



ATV Watch New Hampshire
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January 16, 2007

Mr. Leigh Levine
FHWA - NH Division
19 Chenell Drive
Suite One
Concord, NH 03301

Dear Mr. Levine,

Thank you for the information concerning the Federal Highway Administration's position on wheeled ATV use on New Hampshire rail trails purchased with Federal Transportation Enhancement (TE) funds.

Over the last few years ATV Watch has received numerous inquiries and complaints related to ATV use on the TE funded rail corridors owned by the State of New Hampshire Department of Transportation (NHDOT) and managed by the New Hampshire Bureau of Trails (BOT). In turn ATV Watch has made inquiries to these agencies regarding the issue and the applicability of federal statutes governing the TE funded rail trails. In response to these inquiries NHDOT and BOT have consistently held the position that in the winter, with adequate snow cover, wheeled ATVs are defined as "snow traveling vehicles" and therefore permitted under the federal statutes. In response to inquiries ATV Watch has received, we have relayed the state's position with the caveat that it is not ATV Watch's position, but that it is the state's position and that at some point ATV Watch would look into the issue further.

It is my understanding that on TE funded rail trails federal statutes preclude the use of any motorized recreational vehicles except "snowmobiles" when state or local regulations permit. Over the last year or so we have investigated the basis for the State of New Hampshire's position and have come up with no statutory or regulatory documentation supporting it. Admittedly, perhaps we have overlooked something and if this is the case we would like to know that.

We have been hesitant to raise this issue and really did not even want to. However, at this point we felt we had to raise it and clarify it before the state feels like there is some sort of precedent that has been established. If in fact, wheeled ATV use is not legal and has been allowed, even promoted by the state, they probably will not want to claim an illegal use as a basis for any sort of precedent argument.

We are asking for clarification on this issue from the Federal Highway Administration as soon as possible.

Sincerely,

Andrew Walters, Concerned Citizen and Director, ATV Watch

Cc: Ram Maddali (NHDOT), Chris Gamache (NHBOT), Christopher Douwes (FHA), Commissioner Carol Murray (NHDOT)