

**New Hampshire Council on Resources and Development****DRAFT MINUTES – March 9, 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, Contoocook 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

- 51 Jason Trepanies, North Country ATV
- 52 Susan J. Clark, North Country ATV
- 53 Bruce Clark, North Country ATV
- 54 Craig Washburn, Metallak ATV
- 55 James Nadon, Mettalak ATV
- 56 Claive Nadon, Mettallak ATV
- 57 Nancy Oliver, Presidential Club
- 58 Jesse Breton
- 59 Jay C. Koslowski
- 60 Chris Thayer, Appalachian Mtn. Club
- 61 Jim O'Brien, The Nature Conservancy
- 62 Meredith Hatfield, The Nature Conservancy
- 63 Madeleine Mineau, Briar Hydro
- 64 John Tuthin
- 65 Wayne Lubotta, NC ATV
- 66 Mark Ryan, Androscoggin ATV
- 67 Harry n. Noseberry, Androscoggin ATV
- 68 Bob Gale, Stark Planning Board
- 69 Tom Levesque, Merrimack Valley T/R
- 70 Jamie Sayen, Stratford Citizen
- 71 Matt Leahy, Forest Society
- 72 Karl Ladue, CLUB ATV
- 73 Mary Ladue, Presidential Club
- 74 Larry Meservey, Moms – Groveton and Gorham

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**ROLL CALL AND INTRODUCTIONS**

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

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**MINUTES**

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**Approval of January 12, 2023, draft minutes**

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

88

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

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**SURPLUS LAND REVIEW**

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**A. 2023 SLR 003**

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

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

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

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115 **2023 SLR 004**

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

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

- 121  
122
  - The State Conservation Committee recommends that a developmental deed restriction  
123 be included as part of any sale of the property due to the wetland and agricultural  
124 resources associated with the site.
  - The RMAC concurred with CNBRLAC's desire to maintain this property as undeveloped  
125 land and voted unanimously to support the sale of the Allen State Forest but with the  
126 recommendation that a conservation easement be placed on the parcel prior to any sale.  
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129 Patrick Hackley from NH Department of Natural and Cultural Resources presented the details of  
130 the application and explained why the sell was strategically beneficial for the department. He  
131 then addressed the comment about placement of the development restriction deed on the  
132 property as part of the sale and said this would preclude the department from selling as it will  
133 have to monitor the deed, which does not align with the department strategy. He also noted  
134 there were no wetlands or occurrences of endangered species found on the site.  
135 There was a brief discussion on whether the motion should be made with or without the  
136 suggested conditions prior to discussion.

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

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

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

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

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152 **LAND CONSERVATION INVESTMENT PROGRAM (LCIP)**

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154 **A. Nash Stream Forest – Kelsey Notch trail.**

155 **i. Overview of CORD’s responsibilities and decisions**

156 **ii. Agency input**

157 **iii. Public input**

158 **iv. Discussion and decision**

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

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

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

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

182

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

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

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

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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 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 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*

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

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

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

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

271 The following individuals addressed the committee:

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

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

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

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

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

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

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

- 361 - Mr. Gomes noted that that road is opened to various types of traffic as well as it being  
362 used for logging.
- 363 - Matt Lahey, Public Policy Manager for the NH Forest Society, provided some  
364 background information as to why the NH Forest Society, The Nature Conservancy, The  
365 Appalachian Mountain Club, and the Audubon Society have an interest in what happens  
366 in Nash Stream Forest. He said that The Nature Conservancy and NH Forest Society  
367 worked very closely with the state to purchase the Nash Stream Forest and that  
368 managing it aligns very closely with the goals of the NH Forest Society. He continued to  
369 say that the fundamental question is whether the state followed the law when the trail  
370 was established. He added that there are also concerns about lack of studies for this  
371 area about wildlife impacts. Mr. Lahey urged CORD members to think about those two  
372 issues when they make a decision on the fate of the Kelsey Notch trail.
- 373 - Jamie Sayen, from Stratford, who serves on the Nash Stream Citizens Committee but is  
374 speaking as a private citizen and not on behalf of the citizen's committee. He spoke  
375 about the sale of the Nash Stream from the private owner. He then asked whether he  
376 understood correctly that CORD directive was to make sure that the intent of the  
377 purchase was followed through with an honor, and that he thought that it was not. Mr.  
378 Sayen said that the private landowner banned ATV's and when the state took over, it did  
379 not shut it down, it perpetuated that ban. The first Management Plan was established in  
380 1990, although it was not released until 1995. A lot of controversy during the discussion  
381 in 1990 focused on ecological reserves, timber harvesting, camps, etc.; however, there  
382 was the least controversy about maintaining or getting rid of the ATV ban. Mr. Sayen  
383 continued to say that clear intent of the state and the original plan writers was to  
384 maintain that ban. In the conservation easement of 1989 with the Forest Service the  
385 state delineated many different rights that it retains while through the easement it sold  
386 the development rights to the Forest Service, among them recreation, snowmobiling,  
387 which is explicitly mentioned. There is not mention of any kind of motorized activity. In  
388 section 2c of the easement it says that any rights not explicitly reserved by the state are  
389 hereby surrendered by the state (that is a paraphrase not a quote). The Forest Service  
390 was asked in 2001 whether they would allow ATV use, Tom Wagner, who was the Head  
391 of the Forest Service, misread the easement as he did not even refer to that section. He  
392 did say that if they put a road in, it seems that they could a put an internal road in, but it  
393 would be the Forest Service's jurisdiction if it were a connecting road. The Nash Stream  
394 Committee at the time ignored that and said that they wanted a connecting road, and the  
395 West Side is in fact a connected road to the network, and of course now Kelsey Notch is  
396 also a connecting road from east to west. The Forest Service in 2001 seemed to be  
397 saying that it should have jurisdiction over connecting roads and yet it has not asserted  
398 its authority. RSA 215 says that the state cannot enter into MOU's unless they can  
399 guarantee both monitoring and adequate enforcement. There has never been adequate  
400 enforcement, as we all know how overstressed and underfunded Fish & Game. Mr.  
401 Sayen said that he cannot blame Fish & Game but they cannot meet that requirement,  
402 so they should not have been signing that MOU. As for monitoring, the RSA required it  
403 since at least 2005 and it never got done. It was only when CORD said that it will  
404 provisionally allow the continuation of Kelsey Notch provided that there is monitoring,  
405 and the first monitoring report is from 2017. Since 2002 the West Side Road was being



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

578

579 **OTHER BUSINESS**

580

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

582

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

585

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