

Wilderness Between the Cracks:

Where Motor Use and other Wilderness Violations Have Degraded the Eastern Part of the Boundary Waters Canoe Area Wilderness

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Introduction

The recent controversy over the Tilbury Trail, located between McFarland Lake and North Fowl Lake near the end of the Arrowhead Trail north of Hovland, Minnesota, raised concerns for a number of wilderness conservation organizations. In the Tilbury Trail instance, a user-created trail built and maintained by local residents provided snowmobile access to Royal Lake, the Royal River, and North Fowl Lake within the Boundary Waters Canoe Area Wilderness (BWCAW) where snowmobiling is illegal.

Though the trail had been used prior to passage of the 1978 BWCA Wilderness Act (Public Law 95-495), the use of motorized vehicles on the portion of the trail within the BWCAW became illegal in 1978. Yet snowmobiling continued on this trail for another 25 years, until the Gunflint Ranger District of the U.S. Forest Service discovered the trail. Snowmobilers still used the Tilbury Trail for years after this discovery despite barricades and signs erected by the Forest Service.

Our organizations became curious about the existence of other uses or activities within the eastern portion of the BWCAW that might also violate wilderness regulations. Such activities would also degrade the wilderness character of the BWCAW, the nation's most popular and most-visited unit of the National Wilderness Preservation System. We began to compile and document instances where such violations have recently occurred.

We recognize that law enforcement in a designated wilderness is a challenging endeavor for the Forest Service, complicated by lack of easy accessibility, declining budgets and personnel, and other important agency priorities. Forest Service Law Enforcement personnel are stretched thin and often pulled away from the Superior National Forest to help deal with other pressing enforcement or emergency activities.

The Superior National Forest budget, for example, will sustain another cut in Recreation, Wilderness, and Heritage for FY 2007 from the previous year's budget. Such cuts provide continuing challenges for proper wilderness stewardship of the BWCAW. Instead of cutting this budget line, we should at least maintain if not increase it.

Further complicating the BWCAW law enforcement picture is the presence of U.S. Border Patrol agents along the international border. The Border Patrol, part of the Department of Homeland Security, has been exempted from complying with most laws in some of the recent anti-terrorism and homeland security laws passed by Congress. Among the laws from which the Border Patrol is exempted are the 1964 Wilderness Act and the 1978 BWCA Wilderness Act. As a result, Border Patrol officers can legally utilize snowmobiles and other motorized travel within the BWCAW. Some of the snowmobile tracks documented in this report may have come from Border Patrol activities, though we believe that illegal recreational snowmobile activity also occurs within the BWCAW.

While the photos in this report come from 2006 and cannot assist in real-time enforcement, we believe nonetheless that many of the photos depict areas of recurring violations and therefore still have value today. We hope that by compiling this documentation, this report will assist the U.S. Forest Service in targeting its enforcement activities and so enhance the agency's wilderness stewardship of this precious area. We believe that the Forest Service shares our concern that protecting the BWCA Wilderness shouldn't fall "between the cracks" in the agency's many other functions.

Winter

1. Snowmobile Use in Wilderness

Wilderness Regulations – The 1978 BWCA Wilderness Act, Section 4(e), prohibits snowmobiles everywhere within the BWCA Wilderness, except for two short trails, one of which is along the channel going north to Canada Customs on Saganaga Lake.

Violations – In the Vento Unit of the BWCAW, the U.S. portions of the international border lakes from South Lake eastward through Rat, Rose, Rove, Watap, Mountain, Moose, and the Fowl Lakes are closed to snowmobiles. The portages connecting these lakes are all located completely or partially within the BWCAW, except the Moose to North Fowl portage, which lies completely in Canada. Like the border lakes themselves, the BWCAW portages are also closed to snowmobiling. The Forest Service has installed No Snowmobiling signs on a few of these portages but they do not appear to be working. The number of tracks observed indicates that at least some of this is recreational use by the public – not official use by the Border Patrol or DNR Conservation Officers.

a. Border Portages and Border Lakes – We documented many violations of wilderness regulations by snowmobilers on the international border portages and the border lakes. These include the following:



Snowmobile tracks across Rose Lake (U.S. at top, Canada bottom). Snowmobiles are prohibited on the U.S. portion of Rose Lake. The only legal way recreational snowmobilers can access Rose Lake is through Canada's Arrow Lake. Unfortunately, almost all of the tracks shown here originated from BWCAW portages on the east and west sides of the lake. April 2006.



