

POLICY REVISIONS FOR PRIVATE CROSSINGS
GM&O RAILS-TO-TRAILS RECREATIONAL DISTRICT OF NORTH MISSISSIPPI
A/K/A TANGLEFOOT TRAIL®

WHEARAS, THE GM&O RAILS-TO-TRAILS RECREATIONAL DISTRICT OF NORTH MISSISSIPPI (DISTRICT) PREVIOUSLY RECOGNIZED ALL PRE-EXISTING PRIVATE CROSSINGS ACROSS IT'S FACILITIES, BY ACTION AT IT'S MEETING ON MAY 11, 2012; AND,

WHEREAS, SAID PRIVATE CROSSINGS ARE IDENTIFIED ON A MAP MAINTAINED BY THE DISTRICT AT IT'S ADMINISTRATIVE AGENT'S OFFICE AT THE THREE RIVERS PLANNING & DEVELOPMENT DISTRICT, 75 SOUTH MAIN STREET, PONTOTOC, MISSISSIPPI; AND,

WHEREAS, SAID MAP WAS DEVELOPED AND PREPARED FOR DISTRICT BY IT'S CONSULTING ENGINEERING FIRM, ENGINEERING SOLUTIONS, INC. (ESI) FOR USE BY THE DISTRICT; AND,

WHEREAS, CONTINUED AND INCREASED USAGE OF THE DISTRICT FACILITIES AND THE DEVELOPMENT SURROUNDING ITS FACILITIES HAVE NECESSITATED A REVISION OF THE EXISTING POLICY CONCERNING PRIVATE CROSSINGS OF THE FACILITIES OF THE DISTRICT.

NOW THEREFORE, THE CURRENT POLICY OF THE DISTRICT CONCERNING PRIVATE CROSSINGS IS HEREBY REVISED TO INCLUDE THE FOLLOWING:

(1)

THAT IF THE PREVIOUS USAGE OF A PRIVATE CROSSING IS "SUBSTANTIALLY ALTERED" OR CHANGED, AS DETERMINED BY THE DISTRICT, OR IT'S AUTHORIZED AGENTS OR EMPLOYEES, THEN THE ADJOINING LANDOWNER(S) OR THEIR LEGALLY AUTHORIZED USERS OF THE PRIVATE CROSSING, SHALL BE REQUIRED TO UPGRADE THE PRIVATE CROSSING SO AS TO PROTECT THE INTEGRITY OF THE DISTRICT FACILITIES AND KEEP THEM SAFE FOR PUBLIC USERS OF THE FACILITIES.

(2)

THAT THE IDENTIFICATION OF A PRIVATE CROSSING'S USAGE THAT MAY POTENTIALLY BE "SUBSTANTIALLY ALTERED" OR CHANGED CAN BE IDENTIFIED OR DISCOVERED IN THE FOLLOWING MANNER.

THE DISTRICT, ITS AGENTS OR EMPLOYEES CAN IDENTIFY ALTERED OR CHANGED USAGE. ADJOINING LANDOWNER(S) THEIR AGENTS OR CONTRACTORS CAN IDENTIFY ALTERED OR CHANGED USAGE. USERS OF THE FACILITIES OR CITIZENS CAN ALSO IDENTIFY ALTERED OR CHANGED USAGE.

ONCE IDENTIFIED, THE DISTRICT, OR IT'S AUTHORIZED AGENTS OR EMPLOYEES, SHALL INSPECT THE PRIVATE CROSSING AND IT'S CURRENT OR PROJECTED USAGE TO DETERMINE IF A "SUBSTANTIAL ALTERATION" OR CHANGE IN ITS USAGE HAS OCCURRED OR IS ABOUT TO OCCUR. IN MAKING THE DETERMINATION OF A "SUBSTANTIAL ALTERATION" OR CHANGE, THE DISTRICT MAY CONTACT THE

ADJOINING LANDOWNER(S) OR THEIR KNOWN LEGALLY AUTHORIZED USERS FOR DATA OR INFORMATION IN MAKING THAT DETERMINATION. ALSO, THE CONSULTING ENGINEERS MAY PROVIDE INPUT AS REQUESTED.

(3)

THE DISTRICT MAY CONSIDER THE FOLLOWING DATA AND INFORMATION IN MAKING A DETERMINATION OF WHETHER A PRIVATE CROSSING'S USAGE, OR PROJECTED USAGE, IS SUBSTANTIALLY ALTERED OR CHANGED, TO WIT:

- A. ORIGINAL CONTEMPLATED USAGE OF THE PRIVATE CROSSING BY ADJOINING LANDOWNER(S), OR THEIR LEGALLY AUTHORIZED USERS;
- B. USAGE OF THE PRIVATE CROSSING AT THE TIME OF THE ACQUISITION OF THE FACILITIES BY THE DISTRICT;
- C. INCREASE IN THE VOLUME OF TRAFFIC AND VEHICLES USING THE FACILITIES OF THE DISTRICT;
- D. CHANGE IN CHARACTER OR TYPE OF TRAFFIC AND VEHICLES USING THE FACILITIES OF THE DISTRICT;
- E. CHANGE IN WEIGHT OF TRAFFIC AND VEHICLES USING THE FACILITIES OF THE DISTRICT;
- F. DIVISION OR SEPARATION OF PARCELS OF LAND BY ADJOINING LANDOWNER(S) SINCE THE ACQUISITION OF THE FACILITIES BY THE DISTRICT;
- G. DEVELOPMENT OR PROJECTED DEVELOPMENT OF ADJOINING PROPERTY OR PROPERTY SITUATED CLOSE TO THE FACILITIES OF THE DISTRICT THAT MAY NECESSITATE USAGE OF THE PRIVATE CROSSING;
- H. ACCESS TO, AND TOPOGRAPH, OF ADJOINING PROPERTY OR PROPERTY SITUATED CLOSE TO THE FACILITIES OF THE DISTRICT THAT MAY NECESSITATE USAGE OF THE PRIVATE CROSSING; AND
- I. ANY OTHER FACTOR(S) THAT AFFECT OR IMPACTS THE INTEGRITY OF THE FACILITIES OF THE DISTRICT OR THE SAFETY OF THE PUBLIC USERS OF THE FACILITIES.

