



New Hampshire Council on Resources and Development

APPROVED MINUTES – March 9, 2023

Approved as presented on May 11, 2023.

MEMBERS PRESENT

Taylor Caswell, Chair, Commissioner, NH Department of Business and Economic Affairs.
John Martin, Designee, NH Department of Health and Human Services (arrived at 2:20 PM)
Mark Doyle, Designee, Department of Safety
Jack Ruderman, Designee, NH Housing Finance Authority
Shawn Jasper, Designee, Department of Agriculture
Jared Nylund, Designee, NH Department of Administrative Services
Stephen Labonte, Designee, NH Department of Transportation
Betsey McNaughten, Designee, NH Fish & Game
Patrick Hackley, Designee, NH Department of Natural and Cultural Resources
Amy Clark, Designee, Department of Education
Mark Sanborn, Designee, Department of Environmental Services

OTHER PARTICIPANTS

Stephanie Verdile, NH Office of Planning and Development (CORD Staff)
Jennifer Gilbert, Director, NH Office of Planning and Development
Alvina Snegach, NH Office of Planning and Development (CORD recording secretary)
Allen Brooks, CORD Attorney, NH Department of Justice
Ray Gorman, Coos County Commissioner, Colebrook Selectman
Steven Wilkie, NH Highway Vehicle Association
Corey Clark, NHDES Dam Bureau
Patrick Bell, NHDES Dam Bureau
Ryan Bell, NHDES Dam Bureau
John Mayer, NH Fish & Game
Jim Oehler, NH Fish & Game
Maggie Machinist, NH Fish & Game
Michael Eastman, NH Fish & Game
Steven Walker, NH Conservation Land Stewardship Program
Charlotte Harding, NH Conservation Land Stewardship Program
Clinton Savage, NH Department of Natural and Cultural Resources
Craig Rennie, NH Department of Natural and Cultural Resources
Terry Lambert, NHOHVA
Larry Gomes, Milan Trail Huggers ATV Club trail master
Greg Marsh, Contocook ATV Club
Frank Spinazzocz, V.D. NH ATV Club
Pat Gorton, N.C. ATV Club
Tom Gorton, N.C. ATV Club
Harlan Connary, N.C. ATV Club
John Sanborn, N.C. ATV Club
Jaime Sanborn, N.C. ATV Club

Joshua Philips, North Country ATV
Jason Trepanies, North Country ATV
Susan J. Clark, North Country ATV
Bruce Clark, North Country ATV
Craig Washburn, Metallak ATV
James Nadon, Mettalak ATV
Claive Nadon, Mettallak ATV
Nancy Oliver, Presidential Club
Jesse Breton
Jay C. Koslowski
Chris Thayer, Appalachian Mtn. Club
Jim O'Brien, The Nature Conservancy
Meredith Hatfield, The Nature Conservancy
Madeleine Mineau, Briar Hydro
John Tuthin
Wayne Lubotta, NC ATV
Mark Ryan, Androscoggin ATV
Harry n. Noseberry, Androscoggin ATV
Bob Gale, Stark Planning Board
Tom Levesque, Merrimack Valley T/R
Jamie Sayen, Stratford Citizen
Matt Leahy, Forest Society
Karl Ladue, CLUB ATV
Mary Ladue, Presidential Club
Larry Meservey, Moms – Groveton and Gorham

ROLL CALL AND INTRODUCTIONS

The meeting was opened at 2:00 P.M. by Chair Caswell. Council members then introduced themselves.

MINUTES

Approval of January 12, 2023, draft minutes

Mr. Caswell noted there were corrections submitted by Jamie Sayen and asked if the members would approve the minutes as presented or with the amendments as they were shown in the meeting packet. Ms. McNaughten also suggested a couple of amendments to the section where she mentioned her supervisor and Mr. McGee.

***MOTION.** Mr. Doyle, seconded by Mr. Sanborn, January 12, 2023, minutes were approved as amended in accordance with Mr. Sayen's comments and Ms. McNaughten's corrections by a unanimous vote in favor.*

SURPLUS LAND REVIEW

A. 2023 SLR 003

Request from the Department of Environmental Services (NHDES) to sell its York Dam and Canal Dike on the Contoocook River, its easements at the Rolfe Canal Entrance and Outlet, and its associated flowage and water rights and access easements to Briar Hydro Associates. The property is located off Island Road and Electric Avenue and near Washington Street in Concord, NH.

