Jason Meyer - Re: Prescriptive Easement Process

From: Jason Meyer
To: net:frank.koshere@gmail.com
Date: 2/18/2014 2:38 PM
Subject: Re: Prescriptive Easement Process
CC: Butorac, Matt

Frank,
The link below contains the documentation we have for prescriptive easement across your property:
http://landsales.stlouiscountymn.gov/slclsi/RD-ID-99990.pdf
If you click on the PDF document to the right of the number RD-ID-99990 and use the wheel on your computer mouse, you can scroll through the maps which document the County's use. Looks like we have older aerial photography indicating the road in place for many years, several maps which indicate the road was used for forest inventory, and several maps indicating the road was used for several County timber harvests.

Give me a call if you have trouble viewing or have questions.

Thanks,

Jason Meyer
Deputy Land and Minerals Director
St. Louis County Land and Minerals Department
(218) 726-2606
>>> Jason Meyer 2/12/2014 12:01 PM >>>
Frank,
It was good to talk to you today and hear your specific concerns regarding the prescriptive easement process underway in St. Louis County. Attached are the statutes I mentioned which allows for this process. Again, I look forward to talking with you at the public hearing and receiving your written comments as well. Give me a call if you have questions or concerns in the mean time.

Thank You,

Jason Meyer
Deputy Land and Minerals Director
St. Louis County Land and Minerals Department
(218) 726-2606

St. Louis County Prescriptive Easements Public Hearing, Mountain Iron. Feb 26, 2014

Comments on Prescriptive Hearing Process submitted by Frank and Karen Koshere, 5327 Driftwood Estates Rd, on Road ID 99990.

My name is Frank Koshere, and my wife Karen and I own the property affected by Road ID 99990. This privately maintained road serves as the first portion of our drive into our primary home. It also provides an easement to a second party. The road has been named Driftwood Estates Rd. It is not a public road. It receives no public maintenance. The cost of road maintenance is shared by 6 private users.

I appreciate we can have this public hearing to discuss the prescriptive easement process, and how it may affect property owners. I am particularly interested in what effects the prescriptive easement will have on public use of this easement over private property.

RD ID 99990 originates on our property where the public road ends. Our road is a private road, meaning it sits on private property, serves as the first section of the drive into our year-round home, and receives no public road maintenance. The road provides an easement to six other private property owners beyond our property. The cost of road maintenance is paid for and shared by the residents. Five of us residents use and rely on this road for daily access to our homes.

I have a list of concerns I will submit as written comments. The list focuses on learning what effects the prescriptive easement may have on our ability to manage and regulate use on our road. We pay for the maintenance of this road privately. My comments spotlight problems of abuse, road damage, and increased costs we will have to bear if a general public use is allowed that adds increased wear and tear. In particular are abuses from ATV and OHV use, which I have documented happening on my property in my comments.

We have no interest to close the road to others. We do need to retain our ability to manage its use by having a say in who and how it is

used. Opening our privately maintained road to public use, as a prescriptive easement may permit under various and unknown interpretations of statutes and related regulations regarding ATV and OHV use, would be in direct conflict with our need to manage the road we pay for and rely on. Please keep in mind we maintain this road without public support. I ask in my comments for answers to specify what public uses may be allowed , or can be disallowed, if there is a prescriptive easement taken over my property. And importantly, I ask how the County will address problems and additional costs related to public use. I ask that these concerns remain a priority in your deliberation. We need to access our homes and do not want to pay for unwanted public wear and tear on our road or tolerate unwanted uses of our property.

I think there may a more agreeable alternative to the prescriptive easement, which is essentially an adverse taking of private property by government. I suggest we discuss an easement over my property, to the County, tailored to meet its forest management activities. I discuss that in more detail in my comments. I'm hopeful this can be a win-win outcome, and that the County, my wife and I, and other private users of this road can have what we need without the drastic action of a prescriptive easement. I'm open to discussing how County access for forest management can be continued without any loss of private property rights to the Kosheres. It's keenly important that we be able to manage uses on our drive and road that we pay to maintain privately.

I request that each of the affected property owners being subject to the prescriptive easement being discussed at this hearing, be notified after this hearing and be given the opportunity to see all the public comments and agency responses before a final action is taken. And if necessary, ask the state and county to hold an additional meeting to discuss decisions and/or work out solutions to problems before a final action is taken. The very purpose of this hearing process is to air concerns and work out solutions to issues in a transparent manner. It is hoped the County and State will respect private property rights to the fullest extent possible and take only the essential minimum uses required for forest management and no more.

