



February 8, 2017

Senator Carrie Ruud, Chair
Environment and Natural Resources Policy and Legacy Finance Committee

Senator Chris A. Eaton, Ranking Minority Member
Environment and Natural Resources Policy and Legacy Finance Committee

Senator Bill Ingebrigtsen, Chair
Environment and Natural Resources Finance Committee

Senator David J. Tomassoni, Ranking Minority Member
Environment and Natural Resources Finance Committee

Representative Dan Fabian, Chair
Environment and Natural Resources Policy and Finance Committee

Representative Rick Hansen, Ranking Minority Member
Environment and Natural Resources Policy and Finance Committee

Subject: Report on Volunteer Services provided to DNR by Organizations as required by 2016 MN Chapter 189, Article 3, Section 49

Dear Senators and Representatives:

In 2016, the Legislature requested that the commissioner of natural resources, in coordination with the commissioner of labor and industry and the Workers' Compensation Advisory Council, make recommendations to the chairs of the house of representatives and senate committees and divisions with jurisdiction over the environment and natural resources on how to clarify the state's liability for workers' compensation in relation to volunteers of nonprofit organizations assisting with providing public services on lands administered by the commissioner of natural resources subject to Minnesota Statutes, section 175.007, subdivision 2.

Accordingly, the Department of Natural Resources (DNR) is submitting the accompanying report on volunteer services. If you have questions about this report, please contact Bob Meier, DNR Assistant Commissioner, at 651-259-5024.

Sincerely,



Tom Landwehr
Commissioner

c: Bob Meier, Assistant Commissioner
Erika Rivers, Parks and Trails Division Director
Ken Peterson, Department of Labor and Industry Commissioner

Report on Volunteer Services provided to DNR by Organizations as required by 2016 MN Chapter 189, Article 3, Section 49

Background:

The Department of Natural Resources (DNR) has adopted a strategic business operations plan (State Parks and Trails System Plan) that aligns services with public demand and fiscal resources. In winter 2015, DNR Parks & Trails stopped grooming ski trails in 23 state parks to align services with its operational plan. Key areas of savings: fleet equipment costs, staffing hours and maintenance of related facilities.

During the 2016 Legislative Session, the DNR was directed to work with the Minnesota Department of Labor and Industry and the Workers' Compensation Advisory Council to report by January 15, 2017, on recommendations on how to clarify the state's liability for workers' compensation in relation to volunteers of nonprofit organizations assisting with providing public services on lands administered by the commissioner of natural resources. (Chapter 189 - Article 3, Sec 49. Workers' Compensation for Volunteers; Report)

DNR and volunteers:

- DNR Volunteers: Minn. Stat. § 84.089 allows the commissioner of natural resources to recruit, train and accept volunteers to provide services in areas and programs administered by the commissioner.
 - Volunteers under Minn. Stat. § 84.089, subd. 3 are considered state employees for the purpose of Minn. Stat. § 176.011, subd. 9 and the provisions of Chapter 176 relating to workers' compensation apply to these volunteers.

- DNR Parks and Trails is concerned about using volunteers under 84.089 to provide services when it has eliminated the service in alignment with the Parks and Trails System Plan. Due to:
 - Cost of recruiting, training and supervising volunteers
 - Lack of DNR staff to manage volunteers
 - The budgetary exposure to DNR for potential workers' compensation liability

- Outside organizations have expressed a desire to provide trail grooming services at selected locations. The organizations are willing to accept all responsibilities to provide the grooming services including:
 - Signing an agreement with the DNR to ensure quality
 - Carrying adequate liability insurance which at a minimum meets the requirement of the State Tort Claims Act. Minn. Stat. § 3.736, subd. 4 (h)
 - Carrying Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota
 - Accepting all responsibilities for their volunteers, including recruiting, training and supervising their volunteers

- Providing their own equipment and covering its repair, maintenance, insurance

Solution:

- The commissioner of natural resources has authority under Minn. Stat. § 84.025 subd. 8 to contract for maintenance services.

84.025 CONTRACTS FOR PROFESSIONAL AND MAINTENANCE SERVICES.

Subd. 8. Recreational areas; maintenance services.

Notwithstanding any other law to the contrary, the commissioner of natural resources may negotiate contracts, with or without requiring the submission of bids therefor, for the providing of maintenance services for recreational facilities on land under the control of the commissioner of natural resources. The terms and conditions of such contracts shall be as agreed upon and shall be such as to promote and encourage the employment of needy, elderly persons.

- The DNR will use this authority to enter into contracts with organizations to provide services and accept all responsibility, including workers' compensation and general liability. The organizations will become Contractors under Minn. Stat. § 84.025 subd. 8 and will not be considered to be DNR Volunteers under Minn. Stat. § 84.089, subd. 3.