Ms. Verdile read the item into the record. Corey Clark from NH Department of Environmental Services presented the details of the application and a brief background of the lease with Briar Hydro who is now proposing to purchase the dam, dike and associated easements and flowage and water rights. He also spoke about the falling revenues associated with this lease and the desire of the state to avoid any liability associated with ownership of York Dam. Mr. Sanborn added that the department is trying to decrease its ownership footprint and this sale is consistent with this approach.

MOTION: *Ms. McNaughten made a motion, seconded by Mr. Jasper to recommend the proposed sale of York Dam and Canal Dike on the Contoocook River at the Rolfe Canal Entrance and Outlet and its associated flowage and water rights to Briar Hydro Associates. Motion carried with a unanimous vote in favor.*

2023 SLR 004

Request from the New Hampshire Department of Natural and Cultural Resources (NHDNCR) to dispose of the State property known as Allen State Forest. The forest is compromised of one 30-acre parcel and is located on Warner Road in Concord, NH.

Ms. Verdile read the item into the record. She also noted that this application has received the following comments for CORD to consider in their decision:

- The State Conservation Committee recommends that a developmental deed restriction be included as part of any sale of the property due to the wetland and agricultural resources associated with the site.
- The RMAC concurred with CNBRLAC's desire to maintain this property as undeveloped land and voted unanimously to support the sale of the Allen State Forest but with the recommendation that a conservation easement be placed on the parcel prior to any sale.

Patrick Hackley from NH Department of Natural and Cultural Resources presented the details of the application and explained why the sell was strategically beneficial for the department. He then addressed the comment about placement of the development restriction deed on the property as part of the sale and said this would preclude the department from selling as it will have to monitor the deed, which does not align with the department strategy. He also noted there were no wetlands or occurrences of endangered species found on the site. There was a brief discussion on whether the motion should be made with or without the suggested conditions prior to discussion.

Mr. Sanborn made a motion to recommend the proposed sale of Allen State Forest as presented by NH DNCR (without conditions). Mr. Labonte duly seconded.

Ms. McNaughten said that NH Fish & Game is supporting NH DNCR's reasoning for the sale of this property.

Ms. McNaughten made a motion to accept the proposal without the recommended restrictions from the two entities who commented.

MOTION: *After a short discussion Mr. Sanborn made a motion to accept the proposal sale of Allen State Forest as presented by NH DNCR. Ms. McNaughten duly seconded. Motion carried with a majority vote in favor. Mr. Jasper voted nay, and Mr. Hackley abstained.*

LAND CONSERVATION INVESTMENT PROGRAM (LCIP)

A. Nash Stream Forest – Kelsey Notch trail.

- i. Overview of CORD's responsibilities and decisions
- ii. Agency input
- iii. Public input
- iv. Discussion and decision

Chair Caswell said that he would like to hear from the relevant state agencies that are responsible for management of Kelsey Notch trails before he opens the floor to the public comments and questions. The agencies Mr. Caswell referred to were the Department of Natural and Cultural Resources and Fish & Game.

He also asked Attorney Brooks to provide an overview of where CORD's jurisdiction begins and ends on this issue.

For the purpose of transparency and full disclosure, several members of CORD disclosed their memberships in organizations and/or advocacy groups which are connected to the matter in one way or another. They were Mr. Doyle, who is a member of one of the advocacy groups – The Appalachian Mountain Club; Amy Clark, who said that she is an agency member as well; Mr. Hackley who is a member of The Nature Conservancy, the Society for Protection of New Hampshire Forests, and the Appalachian Mountain Club; and Ms. McNaughten who is a former employee of the Audubon Society and a former member of the Appalachian Mountain Club. Attorney Brooks noted that there is no need for any of the members to recuse themselves in this case but disclosing this information is beneficial to the public.

Attorney Brooks then spoke about CORD's jurisdiction over the Kelsey Notch Trail. He said that under the Land Conservation Investment Program (LCIP) grants were given for the purpose of land conservation and CORD was given management responsibilities over those properties under the RSA 221-A which has been sunseting at the time. CORD can assign those management responsibilities to other agencies, but CORD remains the ultimate authority over how these properties are to be used while trying to balance the public use with conservation purposes.

