

**2009 Conservation Congress  
Outdoor Recreational Access to Public and Private Lands**

**Report of the Public Access Committee of the  
Illinois Natural Resources Advisory Board  
to the  
Illinois Department of Natural Resources**

**October 16, 2009**

## **Executive Summary**

The Access/Hunting & Fishing Committee was formed to review previous access programs within Illinois, the access programs of other states, and human dimensions literature with the purpose of providing recommendations to improve outdoor access for consideration by Conservation Congress. This committee met three times at different locations around the state: Springfield, Quincy, and Bartlett.

As a result of these meetings, the committee developed four recommendations. Recommendation # 1 is to restore liability protection for private landowners who open their lands for recreation. Recommendation # 2 is to develop an access program within the Department of Natural Resources to open up public and private lands to outdoor recreation. Recommendation # 3 is to create a State Water Trails Plan and a Model State Heritage Water Trail. Recommendation #4 is to create Starparks in every Illinois State Park and/or recreational/conservation area.

## **Introduction**

One of the major challenges the Illinois Department of Natural Resources (IDNR) faces is meeting the public demand for access to the outdoors. With limited public land available for outdoor recreation and a relatively large human population, outdoor recreationists must compete for public open space or depend heavily upon private landowners to support their recreational pursuits.

As the demand for access to private land increases, obtaining access has become more challenging to provide because of changing populations patterns, cultural changes in rural areas, and a landscape heavily impacted by agriculture and urban sprawl. Parcelization of landownership, exurban development, and habitat loss and fragmentation are having a profound effect on providing access for outdoor recreation (Brown et al 2001).

Prior to addressing access of land for outdoor recreation, one must understand the needs and demands of the different types of outdoor recreation. Except for hunters, little is known about the specific demand for outdoor recreational opportunities required of the diverse outdoor constituencies in Illinois. Thus, much of the focus of this committee will be to use the knowledge we have on hunting/trapping to initiate the effort to improve access to public and private land. However, further work will be needed to assess the access needs of these different outdoor user groups so an access program can more effectively serve the needs of these groups.

## **Committee Charge, Goal, and Membership**

The Public Access/Hunting and Fishing Committee is responsible for engaging and informing our constituency on the development, update, and review of public access initiatives, and hunting/trapping/fishing regulations and programs via public input obtained from meetings and the internet. To accomplish this charge the committee works in two primary areas: public access program development and evaluation, and Hunting/Trapping/Fishing Program Review and Evaluation. Because of the limited time to formulate recommendations for Conservation Congress in 2009, it was decided that the committee would focus on developing public access recommendations.

The public access goal listed in the committee charge was to provide every outdoor recreationist an opportunity to pursue his/her outdoor activity. To accomplish this goal, the committee was asked to address the following:

- Describe what outdoor recreationists want from a public access program.
- Evaluate and comment on previous attempts made at developing public access programs in Illinois.
- Review and recommend human dimension research needed to determine which landowner incentives needed to open lands to public access have the greatest potential to succeed.
- Review public access programs of other states and evaluate their potential effectiveness for being used in Illinois.
- Review and recommend changes to the Recreational Use of Land and Water Areas Act (745 ILCS 65/) and other Illinois Compiled Statutes to reduce liability concerns of landowners.
- Compile all the above mentioned reviews and recommendations into a report providing one or more alternatives which the DNR can consider implementing.

## **Committee Membership**

- Larry Lucas (co-chair), Illinois Natural Resources Advisory Board
- Pat Kernan (co-chair), Illinois Natural Resources Advisory Board
- Dale Stewart, Illinois Natural Resources Advisory Board
- Randy Blackford, Illinois Natural Resources Advisory Board
- John Graham, Illinois Smallmouth Alliance
- Nancy Erickson, Illinois Farm Bureau
- Lenore Beyer-Clow, Openlands
- Tom Lindblade, The Illinois Paddling Council
- Jerry Gillie, United Bowhunters of Illinois
- Jerry Beverlin, United Bowhunters of Illinois
- Kevin Chapman, Illinois Bowhunter Society
- Kent Adams, National Wild Turkey Federation

- Aaron Kuehl, Pheasants Forever/Quail Forever
- Scott Bryant, Migratory Waterfowl Hunters
- Bob Becker/Bo Arnold, Illinois Federation of Outdoor Resources
- Jerry Martoglio, Illinois Bass Federation
- Paul Kelley, Illinois Trappers Association
- Ron Rhoades, Illinois Trail Riders

## **Committee Meeting and Public Comments**

### **Committee Meeting – August 27, 2009 in Springfield**

The first meeting of the Public Access Committee was held on August 27, 2009 at the Illinois Department of Natural Resources' headquarters in Springfield, Illinois. Fourteen committee members and eight members of the public were in attendance. John Buhnerkempe provided a brief presentation on past attempts by the IDNR and information on access programs in other states. Lenore Beyer-Clow with Openlands gave a presentation on their efforts to make changes to the Recreational Use of Land and Waters Areas Act (745 ILCS 65/). After a roundtable discussion, Chairman Lucas identified six areas for further discussion: 1) landowner liability with providing access, 2) developing an access program within the IDNR, 3) public waterways, 4) land acquisition, 5) tax incentives to landowners that provide access, and 6) developing an internet web site identifying what recreational access is currently provided and what could potentially be provided. Members of the committee were assigned to provide details of these areas at the next meeting.

