



**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



**CHARLES P. O'LEARY, JR.**  
**COMMISSIONER**

**JEFF BRILLHART, P.E.**  
**ASSISTANT COMMISSIONER**

September 13, 2007

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

**Re: Right to Know Request**

Dear Mr. Walters:

I write in follow up to my correspondence to you dated July 30, 2007 and August 22, 2007 on your right to know request. Specifically, you have asked to review all governmental records in the custody or control of the Department of Transportation related to motorized use of New Hampshire's Transportation Enhancement funded rail trails.

We have assembled the requested information, which is available to you by contacting Ram Maddali at 271-2107 and setting up an appointment.

In addition to the redacted correspondence noted in the August 22<sup>nd</sup> letter, this office is redacting portions of the following correspondence because the redacted portions contain information that is exempt from disclosure:

- Email correspondence between Attorney General's office and our Department between April, 2007 to May 2007
- Email from Ram Maddali to Federal Highway Administration dated May 10, 2007

I have also received your email request dated August 31, 2007 to reconsider our decision to not disclose portions of the records. We are unable to approve your request and stand by our original decision to not disclose copies of preliminary draft correspondence which are not in their final form and were not disclosed, circulated, or available to a quorum or a majority of those entities defined under RSA 91-A:1-a. The drafts in question were prepared during the months of March, April, May, June and July 2007. We also stand by our decision to not release copies of confidential attorney/client communications between

attorneys within the Department of Justice and the Department of Transportation. The communications in question span from March 1, 2007 through September 13, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Brillhart". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping underline.

David J. Brillhart, P.E.  
Assistant Commissioner

Cc: Honorable Representative Jim Ryan, Chairman, House Transportation  
Charles P. O'Leary, Jr., Commissioner  
Rich Sigel, NH Governor's Office  
Mark Hodgdon, Attorney General's Office



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.  
COMMISSIONER

August 22, 2007

JEFF BRILLHART, P.E.  
ASSISTANT COMMISSIONER

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

**Re: Right to Know Request**

Dear Mr. Walters:

I write in follow up to my correspondence to you dated July 30, 2007 on your right to know request. Specifically, you have asked to review all governmental records in the custody or control of the Department of Transportation related to motorized use of New Hampshire's Transportation Enhancement funded rail trails.

We have assembled a portion of the requested information, which is available to you by contacting Nancy Mayville at 271-2107 and setting up an appointment. Specifically, this information is gathered from:

- My project files
- Ram Maddali's files
- Bill Cass's files

Please be advised that this office is not releasing copies of preliminary draft correspondence which are not in their final form and were not disclosed, circulated, or available to a quorum or a majority of those entities defined under RSA 91-A:1-a. The drafts in question were prepared during the months of March, April, May, June and July 2007. This office is also not releasing copies of confidential attorney/client e-mail communications between attorneys within the Department of Justice and the Department of Transportation. The e-mails in question span from March 1, 2007 through August 17, 2007.

Additionally, this office is redacting portions of the following correspondence because the redacted portions contain privileged communications or personal notes:

- Memo dated April 20, 2007 from me to Ram Maddali
- May 15, 2007 memo from Ram Maddali to me
- Handwritten notes on a draft letter from Federal Highway Administration. The letter is being disclosed
- Handwritten notes on a letter from DRED dated February 15, 2007. The February 15, 2007 letter from DRED is being disclosed
- June 20<sup>th</sup> handwritten memo from me to Commissioner O'Leary
- Email from Christopher Morgan dated June 14, 2007
- Email from Ram Maddali to Katja Fox dated July 9, 2007

We are currently working on determining whether any additional emails pertaining to this request exist in electronic form and we will contact you as soon as the computer records become available, but no later than September 17, 2007 as noted in my original correspondence.

Sincerely,



David J. Brillhart, P.E.  
Assistant Commissioner

Cc: Honorable Representative Jim Ryan, Chairman, House Transportation  
Charles P. O'Leary, Jr., Commissioner  
Rich Sigel, NH Governor's Office  
Mark Hodgdon, Attorney General's Office

## ATV Watch Right to Know Request

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**From:** Ram Maddali  
**Sent:** Monday, July 09, 2007 3:38 PM  
**To:** 'Fox, Katja'  
**Cc:** Barbara Roth  
**Subject:** TE funded trails



070116 FEDHWY request from DRED  
Letter.pdf



7-9-07.doc

Dear Ms. Fox:

Assistant Commissioner Jeff Brillhart asked me to send you the current version of a letter we have been working with the Attorney Generals Office and Department of Resources and Economic Development (DRED). This letter is in response to a Citizen's enquiry by Andrew Walters (letter attached) that was forwarded to us from Federal Highway Administration (FHWA). Alice Chamberlin was interested in this issue and Jeff had sent a previous version of the letter to Alice a few weeks back.

In his letter Mr. Walters referred to the federal statutes that specified the different types of uses and asked if ATVs can be allowed to use rail trail corridors that were purchased with Federal funds. DRED's attorney drafted the following response and we are in agreement with the attached letter to be signed by NH DRED.

If there are any points of view that the Governor's Office would like to be considered and included, please let us know.

Please feel free to contact either Jeff Brillhart at 271-1484 or me at 271-6581 if you have any questions or need any additional information.

Thank you.

Ram S. Maddali  
Project Manager  
NHDOT



*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)

## ATV Watch Right to Know Request

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**From:** Diane Hartford  
**Sent:** Tuesday, August 21, 2007 2:16 PM  
**To:** ATV Watch Right to Know Request  
**Subject:** FW: Snowmobile & ATV Use

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

**From:** Diane Hartford  
**Sent:** Monday, June 25, 2007 1:06 PM  
**To:** 'alice.chamberlin@nh.gov'  
**Subject:** Snowmobile & ATV Use

Jeff Brillhart asked that I forward the attached draft letter. The DOT is suggesting that DRED send a letter to the DOT and the DOT will forward it to FHWA for its concurrence. No word yet from DRED or its rep from the AG's Office as to what they propose to do.

Please call Jeff Brillhart if you have questions.

Thank You



request from DRED  
6-20-07.doc



## ATV Watch Right to Know Request

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**From:** Bill Gegas [bgegas@dred.state.nh.us]  
**Sent:** Thursday, June 21, 2007 2:15 PM  
**To:** William.F.O'Donnell@fhwa.dot.gov  
**Cc:** Jim Garvin (E-mail); Ram Maddali; Joyce McKay  
**Subject:** RE: Recreational Trails

Greetings Bill,

Thank you for looking into this with the Washington DC office. This is an issue that raises serious concerns for the Bureau of Trails. The Sugar River Recreational Rail Trail, which runs 9 miles from Newport to Claremont, is one of the State's designated summer ATV trails. It was originally purchased with State funds so restrictions associated with rail trails purchased with TE funds have never been an issue here. The TE funded fire protection project for these two bridges would in no way alter or improve the existing travel surface of the bridges or the trail. It would seem extremely unreasonable to effectively close 9 miles of legally designated trail for what is only a few hundred feet of bridge span. It would also seem unreasonable to have to go through a special exception process for a pre-existing motorized trail. I have spoken with Chief Gamache and if restrictions are placed on the use of ATVs on these bridges the Bureau of Trails would have to oppose the use of TE funds for this project or oppose the project itself. The Bureau would also have to oppose future TE funded projects on recreational trails.

It is understood that FHWA has not yet finalized it's new policy on wheeled off highway vehicles using TE funded corridors, however we would at least like to request that this situation, or other similar situations, be seriously considered.

Thank you again for your time in this matter. Please let me know if you receive any further comment from the Washington DC office.

Sincerely,

Bill Gegas

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

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

**From:** Joyce McKay [mailto:JMckay@dot.state.nh.us]  
**Sent:** Tuesday, June 19, 2007 3:34 PM  
**To:** Bill Gegas  
**Cc:** Jim Garvin (E-mail)  
**Subject:** FW: Recreational Trails

Bill is providing some answers to questions that arose at the meeting yesterday concerning the Rec. Trails program.

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

**From:** O'Donnell, William F [mailto:William.F.O'Donnell@fhwa.dot.gov]

9/11/2007



**Sent:** Tuesday, June 19, 2007 2:31 PM

**To:** Joyce McKay

**Subject:** Recreational Trails

Joyce;

I researched the two questions that came up in our discussion with Bill Gegas yesterday. Would you pass them onto Bill, Jim and any others you feel would have an interest?

First, routine maintenance actions such as clearing brush and resurfacing the trail are allowed by the Recreational Trails program. This is different than most of our other roadway programs. It is probably that way because State DOT's are expected to have Maintenance forces and budgets to maintain Federally-aided roadway improvements, whereas some of the small snowmobile clubs, etc., probably do not.

Second, regarding the use of TE funds on the covered bridge and potential restriction of motorized vehicles if they are used, the current policy would prohibit the access to motorized vehicles. However, our Wash Office is developing a policy which would allow an exception process to let motorized vehicles use short sections of the trail, such as bridges, but not the entire trail. Each exception would need to be evaluated independently by our office. However, that policy has not been finalized yet. So the answer today, would be that they would be restricted. The answer in a month or so may very well be different. They are expecting to release a final draft within a few weeks.

## ATV Watch Right to Know Request

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[REDACTED]

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

**From:** Levine, Leigh [mailto:Leigh.Levine@fhwa.dot.gov]  
**Sent:** Wednesday, May 23, 2007 11:54 AM  
**To:** Ram Maddali  
**Cc:** Cater, John  
**Subject:** Waiver on motorized/ATV restrictions for TE-funded corridors

Ram,

I think ultimately it's up to you all to request a waiver or not. 23 U.S.C. 217(h)(5) allows an exception for "such other circumstances as the Secretary deems appropriate." Our HQ advises that a State may request an exception under this provision, however, this exception process would be case-by-case, and is not intended for a blanket waiver. So - I would not encourage you and/or DRED to approach us with a blanket-type waiver request to allow ATV use on New Hampshire's TE-funded trails, but again, this is something you will have to decide.

Let me know if you have questions or need more information.

Leigh

Leigh Levine  
Planning & Development Manager  
Federal Highway Administration  
New Hampshire Division Office  
19 Chenell Drive, Suite One  
Concord, NH 03301  
(603) 228-3057, ext. 111

## ATV Watch Right to Know Request

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**From:** Levine, Leigh [Leigh.Levine@fhwa.dot.gov]  
**Sent:** Wednesday, May 16, 2007 10:42 AM  
**To:** Ram Maddali  
**Subject:** RE: Response to FHWA on ATV usage of TE funded trails

Ram, I talked to John, and neither he nor I have any specific comments on the letter – looks good to us. As discussed, we also think that enforcement will be an issue, but that will be up to DOT and DRED.

Leigh

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**From:** Ram Maddali [mailto:RMaddali@dot.state.nh.us]  
**Sent:** Thursday, May 10, 2007 2:33 PM  
**To:** Levine, Leigh  
**Subject:** Response to FHWA on ATV usage of TE funded trails

Hi Leigh,

We made editorial changes to the first letter I gave you yesterday. Please replace previous version with attached and let me know if you are okay with it.

Thank you.

Ram

<<response to FHWA.doc>>

## ATV Watch Right to Know Request

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**From:** Levine, Leigh [Leigh.Levine@fhwa.dot.gov]  
**Sent:** Thursday, May 10, 2007 2:40 PM  
**To:** Cater, John  
**Cc:** Ram Maddali  
**Subject:** FW: Response to FHWA on ATV usage of TE funded trails

John, when you have a chance, I'd like to discuss this with you before responding to Ram.

Leigh

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**From:** Ram Maddali [mailto:RMaddali@dot.state.nh.us]  
**Sent:** Thursday, May 10, 2007 2:33 PM  
**To:** Levine, Leigh  
**Subject:** Response to FHWA on ATV usage of TE funded trails

Hi Leigh,

We made editorial changes to the first letter I gave you yesterday. Please replace previous version with attached and let me know if you are okay with it.

Thank you.

Ram

<<response to FHWA.doc>>

## ATV Watch Right to Know Request

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**From:** Ram Maddali  
**Sent:** Monday, May 14, 2007 8:35 AM  
**To:** Bill Watson; Nancy Mayville  
**Subject:** ATV Use on TE Funded Rail Trails ATTORNEY-CLIENT PRIVILEGED

Bill and Nancy,

Just an FYI, I am in the middle of writing letters on the ATV usage of TE funded trails and working with AG's office. This has been the priority for the last couple of days and we hope to get letters out this week.

Thank you.

Ram

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

**From:** ATV Watch [mailto: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

## ATV Watch Right to Know Request

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From: Ram Maddali  
Sent: Tuesday, May 08, 2007 1:07 PM  
To: 'Bill Gegas'; 'CGamache@dred.state.nh.us'  
Subject: ATV Trail use



response to  
FHWA.doc



letter to dred  
5-8-07.doc

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 [REDACTED]

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

Thank you.

Ram

## ATV Watch Right to Know Request

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**From:** Ram Maddali  
**Sent:** Tuesday, April 17, 2007 4:46 PM  
**To:** Barbara Roth  
**Subject:** FW: ATV Use on TE Funded Rail Trails

Barbara,

Please print a copy of this email for Jeff Brillhart.

Jeff- The letter of response to this issues is being reviewed by DRED. I will check with my contact to get the response to you soon.

Thank you.

Ram

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

**From:** ATV Watch [mailto: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:

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9/11/2007

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Sincerely,  
Andrew Walters  
(603) 785-7722

## ATV Watch Right to Know Request

**From:** Craig Della Penna [craig@greenwaysolutions.org]  
**Sent:** Wednesday, March 07, 2007 9:31 PM  
**To:** Ram Maddali  
**Subject:** March/April news about trails and greenways in the northeast



## Northeast Greenway Solutions

Tracking and assisting the development of rail trails and greenways throughout the northeast region

March-April 2007 Issue

Dear Ram,

We have a couple of interesting essays this month, including one by me. From time to time, I get asked what it is like to live next to a rail trail and thus I've written a piece about our life and what happens when you live eight feet from a rail trail.

I've also included a couple of interesting pieces about the Northern Rail Trail in NH [one of my favorite rail trails] and ATV Watch in NH.

Last month I intended to do a lot more work on my newest book on rail trails in the region, but I was overwhelmed again with real estate. In an eight day period in late February, I sold another five houses. Four of which were next to or near to rail trails and other greenways. And one listing I had, a cute bungalow that sat two houses from a rail trail sold in two days for \$10s of thousands over the asking price.

I chuckle when I read about the "doom-and-gloom" of a slow real estate market or when I read "the sky is falling" type of letters- to-the-editor by people fearful of a trail in their neighborhood.

By specifically marketing for people who want to live near or next to a rail trail or greenway, I've got a tiger by the tail and will most likely be hiring-on an assistant because of the crush of people looking to buy houses near such places.

Along that dual theme of real estate and rail trails, I've been asked to speak at several conferences and business luncheon events in New York this spring and summer. In fact, I will be the plenary speaker at the northeast's largest trails and greenways conference this fall. [Click here](#) for details on this event. I guess the book will get done when it gets done. . .

