking from the ashes, botanists came to realize that fires were needed to crack the seeds and stimulate growth. Approximately 85 per cent of the 1993 crop survived its first summer. Ecologists have scheduled experimental burns again this summer in hopes of awakening more of the seeds. (Reprinted with permission from *The Nature Conservancy* magazine in *The Register of the Appalachian Trail Conference*)

Would you like to hear the wild howl of the Timber Wolf echoing once again through the New York wilderness? "Our ancestors drove the wolf out," states Scott Thiele. "So we have an ethical duty to restore it. It's time to bring the wolf home." The records show that no wolf pelts have been brought in for bounty money in New York State since 1900. If Scott and his friends at the Adirondack Wolf Project have their way, wolves will be restored in New York State and New England. The group wants the NYS Department of Environmental Conservation and the US Fish and Wildlife Service to take action to restore the wolf to the Adirondack Park and northern New York. If you are interested in finding out more about this project contact: Adirondack Wolf Project, POB 1300, Lake Placid, NY 12946; phone 1-800-310-WILD. *The Green Drummer* (Sounding the Call of New York's Environmental Community)

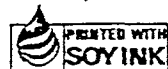
## TRAIL EASEMENTS...

*Continued from page 1*

seems foreign to trail sponsors, which is why we sought the experience of the Land Trust to create the document and show us how to use it. The REALLY scary part, though, is asking the next landowner to sign away a corridor forever.

So now my little briar patch has a duly recorded trail easement across it, which means at last that one tiny piece of the FLT is protected across private land, and I don't have to saddle the Conference with ownership in my will. Perhaps in a giddy moment we can see this model agreement becoming a useful tool for trail groups, greenway builders, and local planning boards in our mutual attempts to keep significant links and access routes open without outright purchase.

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### A process for approaching landowners

- 1) Once a preferred route has been identified, property within the preferred route or corridor area should be prioritized.
- 2) Obtain names, addresses and phone numbers of landowners. For local owners, current plat and telephone book will work in most cases. For absentee owners, contact County Treasurer's office. (Sometimes they have a computer for public use that will give you all the addresses you need.) In counties where the Corridor Planning Process is complete, landowner data bank is available through NPS.
- 3) Divide the list up into three categories: the familiar, the unfamiliar and the stay-away- from. Nothing breeds success like success, so start with the familiar list (property owners somebody in your chapter knows, or has already spoken with) and from that list choose several that you have reason to believe would be supportive or interested.
- 4) Send out a letter explaining what the Ice Age Trail is all about, and what you are seeking. Sample is attached. This letter should be on your local chapter's letterhead, with your local address and phone. Never send out more letters to people than you can realistically get back to or meet with (half a dozen is max).
- 5) Follow-up the letter with a friendly phone call about 3 days later. (Never mind that they haven't called you back -- they rarely do!) Ask if you might be able to bring some maps to their house and discuss possibilities. Do not ask for permission at this point, unless you are sure they want to give it. See if there's a day or time that would work best for them. If they tell you they aren't interested and they don't want to meet with you, don't push them. But if it seems appropriate, ask them if they might be able to help you figure out an alternative route, or, if they would like to have the chance to tell you what their concerns are.

NOTE: Reaching somebody by phone first, and then sending a follow-up letter with more details may be more effective in some cases. This is especially true in cases where 1) the party has already heard about the Trail, 2) you feel comfortable and confident in making the calls, or 3) you know the people.

Some people also have had success simply stopping at somebody's house and introducing themselves. This is known as a *cold visit* and it's not generally recommended. However, it can work well if 1) you are already in the area, perhaps working on trail that is in the general vicinity and you happen to drive by and see the landowner outside; 2) the landowner looks at you quizzically, and so as a courtesy you stop and tell him what you are up to; or 3) you are a real people person that people always trust the moment they set eyes on you, or 4) you know the people, and they know you.

But even these visits will still need to be followed-up with letters and most likely another visit as described in 6 a).

6 a.) If they agree to meet .... bring topo maps, more specific trail info, aerial photos of their property (you can get them through your local ag office or from DOT), but don't show them these materials unless it's clear they're interested. Just make small talk -- try to figure out some things you have in common and comment on their nice fields, buildings or whatever. The first map to show them is where the existing trail is and whose land it goes on. If you can bring with you a real landowner who has given permission and is happy with the trail that is the best situation.