Public comments during the meeting focused on the issue of public waterways with considerable focus on a specific access issue on the Vermilion River. Ron Rhoades with the Illinois Trail Riders expressed concerns about the trail riders not being represented on the committee. Chairman Lucas asked him to attend the next meeting as a member of the committee.

More detailed minutes of this meeting can be found at the following web site:  
<[http://dnr.state.il.us/NRAB/NRABMinutes/08\\_27\\_09\\_minutes.pdf](http://dnr.state.il.us/NRAB/NRABMinutes/08_27_09_minutes.pdf)>.

### **Committee Meeting – September 10, 2009 in Quincy**

The second meeting was held on September 10, 2009 at the South Side Boat Club in Quincy, Illinois. Eleven committee members and eleven members of the public were in attendance.

Jerry Gillie (United Bowhunters of Illinois) presented a recommendation to develop a program to access land for outdoor recreation that he and Jerry Beverlin drafted. Their recommendation was to have an Access Program within the IDNR that has dedicated

staff. An Access Committee would be formed that would review proposals and help steer program direction. The committee spent a considerable amount of time discussing how to fund such a program. Funding ideas included raising license fees, developing an access stamp, and looking into the Volunteer Public Access Habitat Incentive Program which is part of the 2008 Farm Bill. Chairman Lucas asked for the recommendation to be refined and brought back at the next meeting.

The committee discussed access to public lands and concerns that some properties were not open to some outdoor activities especially hunting. Committee members felt additional information was needed on the amount and location of public land, if and how this public land was being used for outdoor recreation, and if there was public land where additional outdoor recreational opportunity could be provided.

Access Illinois Outdoors was mentioned and Brenda Middendorf, the coordinator for this program, outlined some of the services that the program provides. Chairman Lucas asked Ms. Middendorf to give a brief presentation on this Program at our next meeting.

Comments from the public were that 1) the IDNR needs to develop a policy that would require staff to determine the impact to hunter recruitment and resident hunter access; 2) projects being funded through LAWCON, OSLAD and other federal programs should receive additional points if it supports outdoor recreation, and 3) IDNR legal staff should hold workshops for landowners needing to develop a hunting lease.

More detailed minutes of this meeting can be found at the following web site:  
<http://dnr.state.il.us/nrab/pdf/Sept.%2010th%20minutes.pdf>

### **Committee Meeting – October 14, 2009 in Bartlett**

The third meeting was held on October 14, 2009 at the Illinois Department of Natural Resources Region II Office in Bartlett, Illinois. Nine committee members and eleven members of the public were in attendance.

Brenda Middendorf started off the meeting with a presentation on Access Illinois Outdoors/Two Rivers. A copy of her presentation can be found at the following web site:  
<http://dnr.state.il.us/nrab/private.htm>

Tom Lindblade, President of The Illinois Paddling Council, presented his proposal to create a State Water Trails Plan and a Model State Heritage Water Trail. The Committee recommended clarifying that the definition of public use waters includes properties where private landowners have provided permission and that “private landowners” should replace “residents” in the document.

A recommendation to restore liability protection for private landowners who open their land for recreation was presented by Lenore Beyer-Clow. The committee suggested that the recommendation include landowners who received payment from the Illinois

Department of Natural Resources. Thus, if the Department was to initiate a program to access private property for recreational purposes, a cash payment could be made to the landowner as an incentive to allow access to their property without affecting their risk for liability.

Jerry Beverlin presented the recommendation to develop a program to provide access to public and private lands. The committee asked that the committee that provides oversight of the program would have landowner involvement and that the program would be responsible for identifying and seeking federal funds.

During public comment, the committee heard comments about lack of access related to horsepower limits on lakes, not flagging reefs in Lake Michigan, and losing access to piers in Lake Michigan. Committee member mentioned that the proposal to provide a staff person for the access program within the Department would be an advocate for all outdoor recreationists.

The public comment portion closed with a proposal from Audrey Fischer of the International Dark-Sky Association. Her proposal was to create a star park in each one of our State Parks where light pollution could be decreased to facilitate viewing the night sky. It was suggested that she should contact the Office of Land Management within the Department and approach staff with the idea. After future discussion, the committee approved a recommendation that would establish a star park in each state park and promote the Dark-Skies program. Ms. Fisher was to provide a more detailed recommendation.

More detailed minutes of this meeting can be found at the following web site:  
<http://www.dnr.state.il.us/nrab/private.htm>

## **Public Comment - Internet and Email**

As of October 7, 2009, 16 comments were received and can be categorized as follows:

- 1) The IDNR needs to ban hunting outfitters from Illinois. (4)
- 2) Open large public properties such as Forest Preserve District lands and the Metropolitan Sanitary District lands to additional outdoor recreational opportunities. (3)
- 3) The Vermilion River should be considered public waters so the river would be open to paddlers and fishermen. (2)
- 4) There is plenty of public land available for outdoor recreation. The problem is that the public land needs to be better maintained. (1)
- 5) Farm land that is enrolled in the Conservation Reserve Program should be open to public access. (1)
- 6) The committee needs to review water access laws which are severely outdated. (1)
- 7) Landowners need protection from the costs associated with law suits or they will never grant access. (1)

