

November 24, 2020

Dear Commissioner Stewart, Director Bryce and Clint Savage:

I am writing you at the suggestion of State Department of Justice Attorney Michael Haley. With this letter is a brochure published by the Bureau of Trails entitled "Landowner Partnership". Under "Landowner Policy" it describes insurance policies that the your organizations provide to "all registered Landowners" who allow OHRV trails on their property. It purports to summarize and describe the coverage provided to each such landowner as follows:

"The Commercial General Liability Policy provided by Cincinnati Insurance Company has a limit of \$1,000,000 per occurrence with a \$1,000,000 aggregate for bodily injury and property damage as a result of a covered loss. In addition, they provide an excess Liability Policy of \$1,000,000 of coverage for each occurrence and \$1,000,000 aggregate. The two policies combined provide a total limit of \$2,000,000 aggregate for each covered loss."

I also send a copy of the subject insurance policies that was produced to me recently pursuant to an RSA 91:A request. I have two questions regarding the language emphasized above in the brochure which seems to be inconsistent or at odds with the actual language of the insurance policies.

1. The policies only cover losses that occur during the 3 year coverage period ending on January 1, 2023. There does not appear to be any right of automatic renewal or requirement for the State to replace the policy in 2023 and beyond. Shouldn't this be disclosed to the landowners who are relying on the state providing insurance? Without that information, how can they make intelligent decisions about trail permit renewal or the duration of their OHRV trail permissions?

2. The Commercial General Liability Form states in Section III (page 12 of 22) that:

"The limits of Insurance shown in the Declaration and the rules below fix the most we will pay regardless of the number of: a. Insureds; b. Claims made or "suits" brought; or c. Persons or organizations making claims or bringing "suits"."

The Excess Policy has similar language. Does this mean that if multiple claims are brought during the three year policy period that the brochure's advertised "\$2 million aggregate" coverage available to a landowner "for each covered loss" is diluted or diminished by the amounts of each covered loss of prior landowner claimants made under the policies? If the answer to my question is affirmative, shouldn't the brochure be corrected because "each covered loss" may not in fact be covered to the extent of the \$2 million policy limits stated in the brochure? It at least appears that a subsequent loss could be significantly diluted or not covered at all given the policies' limits of insurance which would be triggered by multiple covered losses that occur during the three year policy period.

I appreciate your efforts in responding to these inquiries. Please let me know if you have any questions.

Thank you,

Kris Pastoriza  
Easton, NH  
krispastoriza@gmail.com