I submit my comments including this introduction along with a package of Exhibits:

A- Photos of ATV abuse on our road easement.
B- Facts and Concerns Regarding Prescriptive Easement #99990
C- St. Louis County land use permit requirements re: private roads and owner responsibility.
D- Excerpt of MNDNR OHV Regulations.
E- Air photo map of Koshere Property and existing public access.

I thank you for this opportunity. I look forward to more involvement.

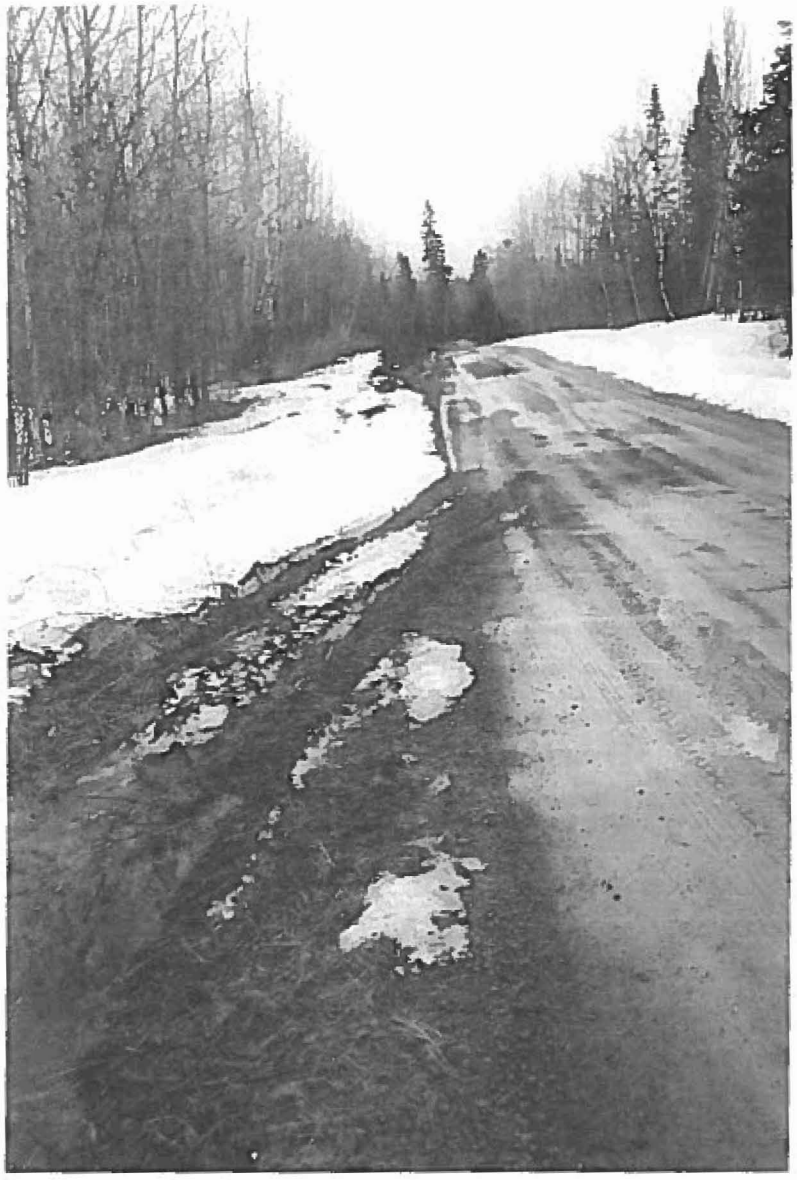
Submitted by:
Frank J. Koshere
5327 Driftwood Estates Rd. Duluth, MN 55803
PH 715-394-3641

Exhibit A. Photos of ATV abuse in 2013 on Driftwood Estates Road, Road ID 99990 crossing Koshere Property

1. 4/29/13 ATV tracks into mud at snowmobile trail at Driftwood Estates Road, just off Koshere property, leading south onto Koshere property.

2. 4/29/13 ATV tracks in ditch of Driftwood Estates
Road on Koshere property west and up-gradient of driveway creating erosion potential with harm to driveway into home.

3. 4/29/13 ATV tracks into ditch on Koshere property just up-gradient of culvert on Driftwood Estates Rd. leading into stream.



