



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.
COMMISSIONER

July 30, 2007

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

RECEIVED

AUG - 2 2007

D.R.E.D.

Ms. Kathy Laffey
Division Administrator
Federal Highway Administration
19 Chenell Drive, Suite One
Concord, NH 03301

Dear Ms. Laffey:

Enclosed is a letter dated July 17 from the Commissioner of the NH Department of Resources and Economic Development (NHDRED) requesting FHWA and the US Department of Transportation's concurrence regarding the definition of "snowmobile" and the use of all terrain vehicles (ATVs) on trails purchased or enhanced with federal Transportation Enhancement funding. The NHDRED notes that ATV use of such trails in wintertime conditions has been ongoing for over ten years. The NH Department of Transportation's interest in the issue lies in making the corridors available for transportation purposes, as such use becomes necessary in the future.

As you are aware there is interest from the public on both sides of the issue of ATV use on recreational trails. Your prompt attention to this matter is very much appreciated. Please call if you have questions.

Sincerely,

Charles P. O'Leary, Jr.
Commissioner

CPO:bpr
Attachment

cc: The Honorable John H. Lynch, Governor
George M. Bald, Commissioner, NHDRED
Mark Hodgdon, Attorney General's Office
Anne Edwards, Attorney General's Office
Jeff Brillhart, NHDOT

8/2/07 cc'd Allison McLean
& Chris Gamache



File

STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
TRAILS BUREAU
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856



GEORGE M. BALD
Commissioner

ALLISON MCLEAN
Director
603-271-3556

CHRIS GAMACHE
Chief
603-271-3254

FAX: (603)271-3553
WEB: www.nhtrails.org
E-MAIL: nhtrails@dred.state.nh.us

July 27, 2007

Andrew Walters
ATV Watch NH
PO Box 34
Fitzwilliam, NH 03447

Mr. Walters:

This letter is in response to your July 24, 2007 email Right-to-Know request, to Commissioner Bald. In your email you request access to all files related to motorized use of New Hampshire's TE funded rail trail.

The rail trail files in the Bureau's office are available for public review as is the file of material related to the recent concerns you have raised about winter ATV use. The majority of the rail trail files have been previously viewed by you.

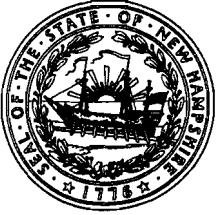
We will provide a list of materials that are not being disclosed, with justification.

To insure we have collected all documents that pertain to this request we will need 15 days from the date of this letter. We will be in contact with you again at that time to let you know that the file is complete and schedule a time and date for you to review the files.

Sincerely,

Chris Gamache
Chief

Cc: Anne Edwards, Associate Attorney General
George Bald, Commissioner
Allison McLean, Director



STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
OFFICE of the COMMISSIONER
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

GEORGE M. BALD
Commissioner

603-271-2411
FAX: 603-271-2629
E-MAIL: gbald@dred.state.nh.us

July 17, 2007

Charles P. O'Leary, Jr.
Commissioner
New Hampshire Department of Transportation
7 Hazen Drive
Concord, NH 03302-0483

Subject: Snowmobile and All terrain Vehicle (ATV) use of Transportation Enhancement (TE)-funded corridors in New Hampshire

Dear Commissioner O'Leary:

This is in response to the February 13, 2007 letter from Federal Highway Administration (FHWA) requesting a definition of "snowmobile" under New Hampshire law and documentation supporting the winter use of all terrain vehicles (ATVs) on New Hampshire corridors purchased with Transportation Enhancement (TE) funds.

Additionally, the Department of Resources and Economic Development (DRED) requests that New Hampshire Department of Transportation (NHDOT) ask the Secretary of Transportation (Secretary) to deem DRED's long-standing policy of allowing ATV use with snow cover "appropriate," pursuant to 23 U.S.C. § 217 (h)(5).

The following are the corridors at issue in this request. TE funds provided about eighty percent of the acquisition costs for these corridors:

Ashuelot, 21 miles long, acquired in 1995, project # 12133C
Cheshire, 42 miles long, acquired in 1995, project # 12133B
Conway, 13 miles long, acquired in 2001, project # 12632
Farmington, 7 miles long, acquired in 1997, project # 12631
Fort Hill, 9 miles long, acquired in 1994, project # 11896
Jefferson-Whitefield, 2 miles long, acquired in 2000, project # 12638
Monadnock, 9 miles long, acquired in 1999, project # 12706
Northern, 59 miles long, acquired in 1995, project # 12133A

DRED maintains the TE-funded corridors pursuant to maintenance agreements with NHDOT. As a preliminary matter, since acquiring these corridors, most more than 10

years ago, DRED has allowed ATV use with snow cover. Thus, DRED is not requesting FHWA approve a new policy. Rather, DRED is requesting that the Secretary confirm that DRED's long-standing policy is "appropriate."

The Definition of Snowmobile Under New Hampshire Law

Part of the reason for DRED's policy of allowing ATV use with snow cover lies in the history of the definition of "snowmobile" under New Hampshire law. Under section 23 U.S.C. § 217, snowmobiles are permitted on TE-funded corridors. The Federal law does not define "snowmobile." Therefore, we understand that FHWA looks to the states' definitions of that term.

Prior to July 1, 2006, RSA Chapter 215-A, the applicable New Hampshire law, did not have a definition of "snowmobile." Rather, the law used the term "snow traveling vehicles," which were defined to include ATVs as a type of off highway recreational vehicle (OHRV). For this reason, DRED's policy of allowing ATV use historically complied with Federal law.

As of July 1, 2006, the term "snow traveling vehicle" was removed from RSA 215-A. At that time, the term "snowmobile" was added to the law and it does not include ATVs. RSA 215-A:1, XIII. Accordingly, ATVs no longer fall within the general definition of snow traveling vehicles but are still included in the definition of OHRVs which recognizes they can travel on surfaces "covered by ice or snow." RSA 215-A:1, VI. For the following reasons, however, DRED requests that the Secretary deem DRED's policy of allowing ATV use with snow cover "appropriate," pursuant to 23 U.S.C. § 217 (h)(5).

Request for Determination That ATV Use With Snow Cover Is Appropriate

TE funds constituted about eighty percent of the aggregate acquisition costs for these corridors. The remaining twenty percent was funded through State and local funds. Moreover, the yearly maintenance of these corridors is funded almost entirely with State funds. More specifically, since the State acquired the corridors, TE funds have not been used for improvements, however TE funded projects are planned for 2.5 miles of the Ashuelot in FY 2008 and 8.3 miles of the Northern in FY 2010.

Thus, the State made, and continues to make, a major investment in these corridors. As such, it is appropriate to allow the State to manage the corridors in a manner that reflects the unique character and needs of the State while protecting the transportation interests in these corridors.

Since the State acquired the corridors, they have been successfully managed for multiple uses, while also preserving their function as transportation corridors. These corridors provide connectivity between communities. Under New Hampshire law, these rail corridors must also be operated and maintained in such a way that would not

unreasonably limit the ability to restore rail service. RSA 228:60-a. DRED has managed the corridors appropriately in accordance with this mandate.

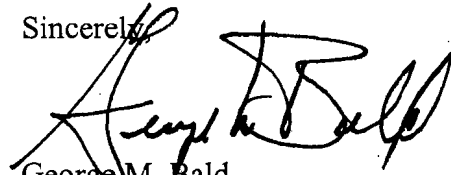
Additionally, winter ATV use does not cause environmental impacts beyond those caused by snowmobiles. There is no damage to the surface of the corridor as there is an intermediate surface of snow cover existing between the ATVs and the surface. Allowing continued use of ATVs with snow cover would not cause increased impact to other users of the corridors as ATVs have been using these corridors for 10 years.

Instituting a new policy prohibiting ATV use would certainly be disruptive to the current users of the corridors. It will also cause increased expenses for notifications, signage, and management responsibilities. Preventing ATVs in the winter will also pose an increased burden on law enforcement agencies as they would be required to enforce such a restriction.

For the foregoing reasons, DRED requests that the Secretary deem it appropriate for DRED to continue managing these corridors as it has since their acquisition to allow ATV use with snow cover.

We thank you for your consideration of our request. Please feel free to contact Bill Gegas (603-271-3254) at DRED or me if you have any questions or need additional information.

Sincerely,



George M. Bald
Commissioner

GMB:CG:lc
Enclosures

cc: His Excellency, John H. Lynch, Governor
Mark Hodgdon, Attorney General's Office
Anne M. Edwards, Attorney General's Office
Allison McLean, Director, Division of Parks and Recreation
Chris Gamache, NHDRED, Trails Bureau
Jim Moore, NHDOT
Christopher Morgan, NHDOT,
Ram Maddali, NHDOT

STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND
ECONOMIC DEVELOPMENT



BUREAU OF TRAILS



RECREATIONAL
RAIL TRAILS

MULTI-USE MAP

UPPER COOS 19.
(COLEBROOK TO
BEECHER FALLS)
10.5 miles

PROFILE 25.
(BETHLEHEM)
1.5 miles

AMMONOOSUC 1.
(WOODSVILLE TO LITTLETON)
19.2 miles

WARREN 6.
(WARREN) 4 miles

TRAILS ON PRIVATE LANDS
ABUTTING THESE TRAILS MAY
BE CLOSED BY THE LAND
OWNER

OPERATION ON OTHER
RAILROADS IS ILLEGAL

NORTHERN LINE 12.
(BOSCAWEN TO LEBANON)
59.3 miles

SUGAR RIVER 5.
(NEWPORT TO
CLAREMONT) 9.5 miles

CHESHIRE 8.
(FITZWILLIAM
TO KEENE
KEENE TO WALPOLE)
42 miles

ASHUELOT 7.
(KEENE TO
HINSDALE)
21 miles

FORT
HILL 10.
(HINSDALE)
8.9 miles

MONADNOCK 11.
(RINDGE TO JAFFREY)
7.2 miles

GREENVILLE 2.
(GREENVILLE) 2.2 miles

22. WILTON / LYNDEBOROUGH
(WILTON TO BENNINGTON)
17 miles

3. HILLSBOROUGH
(BENNINGTON TO HILLSBOROUGH)
7.75 miles

PERMITTED USE SIGNAGE



TRAIL #
18



TRAIL #
11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22



TRAIL #
1, 2, 3, 4, 5, 6

MOTORIZED USE

LEGEND

	SUMMER & WINTER USE ALLOWED
	SUMMER & WINTER USE ALLOWED (closed from snow/ice to May 15)
	USE ONLY WHEN OPEN TO BICYCLES (W/SNOWCOVER)
	USE ONLY WHEN OPEN TO BICYCLES (ACTIVE LINES)
	BICYCLES USE ONLY

13. PRESIDENTIAL
(JEFFERSON TO GORHAM)
18.3 miles

21. CONCORD TO LINCOLN
(CANTERBURY TO LINCOLN)
53 MILES

23. CONWAY
(RTE. 28 OSSISPEE TO
RTE. 16 CONWAY)
21 miles

WOLFEBORO
20. (WOLFEBORO TO
FERNALD STATION) 3 miles

24. (RTE. 16 WAKEFIELD TO
FERNALD STATION
WOLFEBORO) 8 miles

9. FARMINGTON
(ROCHESTER TO
FARMINGTON) 6 miles

ROCKINGHAM,
PORTSMOUTH BRANCH

NO MOTORIZED WHEELED OHV USE
18. (MANCHESTER TO NEWFIELDS)
25.3 mi

FREMONT BRANCH
14. (FREMONT RT. 107 TO EPPING)
4.4 mi

4. (RTE. 28 DERRY TO RTE. 107,
FREMONT) 12 mi

15. (MINDHAM DEPOT TO RTE. 28
Derry) 11 mi

MANCHESTER TO
LAWRENCE BRANCH
17. (LONDONDERRY) 5.3 mi

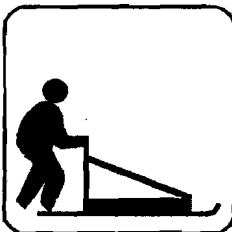
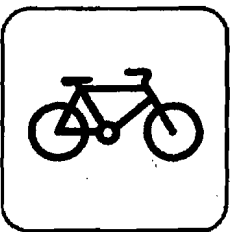
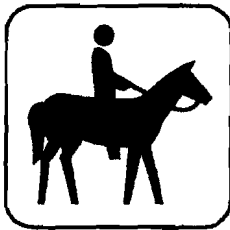
10. (RTE. 111, SALEM TO WINDHAM
DEPOT) 5.4 mi

0 2 4 6 8 10 12 miles

Revised by
D. Thomas & R. G. Smith, June 1990. © 1990
NHRA. All rights reserved.



TRAIL PERMITTED USES



**WINTER USE
ONLY WITH
SNOW COVER**

ALL OTHER USES PROHIBITED

RSA 215-A:3V & RSA 216-F:2 III

STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT
DIVISION OF PARKS AND RECREATION
BUREAU OF TRAILS

Chris Gamache

From: George Bald
Sent: Tuesday, July 24, 2007 12:29 PM
To: 'ATV Watch'
Cc: RICH.SIGEL@NH.GOV; Chris Gamache
Subject: RE: Right to Know Request

Mr. Walters:

Thank you for your request. Chris Gamache from the Trails Buruea will be the lead to respond to your request. He will be in touch shortly.

George Bald

-----Original Message-----

From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, July 24, 2007 10:23 AM
To: George Bald
Cc: RICH.SIGEL@NH.GOV
Subject: Right to Know Request

ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

July 24, 2007

Mr. George Bald
State of New Hampshire
Department of Resources and Economic Development
PO Box 1856
Concord, NH 03302

Dear Mr. Bald:

Federal Statutes prohibit the use of wheeled ATVs on Transportation Enhancement (TE) funded rail trails. The State of New Hampshire is in violation of the Federal Statutes for including wheeled ATVs as an allowable use on the TE funded rail trails. The State has acknowledged that wheeled ATVs are prohibited but continues to refuse to comply with the Federal Statutes.

Under Article 8 of the New Hampshire State Constitution and under New Hampshire's Right to Know Law (RSA 91-A) I am asking to review all governmental records in the custody or control of the Department of Resources and Economic Development (DRED) related to motorized use of New Hampshire's TE funded rail trails. This request includes, but is not limited to all of the documents which ATV Watch asked to be retained in our January 16, 2007 email to DRED. I

7/24/2007

am further requesting that DRED fully comply with the statutory requirement to retain and maintain in its custody all governmental records related to this issue.

The request specifically includes, but is not limited to, emails, letters, maps, reports, memoranda, and notes, including personal notes made in connection with the conduct of public business. It includes any electronic documents stored in "deleted" or "trash can folders" and any documents which DRED has in its custody even if the statutory retention periods for those documents may have expired. It also specifically includes any documents arbitrarily designated as confidential or attorney-client privileged which contain information which is not specifically exempt from disclosure.

In accordance with the requirements of Article 8 of the Constitution of the State of New Hampshire I am specifically requesting any document which may be categorized as a "draft" if that document has been circulated beyond the person who originally generated it.

If any documents are subject to disclosure in part, I am asking for those parts to be disclosed, even if those parts only identify a topic or party to whom the document was circulated.

If any documents are being withheld, please identify those documents on the basis of exclusion, by category, and retain all of those documents for future release as their nature changes from not subject to disclosure to subject to disclosure.

Sincerely,

A handwritten signature in cursive script that reads "Andrew Walters".

Andrew Walters, Concerned Citizen and Direct of ATV Watch

7/24/2007

Chris Gamache

From: Chris Gamache
Sent: Friday, July 13, 2007 1:04 PM
To: Linda Corriveau
Subject: RE: ATV letter - Tues deadline!

Will do.

Chris Gamache, Chief
NH Bureau of Trails
DRED-Divison of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: Linda Corriveau
Sent: Friday, July 13, 2007 12:44 PM
To: Chris Gamache
Subject: ATV letter - Tues deadline!

If we need to get this letter out by next week, let get it done on Monday and have it ready for the Commissioner's on Tues.. that will be the only day that he is available!!

Linda F. Corriveau
Assistant to the Commissioner
State of New Hampshire
Department of Resources and Economic Development
172 Pembroke Road
PO Box 1856
Concord, NH 03302-1856
Tel: 603 271-2411
Fax: 603 271-2629
Email: lcorriveau@dred.state.nh.us

7/19/2007

Chris Gamache

From: Allison McLean
Sent: Tuesday, July 24, 2007 11:29 AM
To: Chris Gamache
Subject: RE: Right to Know Request

Thanks Chris.

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

From: Chris Gamache
Sent: Tuesday, July 24, 2007 11:27 AM
To: Allison McLean; George Bald; 'Anne Edwards (anne.edwards@doj.nh.gov)'
Cc: Torene Tango-Lowy; Gail Wolek
Subject: RE: Right to Know Request

Commissioner;

We can keep the lead on this one and I will respond to him this week. We have the files he is looking for and he will need to schedule time to come to our office to review the rail trail folders. Chris

Chris Gamache, Chief
NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: Allison McLean
Sent: Tuesday, July 24, 2007 11:22 AM
To: George Bald; Chris Gamache; Anne Edwards (anne.edwards@doj.nh.gov)
Cc: Torene Tango-Lowy; Gail Wolek
Subject: RE: Right to Know Request

Commissioner,

With this particular issue, Chris has been taking the lead. Other RTK requests go through Torene. I will assume Chris will respond accordingly.

Allison

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

7/24/2007

From: George Bald
Sent: Tuesday, July 24, 2007 11:01 AM
To: Chris Gamache; Allison McLean; Anne Edwards (anne.edwards@doj.nh.gov)
Subject: FW: Right to Know Request

Allison, Chris:

Who will take the lead on responding to this request?

George

-----Original Message-----

From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, July 24, 2007 10:23 AM
To: George Bald
Cc: RICH.SIGEL@NH.GOV
Subject: Right to Know Request

ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

July 24, 2007

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State of New Hampshire
Department of Resources and Economic Development
PO Box 1856
Concord, NH 03302

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7/24/2007

The request specifically includes, but is not limited to, emails, letters, maps, reports, memoranda, and notes, including personal notes made in connection with the conduct of public business. It includes any electronic documents stored in "deleted" or "trash can folders" and any documents which DRED has in its custody even if the statutory retention periods for those documents may have expired. It also specifically includes any documents arbitrarily designated as confidential or attorney-client privileged which contain information which is not specifically exempt from disclosure.

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Sincerely,

A handwritten signature in cursive script that reads "Andrew Walters".

Andrew Walters, Concerned Citizen and Direct of ATV Watch

7/24/2007



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Bureau of Planning & Community Assistance
Tel: (603) 271-3344

July 10, 2007

Ms. Joan L. Ganotis
NH Horse Council Member
Equestrian Land Conservation Resource Member
email: r Rambler2@comcast.net

Dear Ms. Ganotis:

I m writing in response to your June 26 email relative to the use of ATV's on the New Hampshire rail trails. I appreciate your taking the time to write and the listing of eight items of concern. I am not knowledgeable regarding each item, but I can offer the following:

1. The State through the Department of Transportation (DOT) owns approximately 290 miles of abandoned railroad corridors of which 275 miles serve as rail trails under the stewardship of the Department of Resources and economic Development (DRED). DRED typically manages the use of the rail trails in accordance with State law and rules established with legislative oversight.
2. Rail trails purchased or improved with federal Transportation Enhancement funds have in New Hampshire, traditionally been restricted to non-motorized use only in non-winter months. When snow cover is sufficient, snowmobile use and ATV use as well as non-motorized use has been allowed.
3. Recently the question has been raised as to whether ATV use in winter months is a qualifying use by federal requirements. The DOT is working with DRED, the New Hampshire Attorney General's office, and the Federal Highway Administration (FHWA) to resolve this question.
4. The DOT welcomes, as would DRED and FHWA, input from the public. Your forwarding your thoughts and concerns is helpful.

Hopefully the information contained in this email is helpful. Please feel free to forward your concerns to DRED and FHWA. They may be able to address the other issues you raise.

Sincerely,

Ram S. Maddali, P.E.
Project Manager

cc: Jeff Brillhart, NHDOT
Chris Gamache, DRED, email:
John Cater, FHWA, email:

Chris Gamache

From: Ram Maddali [RMaddali@dot.state.nh.us]
Sent: Tuesday, July 10, 2007 8:16 AM
To: rrambler2@comcast.net
Cc: Barbara Roth; John Cater (E-mail); Chris Gamache
Subject: On Behalf of Jeff Brillhart - Proposed Increased Use of NH Rail Trails by ATVs

Dear Ms. Ganotis,

This email is in response to your email to David Brillhart.