East end of Mountain Lake near Lesser Cherry Portage (U.S. at top). The three portages between Mountain and Moose Lakes are entirely within the BWCAW. Snowmobiles are prohibited on these portages and the U.S. portions of Mountain Lake. April 2006.



Looking south on the Height of Land Portage between North and South Lakes. The portage trail veers to the right in the BWCAW. The recent international boundary clearing by the International Boundary Commission is on the left. Snowmobiles now use both routes. Note the heavy snowmobile use on the BWCAW portage despite the No Snowmobiling sign. March 2006.



The far western bay of South Lake, entirely in the BWCAW, where snowmobiling is prohibited. March 2006.



Looking north at Height of Land portage from South Lake, showing snowmobile tracks on the trail. Snowmobiling is prohibited on this portage and the U.S. side of South Lake. March 2006.



From the east end of the South Lake Portage looking east across Rat Lake. This portage lies entirely within the BWCAW where snowmobiling is prohibited; snowmobiling on the U.S. part of Rat Lake is prohibited. March 2006.



Snowmobile tracks on the Rove-Rose Portage, where snowmobiling is prohibited. March 2006.

b. Stairway Portage – Stairway Portage, located between Rose Lake and Duncan Lake, is the most famous and popular portage trail in the entire Gunflint Trail area and is situated well within the BWCAW. Snowmobiling is prohibited on this portage and on the lakes on either side of it. Yet these photos document that snowmobiles have recently been riding up the stairway, scarring the rocks at the bottom and damaging the wooden steps.



Recent scarring of rocks by snowmobiles at base of Stairway Portage, Rose Lake. Snowmobiles are prohibited on the U.S. portion of Rose Lake, including Stairway Portage. July 2006.



More recent scarring of rocks by snowmobiles at base of Stairway Portage, Rose Lake. Snowmobiles are prohibited on this portage. July 2006.



Damage to the steps of Stairway Portage from snowmobiles, Rose Lake. July 2006.

c. Daniels Portage – Snowmobiles are not permitted on the wilderness portions of the trail that runs from near Clearwater Lake to the southern and southeastern shore of Daniels Lake, and on to where the trail connects with the Long Portage that runs between Rove and Rose Lakes. Yet snowmobile traffic on this trail left extensive tracks in the snow as shown in the following:



Snowmobile tracks on the Daniels Portage trail at the junction with the Border Route Trail. Snowmobiles are prohibited on this trail. March 2006.

d. Clearwater Lake and Pine Lake – These two lakes are wilderness lakes located near many cabins. They both suffer from consistent snowmobile trespass in the BWCAW, despite signs put up by the Forest Service. The year 2006 was no exception; both lakes had many snowmobile tracks past the BWCAW boundary into the Wilderness.



Pine-McFarland peninsula trail, where snowmobiling is prohibited.
Note the No Snowmobile sign. March 2006.



Snowmobile tracks on Pine Lake, where snowmobiling is prohibited. March 2006.

2. Forty-Inch Rule – Saganaga

Wilderness Regulations – The 1978 BWCAW Wilderness Act, Section 4(e), requires that all snowmobiles allowed to operate within the Wilderness on the two designated routes must be snow machines “not exceeding forty inches in width....”

Section 4(h) of the 1978 law further restricts motorized vehicles in the BWCAW to only “those types of snowmobiles, motorboats and vehicles which had been in regular use” in the BWCAW prior to 1978.

Violations – Many current snowmobiles exceed forty inches in width. In fact, some snowmobile manufacturers produce “double-wide” snowmobiles that extend far in excess

of forty inches in width. Other snowmobiles may not be “double-wide” but still exceed the forty-inch rule, and were not in operation in the BWCAW prior to 1978. The Forest Service does not seem to be enforcing the forty-inch rule on Saganaga Lake where some snowmobiles may legally operate. The rule is not mentioned in any Forest Service literature or on any of the signs and kiosks at the public landings on Saganaga. On one day, all of the tracks measured in the BWCAW exceeded the forty-inch limit.



Snowmobile highway on the Saganaga Corridor. Only snowmobiles 40 inches in width or narrower may operate here. February 2006.

3. Snowmobile Use on Saganaga Lake

Wilderness Regulations – The 1978 BWCA Wilderness Act, Section 4(e), allows snowmobiles to operate on Saganaga Lake only “from the Sea Gull River along the eastern portion of Saganaga Lake to Canada....” This route is informally known as the Saganaga Corridor.