7 a.) At some point you will need to ask the big question, but don't do it if it looks like the answer is going to be no. First, you might ask the property owner if you personally can hike their property some time. (This helps to ensure them that you have never hiked their land without their permission.) Maybe they would be interested in hiking with you

8 a.) Let them know early on what their options are. Tell them that your main goal is just to complete some missing links in the area and so you're just seeking their permission; but that the long term goal would be to permanently protect the trail. To do that, your organization may be willing to buy strips of land, ~~entire parcels of land~~ or purchase conservation easements and first rights of refusal. Emphasize that all of this is strictly on a willing seller basis.

9 a.) If they agree to let us cross their property, explain that it is best to have it in writing so they can be listed under our insurance policy. Have them sign the form!

6 b.) If they don't want to meet with you.... write a follow-up letter thanking them for their time. If there were certain questions or concerns they had and you didn't feel like you responded very well, now's your chance to address these again. Make sure the letter is positive and non-judgemental. If there's any reason you need to apologize for anything, take the opportunity now -- (sorry I caught you during your supper hour the other night...). Promise them however that you will stay in touch, to let them know when the chapter might be sponsoring a hike or whatever, in case they might want to meet some of the other chapter members or just see what it's all about.

7 b.) Should they come to an outing, make sure you welcome them, and introduce them to others. Do not mention their property or your interest in it, and do not raise the issue of permission.

7 c.) Keep on good terms with them, and periodically send information about the trail or some other interest of theirs. Nurture a relationship with them if you can. You will know when the time is right to ask again. It might be 3 months, it might be 3 years. In the meantime, you might want to find an alternative route, even if it's the road in front of their property. Don't do anything however that might jeopardize your relationship with them. How to know? Ask them!

10 b.) If they become receptive, start the process with 6 a.

10 a) If they seem interested in learning more about conservation easements or getting their land appraised for a possible sale to us, contact the IAT Northern Field Coordinator and/or the DNR land specialist for a follow-up visit or phone call.



# ICE AGE PARK & TRAIL FOUNDATION, INC.

N35 W23770 W. Capitol Drive, P.O. Box 423, Pewaukee, WI 53072-0423

Phone 414 / 691-2776

Fax 414 / 691-2323

Blair Klein  
P.O. Box 8  
Buffalo, Wyoming 82834

October 6, 1995

Dear Mr. Klein:

It was a pleasure to speak with you the other day. I'm glad to have the opportunity to provide you with more information about the Ice Age Trail. I'll clear my throat and begin:

12,000 years ago a great river of blue glacial ice, after flowing more than 800 miles from the Canadian Arctic, ground to a halt across Wisconsin. This wall of ice, several hundred feet thick at its edge and over a mile thick further back, sculpted a landscape of remarkable diversity and beauty. Scientists from throughout the world come to study Wisconsin's kames, eskers, drumlins, and other glacial features. The lakes, hills, hollows and fertile soils that sustain our diverse agricultural and tourism economy in Polk County are gifts of the Ice Age.

The Ice Age Park & Trail Foundation is an organization of citizen volunteers dedicated to preserving some of these glacial features for public education and enjoyment. We are doing this through the establishment of the Ice Age National Scenic Trail, to wind 1000 miles across Wisconsin along the moraines and other features left by the ice sheet. The Trail allows people on foot to appreciate first hand the varied beauty of Wisconsin's glacial landscape. 470 miles of this Trail is now open for public use.

My job for the last several years has been to plan the trail route in Polk, Burnett, Washburn and Barron Counties. I worked with two glacial geologists, Dr. Adam Cahow, of the University of Wisconsin - Eau Claire, and Dr. Mark Johnson, Geology chair at Gustavus Adolphus. Both these experts have been enamored with the Big Rock Creek Farm area, even though they have only studied it from topo maps. Mark Johnson has named the area the Centuria Ridge Moraine in his published works, while Adam Cahow refers to it as the St. Croix Ice Margin. The "Big Rocks" are called glacial erratics -- boulders carried by ice for hundreds of miles.