Thank you.

Ram

-----Original Message-----

From: Barbara Roth
Sent: Thursday, June 28, 2007 7:41 AM
To: Ram Maddali
Subject: On Behalf of Jeff Brillhart - Proposed Increased Use of NH Rail Trails by ATVs

-----Original Message-----

From: rrambler2@comcast.net [mailto:rrambler2@comcast.net]
Sent: Tuesday, June 26, 2007 11:29 AM
To: David Brillhart
Cc: Laurie Weir; Bess Parks; Robert L'Heureux; Deb Kelly; Sandy Holbrook; Kandee Haertel; Tom Grinley; Susan Donnelly; Gayle Beaudoin
Subject: Proposed Increased Use of NH Rail Trails by ATVs

Mr. Brillhart,

It has come to my attention that there is a possibility of allowing increased use of NH Rail Trails by ATVs. I am in strong opposition to such an increase. Here are some of my objections:

1. The state has already built the Berlin ATV park.
2. The state does not have the money to monitor ATV use even on sections which presently do not allow ATV use. If increased use is allowed, there will be mayhem and non-motorized users will not be able to safely use the trails. The trails will no longer be multi-use but ATV racetracks.
3. As an equestrian, it is not safe for me to share the trails with speeding ATVs. The difference in speed and lack of attention/respect by ATVers is not something I would subject either my horse or myself to.
4. Damage (ruts/washboard effect) to trails and sensitive ecological areas including cutting trails onto private property and scaring away wildlife as well as trampling turtle eggs which are often laid in the soft sand of the trails.
5. Noise - Most non-motorized users enjoy the peace and serenity of the trails and the wildlife in their

7/11/2007

natural environment. Not only is the noise irritating to trail users and abutters, but it scares any wildlife away and disturbs nesting.

6. It is my understanding that many of the rail trails were purchased with Federal money which prohibits use by all motorized vehicles except snowmobiles in the winter. How can you legally, as well as morally, go against this?

7. Why are you afraid of public input? I'm sure you know if this was put out to the public, many would object. The bill which mandated the state to provide trails for ATVs was "backdoored" as far as I'm concerned. The original bill was totally revised to be the opposite of what was originally proposed. If the trail-using public had been informed, this bill would never have passed. Consider the Windham portion of the Rockingham Recreational Trail. Abutters and townspeople did not want the disruption of ATVs. Whenever trail issues and ATV use are combined, there are strong opponents.

8. Mass. and Maine have very limited allowed trail use by ATVs for good reason. They have recognized the problems. Many of the ATVs on NH trails are from adjoining states and they have little to no regard for what is allowed/acceptable behavior. They park along roads and access trails that are not open to ATVs. Giving these rebels more access seems to be rewarding renegade behavior and will only encourage more. These people are not adding to our economy but are destroying our state and bringing home parts of our environment on their vehicles. The joy of ATVing is in speed and mud slinging, from what I've seen. There are few to no families out there enjoying their ATVs at a safe speed with respect for the environment and other trail users, even though that is what the ATV trail clubs would like us to believe. I ride the trails. I've seen first hand.

I hope you will reconsider what you may think is an easy solution to the problem of ATVs. This proposed solution will only create turmoil for more people than it may help. There are many more taxpayers and residents of this state who do not own ATVs than do and, speaking as one, we wish to continue the quiet enjoyment of our rail trails without the disruption of ATVs. We have the right to the quiet enjoyment of our lives. ATVs belong in ATV parks not on trails. Thank you.

Joan L. Ganotis
New Hampshire Horse Council member
Equestrian Land Conservation Resource member

7/11/2007



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Bureau of Planning & Community Assistance
Tel: (603) 271-3344

July 10, 2007

Pat Grace
Spofford, NH
email: pgrace@markem.com

Dear Ms. Grace:

I m writing in response to your June 25 email relative to the use of ATV's on the New Hampshire rail trails. I appreciate your taking the time to write. I can offer the following:

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3. Recently the question has been raised as to whether ATV use in winter months is a qualifying use by federal requirements. The DOT is working with DRED, the New Hampshire Attorney General's office, and the Federal Highway Administration (FHWA) to resolve this question.
4. The DOT welcomes, as would DRED and FHWA, input from the public. Your forwarding your thoughts and concerns is helpful.

Hopefully the information contained in this email is helpful. Please feel free to forward your concerns to DRED and FHWA. They may be able to address the other issues you raise.

Sincerely,

Ram S. Maddali, P.E.
Project Manager

cc: Jeff Brillhart, NHDOT
Chris Gamache, DRED, email:
John Cater, FHWA, email:

Chris Gamache

From: Ram Maddali [RMaddali@dot.state.nh.us]
Sent: Tuesday, July 10, 2007 8:31 AM
To: pgrace@markem.com
Cc: John Cater (E-mail); Chris Gamache
Subject: On Behalf of Jeff Brillhart - ATV on Rail Trails

Dear Ms. Grace,

This email is in response to your email to David Brillhart.

Thank you.

Ram

-----Original Message-----

From: Barbara Roth
Sent: Thursday, June 28, 2007 7:38 AM
To: Ram Maddali
Subject: On Behalf of Jeff Brillhart - ATV on Rail Trails

-----Original Message-----

From: Pat Grace [mailto:pgrace@markem.com]
Sent: Monday, June 25, 2007 3:48 PM
To: David Brillhart
Subject: ATV on Rail Trails

David Brillhart,

I am writing to express my desire to **keep ALL ATV's from using the Rail Trails permanently**. I live about 3 miles from of Pisqah Park in Chesterfield, NH and see MANY ATV riders driving past my house (town road) to get to wood trails. They usually are driving at speeds of 40-45 mph (on the 30 mph road) and could not possibly stop in time for a hiker, jogger or equestrian on the road. Most of the ATV drivers and riders are irresponsible of following rules or care about the safety of others. I am so concerned about the safety of myself and my horse in taking a leisure ride that I am forced to trailer my horse to a safe location or trail where I feel that ATV's will not be allowed.

What they really need is a racetrack designated for ATV's only.

Pat Grace
Spofford, NH

603-363-4768

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7/11/2007



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Bureau of Planning & Community Assistance
Tel: (603) 271-3344

July 10, 2007

Jay & Linda Lambert
249 US Route 4
Wilmot, NH 03287
email: jay.linda.nh@gmail.com

Dear Jay and Linda Lambert:

I m writing in response to your June 20 email relative to the use of ATV's on the New Hampshire rail trails. I appreciate your taking the time to write. I can offer the following:

1. The State through the Department of Transportation (DOT) owns approximately 290 miles of abandoned railroad corridors of which 275 miles serve as rail trails under the stewardship of the Department of Resources and Economic Development (DRED). DRED typically manages the use of the rail trails in accordance with State law and rules established with legislative oversight.
2. Rail trails purchased or improved with federal Transportation Enhancement funds have in New Hampshire, traditionally been restricted to non-motorized use only in non-winter months. When snow cover is sufficient, snowmobile use and ATV use as well as non-motorized use has been allowed.
3. Recently the question has been raised as to whether ATV use in winter months is a qualifying use by federal requirements. The DOT is working with DRED, the New Hampshire Attorney General's office, and the Federal Highway Administration (FHWA) to resolve this question.
4. The DOT welcomes, as would DRED and FHWA, input from the public. Your forwarding your thoughts and concerns is helpful.

Hopefully the information contained in this email is helpful. Please feel free to forward your concerns to DRED and FHWA. They may be able to address the other issues you raise.

Sincerely,

Ram S. Maddali, P.E.
Project Manager

cc: Jciff Brillhart, NHDOT
Chris Gamache, DRED, email:
John Cater, FHWA, email:

Chris Gamache

From: Ram Maddali [RMaddali@dot.state.nh.us]
Sent: Tuesday, July 10, 2007 8:48 AM
To: jay.linda.nh@gmail.com
Cc: Chris Gamache; Barbara Roth; John Cater (E-mail)
Subject: ATV's on Rail Trails

Dear Jay and Linda Lambert:

This email is in response to your email to David Brillhart.

Thank you.

Ram

-----Original Message-----

From: Barbara Roth
Sent: Tuesday, July 10, 2007 8:36 AM
To: Ram Maddali
Subject: FW: ATV's on Rail Trails

-----Original Message-----

From: Jay & Linda Lambert [mailto:jay.linda.nh@gmail.com]
Sent: Wednesday, June 20, 2007 3:32 PM
To: David Brillhart
Subject: ATV's on Rail Trails

We understand there may be plans to open the Rail Trails to ATV's. We urge you to oppose this. The trails were created with federal money which specifically banned ATV's. These trails pass through many residential areas and wildlife habitats. They are used for walking and bicycling. Please protect the peaceful existence we so cherish in our state and do not pander to the 2% of our population that want to turn our precious environment into ATV highways.

Thank you,

J & L

Jay & Linda Lambert
249 US Route 4
Wilmot, NH 03287
Voice/Fax: 603-768-3998
Email: jay.linda.nh@gmail.com

7/11/2007

Chris Gamache

From: Chris Gamache
Sent: Monday, July 09, 2007 11:24 AM
To: Allison McLean
Subject: update on continued ATV winter use of rail corridors

Allison;

The AG's office has just about finalized a version of the response letter to federal highway to request to continue to allow winter ATV use on the rail trails; which have had legal use in the past. The way it appears now is that the letter will come from DRED, signed by Commissioner Bald, to DOT and forwarded by DOT to FHWA. The final version of the letter will be approved by DOJ next week and we will try to get it signed and out next week. Chris

Chris Gamache, Chief

NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

7/9/2007

Chris Gamache

From: Allison McLean
Sent: Tuesday, June 26, 2007 12:19 PM
To: Bill Gegas; George Bald
Cc: Chris Gamache
Subject: RE: Governor's Office

Bill,
Thanks for responding so quickly to the Governor's Office. Please let me know if there are additional questions or concerns, as I too have had correspondence with the Governor's Office, with another staffer, on this issue and want to make sure that all the information DRED is providing is orderly.

Thanks,
Allison

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

From: Bill Gegas
Sent: Tuesday, June 26, 2007 12:11 PM
To: Allison McLean; George Bald
Cc: Chris Gamache
Subject: Governor's Office

Greetings Commissioner Bald and Director McLean,

Yesterday I spoke with Lillie Green from Governor Lynch's office. Lillie had called the Trails Bureau regarding comments and messages she has received from multiple individuals, initiated by ATV Watch. The comments received expressed concerns that DRED would be opening TE funded rail trails and the CLHWF property to general ATV trail use. I explained to Lillie that DRED is working with DOT to continue ATV use on the rail trails for winter use only, not summer use as the comments had suggested. I also explained that ATV use in the CLHWF property is one of several proposed options in the management plan and that if this option is chosen ATVs would only be permitted in limited designated areas. Lillie noted that it seemed that many of the individuals voicing their concerns on these issues may be under informed or misinformed by ATV Watch.

Bill Gegas, Program Specialist
Bureau of Trails
Department of Resources and Economic Development
P.O. Box 1856
Concord, NH 03302-1856
bgegas@dred.state.nh.us
www.nhtrails.org
Tel: 603-271-3254 ext: 227
Fax: 603-271-3553

Chris Gamache

From: Bill Gegas
Sent: Tuesday, June 26, 2007 12:11 PM
To: Allison McLean; George Bald
Cc: Chris Gamache
Subject: Governor's Office

Greetings Commissioner Bald and Director McLean,

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Bill Gegas, Program Specialist
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Department of Resources and Economic Development
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bgegas@dred.state.nh.us
www.nhtrails.org
Tel: 603-271-3254 ext: 227
Fax: 603-271-3553

Chris Gamache

From: Chris Gamache
Sent: Wednesday, June 20, 2007 2:21 PM
To: Allison McLean
Subject: Rail Trail issue

Allison;

The email issue being stirred up by ATV Watch is not accurately being portrayed at all. This is not a surprise from him. The issue stems from a letter Andrew Walters sent to Federal Highway regarding winter ATV use of certain rail corridors.

His assertion was that since the change in NH statutes last July which separated ATV and Snowmobile laws, winter ATV use is now illegal on rail corridors bought with Federal Transportation Enhancement funds. In the past however they were considered an appropriate winter use.

We have been working with DOT and the AG's office on the response to federal highway and we have been actively been involved with discussions over the past several weeks.

Some of the primary points here are that:

- 1) we are not talking about summer use of ATV on these rail corridors;
- 2) we are not looking to change anything to allow ATV use on rail corridors and
- 3) we are not actively violating any federal provisions of the funding program
- 4) this issue has arisen as an unanticipated result of NH statutory changes which took effect in 2006

The change in NH statutes has caused a potential, unanticipated ramification, which we are asking Federal highway to rule in our favor on. We actually are hoping to ask Federal highway to allow our continued management of these corridors for winter motorized use, as we have appropriately done for almost a decade now.

Unfortunately, Mr. Walters is using scare tactics to drum up support and incite others to action using incorrect information again.

Let me know if you need other follow-up on this. Chris

Chris Gamache, Chief

NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

6/20/2007

Chris Gamache

From: Philip Bryce
Sent: Wednesday, June 20, 2007 10:54 AM
To: Chris Gamache
Cc: Allison McLean
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Great. You may want to keep Amy in the loop as well.

Philip A. Bryce
Director
NH Division of Forests and Lands
PO Box 1856 - 172 Pembroke Road
Concord, NH 03302-1856
Ph- (603) 271-2214 x320
Fax- (603) 271-6488
pbryce@dred.state.nh.us
www.nhdfll.org

-----Original Message-----

From: Chris Gamache
Sent: Wednesday, June 20, 2007 10:53 AM
To: Philip Bryce
Cc: Allison McLean
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Phil,
This is Andrew Walters stirring up issues with lies again. I am working on information to get to Allison to relay to the Governor's office. Chris

Chris Gamache, Chief
NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: Philip Bryce
Sent: Wednesday, June 20, 2007 10:51 AM
To: 'Ignatius, Amy'
Cc: Allison McLean; Chris Gamache
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Amy,
The head of the Trails Bureau is Chris Gamache. However you may also want to touch based with George and Allison. I am not the primary contact person.

This issue has been subject to a lot of "spinning."

Phil

Philip A. Bryce
Director
NH Division of Forests and Lands
PO Box 1856 - 172 Pembroke Road
Concord, NH 03302-1856
Ph- (603) 271-2214 x320
Fax- (603) 271-6488

pbryce@dred.state.nh.us
www.nhdfl.org

-----Original Message-----

From: Ignatius, Amy [mailto:Amy.Ignatius@nh.gov]
Sent: Wednesday, June 20, 2007 10:48 AM
To: Philip Bryce
Subject: FW: State Wants to Allow ATVs on New Hampshire's Rail Trails

Phil- have you seen this? I expect Citizen Services at the Gov's office will be getting calls, which means DRED and possibly OEP will be asked to explain what it is all about. If there is someone else to direct this to, can you do so? Thanks Amy

-----Original Message-----

From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, June 19, 2007 10:20 AM
To: Ignatius, Amy
Subject: State Wants to Allow ATVs on New Hampshire's Rail Trails

Citizens Concerned With Protecting Our Public Lands in New Hampshire

STATE OF NEW HAMPSHIRE WANTS TO ALLOW ATVs ON STATE OWNED RAIL TRAILS

Sometimes when it rains it pours and this seems to be the case with the New Hampshire Department of Resources and Economic Development's (DRED's) spring push to develop ATV trails on conservation and public lands.

- Concerned citizens successfully fought off a proposed change in the Statewide Comprehensive Outdoor Recreation Plan which would have eliminated the reference to ATV use as being a high impact recreational activity;
- DRED changed the Draft Management Plan for the 146,000 acre Connecticut Lakes Headwaters Working Forest to include ATV use;
- Now DRED is pushing to allow ATVs on New Hampshire's 300 miles of rail trails.

ATV Watch understands that people have limited time, energy and focus to deal with the ATV issues, particularly as the busy summer season approaches. DRED knows we are not likely to be able to repeatedly mobilize and be effective on multiple fronts. So we are faced, fortunately under Governor Lynch's administration, with yet another critical turning point in policy development concerning ATV use on public lands.

The New Hampshire Department of Transportation (NHDOT) owns approximately 300 miles of abandoned rails corridors (rail trails) in New Hampshire. DRED manages these trails on behalf of NHDOT. Most of these abandoned rail corridors were purchase with Federal Transportation Enhancement (TE) grants which were given under conditions that prohibit all motorized use of the corridors except for "snowmobiles."

In violation of Federal Statutes DRED has not just been allowing, but promoting ATV use on the TE funded rail trails. ATV Watch has been communicating with the State of New Hampshire and the Federal Highway Administration (FHWA) in an effort to compel compliance with the Federal Statutes. FHWA sent a letter to NHDOT emphasizing the Federal restrictions and asking NHDOT to explain their position.

It now appears that, rather than comply with the Federal Statutes, NHDOT, DRED and the Attorney General's Office are seeking to use loopholes in the Statutes for a permanent "work around" to the Federal ATV prohibition on TE funded rail trails. The exact extent of this work around is not known because the State is refusing to release any information on the issue. The State has learned that information empowers citizens so the policy is being developed behind closed doors.

Release of the new policy position is imminent. ATV Watch believes that the solution to this problem is with the Governor's Office. So, we are once again asking you to momentarily put aside the gardening, the summer chores and the vacation planning and pick up the phone or write an email voicing your opinion.

ATV Watch tries to give you the information you need in order to decide whether or not it

is worth taking action. After that it is up to you. A short email or phone call voicing your opposition to the State circumventing the Federal prohibition to ATV use on New Hampshire's TE funded rail trails can be very effective. When we do not speak up, someone else (the ATV lobby) is effectively speaking on our behalf.

Contact Information

Governor John Lynch
Office of the Governor
State House
25 Capitol Street
Concord, NH 03301
(603) 271-2121 <http://www.egov.nh.gov/governor/goveforms/comments.asp>

NH DOT
David Brillhart, Assistant Commissioner
(603) 271-3734
dbrillhart@dot.state.nh.us

Less than 2% of the population of New Hampshire owns a registered ATV and ATV registrations have increased by less than 2% per year for the last four years. However, DRED continues with an incessant push to develop ATV trails on conservation and public lands. This is demonstrating that a system, where payments from special interests are dedicated directly to the decision makers that set policy regarding those special interests, is a system that is inherently unbalanced. If we don't want to continue to spend our time and energy trying to bring balance to DRED's ATV trail development plans then the underlying system that generates the continuing problems needs to be changed. We hope you support us in this effort in the future.

Andrew Walters, Director
ATV Watch
www.ATVWatch.com
(603) 785-7722

FURTHER CONSIDERATIONS ON THE ISSUE

1. There is no greater impact on the environment or the citizens of New Hampshire than development of a linear network of ATV trails such as on the rail trails.
 - The linear nature of the rail trails results in impacts on the greatest number of abutters and lands.
 - The historic nature of the trails brings them into close proximity to residences, businesses and community centers.
 - Public comment received as part of a recent study by NHDOT indicated that more 80% of the public is opposed to any ATV use on the rail trails.
 - In many instances rail trails pass through conservation lands and protected areas. ATV use on these trails would be a conduit to the conservation lands and an invitation to problems.
 - Many rail trails pass through sensitive environmental areas with critical habitats for rare and endangered species.
2. In 2003 DRED supported House Bill 748 which eliminated the applicability of the statutory ATV trail review criteria to the development of ATV trails on rail trails. These criteria were intended to protect communities and the environment from the negative effects of ATV trail development. The criteria that were eliminated included the requirement that ATV trail development on State lands be compatible with local zoning, planning, noise and obnoxious use ordinances. In 2006 DRED successfully opposed House Bill 1401 which attempted to reinstate the rail trail review criteria into statute.
4. Allowing ATVs on the TE funded rail trails runs contrary to the intent of TE funded projects. TE funds are intended to provide "opportunities to enhance transportation related quality of life activities, as well as to improve air quality and mitigate congestion." - State of New Hampshire Manual for Development of Projects
5. Public policy should not be developed behind closed doors. The Governor's Office should insist on "openness in government" and compel DRED and NHDOT to consider public

input regarding ATV use on the rail trails.

