

**MEMORANDUM OF AGREEMENT**  
**PILOT PROGRAM**  
For  
**ATV USE IN DOG TRAINING**  
on  
**STATE MANAGED LANDS**

**“Mushers Association, ATV Training Program”**

Pursuant to New Hampshire RSA Chapter 215-A:3 “Off Highway Recreational Vehicles and Trails”, and under the provisions of Chapter RES 8500 “Bureau Trail Use Rules”, this Memorandum of Agreement (MOA) is entered into on the \_\_\_\_ th day of \_\_\_\_\_, 2005 between the **New Hampshire Department of Resources and Economic Development**, Division of Parks and Recreation, Bureau of Trails (the “STATE”), with a principle mailing address of P.O. Box 1856, Concord, NH 03302-1856 and the **New Hampshire Mushers Association**, c/o 42 North Road, Candia N.H. 03034, (the “ASSOCIATION”), for the purpose of providing an opportunity for the members of the ASSOCIATION to operate all-terrain vehicles (ATVs) on state-owned properties as shown on ATTACHMENT “A”, as prescribed below.

**WHEREAS**, the properties or trails listed in ATTACHMENT “A” are managed by the Department of Resources and Economic Development, are open to the public and managed for multiple recreational uses, and

**WHEREAS**, the Division of Parks and Recreation, pursuant to RSA 216-A:3, has the responsibility for the development and management of state-owned parks, forests and rail trails for recreation purposes; and

**WHEREAS**, the Division of Parks and Recreation’s Bureau of Trails, pursuant to RSA 215-A, is responsible for establishing and administering recreational trails in cooperation with state and private interests for public benefit, and

**WHEREAS**, the NH Mushers Association (the ASSOCIATION) is a recognized non-profit group by the State of New Hampshire that provides Sled Dog education and educational outreach for trails for their members and the public, and they have approached the state with a request to permit ATVs to be used for increased safety while training,

**NOW THEREFORE**, the parties hereto agree as follows:

The STATE hereby grants to the ASSOCIATION, in cooperation and coordination with the STATE, the rights to use All Terrain Vehicles, as defined in RSA 215-A:1, for the purposes of training sled dogs on the properties as listed in ATTACHMENT “A” under a two (2) year **“Mushers Association, ATV Training Program”** (the “PROGRAM”) from the effective date of this MOA thru October 1, 2007, for the seasonal period of October 1 until March 15. The parties further agree that at the completion of the PROGRAM, the Commissioner of the New Hampshire Department of Resources and Economic Development may renew, or revoke the PROGRAM.

Throughout the term of the PROGRAM, the ASSOCIATION agrees to work with the STATE to mitigate negative impacts, to the natural resources that are attributable to their use of ATVs on the properties or trails in ATTACHMENT "A".

Throughout the PROGRAM, the ASSOCIATION agrees to assist in keeping the properties or trails in a litter-free condition and shall promptly dispose of all litter, trash and manmade debris in a manner consistent with current state and federal laws.

The ASSOCIATION agrees to assist the STATE in the maintenance of properties or trails listed in ATTACHMENT "A", including sign replacement and maintenance, routine structure inspection and repair, as requested by the STATE. Maintenance activities by the ASSOCIATION shall include, but not be limited to removal of fallen trees and cutting back encroaching vegetation. All maintenance activities must be pre-approved by the STATE. The STATE, and its agents, reserves the right to enter the properties or trails with persons and equipment for maintenance purposes.

The STATE maintains the right to close the properties or trails when any of the following are true:

- Weather conditions make the properties or trails unsuitable for ATV use;
- Public safety is endangered due to conditions on the properties or trails;
- Use of the properties or trails is resulting in degradation of surface waters;
- Damage to the properties or trails may occur due to heavy rain, mud, or other condition;
- The ASSOCIATIONS use of ATVs is resulting in increased unauthorized ATV use on the properties or trails; or
- Any other reason, which would cause public safety or environmental concerns sufficient enough to close the properties or trails to this specific ATV use.

The ASSOCIATION shall remain in compliance with and abide by the terms of this PROGRAM, and all federal, state, and local laws and regulations regarding their use of the properties or trails.

#### **MONITORING TRAIL USE:**

In cooperation and consultation with the STATE, the ASSOCIATION agrees to monitor its members and their ATV usage on the properties or trails, and communicate with other users of the properties or trails, to ensure that this special ATV use is limited to the designated properties and trails listed in ATTACHMENT "A" and is done in compliance with existing state laws, administrative rules and this AGREEMENT. The STATE and the ASSOCIATION agree to meet at least annually, before October 1, and more often at the request of either party, to discuss issues that may develop and to consider management options.

#### **LIMITATION OF LIABILITY:**

Nothing in this Memorandum of Agreement (MOA) shall be a basis for any liability on the part of the STATE with respect to personal injury or property damage sustained by any person. The STATE is entitled to the protections of RSA 508:14 and RSA 212:34.

## **COMPLIANCE WITH DEPARTMENTAL REGULATIONS AND POLICIES:**

This MOA and the use of ATVs on the properties and trails as listed in ATTACHMENT "A", shall be in accordance with New Hampshire laws and the STATE'S regulations and policies pertaining to such use. Current applicable laws, regulations, and policies regarding ATV use are attached to and made part of this MOA as Attachment B. The term "ATV" is defined in section 215-A:1 of the attached regulations.

