

New Hampshire Council on Resources and Development



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TDD Access: Relay NH
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December 14, 2016

Brad W. Simpkins, Director
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Chris Gamache, Chief
NH Trails Bureau
Department of Resources and Economic Development
Division of Parks and Recreation
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Dear Director Simpkins and Chief Gamache:

On December 8, 2016 the Council on Resources and Development made several decisions regarding ATV trail use in Nash Stream Forest and whether such use is consistent with the principles set forth in RSA 162-C:6 for management of LCIP lands.

Concerns about the establishment of the two existing Nash Stream ATV trails – West Side Trail and Kelsey Notch Trail – were brought to the Council's attention by the Appalachian Mountain Club, the Society for the Protection of New Hampshire Forests and The Nature Conservancy in a letter dated May 5, 2016.

In response, the Council adopted the enclosed Findings, which includes General Findings for any ATV use in Nash Stream Forest, as well as Findings specific to West Side Trail and to Kelsey Notch Trail.

In addition, the Division of Forest and Lands submitted a Nash Stream Forest OHRV Briefing Paper and requested guidance from the Council on three proposed ATV trail options for

inclusion in the 2016 revision of the Nash Stream Management Plan. The Council's guidance is based on consistency with the principles of RSA 162-C:6 for the management of LCIP lands.

The Council determined that both Options 1 and 2, as proposed in the Briefing Paper, are consistent with the principles set forth in RSA 162-C:6, with West Side Trail and Kelsey Notch Trail each subject to the specific conditions outlined in the Council's December 8, 2016 Findings. The Council further determined that Option 3, as proposed in the Briefing Paper, is not consistent with the management vision for Nash Stream Forest nor with the principles set forth in RSA 162-C:6.

The Council's motion regarding the proposed options for the Nash Stream Management Plan is enclosed at the end of this document.

Please be in touch with questions or concerns.

Best wishes,



Amanda A. Merrill
Director, Office of Energy and Planning
Chair, Council on Resources and Development

cc: CORD Members
 Jeffrey Rose, Commissioner, Department of Resources and Economic Development
 Phil Bryce, Director, Division of Parks and Recreation, DRED
 Christopher G. Aslin, Assistant Attorney General, Department of Justice
 Susan Arnold, Vice President for Conservation, Appalachian Mountain Club
 Matt Leahy, Public Policy Manager, Society for the Protection of New Hampshire Forests
 Jim O'Brien, Director of External Affairs, The Nature Conservancy
 Will Abbott, Vice President for Policy and Reservation Stewardship, Society for the
 Protection of New Hampshire Forests
 Larry Gomes, Nash Stream OHRV Task Force

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FINDINGS REGARDING ATV/UTV USE IN NASH STREAM FOREST **ADOPTED BY CORD ON DECEMBER 8, 2016 (8-0)**

General Findings:

The Council finds that in order to perform its statutory duty to manage LCIP lands, members must review and find that any use of ATV/UTVs, as currently defined by statute, within Nash Stream Forest is consistent with the principles set forth in RSA 162-C:6 prior to implementation.

CORD further finds that any ATV/UTV use in Nash Stream Forest must be limited to specific ATV/UTV trails approved by CORD in advance. In order to be consistent with the principles set forth in RSA 162-C:6, CORD finds that each proposed ATV/UTV trail must meet the following conditions: (1) the trail must be designed, sited, and used so that it preserves and does not adversely impact natural resources and conservation attributes of the property and does not interfere with or detract from the other uses of Nash Stream Forest; (2) the trail must be authorized in a current management plan, which has been reviewed by CORD for consistency with RSA 162-C:6 and has had appropriate public and state agency input; (3) the trail must comply with the requirements of RSA 215-A and all other applicable ATV/UTV and environmental regulations and standards, and the state's most recently adopted best management practices for trail construction and erosion control; (4) after construction, the trail must be continually managed to protect natural resources and conservation attributes and to limit interference with other uses of Nash Stream Forest; (5) CORD must be adequately informed on an ongoing basis of the status of management, maintenance, and enforcement efforts related to ATV/UTV use, as well as impacts of ATV/UTV trails on the Nash Stream Forest; and (6) CORD reserves the right to periodically reassess whether ATV/UTV use in the Nash Stream Forest, or on any of the trails therein, remains consistent with RSA 162-C:6 and reserves the right to temporarily or permanently close trails if necessary as circumstances change over time.

West Side Trail:

The Council finds that the use of ATV/UTVs on the West Side Trail, as currently managed, is consistent with its management obligations under RSA 162-C:6 as long as: (1) the memoranda of agreement required by RSA 215-A:42 relating to monitoring, maintenance, and enforcement

remain up-to-date and contain sufficient detail and safeguards to ensure that the trail is maintained in a safe and environmentally appropriate manner; and (2) conditions and use of the trail do not change in such a way that makes continued use of ATV/UTVs on the West Side Trail inconsistent with the requirements of RSA 162-C:6 as determined by CORD.

Kelsey Notch Trail:

The Council finds that, based on current available information, it is not able to determine at this time whether continued use of ATV/UTVs on the Kelsey Notch Trail is consistent with CORD's management obligations under RSA 162-C:6. In order to assist in this determination, CORD requests the following additional information regarding the use, maintenance, and impacts of ATV/UTVs at this location:

1. By the January 12, 2017 CORD meeting, DRED shall submit to CORD for review the following:
 - a. An updated coarse and fine filter analysis of the Kelsey Notch Trail, pursuant to RSA 215-A:43;
 - b. An interagency memorandum of understanding, pursuant to RSA 215-A:42; and
 - c. Written agreements between DRED and a local ATV/UTV club, pursuant to RSA 215-A:42.
2. At such time that CORD has reviewed the information above and determined that it is sufficient for the Kelsey Notch Trail to provisionally re-open for ATV/UTV use, DRED shall then submit the following to CORD for review as they become available:
 - a. The annual reports required pursuant to the interagency memorandum of understanding; and
 - b. Such additional reasonable and appropriate studies, data, and information as CORD may require to adequately assess whether the continued use of ATV/UTVs on the Kelsey Notch Trail is consistent with RSA 162-C:6.
3. CORD will assess this additional information for three years (beginning in 2017) and at the end of this time period, or at any other time as circumstances dictate, CORD shall determine, based on available information:
 - a. That additional information and assessment is necessary to determine whether the use of ATV/UTVs on the Kelsey Notch Trail is consistent with RSA 162-C:6; or
 - b. That use of ATV/UTVs on the Kelsey Notch Trail is consistent with RSA 162-C:6, subject to the general conditions for any ATV/UTV use in Nash Stream Forest; or
 - c. That ATV/UTV use on the Kelsey Notch Trail is not consistent with RSA 162-C:6 and the trail shall cease to be open for ATV/UTV use.
4. During the pendency of CORD's review of the Kelsey Notch Trail no expansion of the area of disturbance for ATV/UTV use shall be permitted without prior CORD approval.

MOTION ON GUIDANCE TO DRED REGARDING ATV TRAIL OPTIONS
FOR 2016 REVISED NASH STREAM FOREST MANAGEMENT PLAN

“In looking at the three options presented to CORD from DRED, and given the preliminary findings of the Technical Team, Option 3 would not be consistent with both the management vision as well as RSA 162-C:6. Both Option 1, keeping the status quo, and Option 2, keeping OHRV use consistent with the 2002 Management Plan amendment, would be consistent with both the management vision and CORD’s LCIP responsibilities. However, Option 1 needs to reflect CORD’s determination earlier in today’s meeting.”

Adopted by Council on Resources and Development (7-0)
December 8, 2016