Mr. Hackley from NH DNCR spoke about the fact that most of the decision maker who were involved in dealing with Kelsey Notch Trail originally, are no longer there. He said that they at the agency inherited the conflict that comes with managing Kelsey Notch Trail and has been doing their best since then. He thanked Chairman Caswell for bringing CORD to the point of making a decision on the matter.

Mr. Hackley said that DNCR had an internal discussion and came up with the following recommendation:

“The Department of Natural and Cultural Resources officially recognizes the Kelsey Notch Trail as permanent on the condition that monitoring occur twice annually during the riding season and that year-end maintenance work, if needed, be done prior to seasonal trail closure. The first monitoring visit would be conducted in mid-July at/near the peak of riding activity followed by a second visit in late October, just prior to year-end maintenance and close-out. The monitoring team would consist of North Region representatives from the Division of Forests & Lands, Fish & Game, and Bureau of Trails. If any significant erosion or other environmental impacts are observed at the mid-July monitoring visit, those conditions would be addressed as promptly as the state contracting process will allow. A comprehensive monitoring report will be submitted to CORD annually. Should monitoring indicate persistent unmitigated issues of soil erosion, water quality violations, or other significant environmental impacts, the status of the trail on Nash Stream Forest will be reassessed by CORD and DNCR.”

Ms. McNaughten also read a statement from Fish & Game as follows:

“The NH Fish and Game Department concurs with DNCR in that the Department officially recognizes the Kelsey Notch Trail. Monitoring should continue to occur twice annually during the riding season and that year-end maintenance work, if needed, be done prior to seasonal trail closure.

If any significant erosion or other environmental impacts are observed at the annual monitoring visits, those conditions would be addressed as promptly as the state contracting process will allow. Should monitoring indicate persistent, unmitigated issues of soil erosion, water quality violations, or other significant environmental impacts, the status of the trail on Nash Stream Forest will be reassessed by CORD.

However, the Department continues to have concerns on the impact of ATV noise on the high-volume trail use days during the nesting season, particular during spring and early summer month as stated in the 2022 monitoring report. NHFG ask that these concerns remain in the annual monitoring reports until such time that there is an effective strategy or method to evaluate these impacts and determine if trail use should be reduced, restricted, or otherwise managed to reduce impacts if any are found. The Department recognizes the popularity of the trail, and that the increased use of ATVs in the North Country has an economic impact.

In closing, the Department concurs with DNCR that the monitoring team would consist of North Region representatives from the Division of Forest and Lands, Fish & Game fisheries and wildlife biologist, and Bureau of Trails.”

Jim Oehler from Fish & Game, who is the Supervisor of the Wildlife Program spoke about the presentation he prepared about the ORHV impacts on wildlife, which was available in the CORD packet. The main takeaways of the presentation are that there is impact on wildlife from both official and unofficial trails as well as roads and it is really important that there are trail free areas available. Mr. Oehler added that there were no rigorous qualitative studies done for the Kelsey Notch in particular to know the extent of the impacts to wildlife and that it would be beneficial to take a deeper look at how recreational trail impact wildlife there as well as anywhere across the state. Mr. Oehler said that the agency understands that a balance approach is needed to this issue and leaving the door open to learning more about any wildlife impacts and if such are to be found, understanding how to manage them. Mr. Oehler then answered the question from Chairman Caswell about the ability of any studies that could be used as a baseline, which he said are available for other parts of the country and could be used to develop a methodology to be used here in New England.

There was some back and forth on the total acreage of Nash Stream Forest and the length of the trails, with the former being just under 40 acres and the latter coming to about 2.56 miles of trails' length in total (including both forks).

Then there was discussion on whether a motion is needed to be made before opening the floor to discussion and whether the motion should be based on DNCR's recommendations with addition of some language from the Fish & Game recommendations letter.

Ms. Verdile read the recommendations from DNCR verbatim.