- 8) The State of Illinois should develop an access program that opens up private land to hunting. (1)
- 9) The committee needs to address other outdoor recreational opportunities besides just hunting and fishing. (1)
- 10) We need to improve the quality of our streams, rivers, and lakes. (1)
- 11) What is the IDNR doing with the money made off of non-resident archery deer hunting permits? The money should be used to acquire new state parks. (1)
- 12) The biggest problem landowners have is that people do not respect their property and thus access is limited to those who follow rules. (1)

## **Committee Investigations**

### **What do outdoor recreationists want from a public access program?**

#### **Public Landownership**

Most outdoor recreational groups depend on public lands to provide them recreational opportunities because of the need for large land holdings, the cost, and/or for the ease of using public land. Five different themes came up during committee meetings and from public comments relative to public land. These topics included the need to: 1) determine the availability and location of public lands for recreational opportunities, 2) maximize recreational opportunities on these public lands, 3) improve and maintain the infrastructure that supports recreational programs on public lands, 4) provide additional public land opportunities through land acquisition, and 5) update the definition of a public waterway.

An access program that involves public lands should focus on developing an inventory of public properties, determining outdoor recreation that occurs on these properties, and developing a strategy to maximize opportunity on these lands. However, care needs to be taken to avoid overcrowding and the resulting user conflicts on these public recreational lands, environmental impacts associated with recreational activities, and impacting the primary purpose of the property. Once the inventory is completed and being maintained, a plan needs to be developed to assess the recreational demand and future needs for public land.

Lastly, considerable concern has been expressed by paddlers and anglers about the definition of public waters and what rivers and streams should be declared as public waters so they can be open to access. The issues related to public waters are complex and highly controversial and need further consideration outside of the Conservation Congress process.

## **Private Landownership**

Because of the limited amount of public land available to some outdoor recreational activities, recreationists must depend upon access to private land to provide recreational opportunities. For example, most hunters (68%) exclusively depend on private land to provide hunting opportunity while only 26% depend on public lands to provide them hunting opportunities (Lischka et al. 2006). Of the private land accessed by hunters, less than 5% of the access is obtained from a landowner not previously known (Lischka et al 2009). Thus, most of the access to private land is created through knowing the landowner either as a relative or a friend. Many hunters prefer to hunt/trap private land because of reduced competition with other hunters and outdoor recreationists.

An important component of an access program would be improving the hunter/trapper image with landowners and developing a communication strategy to improve relationships between hunters and landowners (Brown et al. 1984). Such an approach would strengthen personal relationships upon which access would increase and further strengthen one of the foundations of our hunting heritage.

Demands for wildlife viewing on private land appear to be minor (Benson 2001a, Benson 2001b). For some user groups using trails or waterways, access to private land may help facilitate the access to these public lands. Additional information is needed to determine the role of obtaining access to private land to support nonconsumptive and trail recreational activities.

## **Location of Hunting Land**

The vast majority of hunters appear willing to travel 100 miles or greater to find hunting opportunities. Thus, the geographical distribution of outdoor opportunity does not appear as important as the quality of the opportunity. However, the regional residency of hunters can influence their decisions on land access because of their unique hunting and cultural experiences (Wallace et al. 1989). The focus of an access program should be more in the northern and central regions of Illinois where the lack of wildlife habitat, larger human populations, and urban sprawl makes access more challenging. Also, the geographical focus of a program may be more important with achieving hunter recruitment and retention goals or providing opportunity for trappers.

## **Cost of Obtaining Access**

Fifty-one percent (51%) of resident deer hunters indicated they were not willing to pay to access deer hunting lands in Illinois while 22% were willing to pay and the remaining 27% are undecided (Lischka et al. 2006). However, this may only imply that hunters are not willing to pay a landowner directly because 71% of hunters would support a special access permit where the money raised from the permit fee would be used to purchase land or buy easements for public hunting (Miller et al. 2003). Thus, most hunters/trappers are willing to support payment to landowners as long as it is done through the IDNR.

## **Type of Program**

Most hunters (78%) felt the IDNR should pursue a program to assist hunters in gaining access to private land in Illinois. Different types of hunters require a different approach to an access program (Lischka et al. 2009). Upland game bird and waterfowl hunters have a more difficult time finding a place to hunt than deer, wild turkey and dove hunters (Lischka et al. 2009), even though deer hunters appear to openly express their concerns about obtaining access more than upland game hunters.

Hunters also appeared to be split over the type of access program the IDNR should provide, but prefer the access to be exclusive and for more than one day. Hunters did not appear to support a program that would provide daily access to public and private hunting sites on specific days during the hunting season (Lischka et al 2009).

## **What previous attempts have been made to develop a public access program?**

The first attempt to develop a program to access private lands in Illinois was the formation of a Place to Hunt Committee in 1985. This committee was a cooperative effort between the Illinois Department of Conservation (IDOC) and the Illinois Department of Agriculture (IDOA). The committee consisted of 18 members from the IDOC, IDOA, farm organizations, individual farmers and sportsmen. Recommendations from this committee included: 1) strengthen the Recreational Use of Land Water Areas Act; 2) trespass abatement; 3) educational program to improve outdoor sportsmanship and ethics; and 4) provide staff and dollars to support the necessary programs that would provide access (Gunkel 1988).