And speaking of books, my good friend Charles Martin of NH is nearing the completion of what will be the best book on the rail trails of New Hampshire. Look for this in about 12 months. Books done by committee can be crunched out quickly. Worthwhile books do take a long time. Charles' book will be worth the wait. I've seen the galleys. It will be worth the wait.

Thanks again for all your kind emails and phone calls.

Craig Della Penna craig@greenwaysolutions.org

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## Living life adjacent to a rail trail



In the mid 1990s, I authored my first book on rail trails and it was around this time that I started to get more involved in the advocacy end of the rails-to-trails movement.

At that time, my wife and I were living in a suburban community in western Massachusetts that right after WWII, went from farms to sprawled-out subdivisions. Sadly, with single-use zoning in effect, it is a place where many residents have to spend nearly a gallon of gas to get a gallon of milk.

We were so smitten by the healthy life style possibilities that came with living near a rail trail, that we started to look for a new place to live that was near a rail trail.

Besides, as an advocate, it was important for me to not just 'talk the talk', but to actually 'walk the walk' so to speak. We also were looking to live in a community that still had a vibrant and functioning downtown.

Hmmm... . A house close to a trail and have a decent downtown nearby too? A tall order to say the least.

[Read the entire essay. . .](#)

## Quick links to some useful sites and default articles/essays

[Mother Lode of rail trail studies and white paper reports](#)

[Find a Trail--anywhere in the U.S.](#)

- East Coast Greenway will have 2 routes through Westchester County

**Lackawanna Cut-Off comment letter**



New Jersey Highlands Coalition - a conservation group in the Garden State - has sent a comment letter to NJTransit regarding the initial environmental assessment of the proposed restoration of commuter rail service on the Lackawanna Cut-off

[To read their comment letter, click here.](#)

One of the communities along the line-Byram- is not interested in the railroad, but wants to make the huge fill and structures into a rail trail. [Read their resolution](#)

[To learn what in the heck is the Lackawanna Cut-Off, click here](#)

**The Northern Rail Trail**

Here's a great essay written by Dick Mackay - one of the original people involved in getting the Friends of the Northern Rail Trail off the ground. At 60+ miles long, the Northern is the longest rail trail in NH. **Getting Westboro, NH Redevelopment off the Dime** Happy Accidents of Geography: Many years ago Enfield village was bypassed by a relocated Route 4, leaving it's railroad era architecture and streetscape in limbo. [Read the entire essay...](#)



There are two Friends groups associated with the Northern. **One in Merrimack County.** [with a great video about the trail [here](#).] And the first Friends of the Trail group for the Northern -in **Grafton County**

And for those of you associated with other trail projects - just waitin' around till your local or state government gets around to fixing up your derelict corridor, I'll point out that the Friends of the Northern Rail Trail pulled out 60+ miles of ties--largely by volunteer labor. [Only about 160,000 ties or so] What are you waiting for?

**Plowing the rail trail**



Do you have an "in-town trail?" If so, why isn't your community plowing it? [Read-on.](#)

More links about trails that are plowed can be found [here at MassBike](#) and [here at Burlington VT.](#) And here's an [interesting site](#)

about getting the Town of Arlington, MA to plow their section of the Minuteman Trail.

By-the-way, if you were very observant, you would have noticed that the picture of my house here and the pix of my house in the feature essay [above and to the right] are a little bit different from each other. Yes, one shows the path plowed, and the other not, but the earlier photo, [when the path wasn't plowed] also has a gate--as opposed to the better 'bollard' based system. More on this change in the next newsletter.

**As I see it, MassInc's major new report misses a key point**

Here's where I scream. WAKE UP AND PAY ATTENTION TO THE DETAILS!

Recently, [MassInc.](#) did a major report about

Reconnecting Massachusetts Gateway Cities

[An online book about pathways in Connecticut](#)

[Updates on the "Holy Grail of Rail Trails" and the Bike Ferry](#)

[Tracking the ongoing sale--yes, the ongoing sale--of former RR corridors in Mass--and the construction of buildings on or next to them.](#)

[Getting run down by all the nay-sayers in your town, and need an inspirational essay to get back in the game? Read on...](#)

[Antique topo maps of every community in the region. \[Great for locating lost railroads in your town.\]](#)

[A map of the New Haven RR in so. N.E. at its greatest extent. This shows the routes of most of the abandoned railroads in the region.](#)

[A link to a treasure trove of trail and greenway stories on the RADIO](#)

[A look at Bennington Vermont's industrial history--and some great old photos](#)

[The history of the St. J & LC--why it doesn't work as a railroad anymore.](#)

[Flying in the face of Massachusetts' nonsensical "fly-ash" regs. Story number 1 about an environmental org in NY touting their trails built using fly-ash](#)

[Flying in the face of Massachusetts' nonsensical "fly-ash" regs. Story number 2 about Kodak touting their donation of fly-ash to build trails.](#)

[Read about a New England utility that not only allowed a trail to be built on their former railroad corridor, but they paid to build it.](#)

[Read about a New England utility that touted the rail trail they built and paid for in their annual report](#)

[Read about a mixed use development being proposed next to a rail trail in CT.](#)

[Read about a mixed use development being proposed next to the future MassCentral Rail Trail](#)

[A web site about bad commercial development and why you don't have to take it anymore](#)

[Everything you ever wanted to know about historic bridges and the most beautiful bridge on the CT River](#)

[Ever wonder how the rails-to-trails movement started in the U.S.?](#)

**Sponsors of this newsletter**



how 2nd tier cities or "Gateway Cities" [Lowell, Lawrence, Holyoke, Springfield etc.] as they are called in the report - are being left behind, economically speaking, by Boston and the inner suburbs. The report can be found [here](#)-- and by clicking on the image to the right.

Here's the grand question that is never asked; Q: What is the common thread among all the Gateway Cities.

A: That would be the abundance of unused and derelict former railroad corridors that tie together urban neighborhoods.

To be fair, the report does talk about transportation investments in the context of developing commuter rail. [probably to Boston no less] But it fails miserably in even noticing these forgotten places. Places that once built out, become a rationale for private reinvestment in inner cities. Yet, shockingly you'll see no mention of this in the report. Pretty sad that such a well credentialed and non-partisan org like MassInc. doesn't see what is plainly obvious.

Making cities worth living in, always involves having a rail trail, greenway, or linear park as part of the infrastructure. Anyway, here's a column by Neal Peirce about the MassInc. report.

"WHAT'S THE SURVIVAL FORMULA FOR OUR SECOND-TIER CITIES" By Neal Peirce

Smart states and cities, in today's knowledge economy, focus on great urban universities, high finance and high-tech firms that rely heavily on drawing young professionals. But what happens to America's second-tier cities?

[Read the rest of his essay.](#)

[Read more about Neal Peirce](#), a great writer about Smart Growth and community development.

### Mass Rec Trail Grant Applicants still waiting to hear if they are being funded

The following letter was sent out by Paul Jahnige, Director of Mass DCR's Greenways and Trails program.



Dear Applicant to the 2006 Recreational Trails Program,

I am writing to provide an additional update on the status of your application to the Recreational Trails Grants Program submitted back in October.

Unfortunately, we are still not able to provide details as to the status of individual grant applications. We had been hoping to announce the list of recommended projects this week. Unfortunately, final approval of the grants and funding for the program is still pending at the Executive Office of Transportation.

[Read the letter and see the entire list of applicants waiting to hear back.](#)

Here's a bit more information about the program. . . "The Recreational Trails Program is DCR's largest annual grant program, and is highly valued by municipalities, non-profits and citizens around the Commonwealth. It has resulted in the construction and stewardship of hundreds of miles of multi-use trails around the Commonwealth.

Although the program is managed by DCR, since 1993, it has been jointly administered with MHD / EOT and they retain authorization and oversight of the program.

Unfortunately, this system of joint administration between EOT / DCR does not function effectively, and this has resulted in significant inefficiencies, project delays, and lack of quality service to the public.

The solution, is for the Governor to send a letter to the Massachusetts Division office of the Federal Highway Administration designating DCR as the lead agency for this program. This program is directly managed by

[An award-winning B&B adjacent to a rail trail--that makes complementary room nights available to your community's trail opponents. Click for more info](#)



[An innovative -- and now nationally recognized--niche real estate practice: residential property next to rail trails and other greenways. Click here for more info.](#)



[Are you getting tired of watching former RR corridor being sold off to adjacent land owners?](#)

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the Natural Resource Agency in 43 other states. This change has been advocated for by DCR program staff, the Massachusetts Recreational Trails Advisory Council, the AMC, numerous other trail constituents and the Federal Highway Administration national office."

**And still another bit o' news from Mass DCR  
DCR Completes Off Highway Vehicle Policy**

[The following text is by MassDCR]

The trails in our parks are used by a diversity of recreational users. One such use is by off highway vehicles (OHVs), such as ATVs and off- road motorcycles. OHV use on public lands has been growing nationally, by as much as 300% in many areas, over the last decade. **Read the entire statement**



**Developers helping to build the rail trail**

Do you have a major development coming to your community that sits next to or near to your proposed rail trail?

Are you--or your city/town officials afraid/unwilling to ask for assistance from the developer in building the trail? **Read this list** compiled by Alan Moore of Somerville [Boston].



**Parks & Trails New York's E-Newsletter**

There are a slew of great stories about New York trails and greenways in this newsletter. Click on the image or **here**.



**News from ATV Watch in New Hampshire**

ATV Watch in New Hampshire has made news in past few months with some high profile issues.

One being the 'opaqueness' of the State of New Hampshire in their decision making regarding ATV Parks--and the use of public money in the creation of them. **Click here for info on that.**



ATV Watch has also received notice that the Federal Highway Administration has written a letter to NH DOT noting that FHWA does not agree with NH DOT's calling ATVs- - snow vehicles. [NH's way of allowing ATVs on non- motorized trails.]

**The letter from the Feds to NH DOT is here.**

**The letter from ATV Watch to NH DOT regarding this issue is here.**

Andrew Walters of ATV Watch will be presenting at the MassLand Trust

Coalition conference on 3-24-07 in Worcester on his challenges and successes on the issue of ATVs and policy at the highest level. [Click here for a link to the brochure for the event and the program.](#)

### **East Coast Greenway will have 2 routes through Westchester County**

Westchester County will explore having two county- long routes for the East Coast Greenway-which stretches from Calais Maine to Key West Florida. [Read on...](#)

Also, the ECG has hired a Mid-Atlantic Trail Liaison, Michael Oliva based in Port Chester, NY. Contact him at [mike@greenway.org](mailto:mike@greenway.org) .

East Coast



Greenway.

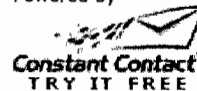
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## ATV Watch Right to Know Request

---

**Subject:** Updated: Meeting with DRED  
**Location:** Commissioner's Conference Room

**Start:** Mon 2/26/2007 7:30 AM  
**End:** Mon 2/26/2007 8:30 AM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Required Attendees:** James Moore; Bill Cass; Jack Ferns; Christopher Morgan; Barbara Roth;  
'CGamache@dred.state.nh.us'

Hi,

This meeting is being advanced to 7:30 AM to accommodate a schedule conflict at 10:00 AM. I was not able to talk to Chris Gamache directly but coordinated with his office regarding this rescheduling.

Thank you.

Ram

-----  
Hi,

This is a meeting with DRED to discuss response to the recent letter from FHWA on ATV use on TE trails. Chris Gamache from DRED is planning on attending this meeting.

Thank you.

Ram

## ATV Watch Right to Know Request

---

**Subject:** Meeting with DRED  
**Location:** Commissioner's Conference Room

**Start:** Mon 2/26/2007 9:30 AM  
**End:** Mon 2/26/2007 10:30 AM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Required Attendees:** James Moore; Bill Cass; Jack Ferns; Christopher Morgan; Barbara Roth; 'CGamache@dred.state.nh.us'

Hi,

This is a meeting with DRED to discuss response to the recent letter from FHWA on ATV use on TE trails. Chris Gamache from DRED is planning on attending this meeting.

Thank you.

Ram

## ATV Watch Right to Know Request

---

**From:** James Moore  
**Sent:** Wednesday, February 21, 2007 7:40 AM  
**To:** Ram Maddali  
**Cc:** Bill Cass  
**Subject:** ATV use on TE trails

Ram:  
Don't know if Bill Cass has discussed with you but we need to have a face to face with DRED, is Chris Gamache the right person? We have to get around this issue either through legislation or rules.  
Please set something up so we can discuss with DRED.  
Thanks,  
Jim

## ATV Watch Right to Know Request

---

**From:** Bill Cass  
**Sent:** Tuesday, February 20, 2007 6:52 PM  
**To:** Ram Maddali  
**Subject:** ATV use of TE funded trails

I saw you were cc'd on FHWA's letter. What are we going to do? Are trails posted no ATV's? Do/can we seek an exception? Do we need legislation to clarify, or define ATV's in winter as a snowmobile? Are there ramifications of banning ATV use on TE funded trails? Can we just have some signs to the that effect put up? Such restriction doesn't seem to be a problem.

Need a response top FHWA's letter, coordinated with DRED.

## ATV Watch Right to Know Request

**From:** Craig Della Penna [craig@greenwaysolutions.ccsend.com] on behalf of Craig Della Penna [craig@greenwaysolutions.org]

**Sent:** Monday, August 13, 2007 4:40 PM

**To:** Ram Maddali

**Subject:** Late summer / early fall news about trails and greenways in the northeast



## Northeast Greenway Solutions

Tracking and assisting the development of rail trails and greenways throughout the northeast region

Late summer / early fall 2007 Issue

Dear Ram,

There's been a couple of interesting pieces about rail trails in the Boston Globe in the past few weeks. One article suggested that the Minuteman Bikeway was so crowded that it was experiencing a variation of road rage-- called **"trail rage"**.

This article caused such a stir--including believe it or not, articles and op-ed pieces in other newspapers, dismissing the Globe article--that the Globe did a follow up piece as a full blown editorial on Sunday, July 22 saying that evidence of over-crowding on the Minuteman Trail was only evidence that more trails were needed. Click here to go to that.

The editorial also mentioned a report I did for the Massachusetts MLS about the sales of residential property near to rail trail corridors in two Massachusetts communities. Click here to go to that.

In this issue I've also included a slew of info about a dormant greenway project you've probably never heard of--the State Line Branch of the old New Haven RR-- otherwise known as the Williams River Trail.

And I've also included info about a monthly speaker series kicking-off in September in Southamton, MA. You might remember that Southamton voted a rail trail project down in 1996. There is now a new group in-town called Friends of Southamton Greenway and they are beginning to look at the question again.

Last month, I had one of those memorable moments that

**A story about a trail that you've probably never heard of--and some people want to keep it that way. [not anymore because the cat is now out of the bag]**



If you ever wondered why it takes so long for trails to get built in Massachusetts, then this story is for you. Its a story about a scenic former railroad corridor, owned by a utility who longer had a use for it and even though the community is overwhelmingly



happens from time to time in one's life. Moments that you'll remember forever.

