

**File Code:** 5440  
**Date:** March 8, 2022

Kris Pastoriza  
294 Gibson Rd  
Easton, NH 03580

Dear Ms. Pastoriza,

This responds to your inquiry dated February 14<sup>th</sup>, 2022.

The Forest Service was the acquiring agency, on behalf of the United States of America, with respect to the 1989 Nash Stream conservation easement purchased from the State of New Hampshire. It has been the Forest Service's longstanding position that, under the terms of the conservation easement, the State of New Hampshire reserves the discretion to ban, authorize, or regulate ATV trails within the conservation easement area. Conversely, the Forest Service acquired no role in the exercise of the State's discretion in this regard. Our position has not changed, notwithstanding the 2020 Ropes and Gray memorandum which we previously reviewed.

Also, you raised the subject of "through trails." The conservation easement at II(C)(1) makes no distinction between a "through trail" and a "non-through trail," when it comes to the discretion reserved by the State. We note that II(C)(2) does make a distinction between internal roads that do not provide for "through travel" and "public roads." In the context of public roads, the Forest Service does have approval authority under the conservation easement terms. That provision has no bearing on the reserved authority of the State with respect to recreational trails.

As such, we do not have a role in the development or management of ATV trails. Nor is there a requirement for written concurrence from the Forest Service for ATV trails on the lands encompassed by the conservation easement. Please direct any concerns about ATV trails on the conservation easement area to the State.

Sincerely,

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DEREK J.S. IBARGUEN  
Forest Supervisor



CC: Sarah Stewart, Commissioner of the Department of Natural and Cultural Resources; Patrick Hackley, Director of the NH Division of Forests and Lands; James Simino; Sarah Hankens; James Detzel