In 1995, the IDNR, in cooperation with the Two Rivers RC&D, created Access Illinois Outdoors (AIO). The IDNR hired a coordinator to focus on pairing hunters with landowners in west-central Illinois. After several years, resident hunters became concerned that the AIO was becoming a brokerage for nonresident deer hunters coming to Illinois seeking trophy animals. This program was perceived as increased commercialization of access to deer hunting lands, thereby eliminating much of the hunting opportunities once enjoyed by resident hunters. The IDNR ultimately terminated their involvement because of the political pressure from resident hunters and hunting groups.

Two Rivers RC&D continues to pursue this program as Access Illinois Outdoors/Two Rivers. The program charges an annual membership fee and notifies members that landowners participating in the program may ask for a trespass or access fee to access their property. The Access Illinois Outdoors Fact Sheet states that 3,000 visitors have used the Access program and that 560 landowners controlling 250,000 acres are part of the program. These landowners earned \$1,000 to \$20,000 annually through contacts made as a result of being enrolled in this program.

The Illinois Natural History Survey conducted a series of mail surveys of participants in the Access Illinois Program (AIO) and additional statewide surveys of landowners and hunters (Miller et al. 2002). Some findings of this study are as follows:

- Most hunters enrolled in AIO were nonresident hunters visiting Illinois for an opportunity to hunt trophy game on private land and only 33% of the participants were resident hunters. Many nonresident hunters were visiting Illinois for a one time hunting opportunity.
- 62% of the participants reported they were no longer enrolled in the program.
- 63% of the AIO participants rated the program as “good” to “excellent” while 81% of the landowners enrolled in AIO rated the program as “good” to “excellent”
- Most landowners stated their reason for participating in AIO was for extra income. The average length of hunting contracts was more than one day but less than one week and the average fee was approximately \$750.
- The average number of hunters allowed access was 2-5 hunters per landowner.
- 97% of hunters described the arrangements with landowners as “Private land for a fee”, only 2% provided access without cost, and 1% in exchange for goods/services whereas only 4% of landowners charged a fee statewide.
- Low satisfaction among Illinois hunters in AIO is an important consideration if Access Illinois Outdoors is to be used as a model for a statewide hunter access program.

Several other attempts have been made to provide public access to private land in Illinois, but none of these attempts were actually implemented. The issue of developing an access program also came up at previous Conservation Congresses.

### **Review and recommend human dimension research needed to support the development of public access programs.**

A considerable body of literature has been developed on the effectiveness of landowner incentives needed to develop programs to provide hunter/trapper access to private lands. Little information is available on the recreational demands of nonconsumptive recreationalists and how these demands can be met through an access program involving private landowners. In addition, additional human dimension research is needed to assess the impact that the lack of access has on the recruitment and retention of outdoor recreationists.

Conflicts over access of both public and private lands by different user groups are not well understood. Additional research is also needed to identify and provide solutions to reducing these conflicts.

## **Landowner incentives needed to open lands to public access.**

Incentives used to encourage landowners to open their properties to outdoor recreation include: reduced liability, cost sharing for habitat management, tax breaks, cash, free loan of equipment, federal farm program subsidies, hunter management, technical support and free labor. In addition, wildlife administrators indicated that increased enforcement of trespass laws and trespass prevention were the important incentives to landowners to encourage them to allow public access to their land (Wright and Kaiser 1986). Each state is very unique with different landscapes, human populations, economic infrastructure, and recreational demands, thus the use of incentives to provide public lands should be tailored to each state's landowner and recreation constituencies.

The most favored incentives landowners would desire from an access program were reduced liability, tax breaks, and cash payments (Miller et al. 2002). The following is a list of incentives that have been used or considered by other access programs that could potentially be used in Illinois:

### **Liability Protection**

Numerous studies have shown that liability by far was the most frequent reason given for landowners not allowing hunting (Gunkel 1988, Miller et al. 2002). Many states have developed liability laws to protect landowners that provide public access to their properties. However, landowners need to be better informed of these liability laws (Wright and Kaiser 1986). Liability protection associated with an access program would certainly be well received by landowners.

### **Tax Breaks**

Although surveys showed that tax breaks are popular as a potential incentive for landowners to provide access, tax breaks can be very difficult to get approved, administer, or enforce. Property tax breaks are typically the focus of access programs, so local governments would be concerned about such tax breaks eroding their funding base.

### **Cash Payments**

Cash payments to landowners to provide hunting/trapping opportunities on their properties are a common incentive, especially with walk-in programs. However, providing payments to landowners requires substantial administration such as developing and executing contracts and monitoring the use of the property. In some cases, the state's rate of cash payment establishes the minimum rate upon which hunters may out bid the state for access to the private property (Minnesota Department of Natural Resources 2008). Commercial hunting operations also made it difficult to use cash payments as an incentive (Bies 2009). In Illinois, landowners were split over whether or not the IDNR should lease land for hunters (Miller et al. 2002).

## **Trespass Prevention and Enforcement**

After liability concerns, problems connected with obtaining access to private lands involves hunters trespassing on private property (Brown et al. 1984, Guynn and Schmidt 1984, Miller et al 2002) and general poor relations between outdoor recreationists and landowners are primary concerns with landowners. A survey of wildlife administrators dealing with hunter access issues indicates an access program must minimize hunter misconduct and inform and educate hunters and landowners. Several states have instituted landowner relations programs that provide signs, habitat improvement materials and more protection against trespassers through stiffer fines and possible license suspension for recurring violators. (Wright and Kaiser 1986)]

## **Technical Assistance Cost Sharing for Habitat Development and Hunter Management**

Habitat loss, especially in areas of the State such as the Grand Prairie Natural Division, contributed to lack of access to private lands because of available habitat to access. Providing assistance to develop habitat would be an important first step in establishing a basis upon which to provide access to the public.