I was doing my staff time at the real estate office and the lead opponent in the 10+ year old rail trail War in a small eastern Massachusetts community came in to tell me that he is looking to relocate to Northampton for a retirement place or weekend place and wants me to be his buyer agent. His name nor the town are not needed here and if you didn't know already, I know most of the opponents in the more significant rail trail "wars" in New England.

I've known this fellow through all the years of the "to do" in his town and though he hates the idea of a rail trail near his house, he respects me enough to have me work with him on this purchase. I'll be showing him condos near downtown Northampton and it turns out that most of the condos near downtown are near to the existing and future rail trails.

He likes the fact that Northampton has an abundance of cultural events, lots of cool ambiance, and something he couldn't put his finger on. Pedestrians and bikes? I wondered aloud.

For those who don't know, Northampton is the number one place in the U.S. to retire to. One of the major reasons why this place works, and is attractive is the amount of bikes and peds seen all the time--everyday of the year.

This will be the last newsletter till late fall because I have major lectures in CA, and NY during the months of September and October. I'll be the keynote or plenary speakers at the NY events--**PTNY's conference in Rochester and Walkway Over the Hudson's Symposium** at the FDR home in Hyde Park.

Oh and by the way, I put offers on two more houses this weekend. One, a 1780 house that sits 15 feet from a former RR corridor that is slated to become a trail in 18 months. This offer was accepted. The other house, an 1830 house, sits 2 blocks from the finished rail trail. I'll know tonight if our bid was accepted. Thanks again for all your kind emails and phone calls.

Craig Della Penna [craig@greenwaysolutions.org](mailto:craig@greenwaysolutions.org)

## TABLE OF CONTENTS

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- Boston Globe "Rage on the Trail" article--and the amazing backlash because of it.
- RI's Walk on Left side of the trail rule is under fire.
- A story about railbanking. WHERE'S THE VISIONARIES AT EOT

supportive-- over 75% in favor to convert it to a greenway, it will not be easy to get this to move ahead.

This corridor is but one of many of the MassElectric [now National Grid] owned former railroad corridors that would make great rail trails. There are actually over 15 such places in Massachusetts--former railroad corridors now owned by utilities.

The vast majority of these ideas for a trail are ideas the utility would rather just go away.

Perhaps the fact that three or four rabid, anti trail NY lawyers, with weekend houses along the corridor has something to do with the fact that the greenway idea is currently dormant.

**Click here** for a prospectus of the project by the Williams River Trail Association.

**Click here** for feasibility study of the corridor by the Berkshire Regional Planning Commission

**Click here** for a letter written by Tom Norton, founder of the WRTA, to then Governor Mitt Romney. [Of course when the phone never rang, Tom knew it was Mitt.

**Click here** to go to a PDF map of the corridor.

**Click here** to go to the MassState Bike Plan's look at the entire state.

## Quick links to some useful sites and default articles/essays

[Mother Lode of rail trail studies and white paper reports](#)

[A scalable Google map of the MCRT--the longest rail trail in New England](#)

[Find a Trail--anywhere in the U.S.](#)

**WHEN YOU NEED THEM?**

- MassHwy opens bids on downtown Northampton rail trail connector
- Follow up on the "I'm mad as hell and I won't take it anymore!" letter.
- Attention EMass Trail Groups! CRW wants to give you money!
- Parks & Trails New York's E-Newsletter
- Friends of the Southampton Greenway to kick-off a speaker series
- They're back---again!
- And you can fool some of the people some of the time. . .
- A couple of good books for the explorers out there.
- "Discover Hartford" Biking and Walking Tour--Sept. 8, 2007
- NH Asks the Feds to allow ATVs on Rail Trails
- Farmers say rail trail is bad business
- Schell Bridge updates

**Boston Globe "Rage on the Trail" article--and the amazing back-lash because of it.**

Here's the article that talked about "**RAGE ON THE BIKEWAY**"

The Providence Journal was spurred to write a countering take on the situation as their featured editorial a couple of days later. [Click here](#) to see that.

The Daily News of Newburyport also came out with a hard hitting counter to the Globe article. [Click here](#) for that. Look for news of the latest "anti rail trail group" in Massachusetts too. -- *Coalition for Children's Safety and Serious Concerns Regarding the Proposed Topsfield Rail Trail Project* -- if you can believe that one.

[Click here](#) for a brilliant editorial by the Metro-West Daily News that followed shortly after the Globe piece. They call greenways the parks of the 21st century. [Click here](#) for the Salem Evening News Editorial about the Globe article.

[Here's all the letters](#) to the editor in the Boston Globe as a result of the article.

[Click here](#) to go to the follow up editorial in the 7-22-07 Sunday Globe that became the last word on the subject.

**RI's Walk on Left side of the trail rule is under fire.**

[Click here](#) to go to a guest editorial in the Providence Journal by former National Park Service employee-- Mark Jewell, which talked about RI's infamous 'walk on the left rule.

[An online book about pathways in Connecticut](#)

[Updates on the "Holy Grail of Rail Trails" and the Bike Ferry](#)

[Tracking the ongoing sale--yes, the ongoing sale--of former RR corridors in Mass--and the construction of buildings on or next to them.](#)

[Getting run down by all the nay-sayers in your town, and need an inspirational essay to get back in the game? Read on. . . .](#)

[Antique topo maps of every community in the region. \[Great for locating lost railroads in your town.\]](#)

[A map of the New Haven RR in so. N.E. at its greatest extent. This shows the routes of most of the abandoned railroads in the region.](#)

[A link to a treasure trove of trail and greenway stories on the RADIO](#)

[A look at Bennington Vermont's industrial history-- and some great old photos](#)

[The history of the St. J & LC-- why it doesn't work as a railroad anymore.](#)

[Flying in the face of Massachusetts' nonsensical "fly-ash" regs. Story number 1 about an environmental org in NY touting their trails built using fly-ash](#)

[Flying in the face of Massachusetts' nonsensical "fly-ash" regs. Story number 2 about Kodak touting their donation of fly-ash to build trails.](#)

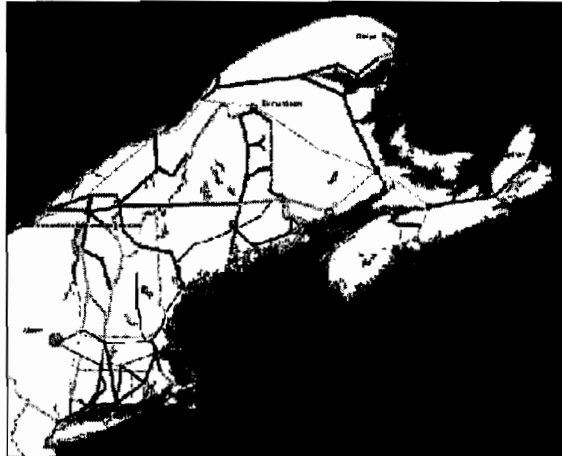
[Read about a New England utility that not only allowed a trail to be built on their former railroad corridor, but they paid to build it.](#)

[Read about a New England utility that touted the rail trail they built and paid for in their](#)

### A story about railbanking. WHERE'S THE VISIONARIES AT EOT WHEN YOU NEED THEM?

**CSX: PRICE OF AN ABANDONED CORRIDOR 26 July, DC. THE CITIES OF FITCHBURG AND LEOMINSTER CANNOT AGREE WITH CSX ON THE PRICE OF A CORRIDOR**

which runs for 4.2 miles along Route 12. CSX filed for abandonment in 2002; the STB granted another extension for the two sides to reach agreement on the line 'between milepost QBU- 00 and milepost QBU-4.2 from Fitchburg to Leominster' in a decision published 31 July. {STB Docket No. AB-565 (Sub-No. 10X)} [The line includes a connection to ST in Fitchburg, long out of service.]



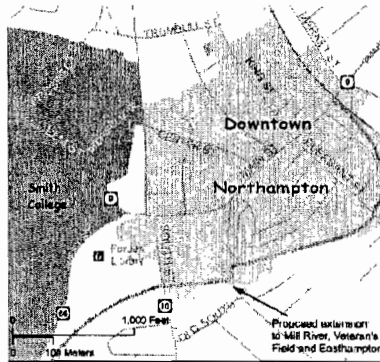
The cities' appraisal came in at \$1.54 million, while the railroad company's appraisal valued the land at \$8.9 million. The railroad company wanted to multiply the price by a 'corridor factor,' which adds value because the property is a long, intact corridor. "It's the method we use, and it essentially recognizes that there would be a tremendous cost involved in putting these parcels together as a corridor," said Robert Sullivan, a spokesperson for CSX.

[Click here](#) to read the entire article and the pro-trail editorial by Chop Hardenbergh a journalist who covers the railroad industry in the northeast with his publication-- **Atlantic Northeast Rails & Ports.**

### MassHwy opens bids on downtown Northampton rail trail connector

The state Highway Department is reviewing a bid for the construction of a bicycle path that would link the downtown and Hospital Hill areas.

The .7- mile segment, running from the Roundhouse parking lot at New South Street to the intersection of Earle and Grove streets, would be the latest link in a growing network of rail trails.

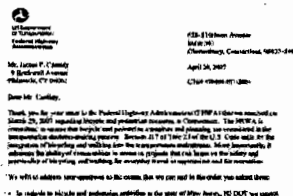


[Click here to read the entire article.](#)

### Follow up on the "I'm mad as hell and I won't take it anymore!" letter.

The letter by Jim Cassidy of Plainville CT, solicited a response by the head of the CT Division of the Federal Highway Administration and a call by Congressman Christopher Murphy for a meeting on the issues raised.

Stay tuned for more on this in the



[annual report.](#)

[Read about a mixed use development being proposed next to a rail trail in CT.](#)

[Read about a mixed use development being proposed next to the future MassCentral Rail Trail](#)

[A web site about bad commercial development and why you don't have to take it anymore](#)

[Everything you ever wanted to know about historic bridges and the most beautiful bridge on the CT River](#)

[Ever wonder how the rails-to-trails movement started in the U.S.?](#)

## Sponsors of this newsletter



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[An innovative -- and now nationally recognized--niche real estate practice; residential property next to rail trails and other greenways. Click here for more info.](#)

next newsletter.

**Click here to see the original letter.**  
**Click here** to see the response from the FHWA

### Attention EMass Trail Groups! CRW wants to give you money!

The Charles River Wheelmen, one of the region's oldest and most respected bicycle clubs has a grant program and they've now opened up the process a bit and are soliciting projects. Don't delay, initially they only want a short paragraph about your project.. Click **HERE** for the link to information about the program



Are you getting tired of watching former RR corridor being sold off to adjacent land owners?

**Join our mailing list!**

Join

### Parks & Trails New York's E-Newsletter

There are a slew of great stories about New York trails and greenways in this newsletter. Click on the image or **here**.



### Friends of the Southampton Greenway to kick-off a speaker series

Beginning on September 6, the Friends of the Southampton Greenway will host a monthly series of lectures by experts on various aspects of trail and Greenway development.



The kick-off speaker will be Greenway expert Paul Jahnige, Director of the Greenway and Trail program at Mass.

Department of Conservation and Recreation (DCR) **Click here** for more information including time, location and theme of the talk. <http://southamptongreenway.org/septpr.html>

### They're back---again!

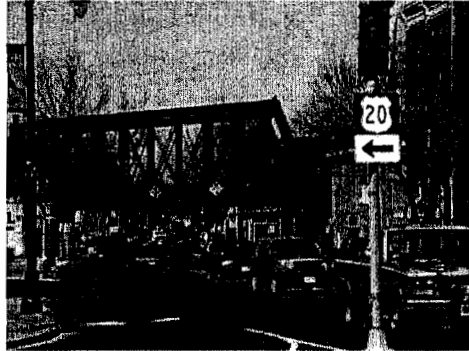
The 4th annual New England HPV / Velo / Electric Assist Vehicle event. This all inclusive event highlights new machines, promoting healthy, environmentally conscientious, and sustainable transportation options. This year's event will



be held on Oct 6th and 7th, at the Pioneer Valley co-housing in Amherst , MA. [Click here](#) to read more about the event.

### And you can fool some of the people some of the time. . .

The city leaders in Westfield, MA have come up with a great idea [their version of a great idea anyway] for several hundred feet of the elevated right- of-way of the former railroad that runs through the heart of their downtown.



The right of way that is scheduled to become a component in the 80 mile rail trail being developed from New Haven to Northampton. The section in Westfield proper will be called the Columbia Greenway Rail Trail.

The city's idea is to give the corridor to a developer who needs the land to develop a drive- though bank and a drive-through pharmacy. A corridor we all bought for the city through a state grant of around \$400,000 about 10 years ago--and the city still hasn't built an inch of the trail yet.

Not to worry though. Their plan is to have state and federal money used to build a 700 foot bridge over these new businesses. They want us all to help pay for this bridge by asking for a \$3 million state or federal grant. I think many of you will agree, this is not a good idea.

Please contact Don Podolski at [DonPodolski@gmail.com](mailto:DonPodolski@gmail.com) ASAP. Don is the leader of the city's pathway committee and he is looking for help in defusing this dismal idea. Letters, emails calls, etc to public officials all will be the effective tools that Don needs to effectively stop this. [Here's a link](#) to a site that Don has about the nonsensical idea.

To learn more about the Columbia Greenway Rail Trail--- a part of longest interstate rail trail in New England [click here](#).

Continuation of the Public Hearing regarding a Zone Change of the Rail Corridor from Main St. to Thomas St. will be held at City Hall on Thursday, August 16th at 7:30 PM.

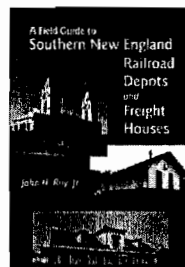
In addition, continuation of the Planning Board Hearing on the Zone Change will be held Tuesday, August 21 at 7:00PM, Westfield City Hall.

Please plan on attending to show your support for the Columbia Greenway. People from both CT and MA should plan on attending these important hearings.

*Drive-thrus in their downtown?! What is this the 1970s again? I guess, Westfield is just a town where "Smart Growth" hasn't taken root yet.*

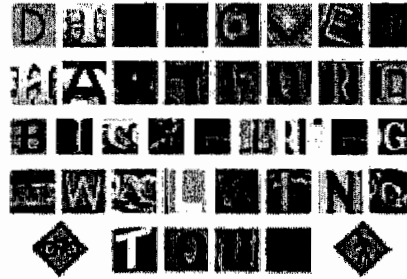
### A couple of good books for the explorers out there.

Two friends of mine, Charles Martin and John Roy Jr. have done great books that will be of interest to the readers of this newsletter. John's book is out now. Titled, "A Field Guide to Southern New England Depots and Freight Houses" is a great book for identifying former RR structures that you come across in day-to-day life. Charles' book--"New Hampshire Rail Trails"--out in April 2008-- is the best rail trail book I've ever seen--hands down. Learn more about how to order both by [clicking here](#).