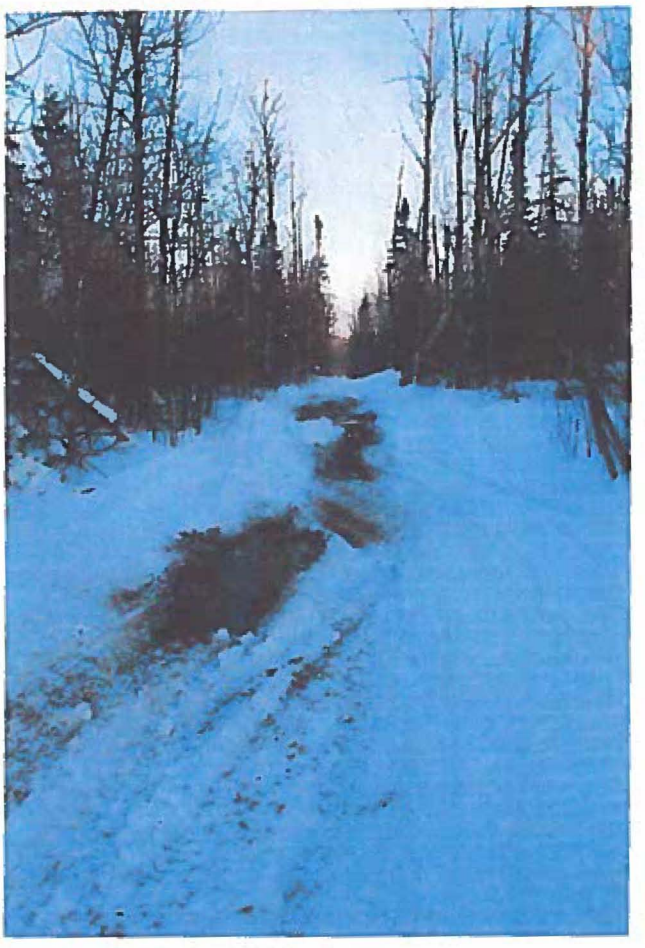
4. 4/29/13 ATV tracks entering or exiting stream at culvert on Koshere property at Driftwood Estates Rd.

5. 4/29/13 ATV tracks entering stream at culvert on Koshere property at Driftwood Estates Rd.

6. 6/11/13 ATV tracks entering snowmobile trail off of Driftwood Estates Rd. just north of Koshere property, leading onto Koshere property.

7. 6/16/13 ATV tracks entering snowmobile trail off of Driftwood Estates Rd. just north of Koshere property, leading onto Koshere property.

8. 6/16/13 ATV tracks coming off County STF lands onto Driftwood Estates Rd at snowmobile crossing.



9. 4/21/13 View to SE off Driftwood Estates Road onto snowmobile trail, on County STF lands immediately adjacent to the north of Koshere property. Shows snowmobile use after trail was closed and start of erosional raw area that remains into summer, as shown above.

Exhibit B- Facts and concerns that a Prescriptive Easement on Rd ID 99990 on Koshere Property could allow unregulated public use, cause a loss of private property rights to manage and protect uses on private property, and unfairly burden property owner with added maintenance liabilities for residential and emergency access on the easement being used as Driftwood Estates Rd.

1. Driftwood Estates Road is a private road that crosses property owned privately by Frank and Karen Koshere, residing at 5327 Driftwood Estates Rd, located in SE ¼ of SE 1/4, Section 33, T52N, R 15W, Fredenberg Township, St. Louis County, MN.

2. Driftwood Estates Road is the start of a privately maintained driveway that sits on a recorded easement that allows use to a second party to cross on the easement for road purposes. First and foremost, what is called Driftwood Estates Rd. at its origin at the end of West Lismore Rd is a part of the private driveway into the Koshere residence. It receives no public money, no public services, and is privately maintained by the residents who share use of the easement and the road beyond.

   See Exhibit C for St. Louis County land use permit requirements. This states, "the owner will maintain at their own expense private access to the lot....that provides reasonable access for emergency vehicles". It further states the land use permit will require "an agreement to not demand public road maintenance". This says that as private property owners not on a public road, *we must maintain this road for emergency access and do it at our own private expense.* If the prescriptive easement opens the easement to public use, the property owner requests an explanation as to why they may be required to provide a public use on the road, yet be responsible privately to maintain the road necessary for their own use and acceptable for emergency access "at their own expense".