6. Decisions made by the State of New Hampshire could have an impact nationwide. If NHDOT and DRED successfully circumvent the Federal prohibition to ATV trail development on TE funded projects this could set a precedent that would result in ATV trail development on TE funded trails across the country. This could ultimately impact thousands of miles of trails.

7. Developing public policy which allows ATV use on the rail trails will negatively impact the ability of communities and conservation organizations to build public support for rail trail preservation. The quickest way to kill community support for a rail trail project is to mention the words all terrain vehicle and rail trail in the same sentence.

8. DRED is in an unenviable position. They have allowed and promoted ATV use on the rail corridors in violation of Federal statutes. The State of New Hampshire should immediately comply with Federal Statutes and prohibit the use of ATVs on the rail trails. If DRED wants to work around the restriction they should do this within the confines of the law, not outside the law.

BACKGROUND AND MORE INFORMATION

- In violation of Federal Statutes DRED has been allowing wheeled ATVs on the TE funded rail trails in the winter (with snow cover) by classifying wheeled ATVs as "snowmobiles" or "snow traveling vehicles". Also, in one instance, in violation of Federal Statutes, DRED issued a special use permit to allow 350 ATVs to use a TE funded rail trail for one springtime weekend. DRED recently supported a bill in the New Hampshire Legislature to allow ATVs on the rail trails in connection with the training of sled dogs.

- Although the Federal statutes restrict motorized use on the TE funded rail trails to "snowmobiles" only, there are two loopholes. First, there is no Federal definition of a "snowmobile". Second, there is a provision in the Statute which allows other motorized use "in such circumstances as the [U.S.] Secretary [of Transportation] deems appropriate." These are truly loopholes and have never been interpreted as a mechanism to allow ATVs on the trails. However, in an attempt to gain access to a rail trail in Vermont, ATV clubs recently asked FHWA to grant a waiver to the prohibition of ATVs. FHWA is now developing a procedure to evaluate requests for waivers titled "Framework for Evaluating Motorized Use on Non-motorized Facilities." The title alone summarizes the situation.

- ATV Watch spoke with NHDOT in April at which time, without saying exactly what their response was going to be, they indicated that the Federal restrictions to ATVs seemed clear and that it was just a matter of implementing the restrictions. Recently NHDOT indicated that the issue was not as straight forward as they had thought. NHDOT said that DRED believes that it is very important to allow ATV use on the rail trails and that they are working with the AG's Office on a response to FHWA. NHDOT said that it would be up to FHWA to make the final decision on whether to allow ATV use on the rail trails.

- In response to ATV Watch's insisting that the public be brought into any attempt to circumvent the Federal prohibition to ATVs use on the rail trails NHDOT responded that they would have to check with their attorneys as to the requirements for public involvement in an issue like this.

ARTICLE ON ATV USE ON PENNSYLVANIA RAIL TRAILS

ATVS BANNED FROM PENNSY RAILS-TRAILS

Date: 10 Dec 2002

From: {FORESTcoalition@aol.com}

<http://www.gsenet.org/library/11gsn/2002/g021211.php#ATVS%20BANNED%20FROM%20PENNSY%20RAILS-TRAILS>

SIX-YEAR EXPERIMENT ENDS; ATVS BANNED FROM RAILS-TRAILS

DUST, NOISE, TRESPASS AND SAFETY PROBLEMS DOOM

SHARING WITH BIKERS, WALKERS AND EQUESTRIANS

The Susquehanna County Rail-Trail Council included Snowmobile use in their master plan, with an excellent partnership with Northeast PA Sno-Trails snowmobile club. Many local ATV owners, however, were angered that they were not included. In response, RTC decided on an experiment to see if ATV use could be compatible with the walkers, equestrians and bicyclists on their popular D&H and O&H rails-trails.

An ATV group agreed to regulate & patrol ATV use on the trail. 500 passes per year were issued by the ATV club for \$ 20 each. Despite an honest six-year effort, the dust, noise, trespass and safety issues could not be resolved; hiker and bicyclist users did not feel safe sharing a pathway with ATVs. Lynn Conrad, RTC project manager, said "Our trails became overrun with ATVs, many of whom did not get the mandatory trail pass which also came with rules and regulations. We began to lose our long-supportive members and many were afraid to ride bikes out on the trail."

The Rail-Trail Council voted 30 - 3 to ban ATVs on the Rails-Trails. A letter (printed below) was sent to ATV clubs informing them of the reasons for the ban; the new regulations will take effect on December 15, 2002. Ms. Conrad commented " I think the 'experiment' illustrates the need for ATV specific trails AND the need for stricter regulations. A small non-profit, volunteer-based organization could not safely handle the situation."

Trail Conservation Corporation was formed 10 years ago to assist the Rail-Trail Council with railbed acquisitions. They succeeded in developing the D&H and O&H railroad beds into popular Rails-Trails.

Visit their website at <http://www.nepa-rail-trails.org>

- - -

Dear ATV enthusiast:

We regret to inform you that the D&H and O&W Rail-Trails will be closed to any further ATV use. For those who have a current 2002 Endless Mountains ATV Club sticker, you may continue to use the trail with CAUTION until December 15th, 2002. For those who do not have trail passes, please do not use the trails. You can be charged with trespassing. This decision only came, after many years of attempting ATV use shared with other users, as hikers and bikers. It also took a board vote after many meetings of heated discussion, a review of letters indicating both positions, and a review of the log book kept of complaints and incidents involving ATVs.

Our reasons for the permanent ban follow:

1. The Rail-Trail Council's founding vision was for a recreational greenway intended for hikers & bikers. With recent ATV use, our many long-time members and financial supporters were beginning to discontinue their memberships and their support.
2. Bikers and hikers were becoming a rarity out on the trails, because they were either afraid to ride bikes with their families due to speeding ATVs or they did not want to eat the dust created.
3. Adjacent property owners were complaining on a regular basis: dust, noise and trespassing. Over 95% of adjacent property owners do not want ATVs on the trail.
4. Complaints from two local realtors have indicated that property values along the trail were decreasing. Property sales were lost in a few instances due to ATVs trespassing on to adjacent property.
5. Township and borough officials were complaining on a regular basis. Again speed, dust, noise and trespass being the major complaints. Another major concern was riding of ATVs along the streets to get to and from the trail.
6. Safety for all users is our major concern. The inherent nature of the trail being long with few turns, encourages speeding. The speed differential between a walker and an ATV

rider is too great. ATV trails designed by professionals are built to keep the speed down, and discourage speeds over 15 mph. Our rail-trail is not designed for safe ATV use.

7. A major construction project of drainage improvements and resurfacing is to begin in the Spring of 2003. This project uses TEA-21 funds (federal highway enhancement funds-FHWA). These funds are not to be used for ATV trails. According to 23 U.S.C. 217(h), motorized vehicles (including ATVs) may not be permitted on trails and pedestrian walkways which use Federal aid highway funds (except snowmobiles, and where specifically authorized by State or local ordinance, motorized wheelchairs, electric bicycles, and maintenance vehicles).

8. It is not just a few bad apples; ATV use just does not mix well with bikers and hikers, who are our primary intended user group. We cannot have both, and our seven years of attempted shared use have proved this. It is also proven in the fact that no other rail-trails in PA allow ATVs (only one is still attempting shared use).

We do not blame either ATV club (Northeast ATV or Endless Mt) who have attempted to regulate ATVs on the rail-trail. The many issues listed above make it difficult to get ATV use under control and it will take an exclusive use, well-designed trail for this to happen. Please continue to support your local ATV club, as there are many opportunities for state grants to purchase property and build trails. We appreciate the hard work of the ATV club members in our trail cleanups, trail maintenance and bridge decking projects. We are sorry to lose your support and hard work ethic. We also understand that club members were not the ones abusing the trail system, making this a difficult decision. Your best efforts combined with our best efforts have not brought ATV use under control. We do ask that you understand and accept our position.

Sincerely,
Board of Directors of the Rail-Trail Council of NE PA

Chris Gamache

From: Allison McLean
Sent: Wednesday, June 20, 2007 10:53 AM
To: Chris Gamache
Subject: FW: State Wants to Allow ATVs on New Hampshire's Rail Trails

Let's talk!

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

From: Philip Bryce
Sent: Wednesday, June 20, 2007 10:51 AM
To: 'Ignatius, Amy'
Cc: Allison McLean; Chris Gamache
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Amy,
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This issue has been subject to a lot of "spinning."

Phil

Philip A. Bryce
Director
NH Division of Forests and Lands
PO Box 1856 - 172 Pembroke Road
Concord, NH 03302-1856
Ph- (603) 271-2214 x320
Fax- (603) 271-6488
pbryce@dred.state.nh.us
www.nhdfi.org

-----Original Message-----

From: Ignatius, Amy [mailto: Amy.Ignatius@nh.gov]
Sent: Wednesday, June 20, 2007 10:48 AM
To: Philip Bryce
Subject: FW: State Wants to Allow ATVs on New Hampshire's Rail Trails

Phil- have you seen this? I expect Citizen Services at the Gov's office will be getting calls, which means DRED and possibly OEP will be asked to explain what it is all about. If there is someone else to direct this to, can you do so? Thanks Amy

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Sent: Tuesday, June 19, 2007 10:20 AM
To: Ignatius, Amy
Subject: State Wants to Allow ATVs on New Hampshire's Rail Trails

Citizens Concerned With Protecting Our Public Lands in New Hampshire

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Department of Resources and Economic Development's (DRED's) spring push to develop ATV trails on conservation and public lands.

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ATV Watch tries to give you the information you need in order to decide whether or not it is worth taking action. After that it is up to you. A short email or phone call voicing your opposition to the State circumventing the Federal prohibition to ATV use on New Hampshire's TE funded rail trails can be very effective. When we do not speak up, someone else (the ATV lobby) is effectively speaking on our behalf.

Contact Information

Governor John Lynch
Office of the Governor
State House
25 Capitol Street
Concord, NH 03301
(603) 271-2121 <http://www.egov.nh.gov/governor/goveforms/comments.asp>

NH DOT
David Brillhart, Assistant Commissioner
(603) 271-3734
dbrillhart@dot.state.nh.us

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Andrew Walters, Director
ATV Watch
www.ATVWatch.com
(603)785-7722

FURTHER CONSIDERATIONS ON THE ISSUE

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ARTICLE ON ATV USE ON PENNSYLVANIA RAIL TRAILS

ATVS BANNED FROM PENNSY RAILS-TRAILS

Date: 10 Dec 2002

From: {FORESTcoalition@aol.com}

<http://www.gsenet.org/library/1lgsn/2002/g021211.php#ATVS%20BANNED%20FROM%20PENNSY%20RAILS-TRAILS>

SIX-YEAR EXPERIMENT ENDS; ATVS BANNED FROM RAILS-TRAILS

DUST, NOISE, TRESPASS AND SAFETY PROBLEMS DOOM SHARING WITH BIKERS, WALKERS AND EQUESTRIANS

The Susquehanna County Rail-Trail Council included Snowmobile use in their master plan, with an excellent partnership with Northeast PA Sno-Trails snowmobile club. Many local ATV owners, however, were angered that they were not included. In response, RTC decided on an experiment to see if ATV use could be compatible with the walkers, equestrians and bicyclists on their popular D&H and O&H rails-trails.

An ATV group agreed to regulate & patrol ATV use on the trail. 500 passes per year were issued by the ATV club for \$ 20 each. Despite an honest six-year effort, the dust, noise, trespass and safety issues could not be resolved; hiker and bicyclist users did not feel safe sharing a pathway with ATVs. Lynn Conrad, RTC project manager, said "Our trails became overrun with ATVs, many of whom did not get the mandatory trail pass which also came with rules and regulations. We began to lose our long-supportive members and many were afraid to ride bikes out on the trail."

The Rail-Trail Council voted 30 - 3 to ban ATVs on the Rails-Trails. A letter (printed below) was sent to ATV clubs informing them of the reasons for the ban; the new regulations will take effect on December 15, 2002. Ms. Conrad commented " I think the 'experiment' illustrates the need for ATV specific trails AND the need for stricter regulations. A small non-profit, volunteer-based organization could not safely handle the situation."

Trail Conservation Corporation was formed 10 years ago to assist the Rail-Trail Council with railbed acquisitions. They succeeded in developing the D&H and O&H railroad beds into

popular Rails-Trails.

Visit their website at <http://www.nepa-rail-trails.org>

- - -

Dear ATV enthusiast:

We regret to inform you that the D&H and O&W Rail-Trails will be closed to any further ATV use. For those who have a current 2002 Endless Mountains ATV Club sticker, you may continue to use the trail with CAUTION until December 15th, 2002. For those who do not have trail passes, please do not use the trails. You can be charged with trespassing. This decision only came, after many years of attempting ATV use shared with other users, as hikers and bikers. It also took a board vote after many meetings of heated discussion, a review of letters indicating both positions, and a review of the log book kept of complaints and incidents involving ATVs.

Our reasons for the permanent ban follow:

1. The Rail-Trail Council's founding vision was for a recreational greenway intended for hikers & bikers. With recent ATV use, our many long-time members and financial supporters were beginning to discontinue their memberships and their support.
2. Bikers and hikers were becoming a rarity out on the trails, because they were either afraid to ride bikes with their families due to speeding ATVs or they did not want to eat the dust created.
3. Adjacent property owners were complaining on a regular basis: dust, noise and trespassing. Over 95% of adjacent property owners do not want ATVs on the trail.
4. Complaints from two local realtors have indicated that property values along the trail were decreasing. Property sales were lost in a few instances due to ATVs trespassing on to adjacent property.
5. Township and borough officials were complaining on a regular basis. Again speed, dust, noise and trespass being the major complaints. Another major concern was riding of ATVs along the streets to get to and from the trail.
6. Safety for all users is our major concern. The inherent nature of the trail being long with few turns, encourages speeding. The speed differential between a walker and an ATV rider is too great. ATV trails designed by professionals are built to keep the speed down, and discourage speeds over 15 mph. Our rail-trail is not designed for safe ATV use.
7. A major construction project of drainage improvements and resurfacing is to begin in the Spring of 2003. This project uses TEA-21 funds (federal highway enhancement funds-FHWA). These funds are not to be used for ATV trails. According to 23 U.S.C. 217(h), motorized vehicles (including ATVs) may not be permitted on trails and pedestrian walkways which use Federal aid highway funds (except snowmobiles, and where specifically authorized by State or local ordinance, motorized wheelchairs, electric bicycles, and maintenance vehicles).
8. It is not just a few bad apples; ATV use just does not mix well with bikers and hikers, who are our primary intended user group. We cannot have both, and our seven years of attempted shared use have proved this. It is also proven in the fact that no other rail-trails in PA allow ATVs (only one is still attempting shared use).

We do not blame either ATV club (Northeast ATV or Endless Mt) who have attempted to regulate ATVs on the rail-trail. The many issues listed above make it difficult to get ATV use under control and it will take an exclusive use, well-designed trail for this to happen. Please continue to support your local ATV club, as there are many opportunities for state grants to purchase property and build trails. We appreciate the hard work of the ATV club members in our trail cleanups, trail maintenance and bridge decking projects. We are sorry to lose your support and hard work ethic. We also understand that club members were not the ones abusing the trail system, making this a difficult decision. Your best efforts combined with our best efforts have not brought ATV use under control. We do ask

that you understand and accept our position.

Sincerely,
Board of Directors of the Rail-Trail Council of NE PA

Chris Gamache

From: Allison McLean
Sent: Wednesday, June 20, 2007 10:54 AM
To: Chris Gamache
Cc: George Bald
Subject: RE: ATV issue with DOT fed. money

Chris,
Thanks.
Allison

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

From: Chris Gamache
Sent: Wednesday, June 20, 2007 10:51 AM
To: Allison McLean
Cc: George Bald
Subject: RE: ATV issue with DOT fed. money

Allison,
I can get you a copy of the draft letter that the AG's office is working on. It spells out our arguments very well. Chris

Chris Gamache, Chief
NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: Allison McLean
Sent: Wednesday, June 20, 2007 10:45 AM
To: Chris Gamache
Cc: George Bald
Subject: ATV issue with DOT fed. money
Importance: High

Chris,
The Governor's Office has asked us to put together a summary of our position in regards to the above and bullet points supporting the position. Please provide to me today, so I can get back to the Governor's Office.

Thanks,
Allison

7/9/2007

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

7/9/2007

Chris Gamache

From: Allison McLean
Sent: Wednesday, June 20, 2007 10:55 AM
To: Philip Bryce; Chris Gamache
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Thanks Phil. I appreciate it!

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

From: Philip Bryce
Sent: Wednesday, June 20, 2007 10:54 AM
To: Chris Gamache
Cc: Allison McLean
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Great. You may want to keep Amy in the loop as well.

Philip A. Bryce
Director
NH Division of Forests and Lands
PO Box 1856 - 172 Pembroke Road
Concord, NH 03302-1856
Ph- (603) 271-2214 x320
Fax- (603) 271-6488
pbryce@dred.state.nh.us
www.nhdfll.org

-----Original Message-----

From: Chris Gamache
Sent: Wednesday, June 20, 2007 10:53 AM
To: Philip Bryce
Cc: Allison McLean
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Phil,
This is Andrew Walters stirring up issues with lies again. I am working on information to get to Allison to relay to the Governor's office. Chris

Chris Gamache, Chief
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Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: Philip Bryce
Sent: Wednesday, June 20, 2007 10:51 AM
To: 'Ignatius, Amy'
Cc: Allison McLean; Chris Gamache
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Amy,

The head of the Trails Bureau is Chris Gamache. However you may also want to touch based with George and Allison. I am not the primary contact person.

This issue has been subject to a lot of "spinning."

Phil

Philip A. Bryce
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NH Division of Forests and Lands
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Ph- (603) 271-2214 x320
Fax- (603) 271-6488
pbryce@dred.state.nh.us
www.nhdfll.org

-----Original Message-----

From: Ignatius, Amy [mailto:Amy.Ignatius@nh.gov]
Sent: Wednesday, June 20, 2007 10:48 AM
To: Philip Bryce
Subject: FW: State Wants to Allow ATVs on New Hampshire's Rail Trails

Phil- have you seen this? I expect Citizen Services at the Gov's office will be getting calls, which means DRED and possibly OEP will be asked to explain what it is all about. If there is someone else to direct this to, can you do so? Thanks Amy

-----Original Message-----

From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, June 19, 2007 10:20 AM
To: Ignatius, Amy
Subject: State Wants to Allow ATVs on New Hampshire's Rail Trails

Citizens Concerned With Protecting Our Public Lands in New Hampshire

STATE OF NEW HAMPSHIRE WANTS TO ALLOW ATVs ON STATE OWNED RAIL TRAILS

Sometimes when it rains it pours and this seems to be the case with the New Hampshire Department of Resources and Economic Development's (DRED's) spring push to develop ATV trails on conservation and public lands.

- Concerned citizens successfully fought off a proposed change in the Statewide Comprehensive Outdoor Recreation Plan which would have eliminated the reference to ATV use as being a high impact recreational activity;
- DRED changed the Draft Management Plan for the 146,000 acre Connecticut Lakes Headwaters Working Forest to include ATV use;
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From: {FORESTcoalition@aol.com}

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7. A major construction project of drainage improvements and resurfacing is to begin in the Spring of 2003. This project uses TEA-21 funds (federal highway enhancement funds-FHWA). These funds are not to be used for ATV trails. According to 23 U.S.C. 217(h), motorized vehicles (including ATVs) may not be permitted on trails and pedestrian walkways which use Federal aid highway funds (except snowmobiles, and where specifically authorized by State or local ordinance, motorized wheelchairs, electric bicycles, and maintenance vehicles).

8. It is not just a few bad apples; ATV use just does not mix well with bikers and hikers, who are our primary intended user group. We cannot have both, and our seven years of attempted shared use have proved this. It is also proven in the fact that no other rail-trails in PA allow ATVs (only one is still attempting shared use).