## "Discover Hartford" Biking and Walking Tour--Sept. 8, 2007

Sign up now for an advocacy event of the best kind. Join thousands in motion, discovering all that is good and positive in Connecticut's Capital City. [Click here](#) to go to the official website.



## NH Asks the Feds to allow ATVs on Rail Trails

From [ATVWatch](#). STATE OF NEW HAMPSHIRE ASKS THE FEDERAL HIGHWAY ADMINISTRATION TO ALLOW ATVs ON NEW HAMPSHIRE'S RAIL TRAILS

Federal law restricts motorized use of most of New Hampshire's rails trails to "snowmobiles." The New Hampshire Department of Resources and Economic Development (DRED) and the New Hampshire Department of Transportation (NHDOT) have petitioned the Federal Highway Administration (FHWA) for a waiver to allow wheeled ATVs on the rail trails, with snow cover. They are arguing that an ATV in the winter is essentially a snowmobile. Allowing ATV use on the rail trails will be the most significant and far reaching policy shift concerning ATV use on public lands in New Hampshire. This will be a turning point in the ability of the conservation community to protect these lands. [Read more](#) about this issue.



## Farmers say rail trail is bad business

By Stacey Hart MetroWest Daily News Sunday, July 15, 2007

Sudbury, Mass. - Farmers are worried a rail trail that may be created in town would hurt their businesses because of people walking or biking close to their properties.

The town is considering whether it would benefit by creating a trail on the old Penn Central right-of-way. Officials are conducting a title review, wildlife study and a look at existing conditions of the rail bed.



"My concern is about me staying in this business with the liability of people walking right through the middle of the farm," said Paul Cavicchio, owner of Cavicchio Greenhouses. [Click here](#) to read the entire story.

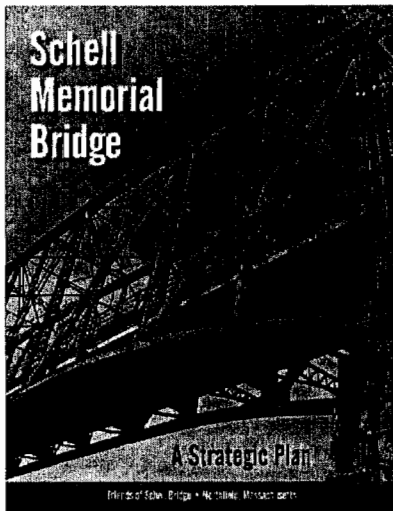
*Can we talk here. . . What is going on? Do the farmers in this area think that this idea of a trail is a "new angled idea"? Do they think that these issues are new? Newspaper reporters who are getting this missive, please contact me for specific contact info of other farmers and government officials who faced these very same issues. I carry with me a database of*

over 4,000 names of people involved in trail development and could have easily presented info about others who have faced this issue. Nothing in the world of trail development in Massachusetts is "new fangled". Nothing. In the future, please contact me for 'balance'. Whatever the issue is related to trail development-- when someone says it can't be done, I have evidence where it has been--including pictures. Contact me before you go to press. I return calls within 10 minutes-- always. CDP

### Schell Bridge updates

A couple of quick updates about the Schell Bridge and the Tri-State Trail initiative.

1. In June, Friends of Schell Bridge, Inc. unveiled the strategic plan to save the bridge. [Click here](#) to go to a PDF file of that plan. 2. VHB-- one of the region's premier full-service engineering firms--and the firm charged with redoing **MassHwy' s--now award-winning-- Project Development and Design Guide** came to do a charrette about the Schell Bridge with a look at two questions. What will it cost to renovate the bridge? And what could it connect to?



For the potential costs, VHB looked at existing data done by MassHwy in a bridge rating report from 30 years ago--just before it was shut down and a detailed look at the data brought forward by the Picker Engineering School at Smith College. Looking at all the available information, VHB concluded that \$6.5 - \$7 million was a good defensible number. That number by the way, was very similar to a cost brought forward by Michael Rainaud --a historic bridge contractor who does numerous historic bridge renovation projects for VTTrans, all over VT. MassHwy's local district office surmised that such a project would cost \$15 - \$25 million. We now know that isn't realistic.

VHB also concluded that the Schell would be a key component of a future interstate network --tentatively called--**Tri- State Trail Initiative**. Since the **Franklin County Bikeway Network** will be only a short distance from the Schell, and since there are huge networks of existing and future rail trails just over the border in VT and NH, it is an easy effort to reach for the border and develop something truly regional and spectacular.

email: [craig@greenwaysolutions.org](mailto:craig@greenwaysolutions.org)  
cell phone: 413-575-2277  
web: <http://www.greenwaysolutions.org>

### Forward email

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This email was sent to [rmaddali@dot.state.nh.us](mailto:rmaddali@dot.state.nh.us), by [craig@greenwaysolutions.org](mailto:craig@greenwaysolutions.org)  
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Northeast Greenways Solutions | P. O. Box 60211 | Florence | MA | 01062



## **ATV Watch Right to Know Request**

---

**From:** Ram Maddali  
**Sent:** Wednesday, August 15, 2007 3:37 PM  
**To:** Barbara Roth

Barbara,

As we discussed the following email needs to go from Jeff.

Thank you.

Ram

---

We have received a Right-to-Know request from ATV Watch in reference to ATV usage of corridors purchased with federal funds. We need to retrieve and isolate relevant related e-mail. "Relevant" in this case means anything that was considered in the discussion process in responding to the Federal Highway Administration letter of February 13, 2007. As such we are interested in e-mail correspondence after February 13, 2007 (date of FHWA letter requesting clarification on the use of ATVs). All such e-mail should be forwarded to the **ATV Watch Right to Know Request** mailbag (N12ATV@dot.state.nh.us)

Attached are instructions to follow. This should be done for your main mailbox and any archive folders you have.

I have tried to target the key people who may have been involved. Administrator's please forward to anyone else you feel appropriate. Thank you all.

**This is absolutely needed by the end of the day, August 21, 2007!**



ATV usage  
Documents Retention.

## ATV Watch Right to Know Request

---

**From:** Ram Maddali  
**Sent:** Tuesday, July 10, 2007 11:52 AM  
**To:** Barbara Roth  
**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, July 10, 2007 11:50 AM  
**To:** Ram Maddali  
**Subject:** Re: On Behalf of Jeff Brillhart - Proposed Increased Use of NH Rail Trails by ATVs

Dear Mr. Maddali,

Thank you for your acknowledgement of receipt of my e-mail concerning the proposed increased use of NH rail trails by ATVs. Unfortunately, your response did not provide answers to many of my concerns nor any new information. I do, however, appreciate your response. I will contact DRED and FHWA to see if they can provide any concrete answers although I only expect further "passing of the buck."  
 Thank you.

Joan Ganotis  
 NH Horse Council Member  
 Equestrian Land Conservation Resource Member

----- Original message -----  
**From:** "Ram Maddali" <RMaddali@dot.state.nh.us>  
 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; Kande Haertel; Tom Grinley; Susan Donnelly; Gayle Beaudoin  
**Subject:** Proposed Increased Use of NH Rail Trails by ATVs

9/11/2007

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 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

9/11/2007

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

## ATV Watch Right to Know Request

---

**From:** Ram Maddali  
**Sent:** Monday, July 09, 2007 3:38 PM  
**To:** 'Fox, Katja'  
**Cc:** Barbara Roth  
**Subject:** TE funded trails



070116 FEDHWY request from DRED  
Letter.pdf



7-9-07.doc

Dear Ms. Fox:

Assistant Commissioner Jeff Brillhart asked me to send you the current version of a letter we have been working with the Attorney Generals Office and Department of Resources and Economic Development (DRED). This letter is in response to a Citizen's enquiry by Andrew Walters (letter attached) that was forwarded to us from Federal Highway Administration (FHWA). Alice Chamberlin was interested in this issue and Jeff had sent a previous version of the letter to Alice a few weeks back.

In his letter Mr. Walters referred to the federal statutes that specified the different types of uses and asked if ATVs can be allowed to use rail trail corridors that were purchased with Federal funds. DRED's attorney drafted the following response and we are in agreement with the attached letter to be signed by NH DRED.

If there are any points of view that the Governor's Office would like to be considered and included, please let us know.

Please feel free to contact either Jeff Brillhart at 271-1484 or me at 271-6581 if you have any questions or need any additional information.

Thank you.

Ram S. Maddali  
Project Manager  
NHDOT



*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)

Rom



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.  
COMMISSIONER

July 30, 2007

JEFF BRILLHART, P.E.  
ASSISTANT COMMISSIONER

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

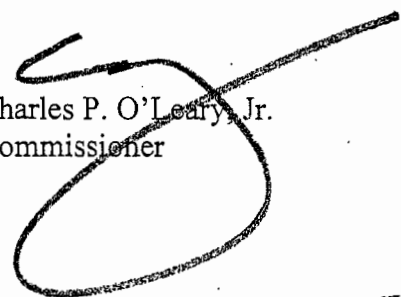
RECEIVED  
DEPARTMENT OF  
TRANSPORTATION  
AUG 07 2007  
BUREAU OF  
Planning and Community Assistance

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

RECEIVED  
DEPARTMENT OF  
TRANSPORTATION  
AUG 07 2007  
BUREAU OF  
Planning and Community Assistance



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](mailto: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

**RECEIVED**  
COMMISSIONERS OFFICE

JUL 18 2007

THE STATE OF NEW HAMPSHIRE  
DEPT. OF TRANSPORTATION

**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.

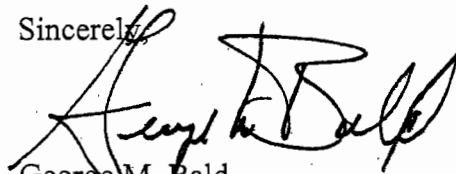
Additionally, winter ATV use does not cause environmental impacts beyond those caused by snowmobiles. There is no damage to the surface of the corridor as there is an intermediate surface of snow cover existing between the ATVs and the surface. Allowing continued use of ATVs with snow cover would not 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.  
(FITZMILLIAM  
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

PERMITTED USE SIGNAGE



MOTORIZED USE

LEGEND

- NUMBER & WYTER USE ALLOWED
- NUMBER & WYTER USE ALLOWED (closed from November 15 to May 15)
- USE ONLY WHEN OPEN TO SNOWMOBILES (W/ SNOWCOVER)
- USE ONLY WHEN BARRED OPEN TO SNOWMOBILES (ACTIVE LING)
- SNOWMOBILES USE ONLY

13. PRESIDENTIAL  
(JEFFERSON TO GORHAM)  
18.3 miles

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

23. CONWAY  
(RTE. 28 OSSIPPEE TO  
RTE. 18 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 WHEELER DRIVE

12. (MANCHESTER TO NEWFIELDS)  
25.2 MI

FREMONT BRANCH

14. (FREMONT RT. 9 07 TO EPPING)  
4 MI

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

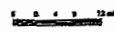
13. (FARMINGHAM DEPOT TO RTE. 28  
Derry) 1 MI

MANCHESTER TO  
LAWRENCE BRANCH

17. (LAWRENCE DEPOT) 3.3 MI

18. (RTE. 111, SALEM TO WINDHAM  
DEPOT) 54 MI

3. HILLSBOROUGH  
(BENNINGTON TO HILLSBOROUGH)  
7.75 miles



Revised 1980  
Department of Resources and Economic Development  
600 North Main Street, Concord, N.H. 03301



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MY. ANDREW WALTERS  
 P.O. Box 34  
 FITZWILLIAM, NH 03447

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name)  Express Mail  
 Certified Mail  Return Receipt for Merchandise  
 Registered  Insured Mail  C.O.D.

C. Date of Delivery  Yes  
 Andrew Walters 8/2/07  No

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  Express Mail  
 Certified Mail  Return Receipt for Merchandise  
 Registered  Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) 7007 0710 0004 6042 5537

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE NH 03302

03 AUG 2007 PM 2:11



• Sender: Please print your name, address, and ZIP+4 in this box •

RAM S. MADDACI

BUREAU OF PLANNING & COMMUNITY ASSISTANCE

NHDOT

7 HAZEN DRIVE

CONCORD, NH 03302-0483

**Ram Maddali**

---

**From:** Jim Ryan [jryan@metrocast.net]  
**Sent:** Monday, July 30, 2007 10:23 PM  
**To:** Ram Maddali; 'ATV Watch'  
**Cc:** 'Debora Pignatelli'; molly.kelly@leg.state.nh.us; Tom Jameson; RICH.SIGEL@NH.GOV; Charles O'Leary Jr.; 'Hodgdon, Mark'; David Brillhart  
**Subject:** RE: Right to Know Request

Dear Mr. Maddali: I appreciate your sending a copy to my attention. Please let me know when documents requested—and referred to in Deputy Commissioner Brillhart's letter is made available to the requesting party. Please note that this particular issue has a number of interested parties.

Thanks again,

Rep. Jim Ryan  
 Chairman, House Committee on Transportation

---

**From:** Ram Maddali [mailto:RMaddali@dot.state.nh.us]  
**Sent:** Monday, July 30, 2007 5:10 PM  
**To:** ATV Watch  
**Cc:** Debora Pignatelli; molly.kelly@leg.state.nh.us; Jim Ryan; Tom Jameson; RICH.SIGEL@NH.GOV; Charles O'Leary Jr.; Hodgdon, Mark; David Brillhart  
**Subject:** Right to Know Request

Dear Mr. Walters:

We have received your Right to Know email request dated July 24, 2007. The following response letter signed by Assistant Commissioner Jeff Brillhart acknowledging receipt of your request and the time necessary to assemble "public records" pertaining to your request, is in the mail to you.

Thank you.

Ram Maddali  
 NHDOT

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

**From:** ATV Watch [mailto:Andrew@ATVWatch.com]  
**Sent:** Tuesday, July 24, 2007 10:31 AM  
**To:** David Brillhart  
**Cc:** Ram Maddali; Debora Pignatelli; molly.kelly@leg.state.nh.us; Jim Ryan; Tom Jameson; 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

7/31/2007

Mr. David Brillhart  
State of New Hampshire  
Department of Transportation  
7 Hazen Drive  
Concord, NH 03302

Dear Mr. Brillhart:

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 Transportation (DOT) 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 April 17, 2007 email to DOT. I am further requesting that DOT 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,



Andrew Walters, Concerned Citizen and Director of ATV Watch





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

February 15, 2007

ALLISON MCLEAN Ram Maddali  
 Director Project Manager, NHDOT  
 603-271-3556 Planning and Community Development  
 7 Hazen Drive  
 CHRIS GAMACHE Concord, NH 03301  
 Chief  
 603-271-3254

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

Dear Ram;

This letter is in response to your call the other day, regarding winter use of certain rail trails by ATVs. As you are aware the Department of Resources and Economic Development, through the Bureau of Trails, manages those lines for the Department of Transportation as recreational corridors.