MOTION: *Mr. Jasper made a motion that the Department of Natural and Cultural Resources officially recognizes the Kelsey Notch Trail as permanent on the condition that monitoring occur twice annually during the riding season and that year-end maintenance work, if needed, be done prior to seasonal trail closure. The first monitoring visit would be conducted in mid-July at/near the peak of riding activity followed by a second visit in late October, just prior to year-end maintenance and close-out. The monitoring team would consist of North Region representatives from the Division of Forests & Lands, Fish & Game, and Bureau of Trails. If any significant erosion or other environmental impacts are observed at the mid-July monitoring visit, those conditions would be addressed as promptly as the state contracting process will allow. A*

comprehensive monitoring report will be submitted to CORD annually. Should monitoring indicate persistent unmitigated issues of soil erosion, water quality violations, or other significant environmental impacts, the status of the trail on Nash Stream Forest will be reassessed by CORD and DNCR. Mr. Sanborn duly seconded and made a friendly amendment to include the following language in the motion from the Fish & Game recommendations: "However, the Department continues to have concerns on the impact of ATV noise on the high-volume trail use days during the nesting season, particular during spring and early summer month as stated in the 2022 monitoring report. NHFG ask that these concerns remain in the annual monitoring reports until such time that there is an effective strategy or method to evaluate these impacts and determine if tail use should be reduced, restricted, or otherwise managed to reduce impacts if any are found."

Mr. Jasper agreed to the friendly amendment and Mr. Sanborn duly seconded the amended motion.

Mr. Caswell opened the floor to the discussion and public comment.

Ms. Verdile informed the Committee that there are multiple emails incoming from the public (so far there were 66 and counting) which will be compiled into one document and provided to CORD.

The following individuals addressed the committee:

- John Magee, Fish & Game. He spoke about the trail's condition in 2016 being very bad with regards to the water quality and the fact that DNCR has done a pretty good job monitoring it since then. Mr. Magee said that he sees a lot of value in doing the monitoring twice a year. He also asked if the members would consider the language in the motion that is referring to *any significant erosion or other environmental impacts are observed at the mid-July monitoring visit, those conditions would be addressed as promptly as the state contracting process will allow*, which he said was concerning for the ones that might be observed during other parts of the year.
- Captain Michael Eastman, ORHV Coordinator for enforcement, safety, and registrations for Fish & Game spoke about one reported enforcement action for this section of the trail in the annual report. He added that this trail is one of the better trails which is pretty well maintained. Captain Eastman also said that he is seeing plenty of wildlife out there where there is OHRV activity, therefore he would think that there is not much impact to wildlife as he would not see much wildlife out there otherwise.
- Maggie Machinist, Wildlife Biologist with Fish & Game, made a comment about the motion referring to the Kelsey Notch Trail as permanent. She suggested to keep in line with the Management Plan and name the trail a "designated OHRV trail" as opposed to permanent.

Mr. Sanborn asked Attorney Brooks to opine on whether there was a legal difference in naming the trail permanent versus designated OHRV trail.

Attorney Brooks noted it was a good comment and it helps clarify things; however, the motion, as stated still allows CORD to revisit the status of the trail, and either modify it or close the trail itself.

- Joshua Philips President of the North Country ATV Club asked about whether this discussion was also about the West Side Trail and Mr. Caswell answered that this is only regarding Kelsey Notch as the West Side Trail is already permanent.
- Ray Gorman, Coos County Commissioner and Colebrook Selectmen, said that the Commission and the local state representative sent letters of support for the trail to stay open. He also spoke about the economic history of the North Country and how important OHRV use is to its the economic prosperity. Mr. Gorman also distributed some maps that show the connection that the Kelsey Notch trail provides for the rest of the area and asked the Committee to support keeping the trail open.