Violations – Some snowmobiles operate far beyond the Corridor on Saganaga, running through the islands on the U.S. side of the lake, as well as driving along the international boundary west of American Point, where snowmobiles are prohibited on both the U.S. side of the border (BWCAW) as well as the Canadian side of the border (Quetico Provincial Park). Such violations include the following:



Snowmobile tracks on the west end of Saganaga Lake, looking northeastward with the entrance to Cache Bay at the left. Snowmobiling is prohibited west of American Point, shown in top center. April 2006.



Snowmobile tracks on the ice of the west end of Saganaga Lake, where snowmobiling is prohibited on both the U.S. and Canadian portions of the lake. April 2006.

4. Illegal Wheeled Vehicles – Saganaga

Wilderness Regulations – The 1978 BWCAW Wilderness Act, Section 4(e), defines snowmobiles “as any motorized vehicle which is designed to operate on snow or ice.” This statute does not permit wheeled vehicles to operate as a snowmobile within the Wilderness.

Violations – Though not documented with photographs, the tracks of wheeled vehicles have been seen on the ice in the Saganaga Corridor. Such vehicles should not be allowed to trespass into the BWCAW.

Summer

1. Horsepower Limits Violated – Fowl Lakes

Wilderness Regulations – The 1978 BWCA Wilderness Act, Section 4(c)(2), limited motorboat usage on North Fowl and South Fowl Lakes to “motorboats with motors no greater than ten horsepower....”

Violations – Numerous violations of the horsepower limits on North Fowl Lake have been documented. Many of these violations appear to come from use associated with the Fowl Lakes Lodge. Violations included using outboards with greater than 10 horsepower, as well as removal or cover-up of markings on outboards that makes Forest Service enforcement more difficult. These violations included the following:



Boat at private cabin on U.S. side of North Fowl Lake with all decals and stickers removed. Outboard appears bigger than the 10 horsepower limit allowed by law. July 2006.



An illegally large horsepower motorboat running along the U.S. side of North Fowl Lake. Only outboards of 10 horsepower or less are allowed. July 2006.



Boats at the resort on North Fowl Lake, with stickers placed over the horsepower number at the back of the outboard motors, which hampers enforcement. July 2006.

2. Motorboats using Excessive Horsepower in the Saganaga Corridor

Wilderness Regulations – The Sag Corridor was created in the 1978 BWCA Wilderness Act as a snowmobile trail in the BWCAW for travel to Canada. The Forest Service used this designation to administratively create a summer Sag Corridor, within the BWCAW, for the convenience of the Canadian cabin owners on Saganaga Lake – almost all of whom are American citizens. This allows them to travel within the Corridor with larger than 25 horsepower motors, as long as the larger motors are not used. Usually the larger outboards are mounted on the transom but tilted up. This is an exception to the wilderness regulations on the rest of the U.S. side of Saganaga, which prohibit possession of over 25 horsepower motors.

Violations – Some of the cabin owners and other regular users of the Sag Corridor use this exception to illegally lower their over-25 horsepower motors into the water and use them as they pass through the BWCAW. Several observers saw motorboats with large horsepower motors operating in the Sag Corridor this past summer.

3. Towboats – Saganaga

Wilderness Regulations – The 1964 Wilderness Act, Section 4(c), prohibits commercial operations within units of the National Wilderness Preservation System. The only exception to this prohibition (Section 4[d][5]) is for commercial services “necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.”

The 1978 BWCA Wilderness Act, Section 4(c)(1), allowed commercial towboats to operate with unlimited horsepower motors on Saganaga Lake until January 1, 1984. Since that time, towboats have had to comply with the 25 horsepower restriction on Saganaga Lake.

The 1993 BWCA Wilderness Management Plan and Final Environmental Impact Statement provided further direction on towboats. The 1993 Plan, p. 3-14, removed towboats from the motor quota system and required towboats to operate only under a special use permit. The Plan further stated: “Towboat use will be limited to the 1992 levels for numbers of boats, trips, current operators, and specific lakes. Growth will not be permitted beyond these limits. If an operator terminates his/her special use permit, an assessment will be completed to determine if a permit should be issued to another individual or business.” The Record of Decision accompanying the 1993 Plan, p. 5, further stated, “Special Use permits will be required for all outfitters, guides, and towboat operations in compliance with Forest Service policy. The total number of towboats and towboat businesses to be permitted is capped at the level in operation in 1992.”