3. Road maintenance costs are shared by 5 private year-round residents and one seasonal campground operated by the Air National Guard (ANG). Maintenance costs include gravelling, grading, snow plowing, ditching, culverts, and any other costs associated with repairing and maintaining a year-round access road used daily by families to access their homes. The road is a dead-end, and all traffic coming in has to pass on the way out, doubling any use. The residents who need to use Driftwood Estates Rd must have available to them a method to manage use of the road in order protect their road for daily access and for emergency services as required by the county land use permit. Opening the road to public use under a prescriptive easement would remove the resident's ability to manage use of the road, and potentially increase the costs they will pay to maintain it to meet their daily needs to access their homes. This would add an unfair financial cost to the residents who must use their road to access their homes.

The general assumption in the County's Jan 22, 2014 letter explaining the prescriptive easement process, suggests that this road is one that may have been maintained cooperatively by government and private effort. This may be an overstep to characterize the road that exists today as a result of private citizen development and private expenditures. The private improvements to the road may disqualify it as one to be taken by the prescriptive easement process. It should at a minimum place it as a unique condition to be considered for options outside of the prescriptive easement process.

4. The Kosheres believe they can offer a win-win proposal. They don't need to be lumped into the prescriptive easement process. They are willing to discuss a specific easement for forest management and avoid the taking of private property rights under a prescriptive easement. An easement already exists on the Koshere property for a power right of way and access to private properties beyond the Koshere property.

   The Kosheres would consider giving an easement conveying specific uses to the County or other units of government or their agents for the purposes of forest management. We hope this approach may allow the essential need of the County to be met for only for active forestry management activities and necessary equipment. We would like to accomplish this with no adverse effects to the private property rights of the Kosheres. The ability for the Kosheres to retain basic property rights will allow them to manage uses of the road easement outside of active forest management activities.

   A separate easement can avoid the very kind of conflict you are trying to avoid with the prescriptive easement process. It can avoid government use of the MN Statutes authorized use of police power in taking a prescriptive easement. And the County can avoid becoming involved in messy conflicts and enforcement issues that may arise regarding public use of the road causing damage to a privately maintained drive. It's incumbent on the County to take the easy solution that most protects private property rights.

5. The Koshere's purchased their property on 3/16/2011 to be used for a primary residence/ retirement home, and to be managed as recreational and forestry managed woodlands. They wish to manage their property responsibly with goals, similar as the county or state may manage property to achieve defined goals and uses.

   In 2012 they hired a professional forester and developed a MN Woodland Stewardship Plan that is approved and accepted by the state. In the plan, they identify a goal to avoid and minimize the use of motorized

recreational vehicles during the non-snow season. They do allow the use of a snowmobile trail across their property during official trail open dates. Their Stewardship Plan also identifies the need to watch for and prevent the introduction of invasive species. This is a significant concern about use of OHV motorized vehicles over the property, including the easement, and mentioned later in greater detail.

The Kosheres take their role as land managers seriously. They strongly wish to manage their property according to their plan. They wish to enjoy their desire for peace, quiet, and privacy during spring, summer, and fall seasons on the private property that serves as their home residence. Comparable as public properties are managed, the Kosheres have invested in a deliberate MN Woodland Stewardship Plan to manage their land.

6. There is no plan to close the road or deny access to normal traffic. Currently, use of Driftwood Estates Rd., i.e. a private roadway that serves as part of the driveway to the Koshere residence, is maintained privately, provides an easement over private property that is open to residents and other users.

   However, if the road is misused or abused, the Kosheres, being private property owners, now have private property rights to inform the abuser that the road is private. They can identify that abuse of the road causes damage that will cost the private residents who are responsible to maintain the road to reach their homes or to provide emergency access as required in the land use permit. They can tell the abusing party it will cost the residents money and inconvenience to repair. They can inform the abuser that their use of the road is trespass, and they can request them to leave. Trespass as a use management tool, is a quickly understood and readily available tool to effect a change in behavior in someone causing a problem. An easement is not ownership, but allows a use. An easement implies a use "that leaves no trace", or at most causes no continuing damage for which the property owner is left responsible to address. The Kosheres want to retain the private property right to determine trespass and allow the private owner to direct behavior or deny access. To have the Kosheres retain control of trespass and use of the easement over their property can avoid dragging the County into conflicts resulting from public use.

