

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

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

Dear Commissioner O'Leary:

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

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

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

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

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

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

### **The Definition of Snowmobile Under New Hampshire Law**

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

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

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

### **Request for Determination That ATV Use With Snow Cover Is Appropriate**

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

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

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

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

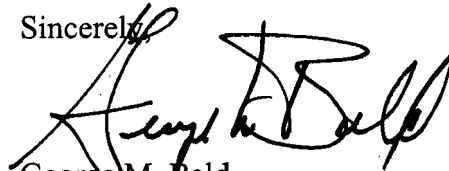
Additionally, winter ATV use does not cause environmental impacts beyond those caused by snowmobiles. There is no damage to the surface of the corridor as there is an intermediate surface of snow cover existing between the ATVs and the surface. Allowing continued use of ATVs with snow cover would not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

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

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

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

Sincerely,



George M. Bald  
Commissioner

GMB:CG:lc  
Enclosures

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

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF RESOURCES AND  
ECONOMIC DEVELOPMENT**



**BUREAU OF TRAILS**



**RECREATIONAL  
RAIL TRAILS**

**MULTI-USE MAP**

**UPPER COOS 19-**  
(COLEBROOK TO BEECHER FALLS)  
10.5 miles

**PROFILE 25.**  
(BETHLEHEM)  
1.5 miles

**AMMONOOSUC 1.**  
(WOODSVILLE TO LITTLETON)  
19.2 miles

**WARREN 6.**  
(WARREN) 4 miles

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

OPERATION ON OTHER  
RAILROADS IS ILLEGAL

**NORTHERN LINE 12.**  
(BOSCAWEN TO LEBANON)  
59.3 miles

**SUGAR RIVER 5.**  
(NEWPORT TO CLAREMONT) 9.5 miles

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

**ASHUELOT 7.**  
(KEENE TO HINSDALE)  
21 miles

**FORT HILL 10.**  
(HINSDALE)  
8.9 miles

**MONADNOCK 11.**  
(RINDGE TO JAFFREY)  
7.2 miles

**GREENVILLE 2.**  
(GREENVILLE) 2.2 miles

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

**PERMITTED USE SIGNAGE**



TRAIL #  
16

TRAIL #  
7, 8, 10, 11, 12, 13, 14,  
15, 16, 17, 18, 20, 22, 24, 25

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

**MOTORIZED USE**

**LEGEND**

- FLEETTER & WINTER USE ALLOWED
- SLUMBER & WINTER USE ALLOWED (closed from September to May 31)
- USE ONLY WHEN OPEN TO BICYCLES (W/SNOW COVER)
- USE ONLY WHEN BARRIERS OPEN TO BICYCLES (ACTIVE LINES)
- BICYCLES USE ONLY

**13. PRESIDENTIAL**  
(JEFFERSON TO GORHAM)  
18.3 miles

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

**23. CONWAY**  
(RTE. 28 OSSISPEE TO  
RTE. 18 CONWAY)  
21 miles

**WOLFEBORO**  
**20.** (WOLFEBORO TO  
FERNALD STATION) 3 miles

**24.** (RTE. 18 WAKEFIELD TO  
FERNALD STATION  
WOLFEBORO) 8 miles

**9. FARMINGTON**  
(ROCHESTER TO  
FARMINGTON) 6 miles

**ROCKINGHAM**

**PORTSMOUTH BRANCH**

- NO MOTORIZED VEHICLES OR RV USE

18. (MANCHESTER TO NEWFIELDS)  
25.3 MI

**FREMONT BRANCH**

4. (FREMONT RT. 107 TO EPPING)  
4 MI

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

15. (FARMINGTON DEPOT TO RTE 28  
DERRY) 1MI

**MANCHESTER TO  
LAWRENCE BRANCH**

17. (LONDON DERRY) 3.2 MI

16. (RTE 111, SALEM TO WINDHAM  
DEPOT) 5.4 MI

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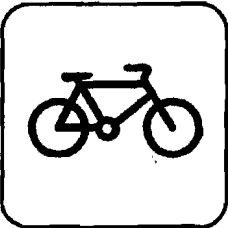
16. (RTE 111, SALEM TO WINDHAM  
DEPOT) 5.4 MI

16. (RTE 111, SALEM TO WINDHAM  
DEPOT) 5.4 MI

0 4 8 12 miles



# 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