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FEATURED

Concerns Raised About OHRVs In Nash Stream State Forest

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Dave Govatski, a resident of Jefferson and chairman of the Nash Stream Forest Citizens Advisory Committee, chaired the committee's meeting on Nov. 17 in Lancaster. (Photo by Robert Blechl)

LANCASTER — Two local residents and a member of the Nash Stream Forest Citizens Advisory Committee have raised concerns about environmental impacts to parts of the Nash Stream State Forest from Off-Highway Recreational Vehicle use.

During the committee's meeting on Nov. 17 at the North County Resource Center in Lancaster — drawing a small turnout with four members of the public as well as representatives from the New Hampshire Division of Forests and Lands and the state Trails Bureau — committee member Jamie Sayen, of Stratford, said the state is in violation of RSA 215-A:42, the New Hampshire statute on OHRVs and trails on state land.

"I raised this last year and have to raise it this year," he said. "No studies have been done on impacts in 20 years. That strikes me as irresponsible as well as in violation of the law."

However, not all committee members or forest bureau representatives agreed that the use is illegal and said there are different interpretations of the law as well as different interpretations of what constitutes monitoring. They said the committee can deal with issue in the next revision of the forest management plan in 2027.

The 39,000-acre Nash Stream Forest, the largest single-tract state-owned forest in New Hampshire that includes portions of the town of Stark, Stratford and Columbia, was created as a state forest in 1988.

Long before that a timberland, it is today a multi-use forest, with most upper elevations left to revert to their natural state and some lower elevations under timber management and rotational harvesting.

When it became a state forest, OHRVs were prohibited as a traditional recreational use under the management plan.

In 2001, a legislative ATV study committee report agreed to allow the Bureau of Trails to develop a system of trails on public and private land, provided that state laws are enforced and new trails are created when the Trails Bureau can monitor impacts.

Sayen, who cited a number of state documents and committee meeting minutes in a 2-page chronology spanning two decades, said those enforcement and monitoring conditions have not been met.

Nine days before the study committee's decision in 2001, New Hampshire Fish and Game admitted they were too understaffed to provide law enforcement, but the state opened Nash Stream Forest to OHRVs in full knowledge that it violated its own laws, he said.

OHRV use is also in violation of the forest's 1995 vision statement to protect the natural qualities and integrity of the land, which requires monitoring and enforcement, said Sayen.

In 2002, the state opened up Westside Trail to OHRV use, followed by Kelsey Notch Trail in 2013.

By 2007, according to the committee meeting minutes that January, vegetation cover had disappeared along Westside Trail and serious dust, erosion, and mud problems were apparent, he said.

Responding to the proposal to open up Kelsey Notch Trail for use a few years later, Jim Oehler, of New Hampshire Fish and Game, wrote that OHRVs were not part of the original management plan, said Sayen.

Other NHFG officials subsequently commented on erosion problems, as well as on noise impacts on wildlife, he said.

In 2016, the Appalachian Mountain Club, The Nature Conservancy, and the Society for the Protection of New Hampshire Forests, which guaranteed a \$5.1 million loan toward the total \$12.75 purchase of the watershed, argued the existing OHRV trails in Nash Stream Forest were in clear violation of the law.

In 2020, the three groups (AMC and SPNHF hold conservation easements in the forest) submitted a legal opinion to that effect.

Two years ago, the Bureau of Trails began counting machines through counters, said Clint Savage, supervisor of the bureau's District 1, in a trails update at the Nov. 17 meeting.

Counts show 12,293 machines on the Kelsey Notch North Trail in 2021 and 10,167 machines in 2022, he said. Other trails showed less OHRV use.

Dave Govatski, chairman of the volunteer committee, asked Savage if there were any issues with erosion or enforcement.

While no environmental issues were observed, there are things the bureau plans to address, but they aren't significant, said Savage.

"I believe both the easement and RSA 215 prohibit ATVs in Nash Stream," said Sayen. "We have an illegal activity that is exacerbating the climate crisis and we need to stop this ... What we have is something that got railroaded through without any planning and now we've inherited that."

Committee member Mike Waddell, of Gorham, said he's heard the concerns several times and the committee needs to move on.

"We approved the plan and the guys are following the plan," he said. "The committee is an advisory committee. The committee advised ... the advice was taken, CORD [the New Hampshire Council on Resources and Development] agreed to a plan, we printed a plan, we have a plan. I just don't see the benefit of every single agenda item becoming a worldwide discussion on global warming ... We have a plan and we are following the plan that we agreed to and that CORD agreed to. I think that's the important thing."

The plan went to Concord and nothing was found to be illegal by the attorney general in New Hampshire or attorneys at the federal level, said Waddell.

"The state of New Hampshire determined that the plan as we sent it down as acceptable and our job now is to monitor it and make comments as we go along," he said. "We need to not re-litigate the plan until we start the formal process of redoing the plan."

State forester Patrick Hackley said the Nash Stream Forest's next 10-year management plan is set to be revised in 2027.

"I suspect that's the time we can really get into those discussions," said Govatski.

Govatski said there are issues with OHRVs, as well as views held by some people who don't want to cut trees and others who want to continue cutting trees, but the committee has a current management plan and that's what it's dealing with.

"But if we're in violation of the law, shouldn't we ask the state to follow its own laws?" said Sayen.

"I don't know if we're violation of the law," said Govatski. "If I knew that I would be screaming bloody murder."

There are different interpretations of the law, including those held by attorneys for the U.S. Forest Service (the easement holder) and the New Hampshire attorney general, who have reviewed the forest management plan and who don't agree with those who say OHRV use is illegal, said Will Guinn, administrator for the Forest Management Bureau.

"Short of going to court, I don't think we're going to resolve it here," said Guinn.

Environmental and safety monitoring, however, have not been done, said Sayen.

"Again, it goes back to what's your definition of monitoring," said Guinn, who noted that state foresters and rangers are out there on the ground in the forest.

Lucy Wyman, of Lancaster, and Kris Pastoriza, of Easton, said the Kelsey Notch Trail looks like a road, with Lyman calling it "a solid logging road" and Pastoriza asking how the state differentiates between a trail and a road.

Maggie Machinist, regional forester for the New Hampshire Division of Forests and Lands' northern division, said segments of the trail had been built as a road.

"It does point out the fact that we need a solid definition of a road and an OHRV trail and I think we can get that," said Govatski.

While OHRVs are being counted, their impacts are not, and there should be a specific OHRV number that would cut off OHRVs because of adverse environmental impacts, said Pastoriza.

"That's central to the easement and whether ATVs are allowed there," she said.

Monitoring reports for the Kelsey Notch and Westside trails are expected to be complete in December, said Machinist

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