   In 2013, the first season the Kosheres had a regular presence on the property, they were able to be on site when abuses were happening and were able to deal with the problem. A simple conversation with the offending road users to inform them they are on private lands quickly ended two instances of an abuse problem.

An instance of abuse caused by ATVs happened during the spring thaw and runoff period and involved rutting the roadbed, purposely driving at high speeds through standing water and causing deepening of the puddles, driving into the ditch and stream flowing from a culvert, and turning donuts on the Koshere driveway. It's common hydrology to know that a rut concentrates flowing water. A small rut can develop into a greater path of erosion that causes damage dependent on the amount of flow of water. Avoiding ruts is the first step to prevent erosion to avoid costly repairs to the road. The photos in Exhibit A show ATV use in wet areas and tracking in and out the ditch forming a start for more erosion.

Erosion, started from ATV tracks, of the road/driveway surface will grow into deeper ruts, develop into gullys, deliver sediment that will clog the ditch and culverts, cause damage to residents vehicles, impede or prevent access to their homes, and cause the property owners to spend more money to get the problems fixed and spend more money overall on road maintenance. In the example above, it was lucky there was not a large precipitation event at the time. Ruts from ATVs spinning donuts in the secondary drive into the Koshere residence could have caused it to wash out.

The nature of ATV use cannot avoid causing deep wear and ruts on a roadbed. If permitted on the road, damage and repair costs will be born by the Kosheres and other residents. (See Exhibit A for photo documentation of misuse on roadway over the Koshere property and on adjacent State Tax Forfeited Lands leading to the Koshere property and into the Canosia State Wildlife Management Area).

The Koshere's have a plain and simple interest to retain and enjoy the most basic of private property rights, i.e. to decide who may be a trespasser onto their private property. Damage to the road and their property is not hypothetical, it has a history of happening.

7. The Kosheres are particularly concerned that the prescriptive easement will open their drive and the road beyond to a general public access, either directly on the road or on an easement right of way. They request a legal clarification as to what kinds of access and uses the prescriptive easement may allow.

As stated in MINNESOTA STATUTES 2013 282.041:
"1. Definition. "County forest road" means a road constructed, acquired, maintained, or administered by the county for the *purpose of public access* and management of tax-forfeited lands that have been classified as conservation lands under this chapter."

This language may be legally ambiguous. It needs clarification regarding what kind of public use will be permitted on a prescriptive easement. Is the county forest road for the combined use of "public access and management", taken together as one activity, or can the public access language be interpreted for the singular use of "public access" alone without active management activity?

Accordingly, the Koshere's request a legal clarification as to what kinds of public access and uses may be opened with a prescriptive easement. Is it unlimited? Will it open the road to an unregulated use of ATVs and OHVs over the easement? What defines access? By what means is access achieved? The Kosheres do not want to have unresolved legal issues resulting from the prescriptive easement process to address at their own private expense at a later time. The very purpose of this hearing process is to air and avoid these very issues. It is hoped the County and State will respect private property rights to the fullest extent possible and take only the essential minimum uses it requires for forest management.

If the easement opens the road to general public use, the question arises who is responsible for abuses and damage to the privately maintained road? How can the public be given access to a road over private land that the public does not support to maintain? There predictably will be additional damage to roadside vegetation, erosion into culverts, ruts and potholes made, an aesthetic impact to our driveway/property, and damage that impedes access by emergency services. These impacts all impose additional costs for repairs. These costs will be paid directly by the Kosheres and other residents who share the road maintenance costs. How would the Kosheres obtain a ready and realistically actionable law enforcement remedy against public users who cause damage to the road bed or easement. and/or cause abuses or disturbance to their property? If the prescriptive easement will open the road to general public use and is not narrowly limited to access for forest management, how is the County prepared to support road maintenance and address damage caused from public use?

As noted in No. 4 above, the Kosheres have no issue with St. Louis County or other units of government, or their agents, using Driftwood Estates Rd. for official forest management activities while conducting official government business. The County has verbally stated that when forest management activities are performed, the contract requires the road to be returned to its original condition when the activity is completed.

The Kosheres have the concern that the prescriptive easement will allow general public access, allow unregulated methods of access, increase wear and tear causing increased costs of road maintenance, allow uses unrelated to forest management, and effectively remove trespass as a

way to efficiently deal with and manage problems or abuses when they arise. They wish to have a clear legal understanding of what public uses will be opened with a prescriptive easement. They want to have a clear understanding of how costs incurred from public use will be resolved so that the residents do not have increased road maintenance costs.