At the time the lines in question; Cheshire, Ashuelot and Fort Hill, were acquired by the State of NH the summer use by ATVs was not anticipated and still is not. The lines were acquired with the specific reservation that they would be open for winter use by "snow traveling vehicles". At that time NH did not have a definition of a "Snowmobile." The definition of a "snow traveling vehicle" was RSA 215-A: 1, XIII: **"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 purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.**

It should be noted that at this time snow traveling vehicles were legally OHRVs and the Bureau was allowing winter OHRV use of the rail corridors. We further regulated OHRVs, through our Code of Administrative Rules, and specified the only OHRVs permitted on Bureau trails are snow traveling vehicles, ATVs and trail bikes.

NH, through the Bureau of Trails, manages public motorized trails in the state and receives funds from the registration of said vehicles. At the time these rail corridors were acquired, and after, all funds from ATV and snow traveling vehicle registrations were deposited into one fund. What this meant was that both ATVs and snow traveling vehicles paid into the same account for summer and winter trail maintenance.

Also at this time the law, RSA 215-A; 23, VI (b), stated that **".... The Bureau shall make such grants on such terms as it deems necessary and shall determine what trails and facilities shall be eligible. All trails and facilities developed and maintained under this grant-in-aid program shall be open to the general public. ...."**

The above reference was interpreted by the Bureau of Trails and NH Fish & Game Department to mean that all publicly funded motorized trails had to be open to all individuals that paid a registration fee into the fund. For winter trails that also meant ATVs. The Bureau managed all snowmobiles trails as open to

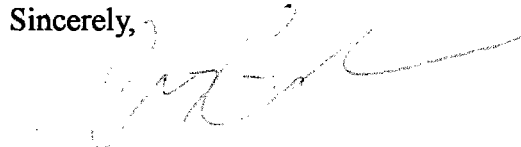
winter ATV use unless otherwise posted by the landowner. Most trails on public lands were open for winter ATV use on snow traveling vehicle trails. Winter motorized trails on those public lands are still open for ATV use. The White Mountain National Forest has also determined that they will manage as the State of NH does and allows ATVs to use designated snowmobile trails, in the winter with snow cover. Though they also have a no wheeled vehicle policy for summer trails they manage consistently with us for winter use.

In 2003, HB 748 changed the language in RSA 215-A: 23, referenced above, to provide for separate accounts for wheeled and snow traveling vehicles. It also changed the language about permitted uses on private lands to read as follows: **"Use of trails on private land shall extend only to the specific type of OHRV permitted by the landowner."** This changed the management of winter trails from an "open unless closed" mind set to a "closed unless open" one. However, it was specific to private lands. We still manage, and believe we should continue, to allow for multiple motorized uses on winter trails on public lands. Resource-wise we find there is little to no impact physically or socially with ATV use on these winter trails with snowmobiles.

One other notable change is that effective July 1 of 2006 the definition of **"snow traveling vehicle"** was changed to **"snowmobile"**. NH was one of the only states in the country without a legal definition of "snowmobile." The language stayed the same but changed the title and removed it from the definition of OHRV. We do not feel that this change has had, or should have, any impact on our current management of these rail corridors. They are invaluable trails, especially in the winter, to link communities and tie the statewide trail system together. As the public managers of these lines we believe we were, and still are, managing in compliance with the intent of these corridors acquisition purposes and funding sources.

I hope this will help you, and FHWA, to understand why we did, and still do, manage these lines as we do. Please feel free to contact me at any time about this topic or if you need further clarifications about this letter.

Sincerely,



Chris Gamache  
Chief

Cc: George Bald, Commissioner  
Allison Mclean, Director, Division of Parks & Recreation  
Clyde Kimball, District 3 Supervisor  
Jennifer Codisoti, Program Specialist  
Leigh Levine, FHWA, NH Office

Attachments

**§ 215-A:1. Definitions.**

As used in this chapter unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

I. "Accompanied by" means when a person is within sight and when actual physical direction and control can be effected.

I-a. "Antique snow traveling vehicle" means any snow traveling vehicle manufactured prior to the year 1969 or 20 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-b. "All terrain vehicle (ATV)" means any motor-driven vehicle which is designed or adapted for travel over surfaces other than maintained roads with one or more tires designed to hold not more than 10 pounds per square inch of air pressure, having capacity for passengers or other payloads, not to exceed 1,000 pounds net vehicle weight, and not to exceed 50 inches in width. 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.

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 actual physical control of, an OHRV.

IX. "Owner" means any person, other than a lienholder, having title to an OHRV.

X. "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 lots open for use by the public or vehicular traffic, or any frozen surface of a public body of water; provided, however, the off highway portion of any trail established specifically for OHRVs shall not be a public way.

XI. "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.

XII. "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.

XIII. "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.

XIV. "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.

XV. "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.

Amendments--1986. Amended section generally.

Contingent 1986 amendment. 1986, 221:18, provided for amendment of this section. However, under the terms of 1986, 221:25, I, eff. Oct. 1, 1986, the amendment did not become effective.

#### CROSS REFERENCES

Accounting and payment for registrations by agents, see RSA 215-A:24-a, 24-b.

#### § 215-A:22-a. Missing or Damaged Decals or Plates.

The original white registration certificate shall be returned to an OHRV registration agent completed on the reverse side with the probable date lost; the reason the decals or plates are missing, specifying, for example, lost, destroyed, or stolen; and the signature of the owner. The OHRV registration agent shall issue new registration decals and certificate in accordance with RSA 215-A:22.

#### History

Source. 1986, 152:20, eff. Oct. 1, 1986.

Enactment of section. 1986, 221:19, provided for enactment of RSA 215-A:22-a. However, under the terms of 1986, 221:25, I, eff. Oct. 1, 1986, the section did not become effective.

#### CROSS REFERENCES

Accounting and payment for registrations by agents, see RSA 215-A:24-a, 24-b.

Registration generally, see RSA 215-A:21.

#### § 215-A:23. Registration Fees.

The fees to be collected under this chapter are as follows:

I. Individual resident registration - \$26 for each 2-wheeled trail bike registration or \$35 for each other OHRV registration upon presentation of resident tax receipt, or a valid New Hampshire driver's license issued to a person 18 years of age or older.

(a) The first \$7 of each 2-wheeled trail bike registration or \$16 of each other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$9.30 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$9.70 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

II. Resident antique snow traveling vehicle permanent registration - \$35 for each registration upon presentation of resident tax receipt. From each fee collected pursuant to this paragraph:

(a) The first \$20 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$7.50 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$7.50 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

III. Individual nonresident registration - \$36 for each 2-wheeled trail bike registration or \$45 for each other OHRV registration.

(a) The first \$13 of each 2-wheeled trail bike registration or \$22 of each other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$11.10 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$11.90 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

IV. Dealer registration and rental plates - \$25 for each plate or set of plates.

(a) The first \$8 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$8.20 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$8.80 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

V. Registration after transfer as provided in RSA 215-A:22 - \$13.

(a) The first \$8 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$2.80 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$2.20 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

VI. (a) Any funds appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program shall be kept in a separate account and shall not be used for any other purpose. Any unexpended balance in said account shall not lapse, but shall be carried forward to the next fiscal year. From each registration fee collected under this section, \$5 shall be used for the purpose of purchasing trail grooming equipment and trail maintenance equipment. All remaining funds shall be used for trail maintenance and construction.

→ (b) Grants-in-aid shall be granted to organized nonprofit OHRV clubs and political subdivisions for the construction and maintenance of OHRV trails and facilities. The bureau shall make grants on such terms as it deems necessary and shall determine what trails and facilities shall be eligible. All trails and facilities developed and maintained under this grant-in-aid program shall be open to the general public. Notwithstanding the provisions of this subparagraph, a landowner who grants permission for a grant-in-aid trail to be located on his property shall retain the right to establish the inclusive dates during which OHRV operation shall be permitted. The private landowner shall also retain the right to post any grant-in-aid trail located on his property against trespass by any specific activity or specific type of OHRV.

(c) All revenue appropriated in this paragraph shall be in addition to any other funds appropriated to the grant-in-aid program of the bureau of trails. Such revenue is hereby continually appropriated to the department of resources and economic development for the purposes of this paragraph.

VII. Funds appropriated to the department of resources and economic development for administration of the bureau shall be used for the following purposes:

(a) Publications.

XIII. "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. Only vehicles that are no more than 54 inches in width and no more than 1200 pounds in weight shall be considered snow traveling vehicles under this chapter. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

[Paragraph XIII effective July 1, 2006; see also paragraph XIII set out above.]

\* → XIII. "Snowmobile" means any vehicle propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, tracks, or cleats. Only vehicles that are no more than 54 inches in width and no more than 1200 pounds in weight shall be considered snowmobiles under this chapter. Snowmobiles shall not include OHRVs.

XIV. "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.

XV. "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.

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

XVII. "Trail connector" means that specific portion of an OHRV trail or cross country ski trail on which an OHRV trail maintenance vehicle may operate authorized within a state highway right-of-way by the department of transportation.

[Paragraph XVIII repealed effective July 1, 2006.]

XVIII. "Youth model snowmobile" means a snow traveling vehicle that is equipped with an internal combustion engine with a maximum piston displacement of 125 cubic centimeters.

XIX. "Youth model all terrain vehicle" means an all terrain vehicle that is equipped with an internal combustion engine with a maximum piston displacement of 95 cubic centimeters.

XX. "Youth model trail bike" means a trail bike that is equipped with an internal combustion engine with a maximum piston displacement of 95 cubic centimeters.

Source. 1981, 538:3. 1983, 449:1. 1985, 137:1; 261:1, 2. 1986, 152:2-6. 1989, 179:1. 1993, 53:3, eff. June 15, 1993. 1997, 268:2, eff. July 1, 1997. 2000, 85:1, eff. July 1, 2000; 108:1, 2, eff. July 1, 2000. 2001, 226:1, 2, eff. July 1, 2001. 2002, 233:1, 25, eff. July 1, 2002. 2003, 112:7, eff. Aug. 5, 2003; 120:1, 2, eff. July 1, 2003; 295:1, 14, eff. July 1, 2003. 2004, 174:1, eff. July 24, 2004. 2005, 210:12, 64, I-III, eff. July 1, 2006.

## Section 215-A:2

**215-A:2 Bureau of Trails.** – There shall be established in the division of parks and recreation of the department of resources and economic development a bureau of trails. The chief supervisor of the bureau shall report directly to the director of the division of parks and recreation.

Source. 1981, 538:3. 1983, 449:2. 1993, 53:4, eff. June 15, 1993.



(c) All revenue appropriated in this paragraph shall be in addition to any other funds appropriated to the grant-in-aid program of the bureau of trails. Such revenue is hereby continually appropriated to the department of resources and economic development for the purposes of this paragraph.

[Paragraph VI effective July 1, 2006; see also paragraph VI set out above.]

VI. (a) Any funds appropriated to the department of resources and economic development for the bureau's grant-in-aid program shall be kept in a separate account and shall not be used for any other purpose. The corresponding registration fee moneys allocated to the bureau's grant-in-aid program under paragraphs I and III shall be deposited in the account. Moneys in the account may only be used for grant-in-aid projects that benefit the ridership of OHRVs. Any unexpended balance remaining in the account at the end of the fiscal year shall not lapse and shall be transferred to the account established in RSA 215-A:23, VII(c). From each registration fee collected under this section, \$5 shall be used for the purpose of purchasing trail maintenance equipment. All remaining funds shall be used for trail maintenance and construction.

(b) Grants-in-aid shall be granted to OHRV clubs and political subdivisions for the construction and maintenance of public use OHRV trails and facilities. The bureau shall make grants on such terms as it deems necessary and shall determine what trails and facilities shall be eligible. Notwithstanding the provisions of this subparagraph, a landowner who grants permission for a grant-in-aid trail to be located on his or her property shall retain the right to establish the inclusive dates during which OHRV operation shall be permitted. Use of trails on private land shall extend only to the specific type of OHRV and snowmobile permitted by the landowner.

(c) All revenue appropriated in this paragraph shall be in addition to any other funds appropriated to the grant-in-aid program of the bureau of trails. Such revenue is hereby continually appropriated to the department of resources and economic development for the purposes of this paragraph.

[Paragraph VII effective until July 1, 2006; see also paragraph VII set out below.]

VII. Funds appropriated to the department of resources and economic development for administration of the bureau shall be used for the following purposes:

(a) Publications.

(b) Trail maintenance and acquisition.

(c) Land purchases, easements, rights-of-way, and new construction of trails. A separate account shall be established into which \$2 of each resident trail bike and other OHRV registration fee appropriated for administration of the bureau under RSA 215-A:23, I(b) and \$2 of each nonresident trail bike and other OHRV registration fee appropriated for administration of the bureau under RSA 215-A:23, III(b) shall be deposited to be used only for land purchases, easements, rights-of-way, and direct costs attributed to the physical construction of ATV or trail bike trails or parking facilities.

(d) OHRV facilities.

(e) From the amount collected from each individual registration fee, \$3 shall be used by the bureau for the purposes of purchasing OHRV trail maintenance equipment or paying trail maintenance expenses. These funds shall be kept in a separate account and shall be used and appropriated solely for these purposes.

(f) Such other purposes as may be budgeted within the limits of the funds available. Any unexpended balance in said accounts shall not lapse, but shall be carried forward to the next fiscal year.

[Paragraph VII effective July 1, 2006; see also paragraph VII set out above.]



# 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

*Signs posted on all 3 lines in question*

## Ram Maddali

---

**From:** Bill Gegas [bgegas@dred.state.nh.us]  
**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.

Ram



**Ram Maddali**

---

**From:** Ram Maddali  
**Sent:** Tuesday, April 17, 2007 4:46 PM  
**To:** Barbara Roth  
**Subject:** FW: ATV Use on TE Funded Rail Trails

Barbara,

Please print a copy of this email for Jeff Brillhart.

Jeff- The letter of response to this issues is being reviewed by DRED. I will check with my contact to get the response to you soon.

Thank you.

Ram

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

**From:** ATV Watch [mailto: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.

4/18/2007

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

**DEPARTMENT OF TRANSPORTATION  
MEMORANDUM**

<b>From .....</b>		<b>Office</b>
<b>To</b>	<b>At</b>	

..... 20 .....

Please Fax this to  
Edith Pacillo, AG'S OFFICE  
at 223-6277

No cover page necessary.

Thank you.

Ran

**File Under .....**



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

**New Hampshire Division**

February 13, 2007

19 Chenell Drive  
Suite One  
Concord, NH 03301

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) u  
(TE)-funded corridors in New Hampshire

Bill Fall / Nancy ✓  
Copy of the letter from  
FHWA and DRED response  
on the ATV usage  
issue. I am drafting  
a response.  
Ran

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.

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**





The International Association of Snowmobile Manufacturers (ISMA) defines a snowmobile as: "Snowmobile — A self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than 453.59 kg (1,000 lb); driven by track or tracks in contact with snow; and steered by a ski or skis in contact with the snow." An ATV does not meet this definition.