- Jim O'Brien from The Nature Conservancy, noted there has been a letter submitted on behalf of the Appalachian Mountain Club, NH Audubon Society, Society for the Protection of New Hampshire Forests, and The Nature Conservancy detailing the concerns these organizations have with the Kelsey Notch trail allowing ATV use. He provided a brief history of the trail opening in 2012 as a pilot, allegedly without following any state statutes or process; then the development of the Management Plan in 2016 and its adoption in 2017, continuing the use as a pilot for another three years. In 2020 CORD decided to continue the pilot for yet another three years and established some criteria to help them make a decision. The discussion then was around what CORD would need to establish whether this trail is being operated in accordance with CORD's statutory obligations; whether it is understanding the environmental impacts, doing adequate monitoring and proving the monitoring reports to the public, and understanding the impacts to wildlife, endangered species and other users of Nash Stream Forest. Mr. O'Brien said that from what he had heard, there are no such reports and asked CORD how it is going to determine whether the pilot phase is over, and the natural resources protection will be ensured if the trail remains operational. He also said that from what he heard from Fish & Game and others is that there is some monitoring, but no clear understanding of the impacts to wildlife. Mr. O'Brien also asked that if there are any monitoring reports, that they be made available to the public, and that CORD is explicit with other state agencies under its jurisdiction that "pilot" is not a thing, and that a proper process in accordance with all the statutes, after having done all the necessary research, should be followed to establish trails on public land in New Hampshire. Mr. O'Brien asked CORD if a decision is made to go forward with allowing ATV use on the trail, that adequate enforcement is in place. He also asked that CORD also obtain information on the environmental impacts and impact to other users of Nash Stream Forest prior to going forward with making the decision to keep ATV use on the trail.
- Bob Gale, member of the Stark planning board, spoke about the Stark, Berlin and Gorham area still trying to economically recover from the loss of the paper mills and then COVID and that a lot of people are trying to stay afloat. He spoke about a loss of business in town and that the area needs the trail to stay open. Mr. Gale mentioned that the town is ready to work with CORD to do whatever is necessary to keep the trail open.
- Joshua Philips, President of the North Country ATV Club, spoke about the fact that there are very few businesses in Stratford and that the closure of this trail will completely isolate Stratford and make things a lot harder for the remaining businesses. He asked to keep the trail open as it also provides connectivity to other areas around.
- Steven Wilkie, NH Off-Highway Vehicle Association, spoke about his organization maintaining multiple ATV and OHRV trails in the state. He also mentioned a study done at the Yellowstone National Park with motorized vehicles which showed that most species had a stop and stare reaction, which, he opined, seemed that the wildlife has not been that much impacted as many seem to allege. Mr. Wilkie said that erosion happens on all kinds of trails. In 2018 the Club Membership Program happened, and it resulted in infusion of over one million dollars into the brand name program, and affected the trails maintenance in a very positive way. He also noted that ATV's help maintain snowmobile trails when they are shared. Mr. Wilkie also spoke about the economic benefits of tourism and brought up some numbers to support his claim. Mr. Wilkie asked CORD to keep the trail open as closing it will be economically detrimental to the area and also hurt every club in the state.
- Larry Gomes, Trail master of the Milan ATV Club and has been a member of the several Nash Stream Citizens committees. He spoke about the land purchase under LCIP required creation of a local citizens committee with various types of representation (camp owners, municipal officials, clubs, etc.), which would ultimately be making all the

decisions on the use of this land, with CORD rubber stamping those decisions. He said that then the Management Plan was adopted, and that process got reversed in some cases. Mr. Gomes said that a lot of local groups care about what happens in Nash Stream Forest and that they should provide input for the Management Plan as well.

There was a brief back and forth about the camps in Nash Stream Forest that are currently managed by DNCR as well as other types of trails and a road in the forest besides ATV trails.

- Mr. Gomes noted that that road is opened to various types of traffic as well as it being used for logging.
- Matt Lahey, Public Policy Manager for the NH Forest Society, provided some background information as to why the NH Forest Society, The Nature Conservancy, The Appalachian Mountain Club, and the Audubon Society have an interest in what happens in Nash Stream Forest. He said that The Nature Conservancy and NH Forest Society worked very closely with the state to purchase the Nash Stream Forest and that managing it aligns very closely with the goals of the NH Forest Society. He continued to say that the fundamental question is whether the state followed the law when the trail was established. He added that there are also concerns about lack of studies for this area about wildlife impacts. Mr. Lahey urged CORD members to think about those two issues when they make a decision on the fate of the Kelsey Notch trail.
- Jamie Sayen, from Stratford, who serves on the Nash Stream Citizens Committee but is speaking as a private citizen and not on behalf of the citizen's committee. He spoke about the sale of the Nash Stream from the private owner. He then asked whether he understood correctly that CORD directive was to make sure that the intent of the purchase was followed through with an honor, and that he thought that it was not. Mr. Sayen said that the private landowner banned ATV's and when the state took over, it did not shut it down, it perpetuated that ban. The first Management Plan was established in 1990, although it was not released until 1995. A lot of controversy during the discussion in 1990 focused on ecological reserves, timber harvesting, camps, etc.; however, there was the least controversy about maintaining or getting rid of the ATV ban. Mr. Sayen continued to say that clear intent of the state and the original plan writers was to maintain that ban. In the conservation easement of 1989 with the Forest Service the state delineated many different rights that it retains while through the easement it sold the development rights to the Forest Service, among them recreation, snowmobiling, which is explicitly mentioned. There is not mention of any kind of motorized activity. In section 2c of the easement it says that any rights not explicitly reserved by the state are hereby surrendered by the state (that is a paraphrase not a quote). The Forest Service was asked in 2001 whether they would allow ATV use, Tom Wagner, who was the Head of the Forest Service, misread the easement as he did not even refer to that section. He did say that if they put a road in, it seems that they could a put an internal road in, but it would be the Forest Service's jurisdiction if it were a connecting road. The Nash Stream Committee at the time ignored that and said that they wanted a connecting road, and the West Side is in fact a connected road to the network, and of course now Kelsey Notch is also a connecting road from east to west. The Forest Service in 2001 seemed to be saying that it should have jurisdiction over connecting roads and yet it has not asserted its authority. RSA 215 says that the state cannot enter into MOU's unless they can guarantee both monitoring and adequate enforcement. There has never been adequate enforcement, as we all know how overstressed and underfunded Fish & Game. Mr. Sayen said that he cannot blame Fish & Game but they cannot meet that requirement, so they should not have been signing that MOU. As for monitoring, the RSA required it since at least 2005 and it never got done. It was only when CORD said that it will provisionally allow the continuation of Kelsey Notch provided that there is monitoring, and the first monitoring report is from 2017. Since 2002 the West Side Road was being