8. It is not necessary for Driftwood Estates Rd. to provide a general public access to State Tax Forfeited Lands. Access already exists. It is important to note that on the SE corner of the Koshere property and start of where Rd ID 99990 starts its crossing of the Koshere property, there is a parking area and access to the Canosia State Wildlife Management Area. This access is gated and is a walk-in access. The state property is contiguous to the State Tax Forfeited lands and can provide the same walk-in access to State Tax Forfeited Lands from that point. Access to State Tax Forfeited lands using the Canosia walk-in access point through the woods can be reached in approximately .4 mile vs. a walk over Driftwood Estates Rd is approximately .3 mile. It cannot be claimed that the use of Driftwood Estates Rd is essential to provide a general public access to the State Tax Forfeited Lands. The State Tax Forfeited Lands can be reasonably accessed from the same point of entry to the state wildlife property, using walk-in access as is presently used in the state WMA. A road access is not necessary.

MNDNR commonly provides walk-in access points, and will even pay landowners to provide a walk-in access program in other regions of the state. Page 45 of the 2013 MN Hunting and Trapping regulations explains what uses these walk-in accesses allow. The regulations clearly state that no vehicles or OHVs are allowed. The Kosheres are not interested in providing walk-in access onto their property but want to compare that walk-in accesses are not unusual, not unreasonable, and that the walk-in access program recognizes upfront a need to avoid conflicts from use of vehicles and OHVs.

The 2013 MNDNR Hunting and Trapping Regulations Pamphlet devote several pages to the issue of trespass law beginning on page 6. Page 9 discusses the complications of road right of ways. It's plain to see that trespass can be a difficult issue for property owners. The DNR and County no doubt also need a clear understanding of what the prescriptive easement will mean to the rights of private property owners regarding trespass. It is important that the Kosheres and other property owners be given a clear, legally direct and plainly understandable explanation of what this prescriptive easement will do to their private property rights, particularly in regard to trespass. The confusion can be avoided if the Kosheres retain their private property rights to manage uses of the easement. This confusion is only amplified with the OHV regulations, discussed next.

10. The MN DNR Off-Highway Vehicles Regulations 2013-2014, page 4, under "What's New", states, "Class 2 ATVs may operate in the right of way of trunk, county state-aid, or county highway to access business or make trail connections. " Page 8 depicts the public road right of way. (see exhibit D, as taken from the OHV regulations).

    This invites ATV users onto private roads, as few individuals will know or understand the legal status of individual roads. This stands to become a management nightmare to private road owners. Will the Off Highway Vehicle Regulations force the Kosheres to accept public use of ATVs if there is a prescriptive easement taken? What status regarding ATV and OHV use will the road have if there is a prescriptive easement taken for it? The Kosheres prefer to discuss a win-win option as offered in No. 4 above.

12. Property ownership and land use is changing on Driftwood Estates Rd. Past uses from the last 15 years are no longer a measure for present uses. It is no longer a two-track trail through the woods. Property is changing from primarily undeveloped woodland to wooded residential. There are children and adults walking, biking, dog walking, and horseback riding. Families use the road they pay to maintain, and have a strong financial as well as backyard interest to manage and protect it. Several property owners have discussed its time to place a sign at the entry to Driftwood Estates Rd to inform users of basic respects to follow when using the privately maintained road that serves year-round homes with families. The sign would say something to the effect:

    Welcome to Driftwood Estates Road.

    - Residents pay to maintain this road privately.
    - Please use with respect and cause no damage.
    - Be watchful for people walking, biking, and horseback riding.
    - No shooting from the road.
    - Maximum speed limit is 20 MPH.
    - ATVs and OHVs are not allowed.

    Please enjoy our road and show respect to others.

    This sign would not exclude the public. It will help residents manage the use of the road they must pay the costs to maintain.