## **NON-EXCLUSIVE USE:**

The properties or trails listed in ATTACHMENT "A" shall be open to the public for recreational use and shall not be limited to the exclusive use by members of the ASSOCIATION.

## **RESPONSIBILITIES OF THE CLUB:**

A "Summary of Activities Report" (the REPORT) shall be submitted annually, by October 1<sup>st</sup>, to the STATE. The REPORT shall include, but not be limited, to the following:

- A list of current NHMA members with Musher ATV training permits for the upcoming season.
- A list of members whom had been issued Musher ATV training permits for the previous season.
- Record of the previous year's volunteer and maintenance hours and associated costs, if any.
- ASSOCIATION shall keep the database of members and members that have been issued Musher ATV training permits. The database shall include Name, Address, Phone number and permit number.

The REPORT shall be reviewed and approved by the Division of Parks and Recreation, Bureau of Trails within thirty (30) days of submission. Issues, if any, rendering the REPORT unacceptable, shall be resolved by the STATE and ASSOCIATION before the properties or trails may be used for the approaching season.

The ASSOCIATION shall verify that all ATVs used in training activities are legally registered to operate in the State of NH and are in compliance with all statutory requirements for sound and equipment.

The ASSOCIATION shall provide a form for members' signature acknowledging they understand and agree to abide by the conditions for use set forth by the Bureau in this PROGRAM.

The ASSOCIATION shall provide registered members with a sticker that will be affixed to the ATV identifying it as a participant in the PROGRAM.

The ASSOCIATION shall post their "Caution-Sled Dogs on Trail" sign on the properties or trails to warn other trail users that sled dogs may be encountered on the trail.

The ASSOCIATION members agree that ;

- ❖ ATVs may only be used on the properties or trails listed in ATTACHMENT "A"
- ❖ ATVs will only be used when physically connected to the dogs

The Association shall work cooperatively with the STATE to do such things as are reasonably necessary and practicable (including the use of gates and barriers and appropriate official signs) to keep ATV use on the Trail and to restrict access by vehicles other than ATVs.

### **RESPONSIBILITIES OF THE STATE:**

Prior to the beginning of the PROGRAM, the Trail shall be adequately marked by the STATE in accordance with the "Trail Signing Handbook: Guidelines for Signing Snowmobile Trails" (State of New Hampshire, Department of Resources and Economic Development, Division of Parks and Recreation, Trails Bureau), or such successor standard

The STATE shall, prior to the first season of training, send out a letter of introduction to the Police Departments on all of the communities through which the trail traverses, to inform them that limited legal ATV use will be on the trail.

### **AMMENDMENTS:**

The STATE and the ASSOCIATION may mutually amend this AGREEMENT when necessary.

ATTACHMENT "A" may be amended by the STATE upon written notification to the ASSOCIATION

### **TRANSFERABILITY:**

The ASSOCIATION may not transfer its rights to any other organization.

### **ATTACHMENTS:**

Attachment A – Properties and Trails covered by this MOA

Attachment B – Laws, Definitions, and Rules pertaining to ATVs

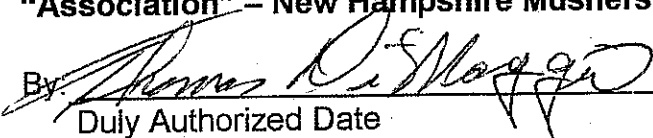
**SIGNATURES:**

**"STATE" – New Hampshire Department of Resources and Economic Development**

By: \_\_\_\_\_  
R. Sean O'Kane, Commissioner Date

By: \_\_\_\_\_  
Allison McLean, Director Date  
Division of Parks and Recreation

**"Association" – New Hampshire Mushers Association**

By:  \_\_\_\_\_ *9/8/05*  
Duly Authorized Date

**NOTICES:**

All notices pursuant to this MOA should be provided to the following parties:

Tom DiMaggio-President  
NH Mushers Association

Paul Gray –Chief Supervisor  
NH Bureau of Trails  
PO Box 1856  
Concord, NH 03302-1856

**ATTACHMENT "A"**  
**MEMORANDUM OF AGREEMENT**  
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Rockingham Recreation Trail, Fremont Branch  
In the towns of Epping, and Fremont , North of Fremont Station  
Note, the remaining portion of the Fremont Branch in the towns Fremont, Sandown, Hampstead, and Derry (to the east side of Route 28) is open to ATV use.

Ashuelot Recreation Trail  
In the towns of Hinsdale, Winchester, Swanzey, and Keene

The Northern Branch Recreation Trail  
In the towns of Lebanon, Enfield, Canaan, Grafton, Danbury, and Andover

The Rochester Branch Recreation Trail  
In the towns of Rochester and Farmington

The Presidential Recreation Trail  
In the towns of Gorham, Randolph, Jefferson

Bear Brook State Park (historically used roads or trails)  
In the towns of Allenstown, Deerfield, Candia, and Hooksett

Pawtuckaway State Park (historically used roads or trails)  
In the towns of Deerfield, and Nottingham

*PISGAH  
SUGAR RIVER  
AMMONUSUC  
HILLSBOROUGH*  
ATV TRAILS / AND SAFELY  
WINTER USE OF ATV

**ATTACHMENT "B"**  
**MEMORANDUM OF AGREEMENT**  
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**LAWS**

RSA 215-A  
RSA 216-A  
RSA 216-F

**Rules**

Res 8500