## **Federal Farm Program Subsidies**

Included in the 2008 Farm Bill was a program titled the Voluntary Public Access and Habitat Incentive Program that will provide \$50 million over the next four years to develop and support access to private land. Farm programs such as the Conservation Reserve Program (CRP) can serve as an underpinning to the development of an access program.

## **Free Labor from Recreationists**

Providing free labor has long been used by hunters to obtain access and secure a relationship with the landowner. Some access programs have encouraged the arrangement of providing free labor in exchange for access, but due to increasing time demands on hunters, interest in this incentive has decreased over the years.

## **Wildlife Management Benefits**

Hunting and trapping can offer landowners benefits to control wildlife causing damage to their property. Seventy-seven percent of landowners agree that hunters reduce crop damage (Miller et al 2002). Access programs can assist landowners by connecting them with hunters/trappers that can help them manage wildlife numbers or opening neighboring properties that previously served as refuges to problem wildlife.

## **Public access programs of other states and their potential use in Illinois.**

Access programs in other states have been summarized by The Rural Landscape Institute (2008) for the western states and IDNR staff summarized and reviewed programs east of the Mississippi River (Illinois Department of Natural Resources 2009). A summary developed by the Minnesota Department of Natural Resources (2008) was used as well. Our overall findings are as follows:

- 1) Access programs are unique from one state to another and need to be designed to meet the specific needs of the state's hunters and landowners (Wright and Kaiser 1986).
- 2) Access programs should consider providing a variety of different approaches tailored to meeting the needs of different hunters and landowners (Bies 2009).
- 3) Access programs east of the Mississippi River have been less successful than those programs west of the river because of high land values, larger populations, and smaller landownership (Minnesota Department of Natural Resources 2008).
- 4) Liability is the biggest concern of both landowners and hunters.
- 5) Trespass and hunter misconduct are a significant concern of landowners.
- 6) Asking permission for access and getting to know a landowner is important to maintaining positive relations between hunters and landowners.
- 7) Landowners that already provide access are the ones most likely to sign up for an access program.
- 8) Landowners have a desire to maintain exclusive use of their property for self and/or friends and family.
- 9) Rural and urban landscapes require different approaches to private land access.
- 10) A cooperative partnership between hunters and landowners and the groups that represent them is an important step to developing a successful access program.
- 11) Successful access programs for hunting usually do not allow other recreational activities (Bies 2009).

During the review, four primary types of private land access approaches were identified. They are as follows:

### **Hunter Referral Program**

Hunter referral programs provide a mechanism to connect hunters with landowners willing to provide access. These programs do not provide direct incentives for the landowner to provide access, but typically once a landowner and hunter are brought together it is up to them to work out the arrangement for access. Thus, these types of programs run the risk of serving as a brokerage for hunting leases and can actually reduce access. The reduced access is caused by the hunter wanting exclusive access to the property so as to avoid competition with other hunters. Hunter referral programs are economical to implement, but have not met with much success with achieving access goals.

## **Walk-in Hunting Access Programs**

Walk-in Access Programs involve the state making a payment to landowners to open their properties to hunters. Annual payments per acre range from \$0.45 in Montana to \$8.52 in North Dakota. Most walk-in programs focus on upland game. These short-term programs can facilitate leasing by establishing a minimum lease price upon which hunters can out-bid the state in future years. Programs where the lease payments are provided as an incentive are very expensive and require considerable man power to administer and operate.

## **Commercial Land Access Programs**

In the past, large corporations, land trusts, etc. have shown interest with working with the various states to provide access to their properties where it is appropriate. Their primary benefit for providing this access has been to provide a public relations gesture or to improve their tax standing. More recently, these large landowners are starting to move away from open access or public leasing to allowing commercial interests to manage hunting on their properties. Corporations are increasingly more concerned that access may impact the commercial value and income of their properties. Many times expensive long-term contracts are necessary to get these landowners to open their properties to outdoor recreation.

## **Cooperative Area Programs**

Cooperative Area Programs are designed to assist landowners to collectively enroll their lands to create wildlife habitat and provide public access to their lands (Wigley and Melchior 1987). Landownerships within these programs generally have smaller ownership, so the cooperation of these landowners is important to help them achieve their mutual wildlife goals and obtain the habitat materials, increased law enforcement, signage, and joint support (Benson 2001b). Such cooperative programs could play an important role with providing access where the urban and rural interface occurs or where exurban development is concentrated.

## **Changes to Recreational Use of Land and Water Areas Act.**

The primary concern expressed by all parties involved with providing access to private lands was the lack of protection from tort liability. The committee reiterated this concern and supported legislation for the Recreational Use and Land and Water Areas Act 745 ILCS 65 to be changed to expand the list of outdoor recreational activities beyond hunting and recreational shooting. See Recommendation # 1 for further details on the need to amend this Act.