13. There are existing problems from OHV use. What can the County or state do to help prevent damage caused by ATV and OHV use over the Driftwood easement, off the easement onto the Koshere property, and elsewhere on Driftwood Estates Rd? The adjacent State Tax Forfeited Lands are un-posted for ATV use and thus open for ATV use. A forest trail on State Tax Forfeited Land used as the snowmobile trail in winter is used by ATVs during the remaining seasons. ATV riders use the forest road to enter onto Driftwood Estates Rd and ride to another forest road where

they go south onto State Tax forfeited lands. At this location where the county logging trail starts south off of Driftwood Estates Road, ATV riders have developed a shortcut down into the ditch on the downstream side of a drainage culvert. They use this steep ditch for repeated climbs going in and out the water draining in the ditch. This creates a raw exposed cut at the top of a steep draining ditch on the south side of Driftwood Estates Rd. This ditch is prone to washout and has been repaired several times. Preventing ATV use at this point would help prevent a washout of the ditch that will need to repaired and paid for by the residents.

Damage to the road from ATV and OHV entering and exiting on State Tax Forfeited Lands will cost the residents more in road repair and maintenance costs. What can the County do to prevent this use from causing damage to Driftwood Estates Rd?

A suggestion is to close this trail to ATV and OHV use. This property is contiguous with the Canosia WMA. This would be consistent with the uses of the WMA where ATV use is not allowed. It would provide a uniform management use on contiguous lands. It would also be consistent with road and access trail uses at the start of the road at the end of West Lismore. Together, these restrictions on ATV use would provide a clear understanding to ATV users and avoid a patchwork of uses that invariably will result in cases of abuse, either intentional or unintentional. This would be very helpful to the residential property owners to avoid conflict problems. Residents will avoid additional road expenses caused by uses not their own.

As a resident sharing the cost of road maintenance on the entire length of Driftwood Estates Rd, the Kosheres request that ways to prevent ATV damage to Driftwood Estates Rd. be discussed and implemented.

14. What can be done by the state and county to minimize the risk of introduction of invasive species via use of Driftwood Estates Rd? There are already invasive species present on State Tax Forfeited Lands. The MN Off-Highway Vehicles Regulations on the outer back cover advise ATV riders to "Leave Invasive Species in the Dust". This is a good start to recognize there is a problem. But there is no requirement for ATVs to be cleaned and remove plant materials or other biological residues before being used on public lands or easements on private lands. This is far behind the legal requirements and enforcement against transport of invasive species on watercraft. Yet the economic impact and ecological damage of terrestrial, wetland, and insect invasives can cause major problems for both the public and private landowner.

A prescriptive easement that may allow ATV use will be one more vector for the spread of invasive plants and animals. The state has failed to find

a way to prevent ATVs from spreading soil, plants, and animals as they travel long distances over the land, carrying any plant and animal parts with them. Yet it is obvious ATVs carry quantities of mud and debris that may contain invasive species. Among all vehicles, they pose a high risk as a vector to move invasives. The Koshere Woodland Stewardship Plan includes a watch for invasives. As a landowner and property manager, the Kosheres do not want to increase the exposure of their property to invasive species that may be carried by any OHVs. *Given the existing lack of regulation of transport of invasive species on ATVs and OHVs, the only practical way to prevent their use from spreading invasives is to prevent the use of ATVs and OHVs over a property.*

It should be noted that this risk is not just to private property. The MNDNR Canosia State Wildlife Management area is contiguous to the Koshere property. The risk of many aquatic, wetland, and terrestrial invasive species poses a great threat to public interests. The contiguous State Tax Forfeited Lands are equally at risk to invasive species. Walk-in access is one method to lower the risk of transporting invasive species.

One stand of the invasive species *Phragmites*, giant reed grass, is already present on State Tax Forfeited Lands in the south ditch of Driftwood Estates Rd. on State Tax Forfeited Lands. This stand of Phragmites is near the forest road heading south into State Tax Forfeited Land near the crest of the hill on the north side of the road. Its growth habit makes it appear to be of the invasive genotype, and not of the native variety. If it's the invasive form, its important to begin control while it is still a small pioneer stand, and before it can spread up and down the road into wetlands of the Canosia WMA and onto private lands. ATV use through any of this grass would help spread it like wildfire up and down any trail or road corridor. It is another reason to limit ATV use on the State Tax Forfeited Lands to protect the large block of high value public lands adjacent.

End of Exhibit B.

Exhibit C- St. Louis County Land Use Permit regarding private road. Building permit for the Koshere property on Driftwood Estates Rd. requires property owner "will maintain at their own expense private access" and an agreement "to not demand public road maintenance". Driftwood Estates Rd. is a private road. Public access and public use is not supported by public road maintenance. All damage and wear to the road results in direct costs to private owners.