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:

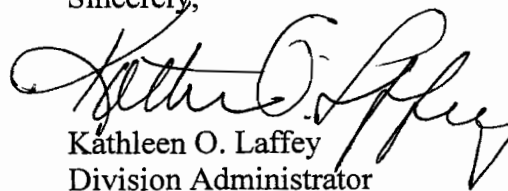
1. Provides the legal definition of "snowmobile" in New Hampshire.
2. Supports the use of snowmobiles on New Hampshire's TE funded corridors.

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 " "

RECEIVED  
DEPARTMENT OF  
TRANSPORTATION  
FEB 15 2007

BUREAU OF  
Planning and Community Assistance



*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.

Barbara Roth

**From:** Pat Grace [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

This e-mail message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify MARKEM Corporation immediately -- by replying to this message or by sending an e-mail to [helpdesk@markem.com](mailto:helpdesk@markem.com) -- and destroy all copies of this message and any attachments. Thank you.

Nothing contained within this e-mail, including attachments, is intended to include or constitute an "electronic signature" as defined in 15 U.S.C. §7006(5).

Raw: can you respond for me? Attached is my version. Before your version goes off, please let me know. We need to pull together a coherent response that puts the onus on DRED and FHWA.

Phila

SH m

6/27/07

Copy

**Ram Maddali**

---

**From:** ATV Watch [Andrew@ATVWatch.com]  
**Sent:** Tuesday, July 24, 2007 10:31 AM  
**To:** David Brillhart  
**Cc:** Ram Maddali; Debora Pignatelli; molly.kelly@leg.state.nh.us; Jim Ryan; Tom Jameson; 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. David Brillhart  
State of New Hampshire  
Department of Transportation  
7 Hazen Drive  
Concord, NH 03302

Dear Mr. Brillhart:

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 Transportation (DOT) 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 April 17, 2007 email to DOT. I am further requesting that DOT 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

7/30/2007

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 black ink that reads "Andrew B. Walters". The signature is written in a cursive style with a large initial 'A'.

Andrew Walters, Concerned Citizen and Director of ATV Watch



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

Copy



CHARLES P. O'LEARY, JR.  
COMMISSIONER

July 30, 2007

JEFF BRILLHART, P.E.  
ASSISTANT COMMISSIONER

Mr. Andrew Walters  
Concerned Citizen and Director ATV Watch  
P. O. Box 34  
Fitzwilliam, New Hampshire 03447

Re: Right to Know Request

Dear Mr. Walters:

I have received your Right to Know Request email dated July 24, 2007 in relation to motorized use of TE funded trails.

You have also asked that "all governmental records" related to this issue be preserved. Because DOT is a single State agency, it is not authorized to preserve "all governmental records." DOT will, of course, respond appropriately to specific requests for DOT's "public records," as defined in RSA 91-A. Requests for other agencies' public records should be made directly to those agencies.

We have started assembling the information pertaining to your request. Given available resources and the scope of your request, we anticipate having the "public records" available to you, as you have requested by September 17, 2007.

We will contact you as soon as the records become available, but no later than September 17, 2007.

Very truly yours,

David J. Brillhart, P.E.  
Assistant Commissioner

Cc: Charles P. O'Leary, Jr., Commissioner  
Mark Hodgdon, Attorney General's Office

S:\TE\response to Mr. Walters 7-30-07.doc



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Sent To CONCERNED CITIZENS + DIR. ATV

Street, Apt. No.,  
or PO Box No. \_\_\_\_\_

City, State, ZIP+4 \_\_\_\_\_

# DEPARTMENT OF TRANSPORTATION MEMORANDUM

From RAM MADDALI, PLANNING & COMMUNITY Office

To JEFF BRILLHART  
ASSISTANT COMMISSIONER

At  
COMMISSIONER'S OFFICE

.....5-15-..... 20 02

JEFF,

THE FOLLOWING 2 LETTERS HAVE BEEN  
REVIEWED BY EDITH PACILLO. PREVIOUS  
VERSIONS OF THE SAME LETTER ARE  
UNDER REVIEW BY DRED AND FHWA.  
THE DIFFERENCE BETWEEN THESE 2 VERSIONS  
IS THE LEGAL CITATION.

[REDACTED]

File Under .....

# DEPARTMENT OF TRANSPORTATION MEMORANDUM

From ..... Office

To

At

..... 20 .....

[REDACTED]

File Under .....

DEPARTMENT OF TRANSPORTATION  
MEMORANDUM

From Jeff Beallhart Office

To Ram Meddali

At

..... 4/20/07 ..... 20 .....

Ram : Please prepare a response to Mr Walters latest e-mail. I spoke w/ Chris Gramache of DRED on 4/19/07.

He agreed that given FHWA's interpretation, ATV's probably need to be banned from TE funded tracks, and that DRED would re-sign such tracks, banning ATV users if directed by the DOT by letter.

File Under

Beallhart  
JHB

Barbara Roth

---

**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

4/17/2007

DEPARTMENT OF TRANSPORTATION  
MEMORANDUM

From ...RAM...MADDALE...PLANNING & COMMUNITY Office

To JEFF BRILLHART  
ASSISTANT COMMISSIONER

At

.....5-10..... 20 07.....

JEFF,

ATTACHED LETTER FOR COMMISSIONER'S  
OFFICE. I HAVE SHARED THE ATTACHED  
WITH EDITH PACILLO (MARK H. ASSIGNED  
EDITH), CHRIS GAMACHE AND FHWA.

I WILL MAKE SURE EVERYBODY CONCURS  
BEFORE SENDING THIS OUT.

THANK YOU.

RAM

Chuck: This appears ok.  
Al's office has reviewed.  
This issue has been raised  
by an Anti-ATV group.

Jeff B

File Under .....

When signed (both copies)  
please return to DJB  
Thanks

JAM/JM  
5/17/07

DJB  
5/19/07

**DEPARTMENT OF TRANSPORTATION  
MEMORANDUM**

**From** RAM MADDALI, PLANNING & COMMUNITY Office

**To** WILLIAM J. CASS  
ASSISTANT DIRECTOR

**At**  
COMMISSIONER'S OFFICE

..... 4-18-..... 20 07.....

BILL,

RESPONSE TO FHWA REGARDING ATV  
USAGE ON TE FUNDED TRAILS.

DRED IS AGREEABLE TO THIS RESPONSE

RAM

BILL

Revised draft for your review.

Ram 4-30-07

Response is appropriate  
RAM to follow through  
with DRED upon  
your concurrence

*[Signature]*

**File Under** .....

**DEPARTMENT OF TRANSPORTATION  
MEMORANDUM**

<b>From</b> .....		<b>Office</b>
<b>To</b>	<b>At</b>	

.....8-6-2007.....

Returned Andrew Walter's  
phone call from Thursday (8/2/07).

Told him that we haven't  
communicated George Bald's letter  
with FHWA.

In the afternoon I received the  
attached email. I called Mr.  
Walters back and told him  
that I haven't seen the letter.

**File Under** .....



**Ram Maddali**

---

**From:** ATV Watch [Andrew@ATVWatch.com]  
**Sent:** Monday, August 06, 2007 3:21 PM  
**To:** Ram Maddali  
**Cc:** John Shea; RICH.SIGEL@NH.GOV; Tom Jameson; Jim Ryan; molly.kelly@leg.state.nh.us; Debora Pignatelli; David Brillhart  
**Subject:** Letter from NHDOT to FHWA - Right to Know Request

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

August 6, 2007

Mr. Ram Maddali  
State of New Hampshire  
Department of Transportation  
7 Hazen Drive  
Concord, NH 03302

Dear Mr. Maddali,

I received your voice message this morning that the New Hampshire Department of Transportation (NHDOT) had not yet sent a letter to the Federal Highway Administration (FHWA) regarding seeking a waiver to allow ATVs on the TE funded rail trails. At the same time I was retrieving your voice message indicating that NHDOT had not sent the letter, I received a voice message from the Federal Highway Administration that they had received the letter from NHDOT and that it requested a waiver to allow ATVs on the rail trails.

NHDOT's letter to FHWA is dated July 30, 2007. On July 31, 2007 I was at the NHDOT office reviewing a partial release of the information I requested under New Hampshire's Right to Know law. This letter was not a part of the information released to me. Today, 13 days after my right to know request and 7 days after the letter was sent to FHWA, NHDOT indicated that the letter did not exist, but I now have a copy of that letter which was faxed to me by the Federal Highway Administration.

It is a tremendous, unjust and costly burden on the citizens of New Hampshire to have to chase documents from one agency to the next and to have to pry every document out of State agency hands with repeated requests. It is a further burden to have to seek and obtain State governmental records from third parties when those records are being withheld by State agencies in violation of the law.

The five day requirement to respond to right to know requests is to release documents, not to circumvent the intent of the law by responding within five days, that you will release the documents 45 days later.

Clearly, every day we are fighting for openness in government is a day that we are not dedicating our time, energy and resources to addressing conservation and climate change issues and the influence which dedicated ATV registration fees have on State policy development.

8/6/2007

I would like to reiterate that NHDOT continues to be in violation of New Hampshire's Right to Know law. Please make available for review all documents in NHDOT's control in accordance with my previous right to know requests.

I have been keeping the Governor's Office posted on the issues in hopes that the Governor's office would established openness in governmental and ATV use on public lands as a priority in their busy agenda.

Sincerely,

Andrew Walters, Concerned Citizen and Director of ATV Watch

8/6/2007

2

*Ram*

Barbara Roth

From: [REDACTED]  
Sent: [REDACTED]  
To: [REDACTED]  
Subject: [REDACTED]

See [REDACTED]

<<198674.doc>>

[REDACTED]

Check: attached in the letter

[REDACTED] that DRED would forward to you, and you in turn would forward to FITWA with a brief cover letter/note. Please review and comment.

Ram Maddali is forwarding this draft to Edith Pacillo of the ALIS office. She will forward it to Anne Edwards (AG representing DRED) who presumably will forward to DRED. Thus you may get a phone call.

On Monday we can discuss forwarding drafts to FITWA and Gov's Office. (Alice Chamberlin is very interested.)  
T.H.A. b.l.m

Barbara Roth

---

**From:** Christopher Morgan  
**Sent:** Thursday, June 14, 2007 10:24 AM  
**To:** Barbara Roth  
**Cc:** Jack Ferns  
**Subject:** for Jeff

eff,

[REDACTED] Ram did share earlier drafts of the joint letter with me but I wanted to make sure you knew about the railroad problems with ATVs.

it

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

[REDACTED]

**Charles O'Leary Jr.**

---

**From:** Sigel, Rich [Rich.Sigel@nh.gov]  
**Sent:** Monday, August 06, 2007 3:34 PM  
**To:** Charles O'Leary Jr.  
**Subject:** FW: Letter from NHDOT to FHWA - Right to Know Request

Chuck --  
Forwarding this email on which I was cc'd.  
I will call you to follow up.  
Rich

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

**From:** ATV Watch [mailto:Andrew@ATVWatch.com]  
**Sent:** Monday, August 06, 2007 3:21 PM  
**To:** RMaddali@dot.state.nh.us  
**Cc:** John Shea; Sigel, Rich; tameson@dot.state.nh.us; Jim Ryan; molly.kelly@leg.state.nh.us; Debora Pignatelli; dbrillhart@dot.state.nh.us  
**Subject:** Letter from NHDOT to FHWA - Right to Know Request

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

August 6, 2007

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State of New Hampshire  
Department of Transportation  
7 Hazen Drive  
Concord, NH 03302

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8/6/2007

third parties when those records are being withheld by State agencies in violation of the law.

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I have been keeping the Governor's Office posted on the issues in hopes that the Governor's office would established openness in governmental and ATV use on public lands as a priority in their busy agenda.

Sincerely,

Andrew Walters, Concerned Citizen and Director of ATV Watch



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.  
COMMISSIONER

July 30, 2007

JEFF BRILLHART, P.E.  
ASSISTANT COMMISSIONER

ATV Watch

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



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

**RECEIVED**  
 COMMISSIONERS OFFICE

JUL 18 2007

THE STATE OF NEW HAMPSHIRE  
 DEPT. OF TRANSPORTATION

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.

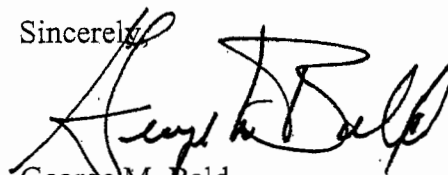
Additionally, winter ATV use does not cause environmental impacts beyond those caused by snowmobiles. There is no damage to the surface of the corridor as there is an intermediate surface of snow cover existing between the ATVs and the surface. Allowing continued use of ATVs with snow cover would not 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.  
(RINGDOE TO JAFFREY)  
7.2 miles

GREENVILLE 2.  
(GREENVILLE) 2.2 miles

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

PERMITTED USE SIGNAGE



TRAIL #  
18

TRAIL #  
7, 8, 9, 10, 11, 12, 13, 14,  
15, 16, 17, 18, 20, 21, 22, 23, 24

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

MOTORIZED USE

LEGEND

- FURROW & WYTHE  
USE ALLOWED
- FURROW & WYTHE  
USE ALLOWED  
(closed from 10/1/01 to May 31)
- USE ONLY WHEN OPEN  
TO KNOWNSIDE  
(W/SPADY COVER)
- USE ONLY WHEN BIKED  
OPEN TO KNOWNSIDE  
(ACTIVE LINE)
- KNOWNSIDE  
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) 8 miles

ROCKINGHAM  
PORTSMOUTH BRANCH

NO MOTORIZED VEHICLED OHV USE

12. (MANCHESTER TO NEWFIELDS)  
25.3 MI

FREMONT BRANCH

14. (FREMONT RT. 907 TO EFFING)  
9.4 MI

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

16. (MANCHESTER DEPOT TO RTE. 28  
Derry) 7 MI

MANCHESTER TO  
LAWRENCE BRANCH

17. (LONDONERRY) 7.2 MI

18. (RTE. 111, SALEM TO VANHAM  
DEPOT) 8.4 MI

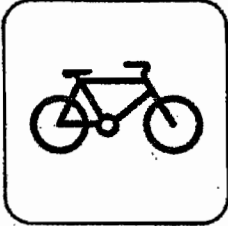
3. HILLSBOROUGH  
(BENNINGTON TO HILLSBOROUGH)  
7.75 miles

0 0.5 1 1.5 2 2.5 3 3.5 4 4.5 5 5.5 6 6.5 7 7.5 8 8.5 9 9.5 10 10.5 11 11.5 12 12.5 13 13.5 14 14.5 15 15.5 16 16.5 17 17.5 18 18.5 19 19.5 20

Revised by  
Division of Resources and Economic Development  
CAD/Planning and Policy Unit 10/10/01



# TRAIL PERMITTED USES



**WINTER USE  
ONLY WITH  
SNOW COVER**

VOITDA

**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**

JJB File Copy



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION



CHARLES P. O'LEARY, JR.  
COMMISSIONER

July 30, 2007

JEFF BRILLHART, P.E.  
ASSISTANT COMMISSIONER

Mr. Andrew Walters  
Concerned Citizen and Director ATV Watch  
P. O. Box 34  
Fitzwilliam, New Hampshire 03447

Re: Right to Know Request

Dear Mr. Walters:

I have received your Right to Know Request email dated July 24, 2007 in relation to motorized use of TE funded trails.