## **Recommendations**

## **Recommendation # 1.      Recreational Use of Land and Waters Area Act**

Recommendation for Recreation Liability  
Submitted to the Public Access Committee for consideration  
By Lenore Beyer-Clow, Policy Director, Openlands  
Oct. 8, 2009

**Title:** Restore liability protection for private landowners who open their land for recreation.

**Need:**

*History:* For over 40 years, landowners in Illinois who allowed recreational users on their property were protected from tort liability under the Recreational Use of Land and Water Areas Act. The law was enacted in 1965 “to encourage owners of land to make land and water areas available to any individual or members of the public for recreational or conservation purposes by limiting their liability toward persons entering thereon for such purposes.” 745 ILCS 65/1. “Recreational or conservation purpose” was defined as “any activity undertaken for conservation, resource management, exercise, education, relaxation, or pleasure on land owned by another.” 745 ILCS 65/2(c) (2004).

*Change in 2005:* As a result of an Illinois Supreme Court case, (Hall v. Henn) in which the Court held that landowners are only covered under the Recreational Use law if they open up their land *to the public* for recreation, the law was amended in 2005 to cover landowners that make their land available to “any individual or members of the public.” As a compromise, the activities covered were narrowed to only include hunting or recreational shooting. As a result, we lost protection for all other recreational, conservation or educational activities.

*Consequences:* The new law can and has caused landowners to severely restrict or eliminate access to their property for public outdoor recreational activities.

- Acreage owned by private land trusts and individuals may no longer be available for public recreation, conservation or educational activities.
- Trails that traverse private land may no longer be accessible to thousands of hikers, bikers, paddlers and equestrians.
- Municipalities and forest preserves may be less open to establishing boat launches that allow the public to access water trails.
- State-owned facilities and forest preserves may be overburdened with fewer recreational and conservation alternatives.
- Private landowners have closed or reduced access to sites because they were not willing to risk exposure to liability.

**Objective:** Pass legislation which amends the Recreational Use of Land and Water Areas Act by limiting landowner liability to encourage landowners to make land and water areas available for recreation or conservation purposes by:

- Reinstating protection for landowners who open their land to the public for recreation and conservation purposes, which was in place for 40 years under the Recreation Use of Land and Water Areas Act.
- Retaining the protections offered for landowners who open their land to individuals for hunting and recreational shooting gained through the legislation in 2005. (Public Act 94-0625.)
- Providing protection to landowners who contract with the Illinois Department of Natural Resources to open their lands to outdoor recreation.

**Approach:** IDNR should actively support and work in partnership with advocate organizations who are leading the effort to pass legislation which reinstates the liability protections for outdoor recreation.

IDNR should work closely with outdoor organizations on the following activities:

- Actively working with the Governor and legislators to increase their understanding of the issue and the need to amend the Act.
- Coordinating local support by reaching out to recreation and conservation organizations who in turn can contact their members to spread the word, talk to local media and contact legislators as concerned constituents.
- Providing examples of landowners or recreational activities which are being impacted by the current law, illustrating the need to change it.
- Negotiating with the Illinois Trial Lawyer's Association to introduce language that will reinstate protection for broad recreation and conservation purposes.

## **Recommendation # 2. Access to Lands for Public Recreation**

Recommendation for developing a program to provide access to public and private lands  
Submitted to the Public Access Committee for consideration  
By Jerry Gille and Jerry Beverlin, United Bowhunters of Illinois

### **Need**

Illinois has approximately 300,000 hunters/trappers that enjoy 34 different hunting/trapping seasons focusing within a variety of different habitats. Sixty-eight percent of these hunters/trappers believe that access to huntable lands is the greatest problem facing the hunting community (Miller et. al 2003). The loss of suitable hunting lands was identified by the 2005-2006 Illinois Hunter Harvest Survey as the number one reason for changes in hunter participation (Lischka et al 2006).

Illinois ranks 47<sup>th</sup> in the nation in available public lands for recreational purposes (Riggs 1990). Illinois hunters, trappers and fishermen rely heavily on access to private land to recreate. The Landowner Liability Law has been weakened by recent court rulings. This has reduced opportunity for access to private property. There has also been a trend for landowners to charge access fees to recreate on private property. Finally, land is increasingly being owned by individuals that do not necessarily value traditional outdoor interests such as hunting, trapping and fishing. These aspects and others have contributed to decreased opportunities for Illinois hunters, trappers and fishermen.

### **Objective**

The IDNR needs to increase access to available land in Illinois for the purpose of hunting, trapping, fishing and other compatible recreational interests.

### **Approach**

1. The IDNR needs to make this agenda a priority and take the primary lead on efforts to increase access. It will be their responsibility to seek and secure all appropriate federal match dollars associated with this program.
2. A committee should be established to maintain and further this agenda. This committee should be comprised of appropriate outdoor interest groups, a private landowner, and a representative from the IDNR.
3. An access stamp will be created to fund costs associated with the program. Initial costs will be related to IDNR personnel and program development. Long term costs will be associated with the implementation of efforts to increase access. This can take various forms including, but not limited to: cost share incentives for landowners, leasing land from landowners, technical assistance for landowners and purchasing property from willing sellers.