We do not blame either ATV club (Northeast ATV or Endless Mt) who have attempted to regulate ATVs on the rail-trail. The many issues listed above make it difficult to get ATV use under control and it will take an exclusive use, well-designed trail for this to happen. Please continue to support your local ATV club, as there are many opportunities for state grants to purchase property and build trails. We appreciate the hard work of the ATV club members in our trail cleanups, trail maintenance and bridge decking projects. We are sorry to lose your support and hard work ethic. We also understand that club members were not the ones abusing the trail system, making this a difficult decision. Your best efforts combined with our best efforts have not brought ATV use under control. We do ask that you understand and accept our position.

Sincerely,
Board of Directors of the Rail-Trail Council of NE PA

Chris Gamache

From: Allison McLean
Sent: Wednesday, June 20, 2007 3:31 PM
To: Chris Gamache
Subject: FW: Rail Trail issue

Chris
Can you get me a copy ?

-----Original Message-----

From: "Chamberlin, Alice" <Alice.Chamberlin@nh.gov>
To: "Allison McLean" <amclean@dred.state.nh.us>
Sent: 6/20/2007 3:21 PM
Subject: RE: Rail Trail issue

Thank you for the information.
I understood you were going to forward a draft of the letter. Thanks, Alice

Alice Chamberlin
Special Assistant for Policy
Office of Governor John Lynch
107 North Main Street
Concord, NH 03301

Tel. (603) 271-2121
Fax (603) 271-7680

-----Original Message-----

From: Allison McLean [mailto:amclean@dred.state.nh.us]
Sent: Wednesday, June 20, 2007 2:35 PM
To: Chamberlin, Alice
Subject: FW: Rail Trail issue

Alice,

The Commissioner asked me to forward this to you per your request.

The AGs office is currently working on the wording for a letter. Anne Edwards has been our contact for this.

Allison

Allison A. McLean, Director
NH Division of Parks and Recreation
PO Box 1856, Concord, NH 03302
603/271-3556

-----Original Message-----

From: Chris Gamache

Sent: Wednesday, June 20, 2007 2:21 PM
To: Allison McLean
Subject: Rail Trail issue

Allison;

The email issue being stirred up by ATV Watch is not accurately being portrayed at all. This is not a surprise from him. The issue stems from a letter Andrew Walters sent to Federal Highway regarding winter ATV use of certain rail corridors.

His assertion was that since the change in NH statutes last July which separated ATV and Snowmobile laws, winter ATV use is now illegal on rail corridors bought with Federal Transportation Enhancement funds. In the past however they were considered an appropriate winter use.

We have been working with DOT and the AG's office on the response to federal highway and we have been actively been involved with discussions over the past several weeks.

Some of the primary points here are that:

- 1) we are not talking about summer use of ATV on these rail corridors;
- 2) we are not looking to change anything to allow ATV use on rail corridors and
- 3) we are not actively violating any federal provisions of the funding program
- 4) this issue has arisen as an unanticipated result of NH statutory changes which took effect in 2006

The change in NH statutes has caused a potential, unanticipated ramification, which we are asking Federal highway to rule in our favor on. We actually are hoping to ask Federal highway to allow our continued management of these corridors for winter motorized use, as we have appropriately done for almost a decade now.

Unfortunately, Mr. Walters is using scare tactics to drum up support and incite others to action using incorrect information again.

Let me know if you need other follow-up on this. Chris

Chris Gamache, Chief

NH Bureau of Trails

DRED-Division of Parks & Recreation

PO Box 1856

Concord, NH 03302-1856

603-271-3254

cgamache@dred.state.nh.us

Chris Gamache

From: Philip Bryce
Sent: Wednesday, June 20, 2007 10:51 AM
To: 'Ignatius, Amy'
Cc: Allison McLean; Chris Gamache
Subject: RE: State Wants to Allow ATVs on New Hampshire's Rail Trails

Amy,
The head of the Trails Bureau is Chris Gamache. However you may also want to touch based with George and Allison. I am not the primary contact person.

This issue has been subject to a lot of "spinning."

Phil

Philip A. Bryce
Director
NH Division of Forests and Lands
PO Box 1856 - 172 Pembroke Road
Concord, NH 03302-1856
Ph- (603) 271-2214 x320
Fax- (603) 271-6488
pbryce@dred.state.nh.us
www.nhdfll.org

-----Original Message-----

From: Ignatius, Amy [mailto:Amy.Ignatius@nh.gov]
Sent: Wednesday, June 20, 2007 10:48 AM
To: Philip Bryce
Subject: FW: State Wants to Allow ATVs on New Hampshire's Rail Trails

Phil- have you seen this? I expect Citizen Services at the Gov's office will be getting calls, which means DRED and possibly OEP will be asked to explain what it is all about. If there is someone else to direct this to, can you do so? Thanks Amy

-----Original Message-----

From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, June 19, 2007 10:20 AM
To: Ignatius, Amy
Subject: State Wants to Allow ATVs on New Hampshire's Rail Trails

Citizens Concerned With Protecting Our Public Lands in New Hampshire

STATE OF NEW HAMPSHIRE WANTS TO ALLOW ATVs ON STATE OWNED RAIL TRAILS

Sometimes when it rains it pours and this seems to be the case with the New Hampshire Department of Resources and Economic Development's (DRED's) spring push to develop ATV trails on conservation and public lands.

- Concerned citizens successfully fought off a proposed change in the Statewide Comprehensive Outdoor Recreation Plan which would have eliminated the reference to ATV use as being a high impact recreational activity;
- DRED changed the Draft Management Plan for the 146,000 acre Connecticut Lakes Headwaters Working Forest to include ATV use;
- Now DRED is pushing to allow ATVs on New Hampshire's 300 miles of rail trails.

ATV Watch understands that people have limited time, energy and focus to deal with the ATV issues, particularly as the busy summer season approaches. DRED knows we are not likely to be able to repeatedly mobilize and be effective on multiple fronts. So we are faced, fortunately under Governor Lynch's administration, with yet another critical turning point in policy development concerning ATV use on public lands.

The New Hampshire Department of Transportation (NHDOT) owns approximately 300 miles of abandoned rails corridors (rail trails) in New Hampshire. DRED manages these trails on behalf of NHDOT. Most of these abandoned rail corridors were purchase with Federal Transportation Enhancement (TE) grants which were given under conditions that prohibit all motorized use of the corridors except for "snowmobiles."

In violation of Federal Statutes DRED has not just been allowing, but promoting ATV use on the TE funded rail trails. ATV Watch has been communicating with the State of New Hampshire and the Federal Highway Administration (FHWA) in an effort to compel compliance with the Federal Statutes. FHWA sent a letter to NHDOT emphasizing the Federal restrictions and asking NHDOT to explain their position.

It now appears that, rather than comply with the Federal Statutes, NHDOT, DRED and the Attorney General's Office are seeking to use loopholes in the Statutes for a permanent "work around" to the Federal ATV prohibition on TE funded rail trails. The exact extent of this work around is not known because the State is refusing to release any information on the issue. The State has learned that information empowers citizens so the policy is being developed behind closed doors.

Release of the new policy position is imminent. ATV Watch believes that the solution to this problem is with the Governor's Office. So, we are once again asking you to momentarily put aside the gardening, the summer chores and the vacation planning and pick up the phone or write an email voicing your opinion.

ATV Watch tries to give you the information you need in order to decide whether or not it is worth taking action. After that it is up to you. A short email or phone call voicing your opposition to the State circumventing the Federal prohibition to ATV use on New Hampshire's TE funded rail trails can be very effective. When we do not speak up, someone else (the ATV lobby) is effectively speaking on our behalf.

Contact Information

Governor John Lynch
Office of the Governor
State House
25 Capitol Street
Concord, NH 03301
(603) 271-2121 <http://www.egov.nh.gov/governor/goveforms/comments.asp>

NH DOT
David Brillhart, Assistant Commissioner
(603) 271-3734
dbrillhart@dot.state.nh.us

Less than 2% of the population of New Hampshire owns a registered ATV and ATV registrations have increased by less than 2% per year for the last four years. However, DRED continues with an incessant push to develop ATV trails on conservation and public lands. This is demonstrating that a system, where payments from special interests are dedicated directly to the decision makers that set policy regarding those special interests, is a system that is inherently unbalanced. If we don't want to continue to spend our time and energy trying to bring balance to DRED's ATV trail development plans then the underlying system that generates the continuing problems needs to be changed. We hope you support us in this effort in the future.

Andrew Walters, Director
ATV Watch
www.ATVWatch.com
(603) 785-7722

FURTHER CONSIDERATIONS ON THE ISSUE

1. There is no greater impact on the environment or the citizens of New Hampshire than development of a linear network of ATV trails such as on the rail trails.
 - The linear nature of the rail trails results in impacts on the greatest number of

abutters and lands.

- The historic nature of the trails brings them into close proximity to residences, businesses and community centers.
- Public comment received as part of a recent study by NHDOT indicated that more 80% of the public is opposed to any ATV use on the rail trails.
- In many instances rail trails pass through conservation lands and protected areas. ATV use on these trails would be a conduit to the conservation lands and an invitation to problems.
- Many rail trails pass through sensitive environmental areas with critical habitats for rare and endangered species.

2. In 2003 DRED supported House Bill 748 which eliminated the applicability of the statutory ATV trail review criteria to the development of ATV trails on rail trails. These criteria were intended to protect communities and the environment from the negative effects of ATV trail development. The criteria that were eliminated included the requirement that ATV trail development on State lands be compatible with local zoning, planning, noise and obnoxious use ordinances. In 2006 DRED successfully opposed House Bill 1401 which attempted to reinstate the rail trail review criteria into statute.

4. Allowing ATVs on the TE funded rail trails runs contrary to the intent of TE funded projects. TE funds are intended to provide "opportunities to enhance transportation related quality of life activities, as well as to improve air quality and mitigate congestion." - State of New Hampshire Manual for Development of Projects

5. Public policy should not be developed behind closed doors. The Governor's Office should insist on "openness in government" and compel DRED and NHDOT to consider public input regarding ATV use on the rail trails.

6. Decisions made by the State of New Hampshire could have an impact nationwide. If NHDOT and DRED successfully circumvent the Federal prohibition to ATV trail development on TE funded projects this could set a precedent that would result in ATV trail development on TE funded trails across the country. This could ultimately impact thousands of miles of trails.

7. Developing public policy which allows ATV use on the rail trails will negatively impact the ability of communities and conservation organizations to build public support for rail trail preservation. The quickest way to kill community support for a rail trail project is to mention the words all terrain vehicle and rail trail in the same sentence.

8. DRED is in an unenviable position. They have allowed and promoted ATV use on the rail corridors in violation of Federal statutes. The State of New Hampshire should immediately comply with Federal Statutes and prohibit the use of ATVs on the rail trails. If DRED wants to work around the restriction they should do this within the confines of the law, not outside the law.

BACKGROUND AND MORE INFORMATION

- In violation of Federal Statutes DRED has been allowing wheeled ATVs on the TE funded rail trails in the winter (with snow cover) by classifying wheeled ATVs as "snowmobiles" or "snow traveling vehicles". Also, in one instance, in violation of Federal Statutes, DRED issued a special use permit to allow 350 ATVs to use a TE funded rail trail for one springtime weekend. DRED recently supported a bill in the New Hampshire Legislature to allow ATVs on the rail trails in connection with the training of sled dogs.

- Although the Federal statutes restrict motorized use on the TE funded rail trails to "snowmobiles" only, there are two loopholes. First, there is no Federal definition of a "snowmobile". Second, there is a provision in the Statute which allows other motorized use "in such circumstances as the [U.S.] Secretary [of Transportation] deems appropriate." These are truly loopholes and have never been interpreted as a mechanism to allow ATVs on the trails. However, in an attempt to gain access to a rail trail in Vermont, ATV clubs recently asked FHWA to grant a waiver to the prohibition of ATVs. FHWA is now developing a procedure to evaluate requests for waivers titled "Framework for Evaluating Motorized Use on Non-motorized Facilities." The title alone summarizes the situation.

- ATV Watch spoke with NHDOT in April at which time, without saying exactly what their response was going to be, they indicated that the Federal restrictions to ATVs seemed clear and that it was just a matter of implementing the restrictions. Recently NHDOT indicated that the issue was not as straight forward as they had thought. NHDOT said that DRED believes that it is very important to allow ATV use on the rail trails and that they are working with the AG's Office on a response to FHWA. NHDOT said that it would be up to FHWA to make the final decision on whether to allow ATV use on the rail trails.

- In response to ATV Watch's insisting that the public be brought into any attempt to circumvent the Federal prohibition to ATVs use on the rail trails NHDOT responded that they would have to check with their attorneys as to the requirements for public involvement in an issue like this.

ARTICLE ON ATV USE ON PENNSYLVANIA RAIL TRAILS

ATVS BANNED FROM PENNSY RAILS-TRAILS

Date: 10 Dec 2002

From: {FORESTcoalition@aol.com}

<http://www.gsenet.org/library/11gsn/2002/gs021211.php#ATVS%20BANNED%20FROM%20PENNSY%20RAILS-TRAILS>

SIX-YEAR EXPERIMENT ENDS; ATVS BANNED FROM RAILS-TRAILS

DUST, NOISE, TRESPASS AND SAFETY PROBLEMS DOOM SHARING WITH BIKERS, WALKERS AND EQUESTRIANS

The Susquehanna County Rail-Trail Council included Snowmobile use in their master plan, with an excellent partnership with Northeast PA Sno-Trails snowmobile club. Many local ATV owners, however, were angered that they were not included. In response, RTC decided on an experiment to see if ATV use could be compatible with the walkers, equestrians and bicyclists on their popular D&H and O&H rails-trails.

An ATV group agreed to regulate & patrol ATV use on the trail. 500 passes per year were issued by the ATV club for \$ 20 each. Despite an honest six-year effort, the dust, noise, trespass and safety issues could not be resolved; hiker and bicyclist users did not feel safe sharing a pathway with ATVs. Lynn Conrad, RTC project manager, said "Our trails became overrun with ATVs, many of whom did not get the mandatory trail pass which also came with rules and regulations. We began to lose our long-supportive members and many were afraid to ride bikes out on the trail."

The Rail-Trail Council voted 30 - 3 to ban ATVs on the Rails-Trails. A letter (printed below) was sent to ATV clubs informing them of the reasons for the ban; the new regulations will take effect on December 15, 2002. Ms. Conrad commented " I think the 'experiment' illustrates the need for ATV specific trails AND the need for stricter regulations. A small non-profit, volunteer-based organization could not safely handle the situation."

Trail Conservation Corporation was formed 10 years ago to assist the Rail-Trail Council with railbed acquisitions. They succeeded in developing the D&H and O&H railroad beds into popular Rails-Trails.

Visit their website at <http://www.nepa-rail-trails.org>

- - -

Dear ATV enthusiast:

We regret to inform you that the D&H and O&W Rail-Trails will be closed to any further ATV use. For those who have a current 2002 Endless Mountains ATV Club sticker, you may continue to use the trail with CAUTION until December 15th, 2002. For those who do not have trail passes, please do not use the trails. You can be charged with trespassing. This decision only came, after many years of attempting ATV use shared with other users, as hikers and bikers. It also took a board vote after many meetings of heated discussion, a

review of letters indicating both positions, and a review of the log book kept of complaints and incidents involving ATVs.

Our reasons for the permanent ban follow:

1. The Rail-Trail Council's founding vision was for a recreational greenway intended for hikers & bikers. With recent ATV use, our many long-time members and financial supporters were beginning to discontinue their memberships and their support.
2. Bikers and hikers were becoming a rarity out on the trails, because they were either afraid to ride bikes with their families due to speeding ATVs or they did not want to eat the dust created.
3. Adjacent property owners were complaining on a regular basis: dust, noise and trespassing. Over 95% of adjacent property owners do not want ATVs on the trail.
4. Complaints from two local realtors have indicated that property values along the trail were decreasing. Property sales were lost in a few instances due to ATVs trespassing on to adjacent property.
5. Township and borough officials were complaining on a regular basis. Again speed, dust, noise and trespass being the major complaints. Another major concern was riding of ATVs along the streets to get to and from the trail.
6. Safety for all users is our major concern. The inherent nature of the trail being long with few turns, encourages speeding. The speed differential between a walker and an ATV rider is too great. ATV trails designed by professionals are built to keep the speed down, and discourage speeds over 15 mph. Our rail-trail is not designed for safe ATV use.
7. A major construction project of drainage improvements and resurfacing is to begin in the Spring of 2003. This project uses TEA-21 funds (federal highway enhancement funds-FHWA). These funds are not to be used for ATV trails. According to 23 U.S.C. 217(h), motorized vehicles (including ATVs) may not be permitted on trails and pedestrian walkways which use Federal aid highway funds (except snowmobiles, and where specifically authorized by State or local ordinance, motorized wheelchairs, electric bicycles, and maintenance vehicles).
8. It is not just a few bad apples; ATV use just does not mix well with bikers and hikers, who are our primary intended user group. We cannot have both, and our seven years of attempted shared use have proved this. It is also proven in the fact that no other rail-trails in PA allow ATVs (only one is still attempting shared use).

We do not blame either ATV club (Northeast ATV or Endless Mt) who have attempted to regulate ATVs on the rail-trail. The many issues listed above make it difficult to get ATV use under control and it will take an exclusive use, well-designed trail for this to happen. Please continue to support your local ATV club, as there are many opportunities for state grants to purchase property and build trails. We appreciate the hard work of the ATV club members in our trail cleanups, trail maintenance and bridge decking projects. We are sorry to lose your support and hard work ethic. We also understand that club members were not the ones abusing the trail system, making this a difficult decision. Your best efforts combined with our best efforts have not brought ATV use under control. We do ask that you understand and accept our position.

Sincerely,
Board of Directors of the Rail-Trail Council of NE PA

Chris Gamache

From: ATV Watch [Andrew@ATVWatch.com]
Sent: Wednesday, May 23, 2007 9:36 AM
To: George Bald
Cc: jcilley@aol.com; Chris Gamache; Michael.Morrell@leg.state.nh.us
Subject: Request for Advance Notice of Rulemaking

Andrew Walters
ATV Watch
PO Box 34
Fitzwilliam, New Hampshire 03447
(603).785-7722

May 23, 2006

Mr. George Bald
State of New Hampshire
Department of Resources and Economic Development
P.O. Box 1856
Concord, NH 03302

Dear Mr. Bald,

The ability of the public to effectively participate in our democratic process depends on timely, accurate and complete information from our governmental agencies. It is in this spirit that I make the following request.

In accordance with RSA 541-A:6, III, I am requesting advance notice of any rulemaking proceedings by the Department of Resources and Economic Development pertaining to motorized recreational vehicle use of trails. In accordance with RSA 541-A:3, II, please provide this notice to:

Andrew Walters
ATV Watch
PO Box 34
Fitzwilliam, New Hampshire 03447

An email notice to Andrew@ATVWatch.com is perfectly acceptable as long as a receipt of the email is acknowledged. In the event of no acknowledgement of email please send notice to the above address.

Please provide a written acknowledgement of this request and an indication that there is a framework in place to ensure that this or other requested notifications are incorporated into DRED's procedure for adoption of rules.

Please find attached a copy of the referenced statutes.

Sincerely,
Andrew Walters

7/24/2007

7/24/2007

STATUTES REFERENCED ABOVE

541-A:3 Procedure for Adoption of Rules. – Except for interim or emergency rules, an agency shall adopt a rule by:

I. Filing a notice of the proposed rule under RSA 541-A:6, including a fiscal impact statement and a statement that the proposed rule does not violate the New Hampshire constitution, part I, article 28-a;

II. Providing notice to occupational licensees or those who have made timely requests for notice as required by RSA 541-A:6, III;

III. Filing the text of a proposed rule under RSA 541-A:10;

IV. Holding a public hearing and receiving comments under RSA 541-A:11;

V. Filing a final proposal under RSA 541-A:12;

VI. Responding to the committee when required under RSA 541-A:13; and

VII. Adopting and filing a final rule under RSA 541-A:14.

Source. 1994, 412:1, eff. Aug. 9, 1994

541-A:6 Notice of Rulemaking Proceedings. –

I. The agency shall give at least 20 days' notice of its intent to hold a public hearing and shall also give notice of the cut-off date for the submission of written testimony pursuant to RSA 541-A:11, I, on any proposed adoption, amendment, readoption, readoption with amendment, or repeal of a rule. The notice periods shall begin on the day after the date of publication in the rulemaking register. The notice shall be in such form as the director of legislative services shall prescribe and shall include:

(a) The name and address of the agency.