unmonitored. The state and Trout Unlimited put two million dollars into restoring the wild trout habitat and the West Side Road is running along it and there is no water quality monitoring. The monitoring that has been done has been utterly inadequate in terms of passing the credibility test. It has been done after the fall maintenance so any damage that may have been done by the seasonal use of the trail has been cleaned up. So, we do not know where silt has been entering into the water bodies. There are also no water tests done as Mr. Sayen was told they are very expensive. Mr. Sayen said that we are in a situation where the state cannot afford to monitor and with this motion before CORD, should it pass, it should be asking where this money is going to be coming from for monitoring because money is never available for monitoring, so the monitoring promise will be hollow just as it has been in the past. The monitoring, even though there are so many problems with the monitoring process itself, has identified some serious problems, such as ATV's bringing in invasives. The treatment for invasives is glyphosate, which is a known carcinogen, so one way to keep the invasives down is possibly to not have ATVs bring them. The studies issue is quite shocking. Before they opened the ATV's up in 2002, they allegedly did some studies, but then the minutes to the 2007 Nash Stream Citizens Committee said that there was a problem with the mammal study, and there has never been any attempt to address those problems since then. The state has had 20 years to do this stuff and they have not. In Kelsey Notch they had 10 years. CORD has been saying since 2016 that it needs more evidence and every time we come back we do not really know about that. Mr. Sayen said that it is time to reconsider this whole process. Mr. Sayen also said that he shares the concerns for the economics of Coos County and that he wrote a book on the paper mills, and it was really shocking how the outside capital determined the fate of our community. In 15 years since the mills went down the state has built a couple of prisons, sent hundreds of millions of dollars to subsidize the biomass plant in Berlin, unregulated logging is causing a lot of clearcuts and whole tree chipping, and then ATV's and that is our economy. Basing an economy on recreation and tourism is a surefire guarantee for boom-and-bust disaster. The reason Mr. Sayen's town maybe isolated on the ATV trails in the North Country is because the private landowners are shutting down access to the lands as there have been problems. ATV's cause a lot of problems with trails, such as mud, siltation, dust. Just because you see animals on an ATV does not mean there is no impact, especially when it comes to childbearing. There is a need for real studies and not something from Yellowstone. Mr. Sayen said that the economic study mentioned earlier was done three years ago by Plymouth University and only looked at the benefits of ATV's but did not consider the costs, externalities, or stress that the towns are under, such as Gorham, which is currently undergoing a lawsuit with one of the neighborhoods that is being harassed by a trailhead that could be moved. This is not a happy solution to our economic woes. And then there is climate change. Shutting down Kelsey Notch will not solve the climate crisis, but it will send a message that New Hampshire is serious about combatting unnecessary carbon emissions into the atmosphere. Mr. Sayen said that he urges CORD to consider the totality of it and the fact that in all these years the state has not gotten it right and has been asking for more and more time. He said that CORD can continue to give them more time, but if there is no adequate funding for monitoring and no peer reviewed studies, it is not going to work out.