You have also asked that "all governmental records" related to this issue be preserved. Because DOT is a single State agency, it is not authorized to preserve "all governmental records." DOT will, of course, respond appropriately to specific requests for DOT's "public records," as defined in RSA 91-A. Requests for other agencies' public records should be made directly to those agencies.

We have started assembling the information pertaining to your request. Given available resources and the scope of your request, we anticipate having the "public records" available to you, as you have requested by September 17, 2007.

We will contact you as soon as the records become available, but no later than September 17, 2007.

Very truly yours,

  
David J. Brillhart, P.E.  
Assistant Commissioner

Cc: Charles P. O'Leary, Jr., Commissioner  
Mark Hodgdon, Attorney General's Office

S:\TE\response to Mr. Walters 7-30-07.doc

**Barbara Roth**

---

**From:** Ram Maddali  
**Sent:** Monday, July 09, 2007 3:38 PM  
**To:** 'Fox, Katja'  
**Cc:** Barbara Roth  
**Subject:** TE funded trails

TE Funded / ATV use  
Trails



070116 FEDHWY request from  
Letter.pdf DRED 7-9-07.doc

Dear Ms. Fox:

Assistant Commissioner Jeff Brillhart asked me to send you the current version of a letter we have been working with the Attorney Generals Office and Department of Resources and Economic Development (DRED). This letter is in response to a Citizen's enquiry by Andrew Walters (letter attached) that was forwarded to us from Federal Highway Administration (FHWA). Alice Chamberlin was interested in this issue and Jeff had sent a previous version of the letter to Alice a few weeks back.

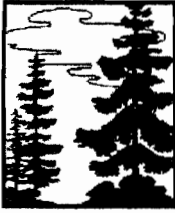
In his letter Mr. Walters referred to the federal statutes that specified the different types of uses and asked if ATVs can be allowed to use rail trail corridors that were purchased with Federal funds. DRED's attorney drafted the following response and we are in agreement with the attached letter to be signed by NH DRED.

If there are any points of view that the Governor's Office would like to be considered and included, please let us know.

Please feel free to contact either Jeff Brillhart at 271-1484 or me at 271-6581 if you have any questions or need any additional information.

Thank you.

Ram S. Maddali  
Project Manager  
NHDOT



*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)

**Barbara Roth**

**From:** Ram Maddali  
**Sent:** Tuesday, July 10, 2007 11:52 AM  
**To:** Barbara Roth  
**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, July 10, 2007 11:50 AM  
**To:** Ram Maddali  
**Subject:** Re: On Behalf of Jeff Brillhart - Proposed Increased Use of NH Rail Trails by ATVs

Dear Mr. Maddali,

Thank you for your acknowledgement of receipt of my e-mail concerning the proposed increased use of NH rail trails by ATVs. Unfortunately, your response did not provide answers to many of my concerns nor any new information. I do, however, appreciate your response. I will contact DRED and FHWA to see if they can provide any concrete answers although I only expect further "passing of the buck.". Thank you.

Joan Ganotis  
 NH Horse Council Member  
 Equestrian Land Conservation Resource Member

----- Original message -----

**From:** "Ram Maddali" <RMaddali@dot.state.nh.us>  
**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 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.

7/10/2007

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



**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](mailto: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:

DJR 7/10/07

CPO [Signature]

**Barbara Roth**

Please return to Jeff [Signature]

**From:** Ram Maddali  
**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

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**Cc:** Laurie Weir; Bess Parks; Robert L'Heureux; Deb Kelly; Sandy Holbrook; Kandee Haertel; Tom Grinley; Susan Donnelly; Gayle Beaudoin  
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7/10/2007

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



**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](mailto:r Rambler2@comcast.net)

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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:

## Ram Maddali

---

**From:** Ram Maddali  
**Sent:** Tuesday, July 10, 2007 8:31 AM  
**To:** 'pgrace@markem.com'  
**Cc:** John Cater (E-mail); 'cgamache@dred.state.nh.us'  
**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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7/10/2007



**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 am 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:

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:



**Barbara Roth**

---

**From:** Ram Maddali  
**Sent:** Tuesday, July 10, 2007 8:48 AM  
**To:** 'jay.linda.nh@gmail.com'  
**Cc:** 'cgamache@dred.state.nh.us'; 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](mailto:jay.linda.nh@gmail.com)



**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](mailto: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: Jeff Brillhart, NHDOT  
Chris Gamache, DRED, email:  
John Cater, FHWA, email:

DJA 6/27/07

Ran Maddali

Barbara Roth

**E-MAILED**

6/28/07

Please respond for me...  
my thoughts regarding  
a response are attached

The hon  
T. J. M.

**From:** 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 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.

6/26/2007

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

Barbara Roth

**From:** Pat Grace [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 rails. 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

503-363-4768

This e-mail message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify MARKEM Corporation immediately -- by replying to this message or by sending an e-mail to [helpdesk@markem.com](mailto:helpdesk@markem.com) -- and destroy all copies of this message and any attachments. Thank you.

Nothing contained within this e-mail, including attachments, is intended to include or constitute an "electronic signature" as defined in 15 U.S.C. §7006(5).

*Can you respond for me? Attached is my version. Before your version goes off, please let me know. We need to pull together a coherent response that puts the onus on DRED and FHWA.*

*Thanks*  **E-MAILED**  
*6/28/07*

*JHG  
6/27/07*

**Barbara Roth**

---

**From:** Ram Maddali  
**Sent:** Tuesday, April 17, 2007 4:46 PM  
**To:** Barbara Roth  
**Subject:** FW: ATV Use on TE Funded Rail Trails

Barbara,

Please print a copy of this email for Jeff Brillhart.

Jeff- The letter of response to this issues is being reviewed by DRED. I will check with my contact to get the response to you soon.

Thank you.

Ram

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

**From:** ATV Watch [mailto: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.

4/17/2007

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

## Barbara Roth

---

**From:** Welkowitz, Lawrence [lwelkowi@keene.edu]  
**Sent:** Tuesday, June 19, 2007 11:19 AM  
**To:** David Brillhart  
**Subject:** ATV's should not be allowed

David:

I just received an email from ATV Watch about what sounds like the state's attempts to skirt laws limiting ATV use. Here in Keene I have seen small children die on these machines which also make backcountry hiking terribly unpleasant. I hope you will support the environment and safety by not allowing ATV's on public lands.

Larry Welkowitz  
43 Village Rd.  
Surry, NH 03431



AJR 6/20/07 CPO -

**Barbara Roth**

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

Please copy (or e-mail to)  
Ran Meddali

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](mailto:jay.linda.nh@gmail.com)

Jan 2/14/07 DJS

DEPARTMENT OF TRANSPORTATION  
MEMORANDUM

From <u>Bill Cass</u> Office	
To <u>Jim Moore</u>	At

Is anyone proposing legislation ..... 2/13/07 ..... 20 .....  
 to remedy this? I assume allowing or not allowing ATV's will  
 cause very passionate "discussions" from either side.  
 FHWA sent this draft letter over for our "heads-up"  
 re: ATV use on TE Funded trails. Ram  
 Says its been a running issue that may be  
 coming to a head at this watch groups  
 prompting. There has been general agreement  
 in the past that ATV use in winter, as  
 a "snow traveling vehicle", has been considered  
 analogous to snowmobile use for all intents  
 and purposes. I've suggested to FHWA they  
 temper the draft letter to focus on clarification  
 of the above interpretation as a pre-cursor  
 to requesting ATV use cease. This would  
 affect approx. 200 miles of trail bought/built  
 with TE funds.

File Under ..... (u) .....



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.

We would also like to note for your further consideration: Trails funded under the Recreational Trails Program (RTP) authorized in 23 U.S.C. 206, that do not use other Federal-aid highway program funds, are not subject to the motorized use restriction in 23 U.S.C. 217(h). The NHDOT may transfer TE funds to the RTP under 23 U.S.C. 126, in which case the funds become RTP funds subject to RTP procedures. This transfer must take place prior to obligating the funds for a specific project; the funds cannot be transferred retroactively to allow motorized use on trails already funded with TE funds.

In summary, please provide the appropriate documentation as requested above. Absent that documentation, FHWA must request that ATV use cease on TE-funded trails.

Sincerely,

KOL

C: 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

(enclosure)

does it exist now?



Answer?  
Yes - see note

was sent to ATV?

Are trails signed?

yes!

Can we apply for exception?

yes!

Have we discussed w/ ORED?

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)

2/12/2007

B.H. : please see  
me on the way  
you get a chance

Jeff

2/15

Ram,

FHWA got a letter from an ATV user group. This is a draft response - FHWA wanted to give us a heads up and see if it caused any heartache for us. Does it?

Dear Commissioner 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.

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.

The International Association of Snowmobile Manufacturers (ISMA) defines a snowmobile as: "Snowmobile — A self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than 453.59 kg (1,000 lb); driven by track or tracks in contact with snow; and steered by a ski or skis in contact with the snow." An ATV does not meet this definition.

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".

Per R

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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.

We would also like to note for your further consideration: Trails funded under the Recreational Trails Program (RTP) authorized in 23 U.S.C. 206, that do not use other Federal-aid highway program funds, are not subject to the motorized use restriction in 23 U.S.C. 217(h). The NHDOT may transfer TE funds to the RTP under 23 U.S.C. 126, in which case the funds become RTP funds subject to RTP procedures. This transfer must take place prior to obligating the funds for a specific project; the funds cannot be transferred retroactively to allow motorized use on trails already funded with TE funds.

In summary, please provide the appropriate documentation as requested above. Absent that documentation, FHWA must request that ATV use cease on TE-funded trails.

Sincerely,

KOL

C: 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

(enclosure)



**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



CHARLES P. O'LEARY, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

September 13, 2007

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

Re: Right to Know Request

Dear Mr. Walters:

I write in follow up to my correspondence to
2007 on your right to know request. Specifically, yc
records in the custody or control of the Department c
of New Hampshire's Transportation Enhancement fu

We have assembled the requested informatior.
Ram Maddali at 271-2107 and setting up an appointment.

In addition to the redacted correspondence noted in the August 22nd letter, this office is
redacting portions of the following correspondence because the redacted portions contain
information that is exempt from disclosure:

- Email correspondence between Attorney General's office and our Department
between April, 2007 to May 2007
• Email from Ram Maddali to Federal Highway Administration dated May 10,
2007

I have also received your email request dated August 31, 2007 to reconsider our
decision to not disclose portions of the records. We are unable to approve your request and
stand by our original decision to not disclose copies of preliminary draft correspondence
which are not in their final form and were not disclosed, circulated, or available to a quorum
or a majority of those entities defined under RSA 91-A:1-a. The drafts in question were
prepared during the months of March, April, May, June and July 2007. We also stand by our
decision to not release copies of confidential attorney/client communications between

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ATV Watch NH - PO Box 34
Fitzwilliam, NH 03447

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August 22, 2007

Sent 8/23/07



**JEFF BRILLHART, P.E.**  
ASSISTANT COMMISSIONER

Sent To  
**Mr. Andrew Walters**  
Street, Apt. ~~NO~~ Watch NH  
or PO Box No. ~~NO~~  
City, State, ZIP+4  
**Fitzwilliam, NH 03447**

PS Form 3800, August 2006 See Reverse for Instructions

Dear Mr. Walters:

I write in follow up to my correspondence to you dated July 30, 2007 on your right to know request. Specifically, you have asked to review all governmental records in the custody or control of the Department of Transportation related to motorized use of New Hampshire's Transportation Enhancement funded rail trails.

We have assembled a portion of the requested information, which is available to you by contacting Nancy Mayville at 271-2107 and setting up an appointment. Specifically, this information is gathered from:

- My project files
- Ram Maddali's files
- Bill Cass's files

Please be advised that this office is not releasing copies of preliminary draft correspondence which are not in their final form and were not disclosed, circulated, or available to a quorum or a majority of those entities defined under RSA 91-A:1-a. The drafts in question were prepared during the months of March, April, May, June and July 2007. This office is also not releasing copies of confidential attorney/client e-mail communications between attorneys within the Department of Justice and the Department of Transportation. The e-mails in question span from March 1, 2007 through August 17, 2007.

Additionally, this office is redacting portions of the following correspondence because the redacted portions contain privileged communications or personal notes:

- Memo dated April 20, 2007 from me to Ram Maddali
- May 15, 2007 memo from Ram Maddali to me
- Handwritten notes on a draft letter from Federal Highway Administration. The letter is being disclosed
- Handwritten notes on a letter from DRED dated February 15, 2007. The February 15, 2007 letter from DRED is being disclosed
- June 20<sup>th</sup> handwritten memo from me to Commissioner O'Leary
- Email from Christopher Morgan dated June 14, 2007
- Email from Ram Maddali to Katja Fox dated July 9, 2007

**Bill Cass**

---

**From:** Ram Maddali  
**Sent:** Friday, February 09, 2007 8:23 AM  
**To:** Bill Cass  
**Subject:** Wheeled ATV Use on TE Funded Rail Trails

FYI.

Ram  
-----Original Message-----  
**From:** Christopher Morgan  
**Sent:** Wednesday, February 07, 2007 2:00 PM  
**To:** Ram Maddali  
**Subject:** RE: Wheeled ATV Use on TE Funded Rail Trails

Ram,

FYI,

Our rail section met yesterday with Maine and Vermont DOTs, and both states said that ATVs are strictly prohibited on rail-trails funded with FHWA \$ in their states, under federal regulations. They did not cite specific regulations, however.

Kit

-----Original Message-----  
**From:** Ram Maddali  
**Sent:** Wednesday, January 17, 2007 8:59 AM  
**To:** Christopher Morgan; James Moore  
**Subject:** Wheeled ATV Use on TE Funded Rail Trails

FYI.

Ram  
-----Original Message-----  
**From:** ATV Watch [mailto:Andrew@ATVWatch.com]  
**Sent:** Tuesday, January 16, 2007 1:42 PM  
**To:** Christopher.Douwes@FHWA.dot.gov; Carol Murray; Ram Maddali  
**Subject:** Wheeled ATV Use on TE Funded Rail Trails

ATV Watch has made the following inquiry to the Federal Highway Administration concerning ATV use on TE funded rail trails in New Hampshire. I have also attached a copy in PDF format.  
Andrew Walters

---



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



**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



**CAROLA A. MURRAY, P.E.**  
*Commissioner*

**JEFF BRILLHART, P.E.**  
*Assistant Commissioner*

March 7, 2007

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.

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**



The International Association of Snowmobile Manufacturers (ISMA) defines a snowmobile as: "Snowmobile — A self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than 453.59 kg (1,000 lb); driven by track or tracks in contact with snow; and steered by a ski or skis in contact with the snow." An ATV does not meet this definition.