(b) The statutory authority for the rule.

(c) Whether the intended action is an adoption, amendment, repeal, readoption, or readoption with amendment.

(d) The rule number and title.

(e) The date of the first agency public hearing and the cut-off date for the submission of written materials to the agency.

(f) A concise summary explaining the effect of the rule.

(g) A listing of people, enterprises, and government agencies affected by the rule.

(h) The name, address, and telephone number of an individual in the agency able to answer questions on the proposed rule.

(i) The fiscal impact statement completed by the legislative budget assistant.

(j) A statement, with adequate details and supporting data, that the proposed rule does not violate the New Hampshire constitution, part I, article 28-a.

II. The director of legislative services may refuse to publish a notice if the director determines that there is significant noncompliance with the requirements of paragraph I.

III. The agency shall send notice to the director of legislative services, to all persons regulated by the proposed rules who hold occupational licenses issued by the agency, and to all persons who have made timely request for advance notice of rulemaking proceedings. Upon request the agency shall send notice to the president of the senate, to the speaker of the house of representatives, to the chairperson of the fiscal committee, and to the chairpersons of the legislative committees having jurisdiction over the subject matter. Notice shall be made not less than 20 days before the first agency public hearing required by RSA 541-A:11. Notice to occupational licensees shall be by U.S. Mail, electronically, agency bulletin or newsletter,

public notice advertisement in a publication of daily statewide circulation, or in such other manner deemed sufficient by the committee.

Chris Gamache

From: Ram Maddali [RMaddali@dot.state.nh.us]
Sent: Tuesday, May 08, 2007 1:07 PM
To: Bill Gegas; Chris Gamache
Subject: ATV Trail use



response to
FHWA.doc (36 KB)



letter to dred
5-8-07.doc (36 ...

Hi Bill and Chris,

The following two documents are currently under review and are attached for your comments. I have sent copies of these documents to Attorney Mark Hodgdon, with a request to coordinate with your attorney.

Please let me know if you have any comments or concerns.

Thank you.

Ram

Bill Gegas

From: ATV Watch [Andrew@ATVWatch.com]
Sent: Tuesday, April 17, 2007 2:19 PM
To: David Brillhart; Ram Maddali
Cc: Tom Jameson
Subject: ATV Use on TE Funded Rail Trails

Hello Mr. Brillhart,

I was just checking in on the status of resolving the issue of motorized ATV use on the TE funded rail trails. Your last letter indicated that the New Hampshire Department of Transportation (NHDOT) anticipated providing ATV Watch with a response by the end of March, but we have not yet received anything.

From the information we have it seems clear that under Federal Statues the only allowed motorized use of the TE funded rail trails is for snowmobiles. Assuming we are correct, the following are some of the issues which concern us:

1. The Bureau of Trails continuing to promote the use of ATVs on the TE funded rail trails perpetuates the damage to the trails and abutting lands resulting from the ATV use.
2. The Bureau of Trails continuing to promote the use of ATVs on the TE funded rail trails could open the State up to criticism if there are any ATV related accidents on the trails.
3. The issue has been in the hands of the State for several months and the State has not taken this window of opportunity to appropriately post the trails before the snow cover is gone. This could result in riders anticipating continued ATV use on the trails in the summer and then next winter with the associated consequences.

If the State intends to "work around" the restrictions to ATVs by petitioning the Federal Highway Administration for a waiver, through State legislation, through administrative rules or any other means, I am formally requesting, under New Hampshire's Right to Know law advanced notification of any related meetings. I am also requesting, under New Hampshire's Right to Know law, that all governmental records related to the process be preserved and a copy provided to ATV Watch.

The citizens of New Hampshire are fortunate that the NHDOT had the foresight to acquire these trails and that the NHDOT maintains ownership and control of the rail trails. In the past the NHDOT has demonstrated a balanced and thoughtful approach to decision making regarding the trails. Unfortunately, the Bureau of Trails, which manages the rail trails, has repeatedly demonstrated that their decision making is heavily influenced by the fact they are funded directly from ATV registration fees.

Sincerely,

Andrew Walters

(603) 785-7722

Bill Gegas

From: Bill Gegas
Sent: Wednesday, April 18, 2007 8:30 AM
To: 'Ram Maddali'
Subject: RE: Response letter

Hi Ram,

Sorry I didn't get back to you sooner. The Nor'easter set us back a few days as I'm sure DOT is very familiar with as well. The Trails Bureau is satisfied with DOT's response as written and has no comment at this time.

Thank you,

Bill

-----Original Message-----

From: Ram Maddali [mailto:RMaddali@dot.state.nh.us]
Sent: Tuesday, April 17, 2007 5:05 PM
To: Bill Gegas
Subject: Response letter

Bill,

Can you please get me DRED's comments at your earliest convenience? Please see the attached email from Mr. Walters, requesting an update on the status.

Thank you.

Ram

-----Original Message-----

From: Bill Gegas [mailto:bgegas@dred.state.nh.us]
Sent: Friday, April 13, 2007 9:33 AM
To: Ram Maddali
Subject: RE: Draft letter

Thanks Ram,

Chris will want to take a look at this. I'll get back to you as soon as I can.

Bill

-----Original Message-----

From: Ram Maddali [mailto:RMaddali@dot.state.nh.us]
Sent: Thursday, April 12, 2007 3:43 PM
To: Bill Gegas
Subject: Draft letter

Hi Bill,

You had asked to review a draft of the letter. Here is a first draft for additions, modifications.

Thank you.

m

Bob Spoerl

From: trailsandgreenways@yahoogroups.com on behalf of ATV Watch [Andrew@ATVWatch.com]
Sent: Thursday, March 29, 2007 6:20 PM
To: trailsandgreenways@yahoogroups.com
Subject: [trails-and-greenways] Protect TE Trail Funding

In the recent post by Rails-to-Trails Conservancy they indicated that TE funding was the largest funding source for historic preservation and walking and biking trails. However, the Federal Highway Administration is currently developing a procedure to evaluate requests to allow motorized vehicles (ATVs) on non-motorized TE funded trails. It is my understanding that this document is titled "Framework for Evaluating Motorized Uses on Non-motorized Trails."

A group in Vermont has already applied for an exemption to the ATV prohibition on TE funded projects. The Federal Highway Administration recently indicated to the State of New Hampshire that they could apply for an exemption to the prohibition in order to allow ATVs on TE funded rail trails.

We fully support TE funding of non-motorized (except for snowmobiles) trail development.

Can Rails to Trails Conservancy tell us what position they are taking regarding Federal Highway's development of a procedure to evaluate exemptions to the ATV prohibition on TE funded trails? At this point, how do we balance our support of TE funding with our concern that this funding may result in the development of motorized ATV trails in our communities?

In New Hampshire, the quickest way to kill a rail trail project is to mention ATV and rail trail in the same sentence.

Andrew Walters

ATV Watch

[Non-text portions of this message have been removed]

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Please join the many trail builders and managers who participate in our TrailBuzz Message Board at www.railtrails.org/forums.

To unsubscribe from this list, send an empty e-mail to trailsandgreenways-unsubscribe@yahoogroups.com

If you wish to contact the Listserv Administrator, you can do so directly using the address greenways@transact.org

This service is brought to you by Yahoo Groups and RTC's Trails and Greenways Clearinghouse. Visit us on the Web at www.trailsandgreenways.org

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 scientific news.

Bob Spoerl

From: trailsandgreenways@yahoogroups.com on behalf of ATV Watch [Andrew@ATVWatch.com]
Sent: Thursday, March 29, 2007 6:20 PM
To: trailsandgreenways@yahoogroups.com
Subject: [trails-and-greenways] Protect TE Trail Funding

In the recent post by Rails-to-Trails Conservancy they indicated that TE funding was the largest funding source for historic preservation and walking and biking trails. However, the Federal Highway Administration is currently developing a procedure to evaluate requests to allow motorized vehicles (ATVs) on non-motorized TE funded trails. It is my understanding that this document is titled "Framework for Evaluating Motorized Uses on Non-motorized Trails."

A group in Vermont has already applied for an exemption to the ATV prohibition on TE funded projects. The Federal Highway Administration recently indicated to the State of New Hampshire that they could apply for an exemption to the prohibition in order to allow ATVs on TE funded rail trails.

We fully support TE funding of non-motorized (except for snowmobiles) trail development.

Can Rails to Trails Conservancy tell us what position they are taking regarding Federal Highway's development of a procedure to evaluate exemptions to the ATV prohibition on TE funded trails? At this point, how do we balance our support of TE funding with our concern that this funding may result in the development of motorized ATV trails in our communities?

In New Hampshire, the quickest way to kill a rail trail project is to mention ATV and rail trail in the same sentence.

Andrew Walters

ATV Watch

[Non-text portions of this message have been removed]

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To unsubscribe from this list, send an empty e-mail to trailsandgreenways-unsubscribe@yahoogroups.com

If you wish to contact the Listserv Administrator, you can do so directly using the address greenways@transact.org

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U.S. Department of Transportation

Route Slip

Distribution:

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FEB 20 2007

D.R.E.D.

N H D R E D

To: Name Chris Gamache Date 2/13/07 Org/Rtg Symbol _____
Remarks:

- Per Your Request
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- For Your Signature
- Comment
- Take Appropriate Action
- Please Answer
- Prepare Reply For Signature Of

From: Name K. Laffey Telephone 228 0417 Org/Rtg Symbol _____
Form DOT F 1320.9 (Rev. 5-81) Supersedes All Previous Editions

U.S. G.P.O.: 1995 - 620-351

pedestrian walkways with limited exceptions. One exception or local regulations permit, snowmobiles."

Federal transportation law does not define "snowmobile," nor does the *Uniform Vehicle Code*. Therefore, the State may define "snowmobile." FHWA does not challenge the described NHDOT and BOT definition of wheeled ATVs as "snow traveling vehicles." However, absent a State law or regulation defining a "snowmobile" as including any snow traveling vehicle, FHWA must consider a commonly understood definition of snowmobile, such as those of other Federal agencies or industry.

The USDA Forest Service defines an "over-snow vehicle" in 36 CFR 212.1 as a "motor vehicle that is designed for use over snow and that runs on a track or tracks and/or a ski or skis, while in use over snow." This regulation does not define "snowmobile." But an ATV that does not run on tracks or tracks and/or skis does not meet the Forest Service's definition of "over-snow vehicle."

The National Park Service defines a snowmobile in 36 C.F.R. § 1.4 as "Snowmobile means a self-propelled vehicle intended for travel primarily on snow, having a curb weight of not more than 1000 pounds (450 kg), driven by a track or tracks in contact with the snow, and steered by ski or skis in contact with the snow." An ATV does not meet this definition.

**MOVING THE
AMERICAN
ECONOMY**





U.S. Department
of Transportation
**Federal Highway
Administration**

New Hampshire Division

February 13, 2007

19 Chenell Drive
Suite One
Concord, NH 03301

In Reply Refer To:
HDA-NH

Ms. Carol Murray, Commissioner
New Hampshire Department of Transportation
7 Hazen Drive
Concord, NH 03301

Dear Ms. Murray:

Subject: Snowmobile and All Terrain Vehicle (ATV) use of Transportation Enhancement (TE)-funded corridors in New Hampshire

The enclosed letter was received by the Federal Highway Administration (FHWA) New Hampshire Division Office concerning ATV use on TE-funded rail corridors owned by the State of New Hampshire Department of Transportation (NHDOT), and managed by the New Hampshire Bureau of Trails (BOT).

Federal law (23 U.S.C. 217, enclosed) generally prohibits motorized vehicle use on trails and pedestrian walkways with limited exceptions. One exception is "*when snow conditions and State or local regulations permit, snowmobiles.*"

Federal transportation law does not define "snowmobile," nor does the *Uniform Vehicle Code*. Therefore, the State may define "snowmobile." FHWA does not challenge the described NHDOT and BOT definition of wheeled ATVs as "snow traveling vehicles." However, absent a State law or regulation defining a "snowmobile" as including any snow traveling vehicle, FHWA must consider a commonly understood definition of snowmobile, such as those of other Federal agencies or industry.

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MOVING THE
AMERICAN
ECONOMY



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Based on documentation FHWA has seen so far, it would appear under New Hampshire policy ("*No person shall operate an OHRV other than an ATV, trail bike or snowmobile on bureau snowmobile trails. No person shall operate a conventional motor vehicle on a bureau snowmobile trail.*"), that an ATV is considered a distinct vehicle from a snowmobile, and, therefore, does not meet the State's definition of "snowmobile."

Consistent with Mr. Walters' request of FHWA, and TE program requirements, we request that you provide us with any appropriate State or local statutory or regulatory documentation that:

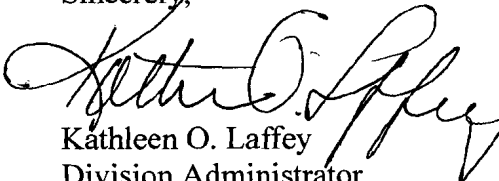
1. Provides the legal definition of "snowmobile" in New Hampshire.
2. Supports the use of snowmobiles on New Hampshire's TE funded corridors.

If there is no State legislation or regulation defining a snowmobile in a manner that includes ATVs, then ATVs must be prohibited from trails and pedestrian walkways that use Federal-aid highway program funds under 23 U.S.C. 217.

Exceptions: You will see that 23 U.S.C. 217(h)(5) allows an exception for "such other circumstances as the Secretary deems appropriate." The State may request an exception under this provision. We are working with our Washington Headquarters office on the process that may be required to allow exceptions.

In summary, please provide the appropriate documentation as requested above.

Sincerely,



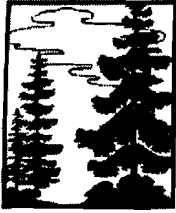
Kathleen O. Laffey
Division Administrator

Enclosure

LL/caj

Cc: Andrew Walters, Concerned Citizen and Director, ATV Watch
James A. Moore, P.E. NHDOT
Ram Madali, NHDOT
Chris Gamache, New Hampshire Department of Resources and Economic Development

File: 250.550 + file
250,200 " "



ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

January 16, 2007

Mr. Leigh Levine
FHWA - NH Division
19 Chenell Drive
Suite One
Concord, NH 03301

Dear Mr. Levine,

Thank you for the information concerning the Federal Highway Administration's position on wheeled ATV use on New Hampshire rail trails purchased with Federal Transportation Enhancement (TE) funds.

Over the last few years ATV Watch has received numerous inquiries and complaints related to ATV use on the TE funded rail corridors owned by the State of New Hampshire Department of Transportation (NHDOT) and managed by the New Hampshire Bureau of Trails (BOT). In turn ATV Watch has made inquiries to these agencies regarding the issue and the applicability of federal statutes governing the TE funded rail trails. In response to these inquiries NHDOT and BOT have consistently held the position that in the winter, with adequate snow cover, wheeled ATVs are defined as "snow traveling vehicles" and therefore permitted under the federal statutes. In response to inquiries ATV Watch has received, we have relayed the state's position with the caveat that it is not ATV Watch's position, but that it is the state's position and that at some point ATV Watch would look into the issue further.

It is my understanding that on TE funded rail trails federal statutes preclude the use of any motorized recreational vehicles except "snowmobiles" when state or local regulations permit. Over the last year or so we have investigated the basis for the State of New Hampshire's position and have come up with no statutory or regulatory documentation supporting it. Admittedly, perhaps we have overlooked something and if this is the case we would like to know that.

We have been hesitant to raise this issue and really did not even want to. However, at this point we felt we had to raise it and clarify it before the state feels like there is some sort of precedent that has been established. If in fact, wheeled ATV use is not legal and has been allowed, even promoted by the state, they probably will not want to claim an illegal use as a basis for any sort of precedent argument.

We are asking for clarification on this issue from the Federal Highway Administration as soon as possible.

Sincerely,

Andrew Walters, Concerned Citizen and Director, ATV Watch

Cc: Ram Maddali (NHDOT), Chris Gamache (NHBOT), Christopher Douwes (FHA), Commissioner Carol Murray (NHDOT)

Bicycle and Pedestrian Legislation in Title 23 United States Code (U.S.C.)

<http://www.fhwa.dot.gov/environment/bikeped/sec217.htm>

§217. Bicycle transportation and pedestrian walkways

(a) **USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.**—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

(b) **USE OF NATIONAL HIGHWAY SYSTEM FUNDS.**—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

(c) **USE OF FEDERAL LANDS HIGHWAY FUNDS.**—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

(d) **STATE BICYCLE AND PEDESTRIAN COORDINATORS.**—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

(e) **BRIDGES.**—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) **FEDERAL SHARE.**—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

(g) **PLANNING AND DESIGN.**—

(1) **IN GENERAL.**—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

(2) **SAFETY CONSIDERATIONS.**—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

(h) **USE OF MOTORIZED VEHICLES.**—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—

(1) maintenance purposes;

(2) when snow conditions and State or local regulations permit, snowmobiles;

- (3) motorized wheelchairs;
- (4) when State or local regulations permit, electric bicycles; and
- (5) such other circumstances as the Secretary deems appropriate.

(i) **TRANSPORTATION PURPOSE.**—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

(j) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **BICYCLE TRANSPORTATION FACILITY.**—The term ‘bicycle transportation facility’ means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

(2) **ELECTRIC BICYCLE.**—The term ‘electric bicycle’ means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

(3) **PEDESTRIAN.**—The term ‘pedestrian’ means any person traveling by foot and any mobility impaired person using a wheelchair.

(4) **WHEELCHAIR.**—The term ‘wheelchair’ means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CAROL A. MURRAY, P.E.
Commissioner

JEFF BRILLHART, P.E.
Assistant Commissioner

March 7, 2007

RECEIVED

MAR 9 2007

D.R.E.D.

Andrew Walters, Director
ATV Watch New Hampshire
P.O. Box 34
Fitzwilliam, NH 03447

Dear Mr. Walters:

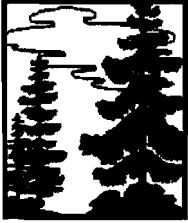
I am writing in response to your letter and petition dated February 23 regarding all terrain vehicle (ATV) use on trails constructed with Federal Transportation Enhancement funds. The issues you have raised have prompted discussions with the Federal Highway Administration and the NH Department of Resource and Economic Development. We are continuing to examine the issue of ATV use in winter conditions. As soon as we have tentative resolution, I will forward the Department's position and our proposed course of action. You should expect a response by the end of this month.

Sincerely,

David J. Brillhart, P.E.
Assistant Commissioner
and Chief Engineer

DJB:kh

cc: J. Moore
W. Watson
R. Maddali
K. Morgan
C. Gamache, DRED



ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

February 23, 2007

Ms. Carol Murray, Commissioner
State of New Hampshire Department of Transportation
7 Hazen Drive
Concord, NH 03302

RECEIVED
COMMISSIONERS OFFICE

FEB 26 2007

THE STATE OF NEW HAMPSHIRE
DEPT. OF TRANSPORTATION

Dear Ms. Murray,

ATV Watch recently sent an inquiry to the Federal Highway Administration (FHWA) concerning the use of wheeled all terrain vehicles (ATVs) on rail trails in New Hampshire. Specifically this inquiry asked FHWA to clarify the Federal Statutes related to motorized use of the rails trails that were purchased by the State using Federal Transportation Enhancement (TE) funds. In response to this inquiry I understand that FHWA discussed the issue with the New Hampshire Department of Transportation (NHDOT) and sent a letter to NHDOT outlining FHWA's position. These letters are attached for your reference.

ATV Watch would like to know if the State of New Hampshire has any information contradictory to either ATV Watch's conclusions in its letter to FHWA or FHWA's conclusions in its letter to NHDOT.

ATV Watch believes they have sufficient documentation to support their position and to demonstrate that their conclusions should be of no surprise to either NHDOT or the Department of Resources and Economic Development, which manages the TE funded rail trails.

Barring any documentation contradictory to the conclusions reached in ATV Watch's letter or FHWA's letter, ATV Watch is formally requesting NHDOT to immediately comply with the existing Federal Statutes governing motorized uses of the TE funded rail trails in New Hampshire.

ATV Watch considers this a very serious issue. Time is of the essence in your response to this issue due to ongoing safety concerns, direct damages and indirect damages.