## ***Recommendation # 3 Create a State Water Trails Plan and a Model Heritage Water Trail***

Recommendation for a State Water Trails Plan and a Model Heritage Water Trail  
Submitted to the Public Access Committee for consideration  
By Tom Lindblade, President, The Illinois Paddling Council

### **Title: Proposals to Create a State Water Trails Plan and a Model State Heritage Water Trail**

#### **Need:**

Water law in Illinois, especially as it relates to the public's rights to access Illinois' waters for recreation has been an area of interest to recreators and conservationists for years. However, discussion of this topic has been impeded by “(1) A lack of general understanding of the law itself and (2) the ideological gap between what Illinois water law says and what many recreators believe it should say about their rights to use Illinois' waters.” (Clark and Hoffman 1998)

Illinois has 33,000 miles of canoeable streams (6 feet & wider) as measured by IDNR's Office of Water Resources. But less than 2,500 miles, or about 8%, of those waterways are designated “navigable”. This is not conducive to an expansion of paddling and related activities such as camping, birdwatching, fishing, etc. On all other waterways the riparian owner owns the riverbed to the center of the stream and has the right to exclude recreational users from floating over their submerged property (the riverbed), even though the water itself is held in public trust.

In addition to the extremely limited list of navigable rivers and streams there are long sections of non-navigable rivers where the riparian owners encourage recreational use by installing boat access sites and posting and distributing river trail maps. This creates a third class of “public use” non-navigable waterways. The Des Plaines River in Lake and Cook Counties is one example of a well used watertrail on a non-navigable river.

The recent closure of the Vermilion River to recreational users by a riparian business (a cement plant) – and the attendant negative economic impacts - points to just one of the negative consequences of Illinois extremely restrictive water law. Unfortunately, current Illinois water law allows for the criminalization of paddling activities by classifying them as trespassing. This is not conducive to an expansion of paddling and related activities.

Large sums of money are frequently spent to attract tourists. Highways are built, resorts subsidized, parks built, bike trails financed, etc. Comparatively, the expenditures necessary to attract paddlers are very small, consisting mainly of building inexpensive river access points. Unlike Illinois, many other states have recognized the economic

benefits to be gained from providing safe and legal access to rivers and streams, and have aggressively pursued watertrail and other water access strategies. Our neighboring state of Iowa is a prime recent example.

## **PROPOSALS**

We are making two proposals, #1 proposes a statewide approach to planning Water Trails. #2 proposes a demonstration State Heritage Water Trail.

### **Proposal #1**

#### **Objective:**

IDNR should create a State Water Trails Plan, which includes State Heritage Watertrails, with input from all local, regional and statewide stakeholders that:

1. increases paddling related tourism throughout the state;
2. expands public access to Illinois rivers and streams;
3. accurately reflects the current recreational use of Illinois' waterways; and
4. establishes designated watertrails on waterways identified in the Plan

#### **Approach:**

1.IDNR should coordinate with Metro Greenway Planning Councils, Ecosystem Partnerships, municipal, county and regional planning agencies, local business, residents, paddling clubs and other recreational users, as well as Museums and Historical Societies, in identifying waterways to be included in the Plan and in implementing the recommendations of the Plan.

2. IDOT, CDOT and other transportation providers should consider in their assessment of projects, any potential impact on and/or possible improvements to existing and proposed watertrails, including providing access where road improvements cross rivers.

3. IDOT, CDOT and other transportation providers keep existing accessible sites open when rebuilding bridges and other structures.

4. Extend availability of BAAD grant funding to Not-for-Profit organizations.

### **Proposal #2**

#### **Objective:**

That the DNR establish one model State Heritage Water Trail outside of Northeastern Illinois between January 1, 2010 and December 31, 2012, with the further suggestion that the model State Heritage Watertrail should be a refurbished and rededicated Lincoln Heritage WaterTrail on the Sangamon River

**Approach:**

- A. IDNR should approach potential partners such as Museums, Historical Societies Forest Preserve and Park Districts, Metro Greenway Planning Councils, Ecosystem Partnerships, municipal, county and regional planning agencies, local businesses, private landowners, paddling clubs and other recreational users, and create a planning coalition
  
- B. IDNR should consider safety, emergency access, impacts on existing wildlife and habitat, environmental problem areas, the location and protection of unique natural resources, waterway hydrology and the design and on-going maintenance of launchsites
  
- C. IDOT, CDOT and other transportation providers should be asked to consider providing access over existing bridge and other state owned rights-of-way.
  
- D. IDNR should design produce and place trail signage, maps, and marketing materials which are consistent with the existing Northeastern Illinois Water Trail System. As well as unobtrusive historical interpretive signage and or self guiding interpretive materials for use on the river.

## ***Recommendation #4: Create StarParks in every Illinois State Park and/or recreational and/or conservation area.***

Recommendation for creating Starparks in Illinois state parks  
Submitted to the Public Access Committee for consideration  
By Audrey Fischer, International Dark-Sky Association

### **Need:**

Access to unpolluted night skies over our Illinois State Parks by reduction of light pollution sources within at least one very specific small area of each State Park and/or Recreational and/or Conservation area which will be designated as a StarPark.

Understanding that for ecology and biodiversity within our State Parks, the nighttime environment is at least as equally important as the daytime and that all life evolved with and depends on the natural circadian day/night cycle and that artificial light at night interference is undisputed.

and that for the preservation of our natural resources, the skyscape shall also be considered along with the landscape and waterscapes... and that they all intrinsically complement each other.

Understanding that light pollution is in fact caused by inefficient energy usage with , and poor choice in fixture and/or usage, spectrum choice especially blue spectrum and that light pollution can travel 100~200 miles from it's source witnessed as sky glow, IDNR should take care that state properties they oversee respect our resources, set a good example and are not contributors of light pollution to the extent that is safely reasonable.

