



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

July 14, 2016

Jo A. Lacaillade
Town Manager
Town of Haverhill
2975 Dartmouth College Highway
North Haverhill, NH 03774

The NH Department of Transportation has received a copy of your letter dated June 10, 2016 addressed to both the FHWA NH Division Office and NH Department of Transportation regarding permission requested by the Town of Haverhill for a drive permit across a section of the "Blackmount Branch" Trail in Haverhill. This response is intended to address all of the issues that your letter raises.

There are a few items that your letter raises to be addressed:

1. Permission to cross the Rail Trail Corridor
2. Drive Permit request for NH 10
3. Use of the Rail Trail Corridor

The Blackmount Branch Trail in Haverhill that you are referring to was purchased with Transportation Enhancement funds in the 1990's with ownership being transferred to the Town at that time. The purchase of the trail was intended for use as a bicycle and pedestrian transportation corridor as an alternative for automobiles according to the application for funds submitted by the Haverhill Trails Committee at that time.

As the Corridor in the area that you are asking for permission to cross is already owned by the Town, this is a local issue to be decided, and not subject to our review and approval.

Our District Two Highway Maintenance Office in Enfield NH will respond to the driveway applicant's request to make connection to NH 10 as requested.

Your letter also references the current use of the Corridor, and based on other recent circumstances is an issue that must be addressed. Under the federal regulations that govern the Transportation Enhancement program only non-motorized use of the Corridor is allowed. Hiking, biking, other pedestrian use, and snowmobile use (based on state law definition) are all allowable uses of the Corridor. ATV, OHRV and any other motorized use of the Corridor is not permitted. Your acknowledgement of motorized use of the trail is not something we can ignore or overlook.

Unfortunately, the Town must take action to address this issue. There are four options that are available to the Town:

1. Prohibit ATVs from the corridor and enforcing that prohibition.
2. Requesting a waiver for an exception – approval of this waiver will be very difficult to justify, however it is your right to do so. You would need to make a very strong case as to why your actions are acceptable under federal law. The Department has recent experience with a community who made this case. It was a very long and involved process, and ultimately FHWA did not approve the waiver as submitted.
3. Repayment of funds to purchase the corridor would allow you to continue using the trail as you are allowing today.
4. Provide an alternative nearby Corridor to separate the motorized use from the non-motorized use.

Ultimately, if no action is taken by the Town, FHWA will require the Department to repay the funds (as we were recipients), which in turn would require us to come to you for repayment (as sub recipients). The Department views repayment of funds as a choice by the City to be much better than the Department asking for reimbursement, basically putting us in the role of a collections agency. I expect that the Town of Haverhill will want to take some time to review and process this information as it relates to allowable uses of the rail trail. The Department is willing to discuss this topic with the Town further, to more fully explain the options that are available and help to attempt to balance the requirements of the funding used to purchase the corridor a needs with local needs.

Our District Two Office will follow up on the NH 10 drive permit application. Please feel free to contact me at 603-271-3344 or bwatson@dot.state.nh.us if you have any additional questions about your options to address the Transportation Enhancement concerns.

Sincerely,



William Watson, Jr.
Administrator
Bureau of Planning and Community Assistance

cc: Bill Cass, Assistant Commissioner
Dave Rodrigue, Director, Division of Operations
Patrick Herlihy, Director, Division of Aeronautics, Rail and Transit
Shelley Winters, Administrator, Bureau of Rail and Transit
Doug King, District Engineer, Highway Maintenance District 2, Enfield