

March 4, 2022

To CORD,

with this letter are eleven (11) documents relevant to the Nash Stream easement issues raised by AMC on 9/21/2020 which you avoided as shown in the minutes of your meeting of [November 12, 2020](#):

“... CORD is now tasked with determining whether: additional information is necessary; or if use of ATV/UTV on Kelsey Notch Trail is consistent with **RSA 162-C:6**; or if use of ATV/UTV on Kelsey Notch Trail is not consistent with **RSA 162-C:6** and the trail should cease to be open for AV/UTV use. Chairman Chicoine also noted that CORD met with its attorneys since the last public meeting to address certain legal questions.

Chairman Chicoine referenced the specific language contained in RSA 162-C:6, II and III and said that **CORD has received three legal memos to date, including one received the day before (which was a state holiday), disagreeing on what the Kelsey Notch easement allows as pertains to Section II of RSA 162-C:6.** Chairman Chicoine **suggested members focus discussion on Section III** of the statute based on the additional data contained in the three-year assessment.”

- The AMC legal [memo](#) does not mention [RSA 162-C:6](#).
- The AMC legal memo addresses the USFS [Wagner](#) and [Erl](#) 2001 interpretations of the Nash Stream S.F. easement terms and the definition of snowmobile, issues which CORD failed to address or even mention.
- The easement covers the whole of Nash Stream S.F., not just Kelsey Notch.

CORD again failed to address the easement terms at its meeting of [January 14, 2021](#), again focusing attention instead on RSA 162-C:6:

“ CORD is now tasked with determining whether: additional information is necessary; or if use of ATV/UTV on Kelsey Notch Trail is consistent with RSA 162-C:6; or if use of ATV/UTV on Kelsey Notch Trail is not consistent with **RSA 162-C:6** and the trail should cease to be open for ATV/UTV use.

Chair Chicoine suggested CORD focus its discussion on specific language contained in **RSA 162-C:6, III**, “The council shall manage the lands acquired under the former **RSA 221-A** so as to preserve the natural beauty, landscape, rural character, natural resources, and high quality of life in New Hampshire. The council shall maintain and protect benefits derived from such lands and maintain public access to such lands, where appropriate.”

In [1996](#) DNCR/BOT acknowledged that OHRVs were not snowmobiles.

In [2007](#) DNCR concurred with [FHWA's](#) statement that OHRVs were not snowmobiles thus not allowed on TE- funded rail trails.

CORD needs to acknowledge that ATVs are not a permitted use in Nash Stream and order DNCR to close the Kelsey Notch and West Side Trails in Nash Stream State Forest to ATV use.

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