It has been determined by the National Park Service that if the exponential growth of light pollution is not stopped, within 2 decades, there will not exist a single dark sky within the contiguous U.S.

### **Objectives:**

- Stop the exponential increase of light pollution across the State of Illinois, starting with our State Parks. Keep in mind, that there is not a single mile within the State of Illinois that is not light polluted. This is unacceptable. Begin the process of reviving and then preserving our starry night skies for future generations for the benefit of both people and biodiversity of nature.
- Recover and preserve the cultural heritage related to our natural nightscape. This current generation is humankind's first whereas the majority has not experienced a starry night sky, and lost that connection to our heritage.
- Provide a place to enjoy the starry nightscape as best as Illinois currently can as an immediate and short-term goal. First, with a little oasis-type StarPark within each State Park. StarParks will provide a source of educational, sustainable ecotourism, artistically stimulating to both enjoy & value the night sky and be inspired help reduce light pollution.

Consider the possibility permitting an observatory built on site, funded totally by donations and fundraisers, manned by volunteer amateur and professional astronomers, astronomy societies and/or

clubs including university, high school and primary school astronomy clubs, and scouting groups.

Consider volunteer astronomers as a valuable resource for public outreach. Note: The Chicago Astronomical Society has a telescope and mount that would be perfect to allow access to individuals using wheel chairs and is interested in putting it to good public use.

- Conserve energy, reduce the waste of resources and contribution to climate change by using artificial light only when need, where needed and in the correct amounts and spectrum.
- Reduce harm caused to the local ecosystems, disruption of the circadian clock that all living organisms have, be it plant, animal or human due to reducing dramatically the production of critically essential melatonin. The circadian clock is not only important on a daily basis, it also sets the cues in motion for important seasonal changes through receptors in the Pineal.
- Reduce harm and provide safe haven and safe passage of migratory birds and animals, that artificial light at night causes harm, due to the distraction of light glare which is known to attract and \*capture\* birds so that they circle the light source until exhaustion or death; and in other cases, sky glow light pollution obscures the constellations that birds are known to track and obscures visibility of the horizon, an important aspect of flight.
- Bring new dimensions to management and protection of natural areas considering the night cycle needs and the nightscape.
- Initiate long-range planning so that one specified area in the entire state of Illinois can qualified as and be awarded Starlight Reserve/Dark-Sky Preserve status. One requirement is that it will have a bortle rating of 1~2 at the core. No small task... but not impossible with commitment and planning.
- StarParks and StarLight Preserves are potentially sustainable ecotourism site sources bringing increased economic value to the surrounding area.

With the long-term plan and intent of choosing one of these StarParks for developing a StarLight Reserve/Dark-Sky Reserve thereby eliminating all light pollution sources within the State Park and through educational outreach, encourage surrounding communities to also consider reducing their light pollution.

### **Approach:**

- IDNR should invite International Dark-Sky Association (IDA) experts to look at proposed area for StarPark at each State Parks and/or Conservation Areas to provide recommendations and/or coach appointed individuals or groups in the basics of light pollution as an aid for decision making.
- IDNR should Invite volunteer amateur and professional astronomers, astronomy societies and/or clubs including university, high school and primary school astronomy clubs, and scouting groups to \*adopt a StarPark\* they would have particular interest in developing programs and public outreach events, etc. and maintain contact with IDNR.
- IDNR should involve all agencies that affects lighting decisions within the State Parks and/or Recreational Areas including state-owned/rented buildings, roadway and highway lighting for mid and long-term goals.

Careful attention will be given toward:

- types of lighting fixtures, that no upward lighting or glare shall be permitted;
- the brightness of the lumens, that it be minimum lux needed for the required task;
- the color spectrum of the light output, understanding that the blue spectrum at night is harmful to nature's ecosystem.
- lights with motion detectors, timers or dual spectrum output luminaires considered.

- People will be encouraged to bring their telescopes and binoculars to this StarPark area to enjoy astrophotography, nightscape photography, star gazing, meteor showers, comets, lunar eclipses, Int'l Space Station passes, etc. for recreational and research use by amateur and professional astronomers, scouts, vacationers. Star Festivals with music under the stars and mythology and regional cultural folk stories told and/or StarParties with day-time speakers and workshops and night-time observing and astrophotography can introduce new funding, ecotourism, scientific, cultural and artistic opportunities to the area for children and adults.

- StarPark Signage shall be used

- Inclusion of StarParks on all Illinois recreational maps, brochures, tourism guides and other like-materials.

- an interpretive center and/or signage of varying degrees including:

- helpful star maps identifying the most popular constellations and other key celestial objects;

- basic facts of light pollution, its serious ecological and human health consequences, and recommendations on how each of us can reduce light pollution

- Creating a systematic method to reduce light pollution in Illinois state-owned properties with short, mid, and long-term goals. Starting with an oasis of little StarParks within each State Park, and then choosing the best candidate for the long-range plan of creating Illinois' very first Starlight Reserve/Dark-Sky Preserve. This will have Illinois' only, and first-recovered pristine night sky that rates 1 or 2 on the Bortle scale, that emits starlight, zodiacal light and light glow equally... only possible when light pollution is absent.

### **An Addendum:**

Note, These areas will have valuable cross-uses as observational research areas for nocturnal species, etc and of course, providing a natural, healthy environment for light-sensitive ecosystems and safe migratory passage. Partnering with groups interested in this is greatly encouraged and welcomed.

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