

7606/6.2

**DEDICATION:** Dedication of Wilderness and Natural Areas and exclusions therefrom.

**NATURAL RESOURCES COMMISSION:** Dedication of Wilderness and Natural Areas and exclusions therefrom.

**WILDERNESS AND NATURAL AREAS ACT:** Dedication of Wilderness and Natural Areas and exclusions therefrom.

**WORDS AND PHRASES:** "Conspicuous" and "Inconspicuous"

The Commission of Natural Resources may, in dedicating natural or wilderness areas, exclude from the dedication designated "roads" or "trails".

Such exclusions should be made by "metes and bounds" description or by description having such particularity that the exact boundaries of the excluded "roads" or "trails" may be determined.

To post wilderness or natural areas conspicuously, posting must be accomplished in a manner giving persons about to enter a wilderness or natural area, fair notice of the nature of the area.

Opinion No. 4980

June 16, 1976.

Howard A. Tanner, Director  
Department of Natural Resources  
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Lansing, Michigan 48926

You have requested my opinion concerning the permissibility of excluding, from dedications of state lands made under the "Wilderness and Natural Areas Act", 1972 PA 241; MCLA 322.751 *et seq*; MSA 13.734(1) *et seq*, roads and trails traversing or adjoining dedicated tracts.

Your inquiry is prompted in part by the desire of private parties to continue to use for snowmobiling, existing trails traversing state-owned land, proposed for dedication as a "natural area" on Bois Blanc Island, Mackinac County. The area affected by proposed dedications (portions of Sections 5, 6, 7, 21 and 22, T 39 N, R 1 W) is traversed by county roads, private roads and trails.

With regard to "county roads", i.e., roads under jurisdiction of the Board of County Road Commissioners for Mackinac County, the Commission of Natural Resources has no authority. (Const 1963 art 7, §§ 29, 31) Accordingly, these county roads must be excluded from any dedication.

As to roadways not under jurisdiction of the county and which are presently used for motor vehicle traffic, no act of dedication may prohibit their continued use by individuals who have acquired rights to use them, as means of ingress and egress to and from, privately-owned premises. (1972 PA 241, § 12(1); MCLA 322.762(1); MSA 13.734(12)(1))

On any remaining "roads" or "trails", the use of motor vehicles or mechanized means of transport is prohibited. (1972 PA 241, §§ 6 and 7; MCLA 322.756; MSA 13.734(6), MCLA 322.757; MSA 13.734(7)) The Commission may, however, in dedicating these natural or wilderness areas, ex-

clude from the dedication (and hence, the prohibitions of the act) designated "roads" or "trails". Such exclusions should be made by "metes and bounds" description or by description having such particularity that the exact boundaries of the excluded "roads" or "trails" may be determined.

Your letter also requests advice concerning the proper construction of posting requirements set forth in 1972 PA 241, § 9; MCLA 322.759; MSA 13.734(9).

Section 9 states:

"The department shall post signs in conspicuous locations along the borders of a wilderness area, wild area or natural area. The signs shall give notice of the area's dedication and shall state those activities which are prohibited pursuant to section 6 and those activities which are punishable as a misdemeanor pursuant to section 7."

"Conspicuous" has been defined as:

"1: obvious to the eye or mind

2: attracting attention: STRIKING . . . syn see NOTICEABLE"

(Webster's New Collegiate Dictionary (G & C Merriam Co., 1974)  
pp 242-243)

"Inconspicuous" has been defined as:

"not readily noticeable"

(Webster's New Collegiate Dictionary (G & C Merriam Co., 1974)  
p 582)

The posting must, therefore, be accomplished in a manner giving persons about to enter a wilderness or nature area, fair notice of the nature of the area. Such posting should be made at frequent enough intervals to give any entrant notice. The notices should be in a size and location discernible and legible to the eye of a person having normal visual acuity, i.e., neither hidden nor illegible.

FRANK J. KELLEY,  
*Attorney General.*

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