(4)

ONCE THE DISTRICT HAS MADE A PRELIMINARY DECISION, SPREAD UPON ITS MINUTES, THAT A PRIVATE CROSSING'S USAGE OR PROJECTED USAGE IS "SUBSTANTIALLY ALTERED" OR CHANGED, THEN IT SHALL PROVIDE NOTICE TO THE AFFECTED USERS OF THAT DETERMINATION. NOTICE SHALL BE INSTALLATION OF A PUBLIC SIGN OR SIGNS AT EACH ENTRANCE OF THE PRIVATE CROSSING. THE SIGNS SHALL ALSO CONTAIN PROHIBITORY LANGUAGE NOTIFYING USERS TO CEASE AND DESIST USE OF THE PRIVATE CROSSING CAUSING THE SUBSTANTIAL ALTERATION OR CHANGE, AS IDENTIFIED IN THE MINUTES OF THE DISTRICT.

(5)

ANY AFFECTED LANDOWNER(S) OR LEGALLY AUTHORIZED USER MAY FILE A WRITTEN APPEAL OF THE DISTRICT'S DECISION TO IT'S BOARD OF DIRECTORS WITHIN TEN(10) DAYS OF THE PUBLIC

NOTICE BEING POSTED AT THE PRIVATE CROSSING OF THE FACILITIES. THE BOARD OF DIRECTORS OF THE DISTRICT SHALL GRANT A REVIEW HEARING TO THE AGGRIEVED LANDOWNER OR USER WITHIN THIRTY (30) DAYS SO THAT THEY CAN PRESENT ANY CREDIBLE EVIDENCE THAT THE DECISION IS ERRONEOUS OR INCORRECT. ONCE THE LANDOWNER(S)/USERS HAVE COMPLETED THEIR PRESENTATION, THEN THE BOARD OF DIRECTORS SHALL REVIEW THE PRELIMINARY DECISION. AFTERWARDS, THE BOARD OF DIRECTORS SHALL SPREAD ITS FINDINGS AND DECISION ON ITS MINUTES CONCERNING THE APPEAL.

(6)

THAT UPON COMPLETION OF ANY APPEAL TO THE BOARD OF DIRECTORS OF THE DISTRICT, A PERMIT SHALL BE ISSUED TO THE LANDOWNER(S)/USERS OF THE PRIVATE CROSSING THAT SPECIFICALLY DESCRIBES THE CORRECTIVE ACTION TO BE TAKEN TO UPGRADE AND PROTECT THE PRIVATE CROSSING. THAT SAID CORRECTIVE ACTION SHALL INCLUDE MATERIALS AND LABOR TO BE UTILIZED TO PROTECT THE INTEGRITY OF THE FACILITIES AND SAFETY OF THE PUBLIC USERS OF THE DISTRICT. SAID MATERIALS AND LABOR MAY BE TEMPORARY AND/OR PERMANENT. THE DISTRICT MAY BE RESPONSIBLE FOR THE INSTALLATION OF PERMANENT SIGNAGE AT THE PRIVATE CROSSING ONCE THE PERMIT'S REQUIREMENTS HAVE BEEN FULFILLED.

THAT THE BOARD OF DIRECTORS OF THE DISTRICT MAY ALSO REQUIRE A FACILITIES USAGE BOND, A LETTER OF CREDIT, OR INSURANCE COVERAGE TO SPECIFICALLY COMPLY WITH THE REQUIREMENTS OF THE PERMIT.

(7)

THAT THE DISTRICT MAY FURTHER TAKE ACTION TO CLOSE THE PRIVATE CROSSING IF THE LANDOWNER(S)/USERS FAIL TO COMPLY WITH THIS POLICY AND ANY PERMIT ISSUED PURSUANT TO IT. CLOSURE WOULD INCLUDE THE INSTALLATION OF ACCESS BARRIERS AROUND THE PRIVATE CROSSING.

(8)

THIS POLICY SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION AND APPROVED BY THE BOARD OF DIRECTORS OF THE DISTRICT. THAT A COPY OF THE POLICY SHALL BE PUBLICLY POSTED AT THE GATEWAYS AND WHISTLE STOPS LOCATED ON THE FACILITIES AS WELL AS THE INTERNET WEB SITE.

THIS THE 10th DAY OF APRIL, 2015

GM&O RAILS-TO-TRAILS RECREATIONAL DISTRICT OF NORTH MISSISSIPPI

A/K/A TANGLEFOOT TRAIL®

BY:  Chairman, Board of Directors