HOMES & CABINS
Non-Shoreland

St. Louis County Land-Use Requirements

About Homes & Cabins

Single-family homes and cabins are called *"principal structures"* where the primary focus of activity on the property is full or part-time residential use.

You must obtain a land-use permit to build a principal structure prior to construction. Information on permit applications and fees is available from the Planning and Community Development Department.

Performance standards for homes and cabins are set out in St. Louis County Zoning Ordinance #46 and include the following:

Setback and Design Standards

- Setback standards that apply to single-family homes and cabins (principal structures) within specific land-use and dimensional districts are detailed on the following pages.
- You are allowed one principal structure per standard lot, meeting minimum standards.

Individual Sewer Treatment System (ISTS)

Prior to obtaining a land-use permit, you must obtain an ISTS permit for all new home or cabin construction. A land-use permit will not be issued unless the application includes a permit to construct an ISTS, a Certificate of Compliance for an existing ISTS, or a Certification of Sewage Treatment Exemption.

Contact the St. Louis County Environmental Services Department to obtain information regarding ISTS, permits, and certifications.

Driveways with Direct Access to a Public Road

- For general information, see the guide "Roads, Driveways and Parking."

Driveways without Direct Access to a Public Road

- Year Round Occupied Homes: Property owners must have completed and filed with the county recorder a signed affidavit that states they have access to the property from an improved public road, except for homes with water access only. In addition, the affidavit must state:

  A. Agreement that the property owner will maintain at their own expense private access to the lot, within the easement, that allows reasonable access for emergency vehicles.

  B. Agreement to not demand public road maintenance.

  C. Agreement that availability of school bus service is provided at the sole discretion of the local school district.

  D. Agreement to comply with all other subdivision, zoning, sanitary and rural addressing requirements of applicable county ordinances.

Page from St. Louis County webpage on land use permits at: http://www.stlouiscountymn.gov/LANDPROPERTY/BuildingZoning/LandUse%28Building%29/IsaPermitRequired.aspx

Exhibit D-MN Off-Highway Vehicles Regulations 2013-2014

WHAT'S NEW

- **"Free Wheeling Weekend"** – August 31 through September 1, No registration or nonresident trail pass required to operate ATV on state and grant-in-aid trails.

- **Youth 12 through 15** may operate an ATV on the bank, slope, or ditch of a public road ROW with a valid ATV Safety Certificate and when accompanied by a parent or legal guardian on a separate ATV.

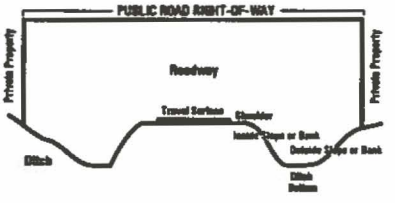
- **Class 2 ATVs** may operate in the right-of-way of trunk, county state-aid, or county highway to access businesses or make trail connections. Agricultural zone restrictions still apply.

1. Page 4- Allows ATVS to operate in right of ways.

2013-2014

Public road right-of-way means the entire right-of-way of a roadway that is not privately owned, including the traveled portions, banks, ditches, shoulders, and medians. OHV riding may be permitted on grant in aid trails that include portions of the public road right of way when signed for that vehicle type. See Class 2 ATV operating exceptions on page 34.

ATV Class 1- See page 34
ATV Class 2- See page 34
OHM - See page 36
ORV - See page 37



It is illegal to operate on the inside slope, shoulder, and roadway of state and county roads. Class 2 ATVs may be operated on the shoulder or extreme right side of county or township roads and city streets if not prohibited by the road authority or other local laws. Class 2 ATVs may NOT be operated on the shoulder of a state trunk highway.

2. Page 8 shows right of way for use by ATVs.

3. The question from Koshere's is: Will the prescriptive easement force them to allow public use of ATVs over their property contrary to their wishes and previously identified in an approved MN Woodland Stewardship Plan dated 8/15/2012?

Exhibit E - Koshere Property

St. Louis County, MN
Prescriptive Easement
Pursuant to Minn. Statutes
282.041 and 89.715

Affected Road Segment

Affected Parcel

Legend
Interstate & US Highway
State Highway
County/Township/Other
County State Aid Highway
County Forest Road
Lakes
Streams
PLS Section

RD-ID-99990

N

0 0.25 0.5
Miles

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A. Koshere Home

B. Parking and access to Camosid State Wildlife Management Area