Sincerely,

Andrew Walters, Concerned Citizen and Director, ATV Watch



U.S. Department
of Transportation
**Federal Highway
Administration**

New Hampshire Division

February 13, 2007

19 Chenell Drive
Suite One
Concord, NH 03301

In Reply Refer To:
HDA-NH

Ms. Carol Murray, Commissioner
New Hampshire Department of Transportation
7 Hazen Drive
Concord, NH 03301

Dear Ms. Murray:

Subject: Snowmobile and All Terrain Vehicle (ATV) use of Transportation Enhancement (TE)-funded corridors in New Hampshire

The enclosed letter was received by the Federal Highway Administration (FHWA) New Hampshire Division Office concerning ATV use on TE-funded rail corridors owned by the State of New Hampshire Department of Transportation (NHDOT), and managed by the New Hampshire Bureau of Trails (BOT).

Federal law (23 U.S.C. 217, enclosed) generally prohibits motorized vehicle use on trails and pedestrian walkways with limited exceptions. One exception is "*when snow conditions and State or local regulations permit, snowmobiles.*"

Federal transportation law does not define "snowmobile," nor does the *Uniform Vehicle Code*. Therefore, the State may define "snowmobile." FHWA does not challenge the described NHDOT and BOT definition of wheeled ATVs as "snow traveling vehicles." However, absent a State law or regulation defining a "snowmobile" as including any snow traveling vehicle, FHWA must consider a commonly understood definition of snowmobile, such as those of other Federal agencies or industry.

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**MOVING THE
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ECONOMY**



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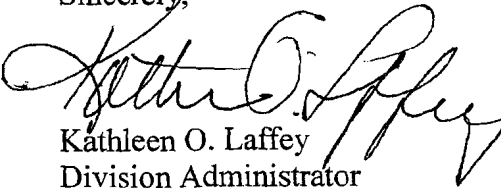
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Exceptions: You will see that 23 U.S.C. 217(h)(5) allows an exception for "such other circumstances as the Secretary deems appropriate." The State may request an exception under this provision. We are working with our Washington Headquarters office on the process that may be required to allow exceptions.

In summary, please provide the appropriate documentation as requested above.

Sincerely,



Kathleen O. Laffey
Division Administrator

Enclosure

LL/caj

Cc: Andrew Walters, Concerned Citizen and Director, ATV Watch
James A. Moore, P.E. NHDOT
Ram Madali, NHDOT
Chris Gamache, New Hampshire Department of Resources and Economic Development

File: 250.550 + file
250,200 " "



ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

January 16, 2007

Mr. Leigh Levine
FHWA - NH Division
19 Chenell Drive
Suite One
Concord, NH 03301

Dear Mr. Levine,

Thank you for the information concerning the Federal Highway Administration's position on wheeled ATV use on New Hampshire rail trails purchased with Federal Transportation Enhancement (TE) funds.

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Sincerely,

Andrew Walters, Concerned Citizen and Director, ATV Watch

Cc: Ram Maddali (NHDOT), Chris Gamache (NHBOT), Christopher Douwes (FHA), Commissioner Carol Murray (NHDOT)

Bicycle and Pedestrian Legislation in Title 23 United States Code (U.S.C.)

<http://www.fhwa.dot.gov/environment/bikeped/sec217.htm>

§217. Bicycle transportation and pedestrian walkways

(a) **USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.**—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

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(e) **BRIDGES.**—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) **FEDERAL SHARE.**—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

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(1) **IN GENERAL.**—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

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- (3) motorized wheelchairs;
- (4) when State or local regulations permit, electric bicycles; and
- (5) such other circumstances as the Secretary deems appropriate.

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(2) ELECTRIC BICYCLE.—The term ‘electric bicycle’ means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

(3) PEDESTRIAN.—The term ‘pedestrian’ means any person traveling by foot and any mobility impaired person using a wheelchair.

(4) WHEELCHAIR.—The term ‘wheelchair’ means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

File

Chris Gamache

From: Chris Gamache
Sent: Monday, February 26, 2007 11:25 AM
To: Bill Gegas
Subject: FW: Mtg with DOT

Bill,
Please make a copy of the original letter from ATV Watch to FHWA and send to Commissioner's office. C

Chris Gamache, Chief
NH Bureau of Trails
DRED-Divison of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: George Bald
Sent: Thursday, February 22, 2007 2:28 PM
To: Chris Gamache
Subject: RE: Mtg with DOT

Chris:

Do you have a copy of the letter?

George

-----Original Message-----

From: Chris Gamache
Sent: Thursday, February 22, 2007 11:30 AM
To: George Bald; Allison McLean
Subject: Mtg with DOT

FYI,

I will be meeting with DOT officials on Monday to discus recent issues regarding a letter from ATV Watch to the Fed Highway Administration about ATV use on rail trails in NH. Asst. Commissioner Brillhardt may attend so I wanted to let you know I will be meeting with him. Chris

Chris Gamache, Chief
NH Bureau of Trails
DRED-Divison of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

STATE OWNED RAILROAD CORRIDORS						
	Miles	Year acq	Price (000s)		Source of \$	Proj. #
A. CORRIDORS UNDER AGREEMENT WITH DRED						
Ashuelot	21	1995	581		TE/state	12133C
Berlin (Woods-Litt, Jeff-Gor)	37	1996-8	1500		Hwy, State	
Cheshire	42	1995	1.024		TE/state	12133B
Conway (Madison)	8	1995	55		state	
Conway (Ossipee/Albany)	13	2001	472		TE/state	12632
Farmington	7	1997	202		TE/state	12631
Fort Hill	9	1994	376		TE/state	11896
Fremont	4	1988	2107	(c)	State	
Greenville	2	1999	35		DRED	
Hillsboro (part)	8	1988		(c)	State	
Jefferson-Whitefield	2	2000	41		TE/state	12638
Manchester-Lawrence	8	1988		(c)	State	
Monadnock	9	1999	500		TE/state	12706
N Stratford-Beecher Falls (part)	8	1977	297		FRA	
Northern	59	1995	1610		TE/state	12133A
Portsmouth	25	1988		(c)	State	
Wolfeboro	11	1986	575		state	
Subtotal	273					
B. OTHER DOT CORRIDORS						
Gonic	1	1994		(a)	TE/state	
Hampton	5	1996,99	366		TE, state	12630
Lakeport	1	1994		(a)	TE/state	
N Stratford-Beecher Falls	1	1977		(b)	FRA	
M-L Londonderry & Manchester	3	2003	700		TE/state	12652
M-L Salem	3	2002	2000		TE/state	13504
M-L Salem	1	2005	785		Hwy/state	10418C
Subtotal	15					
C. CORRIDORS OWNED/LEASED BY DRED						
Carroll (Mt. Washington)	0.5	1952				
Sugar River (Claremont-Concord)	9.5	1980			state/LWCF	
Profile		1934				
Rockingham (Fremont)	14	1941			State Highway	
Warren (Blackmount)	4	1960			Highway	
Subtotal	28					
D. ACTIVE STATE-OWNED						
Concord-Lincoln	73	1975,99	2489		FRA, state	
Mountain Div.(aband. for freight)	52	1994	2581		TE/state	11895
Mountain Div.(Twin State)	9	2002	391		State	
N Stratford-Beecher Falls	11	1977		(b)	FRA	
Northern	3	1999	790		State	
Hillsboro	18	1988		(c)	State	
Berlin-Groveton (Litt-Groveton)	36	1999	1300		State/TE	13085
Subtotal	202				(Littleton-Whitefield portion)	
Total	518					
a) Purchased with other lines b) Total noted above c) Purchased with other lines						

TO:

Bill Gegas

Rail Corridor Information you requested.

Call me if you need anything else.

TOM X/668

Chris Gamache

From: ATV Watch [Andrew@ATVWatch.com]
Sent: Tuesday, February 06, 2007 4:04 PM
To: Chris Gamache
Subject: Re: STAC Meeting Minutes

Chris,

That sounds good.

Thanks,
Andrew

----- Original Message -----

From: Chris Gamache
To: ATV Watch
Sent: Tuesday, February 06, 2007 3:03 PM
Subject: RE: STAC Meeting Minutes

Hi Andrew;

Typically, the STAC minutes are fairly broad in covering agenda and other items. We do not record who said what specifically in the minutes, instead the concepts and general themes of discussions. The minutes will note the topic of inquiry from you and that we commented and DOT referred to us. We do not want to get into having to redraft minutes for specific items only. The minutes will be put into the file of material that you requested regarding the topic. Chris

Chris Gamache, Chief
NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, February 06, 2007 9:33 AM
To: Chris Gamache
Subject: STAC Meeting Minutes

Hello Chris,

As you know in the last STAC public meeting I asked both DRED and DOT about the issue of allowing wheeled ATVs on TE funded rail trails in the winter. I am requesting that this question and DRED's and DOT's responses be included in the minutes of the meeting.

Andrew Walters

Bill Gegas

From: Bill Gegas
Sent: Tuesday, January 23, 2007 3:52 PM
To: 'Leigh.Levine@fhwa.dot.gov'
Cc: Chris Gamache
Subject: DRED/Trails Bureau Rules

Leigh,

NH DOT defers management and permitted uses of the rail trails to the Trails Bureau. At the time DOT had purchased the railroad corridors/rail trails with TE funds other existing rail trail corridors at that time were being managed by the bureau to allow ATVs on snowmobile trails. It was determined that ATVs had no adverse affects on snowmobile trails or their surroundings and that programatically ATV use is consistent with snowmobile use during the winter season. The White Mountain National Forest does not allow ATV use on it's property in the summer but, like NH DOT, also defers to bureau rules to allow ATV use on snomobile trails during the winter. The main difference between the two uses is that once snow cover has melted ATVs are physically, yet illegally, able to use a trail whereas snowmobiles are physically unable. At this point it becomes a law enforcement issue.

Here is text from the bureau's administrative rules which allow for ATVs to use bureau snowmobile trails...

Res 8503.01 Snowmobile Trails. The following shall apply to winter use snowmobile trails maintained by the bureau in addition to rules found in Res 8501:

b) No person shall operate an OHRV other than an ATV, trail bike or snowmobile on bureau snowmobile trails. No person shall operate a conventional motor vehicle on a bureau snowmobile trail.

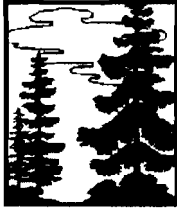
The complete list of bureau rules can be found at the following website: <http://www.gencourt.state.nh.us/rules/res8100-8500.html>

Please let me know if you need any further clarification on these or other administrative rules.

Thank you,

Bill

Bill Gegas, Program Specialist
Bureau of Trails
Department of Resources and Economic Development
172 Pembroke Rd, P.O. Box 1856
Concord, NH 03302-1856
bgegas@dred.state.nh.us
www.nhtrails.org
Tel: 603-271-3254 ext: 227
Fax: 603-271-3553



ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

January 16, 2007

Mr. Leigh Levine
FHWA - NH Division
19 Chenell Drive
Suite One
Concord, NH 03301

Dear Mr. Levine,

Thank you for the information concerning the Federal Highway Administration's position on wheeled ATV use on New Hampshire rail trails purchased with Federal Transportation Enhancement (TE) funds.

Over the last few years ATV Watch has received numerous inquiries and complaints related to ATV use on the TE funded rail corridors owned by the State of New Hampshire Department of Transportation (NHDOT) and managed by the New Hampshire Bureau of Trails (BOT). In turn ATV Watch has made inquiries to these agencies regarding the issue and the applicability of federal statutes governing the TE funded rail trails. In response to these inquiries NHDOT and BOT have consistently held the position that in the winter, with adequate snow cover, wheeled ATVs are defined as "snow traveling vehicles" and therefore permitted under the federal statutes. In response to inquiries ATV Watch has received, we have relayed the state's position with the caveat that it is not ATV Watch's position, but that it is the state's position and that at some point ATV Watch would look into the issue further.

It is my understanding that on TE funded rail trails federal statutes preclude the use of any motorized recreational vehicles except "snowmobiles" when state or local regulations permit. Over the last year or so we have investigated the basis for the State of New Hampshire's position and have come up with no statutory or regulatory documentation supporting it. Admittedly, perhaps we have overlooked something and if this is the case we would like to know that.

We have been hesitant to raise this issue and really did not even want to. However, at this point we felt we had to raise it and clarify it before the state feels like there is some sort of precedent that has been established. If in fact, wheeled ATV use is not legal and has been allowed, even promoted by the state, they probably will not want to claim an illegal use as a basis for any sort of precedent argument.

We are asking for clarification on this issue from the Federal Highway Administration as soon as possible.

Sincerely,

Andrew Walters, Concerned Citizen and Director, ATV Watch

Cc: Ram Maddali (NHDOT), Chris Gamache (NHBOT), Christopher Douwes (FHA), Commissioner Carol Murray (NHDOT)

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The complete list of bureau rules can be found at the following website: <http://www.gencourt.state.nh.us/rules/res8100-8500.html>

Please let me know if you need any further clarification on these or other administrative rules.

Thank you,

Bill

Bill Gegas, Program Specialist
Bureau of Trails
Department of Resources and Economic Development
172 Pembroke Rd, P.O. Box 1856
Concord, NH 03302-1856
bgegas@dred.state.nh.us
www.nhtrails.org
Tel: 603-271-3254 ext: 227
Fax: 603-271-3553

Chris Gamache

From: Chris Gamache
Sent: Wednesday, January 17, 2007 11:34 AM
To: 'ATV Watch'
Subject: RE: Right to Know Request - Wheeled ATV Use on TE Funded Rail Trails

Hi Andrew;
Thank you for the pdf copy of your letter to FHWA. We will make sure that any documents pertaining to your request are kept and available over the next 120 days. Chris

Chris Gamache, Chief
NH Bureau of Trails
DRED-Division of Parks & Recreation
PO Box 1856
Concord, NH 03302-1856
603-271-3254
cgamache@dred.state.nh.us

-----Original Message-----

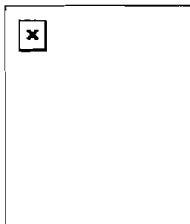
From: ATV Watch [mailto:Andrew@ATVWatch.com]
Sent: Tuesday, January 16, 2007 1:57 PM
To: Chris Gamache
Subject: Right to Know Request - Wheeled ATV Use on TE Funded Rail Trails

Hello Chris,

Please find to follow a copy of a communication which I sent to Federal Highways regarding wheeled ATV use on TE funded rail trails. I have also attached a copy in PDF format.

I am requesting that all existing governmental records and those generated in the next 120 days, pertaining to the issues referenced in the attached letter, be retained for disclosure at the end of the 120 day period. These include, but are not limited to all written communications, emails and all documents which otherwise may have no statutory requirement for their retention. This request is being made under New Hampshire's right to know law (RSA 91-A) and under the federal Freedom of Information Act, to the extent that it is applicable in this federal issue.

Andrew Walters, Concerned Citizen and
 Director, ATV Watch



January 16, 2007

ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

Mr. Leigh Levine
FHWA - NH Division

19 Chenell Drive
Suite One
Concord, NH 03301

Dear Mr. Levine,

Thank you for the information concerning the Federal Highway Administration's position on wheeled ATV use on New Hampshire rail trails purchased with Federal Transportation Enhancement (TE) funds.


Over the last few years ATV Watch has received numerous inquiries and complaints related to ATV use on the TE funded rail corridors owned by the State of New Hampshire Department of Transportation (NHDOT) and managed by the New Hampshire Bureau of Trails (BOT). In turn ATV Watch has made inquiries to these agencies regarding the issue and the applicability of federal statutes governing the TE funded rail trails. In response to these inquiries NHDOT and BOT have consistently held the position that in the winter, with adequate snow cover, wheeled ATVs are defined as "snow traveling vehicles" and therefore permitted under the federal statutes. In response to inquiries ATV Watch has received, we have relayed the state's position with the caveat that it is not ATV Watch's position, but that it is the state's position and that at some point ATV Watch would look into the issue further.

It is my understanding that on TE funded rail trails federal statutes preclude the use of any motorized recreational vehicles except "snowmobiles" when state or local regulations permit. Over the last year or so we have investigated the basis for the State of New Hampshire's position and have come up with no statutory or regulatory documentation supporting it. Admittedly, perhaps we have overlooked something and if this is the case we would like to know that.

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We are asking for clarification on this issue from the Federal Highway Administration as soon as possible.

Sincerely,

A rectangular box with a small 'x' icon in the top-left corner, indicating a redacted signature.

Andrew Walters, Concerned Citizen and Director, ATV Watch

Cc: Ram Maddali (NHDOT), Chris Gamache (NHBOT), Christopher Douwes (FHA), Commissioner Carol Murray (NHDOT)

1/17/2007

Bill Gegas

From: ATV Watch [Andrew@ATVWatch.com]
Sent: Wednesday, January 17, 2007 11:07 AM
To: Chris Gamache; Bill Gegas
Subject: Fw: Right to Know Request - Wheeled ATV Use on TE Funded Rail Trails
Follow Up Flag: Follow up
Flag Status: Flagged

Hello Chris and Bill,

On Tuesday I sent the following email to Chris. In the email I requested a read receipt. I have not received any receipt and just wanted to make sure you received it. I have also requested a read receipt with this email.

Thanks,
Andrew Walters

----- Original Message -----

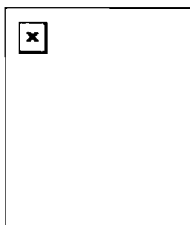
From: ATV Watch
To: Chris Gamache
Sent: Tuesday, January 16, 2007 1:57 PM
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Andrew Walters, Concerned Citizen and
 Director, ATV Watch



ATV Watch New Hampshire
PO Box 34
Fitzwilliam, New Hampshire 03447
ATVWatch.COM (603) 785-7722

January 16, 2007

Mr. Leigh Levine
FHWA - NH Division
19 Chenell Drive
Suite One

1/18/2007

Concord, NH 03301

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Andrew Walters, Concerned Citizen and Director, ATV Watch

Cc: Ram Maddali (NHDOT), Chris Gamache (NHBOT), Christopher Douwes (FHA), Commissioner Carol Murray (NHDOT)

1/18/2007

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Andrew Walters, Concerned Citizen and
 Director, ATV Watch



January 16, 2007

ATV Watch New Hampshire
 PO Box 34
 Fitzwilliam, New Hampshire 03447
 ATVWatch.COM (603) 785-7722

Mr. Leigh Levinc
 FHWA - NH Division
 19 Chenell Drive
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1/17/2007

同治庚午年四月廿五日

同治庚午年四月廿五日

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同治庚午年四月廿五日

同治庚午年四月廿五日

vehicles within this definition shall be classified as off highway recreational vehicles.

I-c. "Antique all terrain vehicle" means any all terrain vehicle manufactured prior to the year 1969 or 25 or more years old owned by a resident of the state. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

I-d. "Antique trail bike" means any trail bike manufactured prior to the year 1969 or 25 or more years old owned by a resident of the state. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

II. "Bureau" means the bureau of trails in the department of resources and economic development.

III. "Cowl" means the forward portion of a snow traveling vehicle surrounding the motor.

IV. "Executive director" means the executive director of the fish and game department.

V. "OHRV" means off highway recreational vehicle.

VI. "Off highway recreational vehicle" means any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, belts, cleats, tracks, skis or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ice or snow or not, where the operator sits in or on the vehicle. All legally registered motorized vehicles when used for off highway recreational purposes shall fall within the meaning of this definition; provided that, when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes. For purposes of this chapter "off highway recreational vehicle" shall be abbreviated as OHRV.

VI-a. "OHRV trails maintenance vehicle" means any mechanically propelled vehicle used to maintain OHRV trails, classified by the chief of the bureau of trails. When said vehicle is registered as an OHRV trails maintenance vehicle, it shall not be used for recreational purposes. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

VII. "Operate", in all its moods and tenses, when it refers to an OHRV, means to use that vehicle in any manner for transportation.

VIII. "Operator" means a person riding on or in, and who is in

X. "Owner" means any person, other than a lienholder, having title in an OHRV.

XI. "Public way" means any public highway, street, sidewalk, avenue, alley, park or parkway, or any way that is funded by state, city, town, county, or the federal government, or laid out by statute, or any parking lot open for use by the public or vehicular traffic, or any frozen surface on a public body of water; provided, however, the off highway portion of any trail established specifically for OHRVs shall not be a public way.

XII. "Public water" means any public body of water as defined by RSA 271:20 which has been frozen over and is sufficient to hold any person or vehicle, whatsoever. Such public waters shall be deemed a public way and any violation shall be treated as if it took place on land.