- Joshua Philips rebutted Mr. Sayen's words about landowners shutting their land for use by the club and there are no closed trails right now, therefore it was false information. He added that there are people in Stratford who are anti ATV and they have always been against ATV use. He reiterated that a lot of what Mr. Sayen said is false.
- Tom Levesque, from Derry, who also owns a camp in Erroll, spoke about the fact that every agency has a lawyer and if that was illegal, they would have already said so. He

also noted that one of the comments made was about controlling erosion. For the last four to six years Bureau of Trails and Fish and Game along with volunteers have been addressing the concerns that have been brought up the local landowners. He added that he is sure that going forward they would keep up the good work and if CORD did not thing it would be possible, it would not have made that recommendation.

- Craig Washburn, Metallak ATV club, spoke about growing up in the area and knowing it very well. He spoke about people who originally planned this trail, some of them being NHDES employees and that they worked together to try to monitor and take care of this. Mr. Washburn agreed that monitoring is needed and said that the club's trail patrols are out there on a regular basis, and Fish & Game has a couple officers in the North Country. He continued to say that there is plenty of wildlife in Kelsey Notch and offered to answer questions for anyone who has any.
- Larry Gomes, spoke about the location of the ATV trail and the road relative to the Nash Stream and that it is up on a hill and is quite a way away from Nash Stream. All the embankments are wooded, and that vegetation would stop the sediment that may be coming to the river due to erosion. He said that part of the West Side trail has been moved a couple years ago due to a culvert repair on the West Side Road. Mr. Gomes also said that Nash Stream Road is much closer to the river and if anyone is worried about invasives, that should be taken into account. He also said that the lawsuit in Gorham has not yet been resolved but the trailhead has been moved to reduce the impact on the neighborhood.
- Jamie Sayen, said that he did not mean to imply that trails are being closed right now by landowners, and if he did, he apologized; what he meant to say was that there were trail closures throughout the network from time to time. He said that if we rely for our economic salvation on a network where landowners are getting really upset over the destruction and also the disrespect by some riders. He continued to say that most riders are great but there are some who are quite disrespectful and that he knows some folks in Stratford who will consider closing the trails on their land in certain circumstances.
- Bob Gale said that Nash Stream is a public land, and it belongs to anybody in New Hampshire. He talked about the flooding, erosion and other issues that are associated with the river and that Nash Stream Road is indeed much closer to it than the ATV trail. He also asked if Mr. Sayen was a member of Trout Unlimited, which Mr. Sayen said he was not.

Mr. Ruderman asked to properly identify the trail on the map for some CORD members who may have questions about its location. It was shown to the members on the map.

Mr. Caswell opened the floor for CORD discussion and questions.

Mr. Doyle asked a question about enforcement and how it is done in the area.

Michael Eastman responded that there is an OHRV police department grant program where money is given to municipalities and Coos Country's Sheriff's Department is a recipient of it as well. He said that he cannot speak as to how they patrol their respective areas, but speaking for his own agency, he can say that enforcement in Coos Country has been ramped up over the past few years, including Nash Stream Forest area.

Mr. Doyle asked Mr. Eastman if there was a capability to extract some data related to enforcement in that area.

Mr. Eastman said that he could go through the reports to see if he can find some particular data for this area but noted that the enforcement encompasses a much larger area and there are places where there are a lot more enforcement events than in Kelsey Notch. He also noted that his agency is in the process of hiring more officers too.

Ray Gorman said that Coos County Sheriff and police are also involved in the enforcement effort and that things are headed in the right direction.

Mr. Jasper spoke about his personal experience growing up on a poultry farm and the dislike of ATVs because of their negative impacts to the birds, and that he made the motion while personally having a prejudice towards ATV's but at the same time recognizing their economic benefit to the North Country. He also spoke about the importance of the deed and what has been transferred according to the deed. Mr. Jasper spoke about personally hearing about this issue as a CORD member for the last five years and the fact that there were mentions of various studies that are needed, and the fact that neither CORD nor the state has any money to order any of those studies, therefore it is not really anyone's fault that there are no studies. Mr. Jasper said that he has heard enough over the years about what is being done there and how things are monitored and what is monitored. He said that monitoring is not that expensive, and the state does a lot of it and does it well. As for intent, Mr. Jasper said that it is only guidance, it has no legal standing. He said that what the intent was back in the day when this was done is really not relevant to what is happening now. What matters is what is in the deed and Mr. Jasper said that after listening to the legal scholars, the deed does not say there cannot be ATVs out there. He continued to say that if this were to be litigated it would be between the parties involved, who are the original seller, the Forest Service and the state and if none of these parties think that the deed is being violated, there is nothing to be done. He concluded that after hearing all the evidence for the past five years and having overcome his own personal prejudice against ATVS he is in support of the motion that he made and that is on the table.