The Western Terminus of the Ice Age Trail begins in St. Croix Falls at Interstate Park. Perhaps you have had the opportunity to hike the Pothole Trail -- that is the first segment of the Ice Age Trail. From there it travels north under Hwy 8 to the top of an esker (behind the



hospital) and then through the city limits to Lions Park. From Lions Park we have built trail along the St. Croix all the way to River Road. What we would like to do is head east from this point, and connect to the existing Gandy Dancer rail trail in Centuria. We are asking your permission to mark a trail through the Big Rock Creek Farm to make this a reality.

We would want to work with you on choosing the best route, and would be pleased to use either an existing trail, or build an entirely new one. We agree to keep it well-maintained and by providing permission you would be protected from any liability through Wisconsin's extremely favorable Landowner Recreational Use Statute (see enclosure).

There are several ways you can give us permission. The most common is simply a handshake or written agreement that says we can cross your land with a trail but you reserve the right to throw us off at any time. More and more landowners are giving us permanent easements -- either for pay (market value) or as a tax-deductible donation (we are a 501-c-3 non-profit). In some cases we purchase the land fee title or put an entire parcel into a conservancy easement to protect the glacial features.

However, you should know that this is a project that exists completely on the cooperation of the landowners. At no point can we or the government force somebody to sell their land or give us an easement. Neither the state or federal government has any authority to condemn land for this project.

We value the relationship we have with landowners and do our utmost to make the trail a positive experience for all concerned. Local chapter volunteers see to it that the trail is well-maintained. The people who hike the Ice Age Trail respect the land they are walking through and very much appreciate the opportunity. And for the safety of our hikers, and for the benefit of the landowner, we close the trail during the gun deer season.

Please don't hesitate to call me if you have any questions. It would be great if I could meet with you when you are in the area again. Perhaps I could even arrange to have one of the glacial geologists meet with you and provide you with some personal interpretation of your land! (I had that pleasure on my 37 acres on Alabama Lake -- it was truly fascinating).

Whatever your decision, Blair, I want to let you know that I appreciate the way the Klein family has for so many years kept that most remarkable piece of property in its pristine state. I commend you for your family's foresight and stewardship of the land.

Sincerely,

Steve Clark  
Northern Coordinator



N35 W23770 W. Capitol Drive, P.O. Box 423, Pewaukee, WI 53072-0423

Phone 414 / 691-2776 Fax 414 / 691-2323

Harold W. Sommerfeld  
3514 65th Street  
Frederic, WI 54837

April 2, 1996

Dear Mr. Sommerfeld:

Thanks for taking the time yesterday to talk with me about the Ice Age Trail. The information I told you I would send is enclosed. You asked some good questions and I hope I was able to answer them in a satisfactory manner. The information enclosed will give you more detail. (Maybe more than you want or need right now...) Some of it may raise new questions.

The main thing I want to emphasize is the extent to which we work closely with landowners like yourself. Our volunteers have planted trees, erected fences and cleared brush upon the request of the landowner. When you're trying to build a 1000 mile trail, you simply cannot afford to have bad relations with landowners. If it weren't for thousands of volunteers and private landowners all across Wisconsin -- the trail would still be only a dream.

As it is, only about half of it is still a dream. We've completed about 500 miles. We're just a few miles short from having a continuous trail all the way through Polk, Burnett, and Barron County. Which is why I contacted you.

Being able to cross somewhere on your two 80 acre parcels would help us complete a gap between the Polk County Forest on the west side of your property and the county forest land just east of County Road E. This gap is one of two remaining in the total 88 mile trail (from St. Croix Falls to just north of Rice Lake) that the local chapter is responsible for. When we meet, I can explain some of the possible arrangements we can make with you -- everything from a hand shake agreement that you can revoke at anytime, to paying you for an easement or outright purchase of some land.



If, for any reason, you are not interested in having the trail cross your land, we will respect that decision. The trail depends upon the willing support of landowners and under no condition will we ever try to pressure anyone to enter into an agreement that they are not comfortable with. While our long term goal is to have a quality trail that helps to connect and protect some of the most scenic areas in the State, it is you, the property owner, who decides the terms.

I look forward to discussing with you the different options and seeing if we can work something out. I'll be calling you some time after Easter to set a time when it's convenient for you to talk further. In the meantime, please feel free to call me if you have any questions. My number is (715) 648-5519.

Thank you very much for your consideration.

Sincerely,

Steve Clark  
Northern Trail Coordinator  
2780 230th St.  
Cushing, WI 54006

enclosures