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:

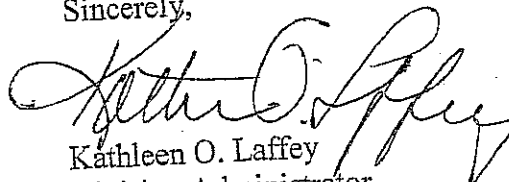
1. Provides the legal definition of "snowmobile" in New Hampshire.
2. Supports the use of snowmobiles on New Hampshire's TE funded corridors.

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 " "

1

is this  
 a problem  
 why?



*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.

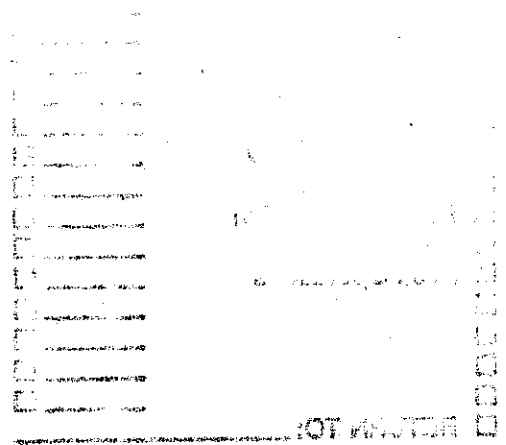
(j) DEFINITIONS.—In this section, the following definitions apply:

(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.







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

New Hampshire Division  
**RECEIVED**  
**COMMISSIONERS OFFICE**  
February 15, 2007

19 Chenell Drive  
Suite One  
Concord, NH 03301

**FEB 15 2007**

In Reply Refer To:  
THE STATE OF NEW HAMPSHIRE  
DEPT. OF TRANSPORTATION  
HDA-NH

- BRIDGE DESIGN
- CONSTRUCTION
- ENVIRONMENT
- HIGHWAY DESIGN
- MAT. & RES.
- MUNIC. HWYS.
- R.O.W.
- TRAVIS. PLANNING
- FINANCE & CONT.

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).

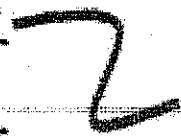
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Federal transportation law does not define "snowmobile," nor does the *Uniform Vehicle Code*. Therefore, the State may define "snowmobile." FHWA does not challenge the described NHDOT and BOT definition of wheeled ATVs as "snow traveling vehicles." 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."

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**MOVING THE  
AMERICAN  
ECONOMY**



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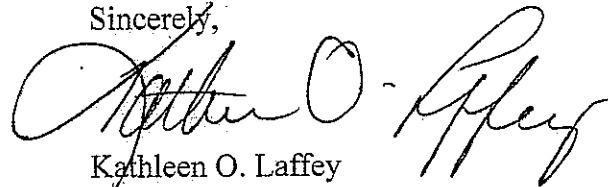
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Exceptions: You will see that 23 U.S.C. 217(h)(5) allows an exception for "such other circumstances as the Secretary deems appropriate." The State may request an exception under this provision. We are working with our Washington Headquarters office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





*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

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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)

## 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

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- (1) maintenance purposes;
- (2) when snow conditions and State or local regulations permit, snowmobiles;



DEPARTMENT OF TRANSPORTATION  
MEMORANDUM

From .....		Office
To	Bill Cass	At

..... 1/8/..... 20 07.....

Bill here is a list of the  
RSA's for ATV'S.

Did you want the actual  
legislation printed out or  
just this list.

Let me know if you  
need more details.

TOM JAMESA

271-1468

Snowmobiles now have their own  
legislation. If you want a list  
of those ~~RSA's~~ RSA's

File Under .....

Let me know.

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.

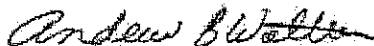
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Andrew Walters, Concerned Citizen and Director, ATV Watch

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

**Bill Cass**

---

**From:** Ram Maddali  
**Sent:** Friday, February 09, 2007 8:23 AM  
**To:** Bill Cass  
**Subject:** Wheeled ATV Use on TE Funded Rail Trails

FYI.

Ram

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

**From:** Christopher Morgan  
**Sent:** Wednesday, February 07, 2007 2:00 PM  
**To:** Ram Maddali  
**Subject:** RE: Wheeled ATV Use on TE Funded Rail Trails

Ram,

FYI,

Our rail section met yesterday with Maine and Vermont DOTs, and both states said that ATVs are strictly prohibited on rail-trails funded with FHWA \$ in their states, under federal regulations. They did not cite specific regulations, however.

Kit

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

**From:** Ram Maddali  
**Sent:** Wednesday, January 17, 2007 8:59 AM  
**To:** Christopher Morgan; James Moore  
**Subject:** Wheeled ATV Use on TE Funded Rail Trails

FYI.

Ram

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

**From:** ATV Watch [mailto:Andrew@ATVWatch.com]  
**Sent:** Tuesday, January 16, 2007 1:42 PM  
**To:** Christopher.Douwes@FHWA.dot.gov; Carol Murray; Ram Maddali  
**Subject:** Wheeled ATV Use on TE Funded Rail Trails

ATV Watch has made the following inquiry to the Federal Highway Administration concerning ATV use on TE funded rail trails in New Hampshire. I have also attached a copy in PDF format.  
Andrew Walters

---



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



# ATV Watch

Advocacy for monitoring ATV use on Public Lands



## HISTORY

ATV Watch is non-profit corporation registered in New Hampshire. It was established in April of 2004 by Andrew and Sherri Walters. They were nearing completion of a three-year renovation of The Little House—their bed & breakfast—located just outside the village center in historic Fitzwilliam, New Hampshire. The charm, peace and quiet of the rural community is why they chose to live in Fitzwilliam.

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Since that time ATV Watch has established a website and helped to organize a network of citizens willing to participate in the legislative process. We soon found that the strongest proponent for ATV trail development is the Bureau of Trails (BOT), a division of DRED. They are funded directly from ATV registration fees. ATV Watch also quickly learned that DRED's most effective way to silence the opposition is to simply not disclose any information on their ATV trail development related activities. This effectively blinded us so we could never get ahead of the issues, which resulted in our efforts being less effective.

However, in New Hampshire, the State Constitution as well as numerous State laws, recognize that openness in government is fundamental to our democratic process. ATV Watch's current effort is to require DRED to comply with State disclosure laws. DRED is so used to no one ever questioning their lack of disclosure that we have surprised them with our focus and determination. DRED and the Attorney General's office have thus far been able to manipulate the laws and the Court so as to not be held accountable for their violations of the law. ATV Watch believes that DRED's actions cannot be indefinitely unaddressed, so we are now in the State of New Hampshire Supreme Court attempting to hold DRED and the Attorney General's office accountable to the law. At this time ATV Watch believes this is the best way we can help the voices of the citizens to be effectively heard on the State level.

Over the last couple of years we have also been actively participating in trying to protect the environment and the peace and quiet of our communities on the legislative level. We helped to defeat a bill that would have allowed ATV trail development near public water supplies. We backed legislation to strengthen the protection of the environment and the laws governing ATV use. Most recently we backed legislation to require environmental, safety and community reviews prior to developing ATV trails on rail trails. DRED was instrumental in quickly getting this bill killed which brings us back to our current primary focus, disclosure. If DRED is forced to disclose their policies and activities, then the 98% of the citizens of New Hampshire that do not own a registered ATV could take more effective actions.

## **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.

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- Section 215-A:4-a Night Speed Limit for OHRVs on Frozen Surface of Back Lake.
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- Section 216-F:5 Advisory Committee.
- Section 216-F:6 Best Management Practices; Limit on Expenditures.



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# TITLE XVIII FISH AND GAME

## CHAPTER 215-A OFF HIGHWAY RECREATIONAL VEHICLES AND TRAILS

### Section 215-A:1

**215-A:1 Definitions.** – As used in this chapter unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

I. "Accompanied by," or "accompany" means when a person is within sight and when actual physical direction and control can be effected.

I-a. [Repealed.]

I-b. "All terrain vehicle (ATV)" means any motor-driven vehicle which is designed or adapted for travel over surfaces other than maintained roads with one or more tires designed to hold not more than 10 pounds per square inch of air pressure, having capacity for passengers or other payloads, not to exceed 1,000 pounds net vehicle weight, and not to exceed 50 inches in width. For the purposes of this chapter, all 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. [Repealed.]

III-a. "Dealer" means a person in the OHRV or snowmobile business who sells OHRVs to the general public, or demonstrates for sale vehicles on consignment to the general public. There shall be a rebuttable presumption that any person who sells or who acts as an agent of a seller for 5 or more vehicles at retail to the general public in a consecutive 12-month period is a retail vehicle dealer. For the purpose of this definition, this shall include retail OHRV dealers and wholesale OHRV dealers.

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

V. "OHRV" means off highway recreational vehicle.

V-a. "OHRV club" means an organized, dues-paying group of OHRV users with bylaws, registered with the secretary of state as a nonprofit organization.

V-b. "Snowmobile or OHRV training program," "snowmobile or OHRV safety training course," or "snowmobile or OHRV safety education program" means a course of instruction approved or recognized by the department of fish and game as appropriate for a certain type or types of OHRVs, that sufficiently covers proper operation, safety, laws and regulations, penalties, equipment maintenance, and other related matters pertaining to such type or types of OHRVs. At the discretion of the executive director, education or training programs for snowmobiles and OHRVs may be combined.

V-c. "Other OHRV" means an OHRV that is not a trail bike.

VI. "Off highway recreational vehicle" means any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, tracks, 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. OHRVs shall not include snowmobiles as defined in RSA 215-C.

VI-a. "OHRV trails maintenance vehicle" means any mechanically-propelled vehicle used to maintain OHRV trails or cross country ski 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 actual physical control of, an OHRV or snowmobile.

IX. "Owner" means any person, other than a lienholder, having title to an OHRV.

X. "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 lots open for use by the public or vehicular traffic, or any frozen surface of a public body of water; provided, however, the off highway portion of any trail established specifically for OHRVs shall not be a public way.

XI. "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.

XI-a. "Rental agent" means a person licensed under RSA 215-A:26 or RSA 215-C:45 accepting money or other valuable consideration for the temporary use of OHRVs, provided to members of the general public.

XII. "Resident" means a resident of the state as defined in RSA 21:6, except that no person shall be deemed to be a resident who claims residence in any other state for any purpose.

XIII. "Snowmobile" means any vehicle propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, tracks, or cleats. Only vehicles that are no more than 54 inches in width and no more than 1200 pounds in weight shall be considered snowmobiles under this chapter.

Snowmobiles shall not include OHRVs.

XIV. "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.

XV. "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.

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

XVII. "Trail connector" means that specific portion of an OHRV trail or cross country ski trail on which an OHRV trail maintenance vehicle may operate authorized within a state highway right-of-way by the department of transportation.

XVIII. [Repealed.]

XIX. "Youth model all terrain vehicle" means an all terrain vehicle that is equipped with an internal combustion engine with a maximum piston displacement of 95 cubic centimeters.

XX. "Youth model trail bike" means a trail bike that is equipped with an internal combustion engine with a maximum piston displacement of 95 cubic centimeters.

**Source.** 1981, 538:3. 1983, 449:1. 1985, 137:1; 261:1, 2. 1986, 152:2-6. 1989, 179:1. 1993, 53:3, eff. June 15, 1993. 1997, 268:2, eff. July 1, 1997. 2000, 85:1, eff. July 1, 2000; 108:1, 2, eff. July 1, 2000. 2001, 226:1, 2, eff. July 1, 2001. 2002, 233:1, 25, eff. July 1, 2002. 2003, 112:7, eff. Aug. 5, 2003; 120:1, 2, eff. July 1, 2003; 295:1, 14, eff. July 1, 2003. 2004, 174:1, eff. July 24, 2004. 2005, 210:12, 64, I-III, eff. July 1, 2006. 2006, 14:2, eff. July 1, 2006.

**TITLE XVIII  
FISH AND GAME**

**CHAPTER 215-A  
OFF HIGHWAY RECREATIONAL VEHICLES AND TRAILS**

**Section 215-A:7**

**215-A:7 Operation of Snow Traveling Vehicles.** – [Repealed 2005, 210:64, V, eff. July 1, 2006.]



# TITLE XVIII FISH AND GAME

## CHAPTER 215-A OFF HIGHWAY RECREATIONAL VEHICLES AND TRAILS

### ATV and Trail Bike Operation on State Lands

#### Section 215-A:42

##### **215-A:42 ATV and Trail Bike Trails. –**

I. No ATV or trail bike trail shall be established after the effective date of this paragraph or subsequently maintained on state-owned property unless all of the following conditions are met:

(a) The property has been evaluated by the bureau in cooperation with the department of fish and game and the department of resources and economic development, division of forests and lands, and other state agencies that are custodians of the property using the coarse and fine filter criteria, established under RSA 215-A:43, and has passed such criteria as determined by the commissioner of the department of resources and economic development and the executive director of the department of fish and game.

(b) A memorandum of understanding (memorandum) exists between the bureau, the fish and game department, the department of resources and economic development, division of forests and lands, and all other state agencies that are custodians of the property. The memorandum shall include, but not be limited to, the responsibilities that each agency has in monitoring, maintaining, and enforcing relevant laws relative to the trail and the type of OHRV permitted on approved trails. The bureau shall enter into the memorandum only if it is certain that proper monitoring and maintenance of the trail shall occur, either through its own resources or those of others. The fish and game department shall enter into the memorandum only if it can commit sufficient resources to reasonably monitor for proper ATV or trail bike use on the property and enforce the applicable laws.

(c) A written agreement is in effect between the bureau and a locally-organized ATV or trail bike club recognized by the bureau that details the club's ongoing responsibilities, including but not limited to, monitoring the use and condition of the trail, erecting signage, educating operators, performing maintenance, and monitoring compliance with laws and regulations. Should the club fail to fulfill some or all of its responsibilities, the bureau or its agent may assume such responsibilities provided sufficient resources are available and committed.

(d) A management plan exists for the property that specifically allows ATV or trail bike use on the property, and the ATV or trail bike trail does not otherwise conflict with the management plan. Any state agency proposing to establish or change a management plan that affects ATV or trail bike use on state property shall publicize such plan and provide the public with the opportunity to comment on the plan before enactment.

II. An ATV or trail bike trail on state-owned property may be closed to ATV or trail bike use by the bureau, if the bureau finds that:

(a) ATV or trail bike use on the property is not in conformance with this chapter;

(b) Responsibilities assumed by the locally-organized ATV or trail bike club pursuant to subparagraph I(c) are not being met; or

(c) Provisions of the memorandum between the state agencies as entered into pursuant to subparagraph I(b) require such closure.

III. The bureau may not permanently close a trail under paragraph II to ATV or trail bike use except

upon a request made to the commissioner of resources and economic development to act under RSA 216-F:2, III, and not without first holding a public hearing in the local area in which the trail is located. Such hearing shall be noticed to the requesting party and the governing body of the affected municipalities and advertised at least 14 days prior to the hearing in a newspaper of statewide circulation and also in any local newspapers to the cities and towns in which the state property is located.

**Source.** 2002, 233:16, eff. July 1, 2002. 2003, 295:7, eff. July 1, 2003.