XIII. "Resident" means a citizen of the United States who has lived and made his home continuously within the state not less than 6 months next and has paid his current resident tax prior to his application for registration of an OHRV and has not during that period claimed a residence in any other state for any purpose.

XIV. "Snow traveling vehicle" means any vehicle propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, belts or cleats. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

XV. "Trail bike" means any motor-driven wheeled vehicle on which there is a saddle or seat for the operator or passenger or both and which is designed or adapted for travel over surfaces other than maintained roads, whether covered by ice or snow or not. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

XVI. "Registered for Highway Use" means any OHRV as defined in RSA 215-A:1, VI or trail bike as defined in RSA 215-A:1, XIV which is registered for use on the highways of the state under the provisions of RSA 261. Said registered vehicles shall comply with the provisions of RSA 215-A:35-39.

XVII. "Traveled portion" means all areas of a public highway between the plowed snowbanks.

XVIII. "Trail connector" means that specific portion of an OHRV trail authorized within a state highway right-of-way by the department

CHAPTER Res 8100 BUREAU OF TRAILS, DIVISION OF PARKS AND RECREATION, DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT

PART Res 8101 DEFINITIONS

Res 8101.01 "ATV" means all terrain vehicle.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.02 "All terrain vehicle" means any vehicle as described in RSA 215-A:1, I(b).

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.03 "Bureau" means the bureau of trails, in the division of parks and recreation, within the department of resources and economic development.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.04 "Bureau ATV trail" means an established ATV course to be followed.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.05 "Bureau chief" means the chief supervisor for the bureau of trails within the department of resources and economic development.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.06 "Bureau control" means the bureau has the power or authority to manage.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.07 "Bureau snowmobile trail" means a trail accepted for use for snow traveling vehicles during the winter season but not exclusively used by snow traveling vehicles.

(New)

Definitions Res 9101

"Conventional Motor Vehicle" means any vehicle designed primarily for highway travel.. ✓

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.08 "Bureau trail" means any maintained OHRV trail on DRED properties.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.09 "Bureau trail bike trail" means an established trail bike course to be followed.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.10 "Club" means an organized group of OHRV users with by-laws registered with the New Hampshire secretary of state.

Source. #2221, eff 12-23-82; ss by #2979, eff 2-21-85; ss by #4391-a, eff 3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.11 "Commissioner" means the commissioner of the department of resources and economic development as appointed by the governor and executive council.

Source. #2221, eff 12-23-82; ss by #2979, eff 2-21-85; ss by #4391-a, eff 3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.12 "DRED properties" means all state properties owned, leased, managed or under the control of the department of resources and economic development as listed in Chapter Res 101.06.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.13 "Established trail" means a marked trail that has been confirmed and signed open for use.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.14 "Forestry" means the division of forests and lands within the department of resources and economic
<http://webster/gencourt/ols/rules/res8100-8500.html> 8/18/00

development.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.15 "Heights of land" means the high point of elevation between watersheds.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.16 "NHSA trails committee" means the New Hampshire snowmobile association's committee which is appointed by NHSA president and whose purpose is to work cooperatively with the bureau to improve and establish snowmobile trails.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.17 "Non-lapsing fund" means state OHRV funds not returned to the general fund at the close of the fiscal year.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.18 "Off highway recreational vehicle" or "OHRV" means any vehicle described in RSA 215-A:1, VI.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.19 "Political subdivisions" means towns, cities, counties, or other departments and divisions of the state.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.20 "Snowmobile" means any snow traveling vehicle.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.21 "Snow traveling vehicle" means any vehicle as described in RSA 215-A:1, XIII.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.22 "State" means the government of the state of New Hampshire.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.23 "Switchbacks" means the change of trail direction for the purpose of gaining or losing elevation.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.24 "Trail" means a course to follow or be followed.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.25 "Trail administrator" means the OHRV club member designated or elected to enter into agreements with the bureau for grant-in-aid purposes.

Source. #2221, eff 12-23-82; ss by
#2979, eff 2-21-85; ss by #4391-a, eff
3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.26 "Trail bike" means any vehicle described in RSA 215-A:1, XIV.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Res 8101.27 "Wetlands board" means the ^{Council} ~~board~~ ^{Council} established by ^{RSA 21-0:5-A} RSA 483-A:1-c, which oversees and administers the requests for construction and/or modification of anything that affects the surface waters of the state of New Hampshire. ✓

Source. #2221, eff 12-23-82; ss by

Res 8408.04 Failure to Comply. Failure to comply with any of the rules governing the reimbursement of funds shall result in the non-reimbursement of any funds owed and shall cause future grant-in-aid requests to be denied providing corrections are not made within 15 days of notification of any failure of rules compliance.

Source. #2221, eff 12-23-82; ss by #2979, eff 2-21-85; ss by #4391-a, eff 3-30-88; ss by #5698, eff 9-7-93, EXPIRED 9-7-99

New. #7238, eff 5-1-00

CHAPTER Res 8500 BUREAU TRAIL USE RULES

Statutory Authority: RSA 215-A:3-a

PART Res 8501 RULES APPLICABLE TO ALL BUREAU TRAILS

Res 8501.01 Trail Use Rules. The following provisions shall apply to all trails on DRED properties as listed in Res 101.06:

- (a) No person shall operate an OHRV on DRED properties except in areas or trails established by the bureau for OHRV use.
- (b) The provisions of RSA 215-A:6 shall apply to all OHRV operation on DRED owned or leased properties unless a lower speedlimit is posted.
- (c) No person shall operate an OHRV on bureau trails or portions thereof that have been posted ^{closed} ~~for maintenance or safety reasons~~. Trail closures shall be accomplished by posting signs that spells out the prohibited activity.
- (d) No person shall operate an OHRV in excess of 45 miles per hour on any bureau trail, department owned land, or department leased land.
- (e) No person shall operate an OHRV in excess of 10 mph at signed trail junctions, in parking lots or when approaching or passing trail grooming equipment.
- (f) The provisions of Res 8500 shall not apply to government employees in the performance of their duties.

Source. #2221, eff 12-23-82; ss by #2979, eff 2-21-85; ss by #4391-a, eff 3-30-88; EXPIRED 3-30-94

New. #5946, eff 12-23-94

PART Res 8502 RULES APPLICABLE TO ALL BUREAU SNOWMOBILE TRAILS

Res 8502.01 Snowmobiles Trail Rules. The following provisions shall apply to winter use snowmobile trails maintained by the bureau in addition to rules found in Res 8501:

- (a) No person shall operate an OHRV on plowed roads on DRED properties unless posted with a standard bureau sign that has black lettering on white background containing the wording "Snowmobiles permitted 10 M.P.H."

(b) No person shall operate an OHRV other than an ATV, trail bike or snowmobile on bureau snowmobile trails. No person shall operate a conventional motor vehicle on a bureau snowmobile trail.

(c) No person shall operate an ATV or trail bike on bureau snowmobile trails if the trail has been posted prohibiting that use.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

PART Res 8503 RULES APPLICABLE TO ALL BUREAU TRAIL BIKE AND ATV TRAILS

Res 8503.01 Trail Bike and ATV Trail Rules. The following provisions shall apply to all bureau ATV and/or trail bike trails:

(a) No person shall operate an ATV or trail bike on DRED owned or leased properties before May 23 of each calendar year after continuous snow cover has melted except for governmental employees in performance of their duties.

(b) The Rockingham Recreational ^{and Sugar River Recreational Trail} shall be exempt from (a), above.

(c) No person shall operate a trail bike or ATV off established bureau trails on DRED properties as listed in Res 101.06.

(d) Notwithstanding the provisions of Res 8501.01 (d) no person shall operate an ATV or trail bike at a speed greater than 35 mph on bureau trails.

(e) No person shall operate an OHRV other than an ATV, trail bike or snowmobile on bureau trails. No person shall operate a conventional motor vehicle on a bureau OHRV trail unless the trail has been approved and posted for that use by the bureau.

(f) No person shall operate an ATV or trail bike on bureau trails between 1/2 hour after sunset and 1/2 hour before sunrise ^{or unless posted open for use.}

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Remove 8504

PART Res 8504 RULES APPLICABLE TO PISGAH FOREST PARK

Res 8504.01 Pisgah Forest Park Rules. The following provisions shall apply to Pisgah Forest Park in the towns of Winchester, Hinsdale and Chesterfield in addition to all other provisions of Res 8500.

(a) Notwithstanding the provisions of Res 8501.01 (d) and Res 8503.01 (d) no person shall operate an ATV or trail bike in excess of 25 mph on bureau trails in Pisgah Forest Park.

(b) No person shall operate an ATV or trail bike in excess of 10 mph between junctions 6 and 7 on Pisgah Pond Road.

(c) No person shall operate an ATV and/or trail bike on trails posted as closed.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

PART Res 8500 PENALTIES

Res 8505.01 Penalties. A person who violates any rule of Res 8500 shall be guilty of a violation as provided for by RSA 215-A:19, I and shall be subject to a fine not to exceed \$500.00 as allowed by RSA 651:2, IV.

Source. #4391-a, eff 3-30-88;
EXPIRED 3-30-94

New. #5946, eff 12-23-94

Appendix

Provision of the Proposed Rule	Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement
Res 8401 8100	RSA 215-A:23, VI(a)-(c) <i>3-a, II</i>
Res 8402-8408 8500	RSA 215-A:23, VI(b) <i>3-a, II</i>

Chris Gamache

From: Steve Boucher
Sent: Monday, January 08, 2007 8:21 AM
To: Amy Bassett; Allison McLean; Gail Wolek; George Bald; Michael Housman; Chris Gamache
Subject: Advocacy group asks court to clarify open-records law

Advocacy group asks court to clarify open-records law

By Philip Elliott, Associated Press Writer | January 5, 2007

CONCORD, N.H. —An anti-ATV group argued to the state Supreme Court on Friday that it should have had access sooner to state documents about the new ATV park in Berlin and that the state should do a better job enforcing the Right to Know law.

ATV Watch said the law should have guaranteed the prompt release of documents, including proposed locations and route details about the 7,200-acre North Country site. Lawyers for the state said the premature release would have hurt negotiations to buy the land.

Justices, however, questioned why they were even hearing the appeal. Most of the documents ATV Watch sought eventually were released and the state's Right to Know law had exemptions for the balance, such as personal notes.

"Nonetheless, you have the documents now," Chief Justice John Broderick said.

Attorney Joshua Gordon, who is representing ATV Watch, said the justices should focus on the state's slow release of documents.

"There is no remedy for the violation of the letter and certainly the spirit of the law," he said.

ATV Watch and the state said the judges should issue a ruling, anyway, to give both parties guidance on future Right to Know cases.

"This issue will come up again," said Associate Attorney General Anne Edwards.

The original case stemmed from the state's long-simmering plans to buy property to build an ATV park at Jericho Mountain State Park. ATV Watch sought state Department of Resources and Economic Development documents and other materials prepared for the governor and the Executive Council. The documents were not released within the five-day window required by the statute.

"Five days is a reasonable time for release," said Andrew Walters, the group's director. "In some cases, it took a year."

Edwards said most of the documents were released, but the department wanted advice on others.

"The question was when they needed to be turned over and under what circumstances," she said.

A lower court found the state "was in technical violation of the statute, some violations were not its fault and others were harmless." Friday's arguments sought to resolve what the consequences — if any — the state should face for the delay.

Broderick and the other four members of the court asked what penalties the state could face for future violations.

While the law allows residents an opportunity to recover legal costs in some cases, those without professional legal counsel have little recourse. Broderick asked what could stop the state from dragging its feet for months until faced with a lawsuit.


The judges also questioned if the ATV Watch case weren't about legal fees. Lawyers didn't represent the group until after the documents had already been released.

ATV Watch countered that the state withheld an appraisal of the property until the governor and Executive Council were ready to act. The estimated value was shared with the landowner but not with the group, which requested the document.


"The cat's out of the bag. What are you waiting for?" Broderick said. "If the landowner knows what the appraisal is, why can't the public know?" ■

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND
ECONOMIC DEVELOPMENT



BUREAU OF TRAILS



RECREATIONAL RAIL TRAILS

MULTI-USE MAP

PERMITTED USE SIGNAGE



MOTORIZED USE

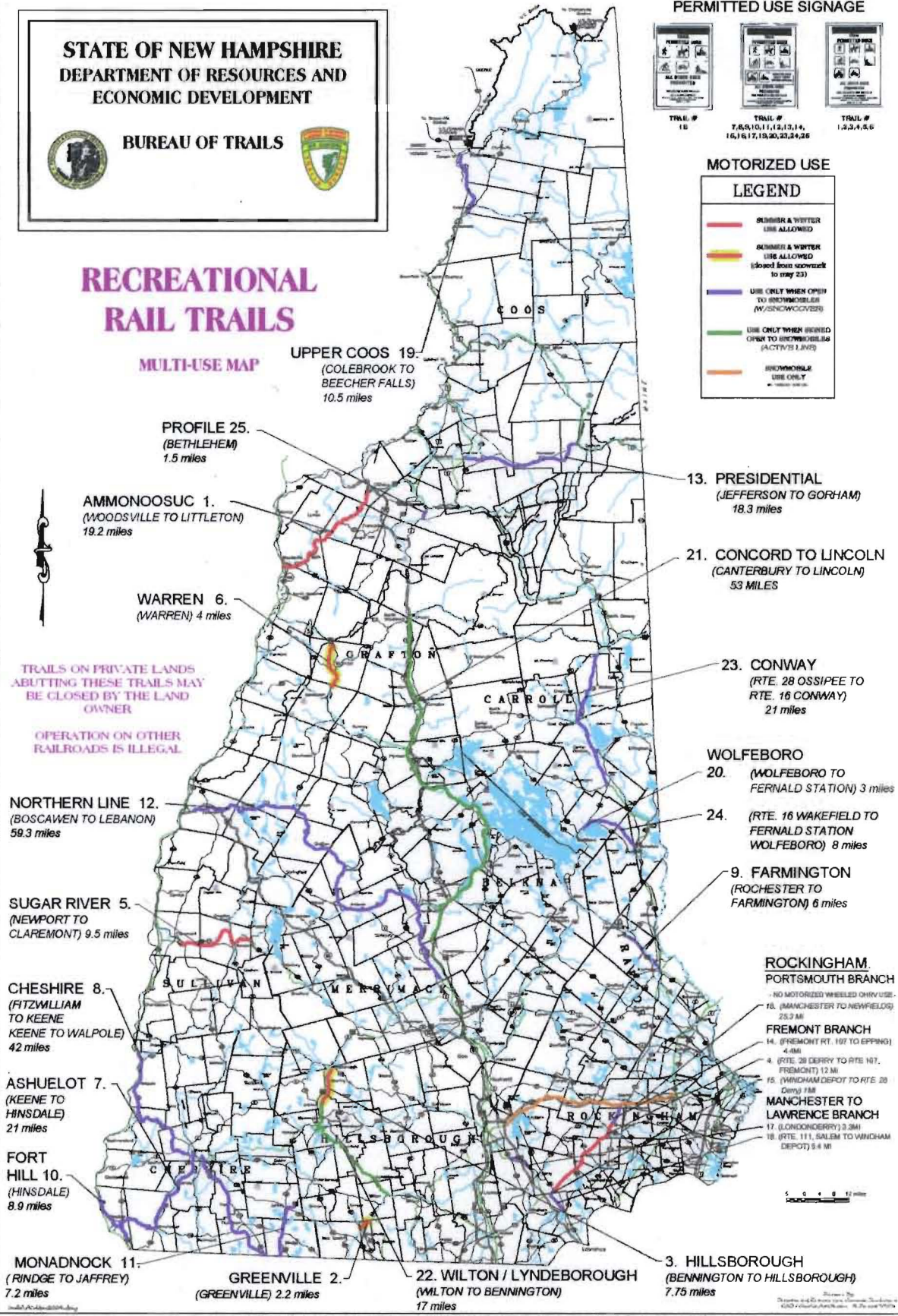
LEGEND

- SUMMER & WINTER USE ALLOWED
- SUMMER & WINTER USE ALLOWED (closed from snowfall to may 23)
- USE ONLY WHEN OPEN TO BICYCLES (W/SNOWCOVER)
- USE ONLY WHEN OPEN TO BICYCLES (ACTIVE USE)
- BICYCLES USE ONLY



TRAILS ON PRIVATE LANDS ABUTTING THESE TRAILS MAY BE CLOSED BY THE LAND OWNER

OPERATION ON OTHER RAILROADS IS ILLEGAL



- UPPER COOS 19. (COLEBROOK TO BEECHER FALLS) 10.5 miles
- PROFILE 25. (BETHLEHEM) 1.5 miles
- AMMONOOSUC 1. (WOODSVILLE TO LITTLETON) 19.2 miles
- WARREN 6. (WARREN) 4 miles
- NORTHERN LINE 12. (BOSCAWEN TO LEBANON) 59.3 miles
- SUGAR RIVER 5. (NEWPORT TO CLAREMONT) 9.5 miles
- CHESHIRE 8. (FITZVILLIAM TO KEENE KEENE TO WALPOLE) 42 miles
- ASHUELOT 7. (KEENE TO HINSDALE) 21 miles
- FORT HILL 10. (HINSDALE) 8.9 miles
- MONADNOCK 11. (RINDGE TO JAFFREY) 7.2 miles
- GREENVILLE 2. (GREENVILLE) 2.2 miles
- 22. WILTON / LYNDEBOROUGH (WILTON TO BENNINGTON) 17 miles
- 13. PRESIDENTIAL (JEFFERSON TO GORHAM) 18.3 miles
- 21. CONCORD TO LINCOLN (CANTERBURY TO LINCOLN) 53 MILES
- 23. CONWAY (RTE. 28 OSSIFEE TO RTE. 16 CONWAY) 21 miles
- 20. WOLFEBORO (WOLFEBORO TO FERNALD STATION) 3 miles
- 24. (RTE. 16 WAKEFIELD TO FERNALD STATION WOLFEBORO) 8 miles
- 9. FARMINGTON (ROCHESTER TO FARMINGTON) 6 miles
- ROCKINGHAM. PORTSMOUTH BRANCH - NO MOTORIZED WHEELED OHV USE. 78. (MANCHESTER TO NEWFIELDS) 25.2 MI
- FREMONT BRANCH 14. (FREMONT RT. 197 TO EPPING) 4 MI
- 4. (RTE. 28 DERRY TO RTE 107, FREMONT) 12 MI
- 15. (WINDHAM DEPOT TO RTE 20 Derry) 18 MI
- MANCHESTER TO LAWRENCE BRANCH 17. (LONDONDERRY) 3.9 MI
- 18. (RTE. 111, SALEM TO WINDHAM DEPOT) 6.4 MI
- 3. HILLSBOROUGH (BENNINGTON TO HILLSBOROUGH) 7.75 miles



Revised 1/98
 The location of the 450 square foot trailhead is shown on the map. The location of the 4500 square foot trailhead is shown on the map.

an official NEW HAMPSHIRE government website



Recreational Rail Trails

All Recreational Trails are Multi-use Trails. Users of multi-use trails may include hikers, bike equestrians, OHRVs, snowshoers, cross-country skiers, and sled dogs.

Recreational Rail Trails are Recreational Trails *with rails in place* and may have service-type (such as putt-putts or speeders using the rails when not snow covered).

Active Railroads **MAY** allow recreational use **ONLY** during the **WINTER** months on some Dates for winter use are determined by the New Hampshire Department of Transportation.

Winter Use Only = when there is contiguous snow cover on the trails.

Please note: Different types of *motorized usage* are allowed at different times of the year on some use trails. Please check to be sure your particular activity is allowed before using the trails.