Violations – The commercial towboat operations on Saganaga Lake appear to be out of control. There appears to be little control on who may tow on the lake, where they tow, and what they tow.

a. Expansion of Towboat Operators – Despite the direction in the 1993 Plan, commercial towboat services seem to have expanded. Towboat operations have become a highly profitable activity for many commercial operations. The Forest Service has even authorized towboat operations in recent years for commercial businesses primarily located away from Saganaga Lake, including those on Seagull Lake and Round Lake.

Two businesses located on the Seagull River still have Special Use Permits to tow on Saganaga Lake despite their boats no longer being exempt since the Chain of Lakes decision. They have apparently been “grandfathered in” by the Forest Service, but instead should have to apply for motor permits to tow on Saganaga in accordance with the court’s ruling.

b. Transportation of Building Materials – One towboat operator was seen transporting building materials to one or more sites on the Canadian side of Saganaga Lake. Commercial towboats should not be transporting construction materials through the BWCAW. Transporting building materials does not fall within the exception for commercial use from the 1964 Wilderness Act. This type of “delivery service” towing for Canadian cabin owners or BWCAW campers may be expanding because it is very profitable for the businesses involved, and there appears to be little monitoring by the Forest Service of exactly what towboats are transporting.

c. Towing for Campsite Selection – some towboat operators transport camping parties from campsite to campsite among the islands on the U.S. side of Saganaga, searching for the best available campsite. This kind of motorized use should not be allowed by the commercial towboat operators. This is guiding, not towing.

4. ATV Incursions

Wilderness Regulations – All-terrain vehicles (ATVs) and other types of Off-Highway Vehicles (OHVs) are not allowed anywhere in the BWCAW under the 1964 Wilderness Act or the 1978 BWCA Wilderness Act except at Prairie Portage and Trout Portage.

Violations – Some winter use of ATVs along illegal snowmobile routes occurs, especially during low snow winters. The Tilbury Trail and some of the border portages have seen such use. Some lakes like Pine and Clearwater have also had some ATV use. With climate changes and new advances in ATV design, the possibility of illegal motor use in many new locations in the BWCAW is increasing and should be monitored closely.

5. Chainsaw Use – international border portages

Wilderness Regulations – Chainsaws are not allowed in the BWCAW under either the 1964 Wilderness Act or the 1978 BWCA Wilderness Act.

Violations – There was evidence of chainsaw use along all of the international border portages of the Vento unit of the BWCAW. Such violations include the following:



Chainsaw use on Rose-Rove portage. Chainsaw use is prohibited in the BWCAW. June 2006.



Chainsaw use on Rose-Rove portage. Chainsaw use is prohibited in the BWCAW. June 2006.

Conclusion

These documented violations in the BWCAW are concerning for many reasons. As the nation's most-loved and most-visited area in the National Wilderness Preservation System, the BWCAW attracts visitors from across the country and around the world who come to experience the area's wilderness character. The violations we have documented have degraded that wilderness character.



Protecting the wilderness character of the Boundary Waters Canoe Area Wilderness remains a common goal of the U.S. Forest Service and conservationists.

Not only do the violations degrade the wilderness, but if not addressed in a timely manner, they can become established uses for local residents and businesses. People who over time begin to rely on established practices are understandably upset when they are eventually told that they are breaking the law and must stop. When this happens, local political pressure is often put on the Forest Service to replace the illegal use, often damaging the wilderness character of the BWCAW.

In the case of the Tilbury Trail, this local political pressure resulted in the decision to build a replacement trail across the cliff above Royal Lake – by all accounts a degradation of the BWCAW. Situations like this could be avoided if the Forest Service would consistently enforce the 1964 Wilderness Act and the 1978 BWCA Wilderness

Act. The public would then know the rules and the Forest Service could make decisions based on wise stewardship and not be pushed into decisions by local politics. Our organizations and the Forest Service could then put our collective energy into protecting and enhancing the Boundary Waters Canoe Area Wilderness, our common goal.

We collectively can do better to fulfill the promise of the 1964 Wilderness Act to preserve the area's wilderness character, and to pass this wilderness legacy unimpaired to future generations. We believe that the Forest Service will agree with us and use this report to better target the agency's law enforcement and wilderness stewardship efforts toward reaching that goal.

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