Mr. Hackley noted that there was a suggestion to change the word "permanent" to "designated ATV trail" in the motion.

Mr. Jasper agreed to the friendly amendment and Mr. Sanborn duly seconded it.

Chairman Caswell also noted that there was a suggestion to change the reference to mid-July monitoring for dealing with environmental effects. He proposed to take out "mid-July monitoring visit" and substitute "any monitoring visit" for it.

Mr. Jasper agreed to the second friendly amendment and Mr. Sanborn duly seconded it.

Mr. Caswell asked a question about the status of the trail in the Management Plan and Ms. Machinist responded that it is referred to as a pilot trail in the current plan.

There was discussion if there should be any language in the motion that would refer to the status change of the trail and all the associated changes that will be related to that. It was determined that if the decision is to make the trail permanent or designated for ATVs it would automatically be reflected in the updated Management Plan.

Ms. McNaughten also talked about the studies or lack thereof discussed throughout the meeting and asked if anyone has ever attempted or consider contracting a study out? There was discussion about funds for any studies, contracted or not, and the fact that money is always a problem. It was also noted that it is not CORD's role to require or carry out studies, and those who want a study to be done should go through the legislative process to secure funding for it. Jim O'Brien from The Nature Conservancy said that their organization offered to work with the state in 2016.

There was a comment from the public that NHDOT gets several million dollars from registrations and whether some of that money could be used to assess the impacts of ATVs on wildlife.

Ms. Verdile recapped the motion that was made by Mr. Jasper and seconded by Mr. Sanborn, which consisted of the language from the DNCR recommendation letter combined with two sentences from Fish & Game recommendation as follows: *Department of Natural and Cultural Resources officially recognizes the Kelsey Notch Trail as permanent on the condition that monitoring occur twice annually during the riding season and that year-end maintenance work, if needed, be done prior to seasonal trail closure. The first monitoring visit would be conducted in mid-July at/near the peak of riding activity followed by a second visit in late October, just prior to year-end maintenance and close-out. The monitoring team would consist of North Region representatives from the Division of Forests & Lands, Fish & Game, and Bureau of Trails. If any significant erosion or other environmental impacts are observed at the mid-July monitoring visit,*

those conditions would be addressed as promptly as the state contracting process will allow. A comprehensive monitoring report will be submitted to CORD annually. Should monitoring indicate persistent unmitigated issues of soil erosion, water quality violations, or other significant environmental impacts, the status of the trail on Nash Stream Forest will be reassessed by CORD and DNCR. Mr. Sanborn duly seconded and made a friendly amendment to include the following language in the motion from the Fish & Game recommendations: "However, the Department continues to have concerns on the impact of ATV noise on the high-volume trail use days during the nesting season, particular during spring and early summer month as stated in the 2022 monitoring report. NHFG ask that these concerns remain in the annual monitoring reports until such time that there is an effective strategy or method to evaluate these impacts and determine if tail use should be reduced, restricted, or otherwise managed to reduce impacts if any are found."

Then was also a change made in the trail status, where "permanent" was changed to "designated OHRV trail" and there was a change to the following language "If any significant erosion or other environmental impacts are observed at the mid-July monitoring visit" to state "If any significant erosion or other environmental impacts are observed at any monitoring visit".

Mr. Jasper and Mr. Sanborn both agreed to the recap of the motion and friendly amendments recapped by Ms. Verdile.

Mr. Caswell called for the vote. Motion passed by a majority vote in favor. Mr. Hackley abstained.

OTHER BUSINESS

A. Next Meeting: May 11, 2023, from 3:00 to 4:00 P.M.

Ms. Verdile updated the members on the 30-day deadlines for SLR and administrative deadlines for the 2023 meetings. She said that the deadline for May 11th meeting is March 31st.

MOTION: *After a motion by Mr. Caswell the meeting was adjourned at 4:00 PM.*