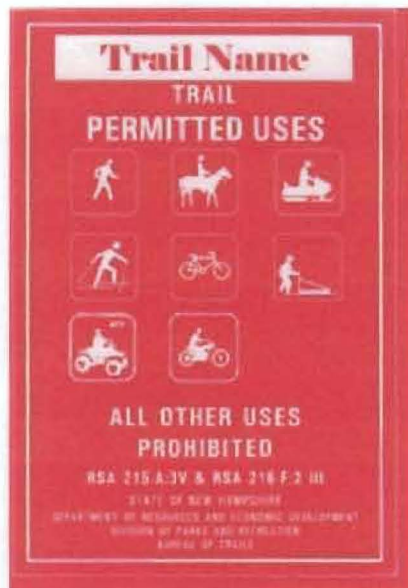


Rockingham Recreational Trail, Portsmouth Branch (Manchester-Newfields) -25.3 miles

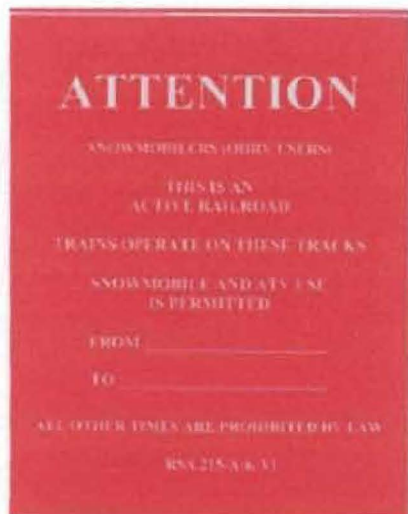
Upper Coos Recreational Trail (Colebrook-Beecher Falls)
Presidential Recreational Trail (Jefferson-Gorham) 18.3 mi
Profile Recreational Trail (Bethlehem) 1.5 miles



Conway Branch Recreational Trail (Ossipee-Conway) 21.1 miles
Northern Rail Trail (Boscawen-Lebanon) 59.3 miles
Wolfeboro Branch Recreational Trail (Wolfeboro-Wakefield) 10.5 miles
Farmington Recreational Trail (Farmington-Rochester) 6.1 miles
Cheshire Recreational Trail (North Walpole-Fitzwilliam) 4.1 miles
Ashuelot Recreational Trail (Keene-Winchester) 21 miles
Fort Hill Recreational Trail (Hinsdale) 8.9 miles
Monadnock Recreational Trail (Mass line-Jaffrey) 7.2 miles
Manchester/Lawrence Recreational Trail (Salem-Windham) 10.5 miles
 (Londonderry) 3.3 miles
Rockingham Recreational Trail, Fremont Branch (Route 101-Fremont-Epping) 4.4 miles



Ammonoosuc Recreational Trail (Woodsville-Littleton) 19.1 miles
Warren Recreational Trail (Warren) 4 miles
Sugar River Rail Trail (Newport-Claremont) 9.5 miles
Hillsborough Recreational Trail (Hillsborough-Bennington) 10.5 miles
Rockingham Recreational Trail, Fremont Branch (Route 101-Fremont-Route 28 Derry) 12 miles
Greenville Recreational Trail (Greenville) 2.2 miles



Concord to Lincoln Line (Canterbury-Lincoln) 53 miles
Wilton/Lyndeborough Branch (Wilton-Bennington) 17 Miles
OHRV use is prohibited on all active rail lines. Public use Rights-of-Way is prohibited.

Attention all OHRV Operators!

Recreational Trails Parking Areas

Parks Home	Trails Home	ATV	Snowmobiling	Hiking	X-Country Skiing	Equestrian	Biking	Mushing	Privacy Note
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COOPERATIVE AGREEMENT

Agreement this 9th day of April, 1998 by and between the New Hampshire Department of Transportation, hereinafter DOT, and the New Hampshire Department of Resources and Economic Development, hereinafter DRED.

Whereas, with the approval of the Governor and Executive Council, DOT in the name of the State of New Hampshire has acquired certain railroad corridors as described in attachment A.

Whereas, DRED, Division of Parks and Recreation, Bureau of Trails desires to use the corridors for multi-use trails as part of the statewide trails system provided for in RSA 216-F;

Now therefore, DOT, Bureau of Rail and Transit and DRED, Division of Parks and Recreation, Bureau of Trails enter into the following cooperative agreement regarding the use and maintenance of certain railroad corridors as described in attachment A.

DOT, Bureau of Rail and Transit hereby agrees as follows:

1. To grant to DRED, Division of Parks and Recreation, Bureau of Trails, the authority to use and maintain the corridors as described in attachment A, for recreational purposes in conjunction with the Statewide Trails System provided for in RSA 216-F, except as provided in Section 5.

2. That DRED, Division of Parks and Recreation, Bureau of Trails may grant "Special Use Permits" to private parties, and/or municipalities for purposes of trail construction and/or maintenance or for other uses consistent with the intent and purpose of this agreement and as authorized by New Hampshire Statutes. Agreements may be for periods of up to two (2) years, however, said permits may be terminated on one hundred eighty (180) days written notice if all or any part of this property is needed for transportation of goods or services of any kind or for any other purpose deemed necessary by the Commissioner, DOT.

3. To reserve the right to terminate or modify this agreement on one hundred eighty (180) days written notice if all or any part of these corridors are needed for transportation of goods or services of any kind or for any other purpose deemed necessary by the Commissioner, DOT.

4. To consult with the Bureau of Trails prior to entering into agreements, easements, or special use permits with third parties that would affect the use of the corridor as a recreational trail.

5. To pay a mutually agreed portion of actual expenses, invoices to be submitted by DRED, to maintain the properties and facilities which shall include but not limited to drainage, culverts, walls, crossings, bridges and structures. The Department of Transportation shall not be liable for expenses in excess of the revenues generated for the Special Railroad Fund from those corridors listed in Attachment A.

6. To reserve to itself the decision whether, when and how repairs will be made on major maintenance expenditures such as but not limited to bridge collapse, culvert washout, and slope failure.

DRED, Division of Parks and Recreation, Bureau of Trails hereby agrees as follows:

7. To recognize and respect the articles and reservations as found in the Boston and Maine Corporation Deeds to the State of New Hampshire, DOT.

ATTACHMENT A

Approximately 21 miles of the so called "Ashuelot Branch" beginning at approximate centerline engineering station ("CLE") 3+20 in the Town of Hinsdale and continuing through the towns or cities of Winchester, Swansey and Keene to the terminus at CLE 1134+65, all within Cheshire County, New Hampshire. Said property is shown on a series of 22 primary sheets entitled, "Right-of-Way and Track Map, Connecticut River R.R. Co., operated by the Boston and Maine R.R.", dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, P.O. Box 483, Concord, NH 03302-0483.

Approximately 42 miles of the so called "Cheshire Branch" beginning at approximate centerline engineering station ("CLE") 569+58.5 in the Town of Fitzwilliam and continuing through the towns or cities of Troy, Marlborough, Swansey, Keene, Surry, Westmoreland and Walpole to the terminus at CLE 2784+05, all within Cheshire County, New Hampshire. Said property is shown on a series of 42 primary sheets entitled, "Right-of-Way and Track Map, Fitchburg R.R. Co., operated by the Boston and Maine R.R.", dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, P.O. Box 483, Concord, NH 03302-0483.

Approximately 8.4 miles of the so called "Conway Branch" beginning at approximate centerline engineering station ("CLE") 2970+00 to CLE 3412+57 all within the Town of Madison, Carroll County, New Hampshire. Said property is shown on a series of 9 primary sheets entitled, "Right-of-Way and Track Map, Boston and Maine R.R. Co., operated by the Boston and Maine R.R.", dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, P.O. Box 483, Concord, NH 03302-0483.

Approximately 8.9 miles of the so called "Fort Hill Branch" from at approximate centerline engineering station ("CLE") 2651+48 to CLE 3120+79.4 all within the Town of Hinsdale, Cheshire County, New Hampshire. Said property is shown on a series of 10 primary sheets entitled, "Right-of-Way and Track Map, Connecticut River R.R. Co., operated by the Boston and Maine R.R.", dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, P.O. Box 483, Concord, NH 03302-0483.

Approximately 4.4 miles of the so called "Fremont Branch" beginning at approximate centerline engineering station ("CLE") 3672+88 in the Town of Fremont and continuing to the terminus at CLE 3907+93 in the Town of Epping, Rockingham County, New Hampshire. Said property is shown on a series of 5 primary sheets entitled, "Right-of-Way and Track Map, Boston and Maine R.R., operated by the Boston and Maine R.R.", dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, P.O. Box 483, Concord, NH 03302-0483.

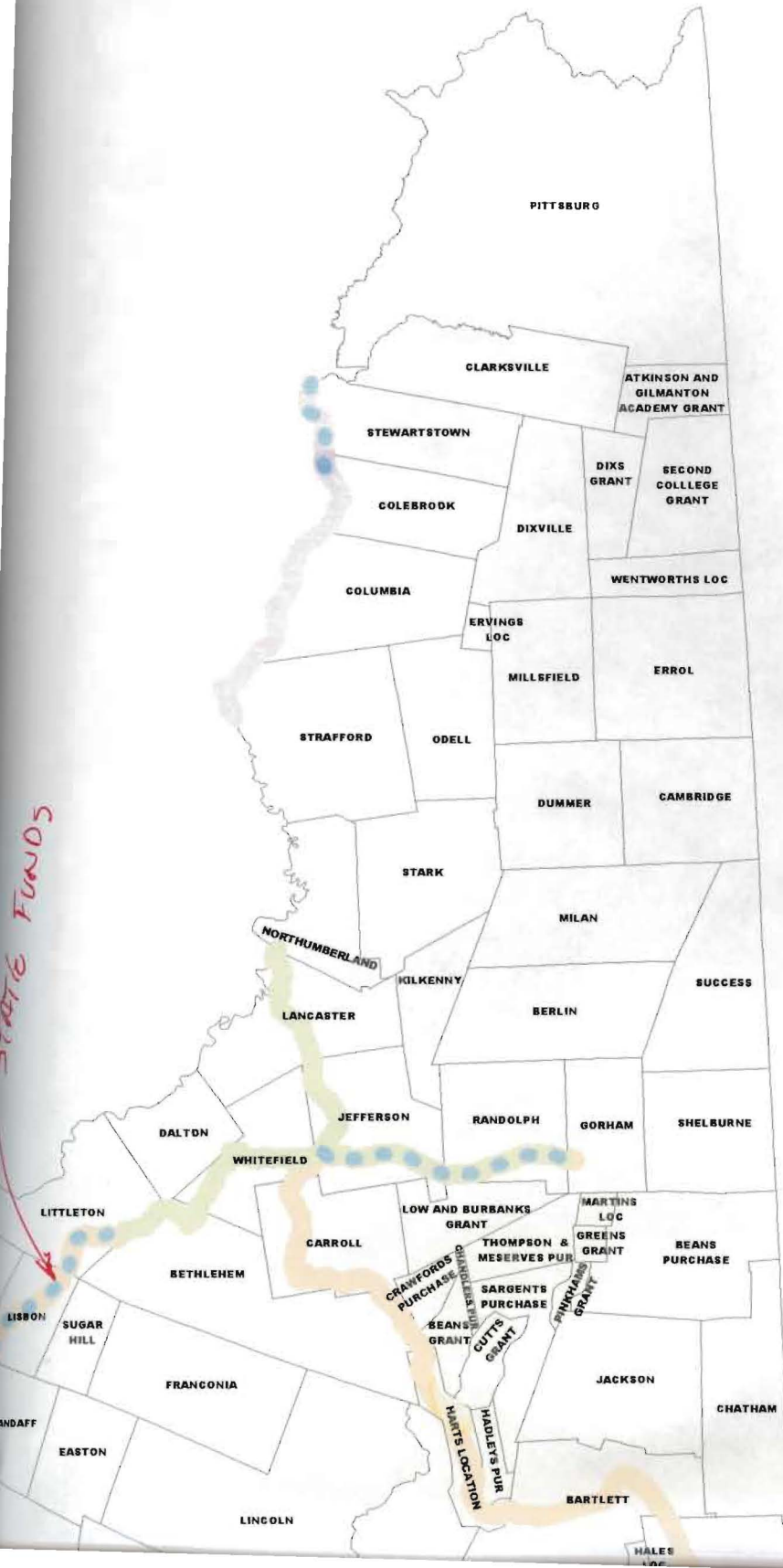
Approximately 7.75 miles of the so called "Hillsboro Branch" beginning at approximate centerline engineering station ("CLE") 1197+06 in the Town of Bennington and continuing through the towns or cities of Antrim, Deering and Hillsboro to the terminus at CLE 787+77.4 all within Hillsborough County, New Hampshire. Said property is shown on a series of 8 primary sheets entitled, "Right-of-Way and Track Map, Peterborough and Hillborough R.R., operated by the Boston and Maine R.R.", dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, P.O. Box 483, Concord, NH 03302-0483.

Approximately 8.24 miles of the so called "Manchester and Lawrence Branch" beginning at approximate centerline engineering station ("CLE") 1774+48 in the Town of Salem and continuing through the Town of

and dated June 1928, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, PO Box 483, Concord, NH 03302-0483.

Approximately 6.0 miles of the so called "Farmington Branch" beginning at approximate centerline engineering station ("CLE") in the City of Rochester to CLE in the Town of Farmington, Strafford County, New Hampshire. Said property is shown on a series of six primary sheets entitled "Right of Way and Track Map, Boston and Maine RR Co., dated June 30, 1914, on file with the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit, PO Box 483, Concord, NH 03302-0483.

8:SANDY\WORD\AGREEMENTS\DRED.DOC



STATE OF NEW HAMPSHIRE

PREPARED BY THE
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING
IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

5 0 5 10 15 20 25 30 Miles



RAIL LINES PURCHASED BY NHDOT

Funds Used to Purchase Rail Lines



STATE FUNDS

ISTEA OR TEA-21 FUNDS

FEDERAL RAILROAD ADMINISTRATION FUNDS

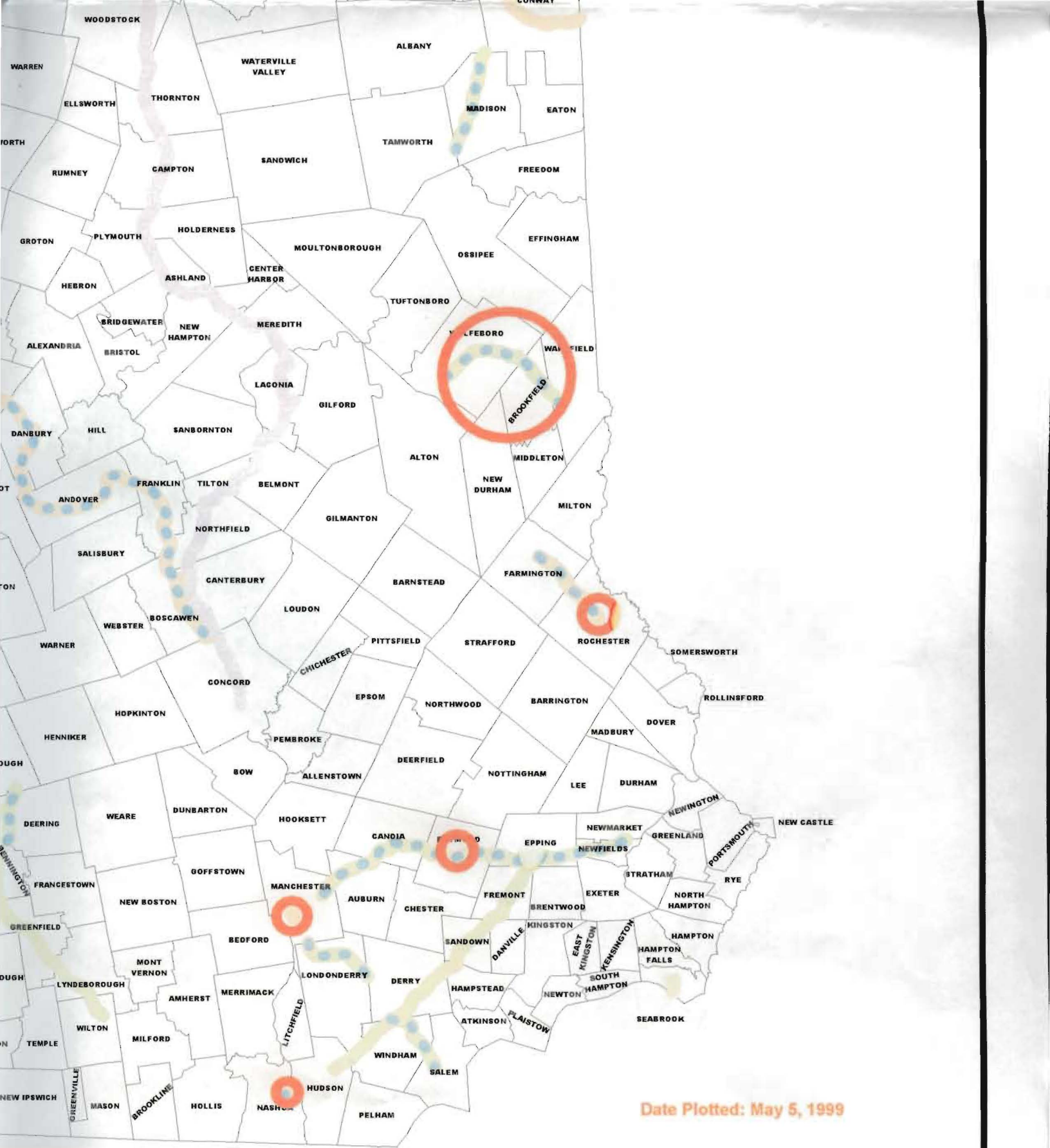


PORTIONS OF RAIL LINE WITH NO
ACTIVE RAILROAD OPERATOR

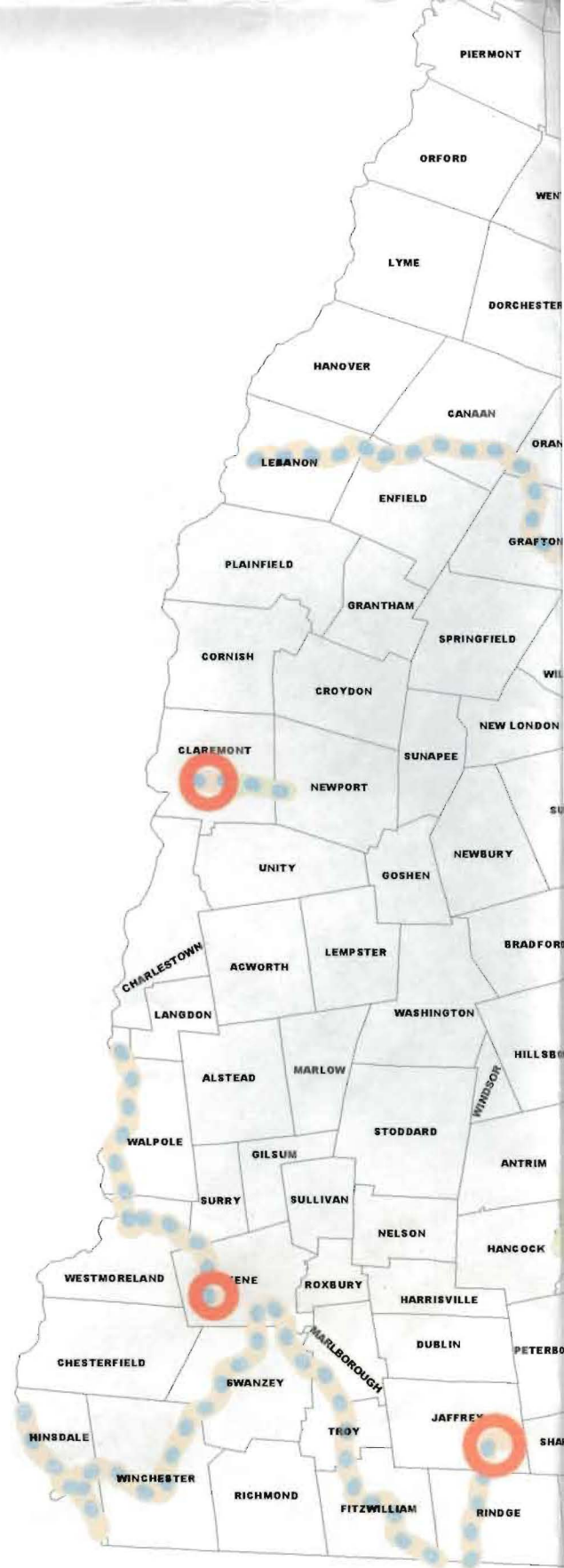


PROPOSED OR CONSTRUCTED ISTEA / TEA-21
FUNDED BIKE/PEDESTRIAN FACILITY





Date Plotted: May 5, 1999



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