

CORD Members Information Packet for Kelsey Notch Trail Discussion at March 9, 2023 Meeting

- Summary of CORD meetings and decisions about Kelsey Notch Trail
- CORD 2016 Letter and Findings
- CORD 2021 Letter regarding additional monitoring requirements
- Maps of Kelsey Notch (within Nash Stream Forest and as part of the Ride the Wild ATV trails)

Council on Resources and Development (CORD) Summary of Kelsey Notch Trail Discussions and Decisions

Prepared by: NH Department of Business and Economic Affairs – Office of Planning and Development

2013

- **March 14, 2013** – CORD Meeting – DRED presented a proposal for 2 additional ATV trails in Nash Stream.
- **April 11, 2013** – CORD Meeting – DRED and ATV Club representatives presented more information about proposal to construct one additional ATV trail (Kelsey Notch Trail).

2015

- **July 18, 2015** – CORD Meeting – DRED provided an update and overview of status of management plan update. It was pointed out that RSA 215-A:42 requires an MOU between state agencies; none appeared to be in place.
- **September 10, 2015 – CORD Meeting** – Update provided on status of Management Plan.
 - September 9, 2015 – Letter to CORD from SPNHF expressing concerns about expanding ATV trail use beyond the West Side Trail in the Management Plan update.

2016

- **May 5, 2016** – Letter to CORD from SPNHF, AMC, and TNC expressing concerns about legal status of two existing ATV trails and that they are not in compliance with state law.
 - Also noted that the 2002 Management Plan specifically prohibits any additional trails being developed on the property.
 - Requested that CORD determine whether the existing ATV trail system is in compliance with state law and if not, what appropriate remedy is.
 - CORD has a statutory obligation to administer and manage LCIP land and a key component is ensuring that activities being carried out on these lands are in compliance with state law.
 - **May 12, 2016** – CORD Meeting – briefly discussed letter from SPNHF, AMC, and TNC.
 - **July 6, 2016** – DRED Commissioner Rose’s letter to CORD response to May 5, 2016 letter from SPNHF, AMC, and TNC.
 - **July 14, 2016** – Follow up letter from SPNHF, AMC, and TNC, who continue to have substantial concerns regarding existing ATV trails on property. Reiterated May 5 request that CORD determine whether the existing ATV trail system is in compliance with state law.
- **August 15, 2016 – CORD Site Visit to Nash Stream State Forest**
- **October 13, 2016 CORD Meeting Summary:**
 - Purpose of meeting was to discuss and determine if the existing ATV trails in Nash Stream Forest are in keeping with the requirements of RSA 162-C, specifically 162-C:6, I-III. CORD has the responsibility for management of the state-owned lands acquired through LCIP. Management responsibility for LCIP properties was transferred to CORD by way of legislation in 1995.
 - AG’s office provided confidential memo dated October 10, 2016 to CORD. Chairperson Merrill provided a brief summary of the AG’s document, which reiterates that CORD’s responsibility is to determine whether a proposed project or plan meets the statutory requirements of RSA 162-C.
 - Discussion was tabled.

- **November 2, 2016** – Letter to CORD from SPNHF, AMC, and TNC expressing concerns about discussion at the October 13, 2016, meeting.
 - Recognized that it is unlikely that CORD would vote to disestablish either of the two existing trails and expressed disappointment.
 - Offered recommendations on list of “conditions” to accompany CORD approve of Management Plan.
- **December 8, 2016 CORD Meeting Summary:**
 - CORD **voted** to adopt findings, which included general findings for any ATV use in Nash Stream Forest, as well as Findings specific to West Side Trail and to Kelsey Notch Trail.
 - CORD laid out criteria by which the Kelsey Notch Trail would be provisionally re-opened for ATV use. The criteria included:
 - a coarse and fine filter assessment of the trail,
 - an inter-agency MOA between Fish and Game, DNCR Trails Bureau and the Division of Forest and Lands, and
 - an MOA between DNCR and the local trail club.
 - A three-year pilot for Kelsey Notch during which CORD requested an annual report, addressing trail degradation and water quality issues from current ATV use and also enforcement issues. After three years of assessment which began in 2017, CORD is required to make a determination concerning use of Kelsey Notch Trail.
 - In a December 14, 2016 letter to DRED, Chairperson Merrill detailed CORD’s discussions and findings.

2017

- **January 12, 2017 CORD Meeting Summary**
 - DRED provided an update to CORD regarding MOUs and coarse and fine filter analysis which has been updated with additional comments. Also provided an update on draft Management Plan Recreation chapter, which includes three objectives for future ATV/UTV policy in Nash Stream.
- **March 9, 2017 CORD Meeting Summary**
 - **Voted** that the submissions from DRED were sufficient to reopen the trail.
 - DRED provided update on public meetings and comments on Draft Management Plan. Plan will include the CORD General Findings in the appendix section.
- **November 16, 2017 CORD Meeting Summary**
 - DNCR (formerly part of DRED) provided an update on the 10-Year Nash Stream Forest Management Plan. Recreation Chapter includes the process established by CORD’s December 2016 Findings for the establishment and use of ATV/UTV trails.
 - CORD **voted** that they found the September 2017 final draft Nash Stream Forest Management Plan, prepared by DNCR, to be consistent with the principles of RSA 162-C and that the Council accepts the Management Plan.

2021

- **January 14, 2021 CORD Meeting Summary**
 - CORD **voted** to grant the request of DNCR for 2 additional years to study OHRV use in the Kelsey Notch Trail, as long as the existing conditions of CORD’s 2016 findings continue to be met.
- **March 11, 2021 CORD Meeting Summary**
 - CORD **voted** to require additional reporting requirements for DNCR’s Kelsey Notch Trail annual reports.

- In a March 29, 2021 letter to DNCR Commissioner, Chairman Chicoine detailed the reporting requirements that CORD voted to require for the annual Kelsey Notch reports.

2022

- **January 20, 2022 CORD Meeting Summary**
 - DNCR stated that the Council's approval of OHRV use on Kelsey Notch Trail was effective until January 2023. At that time the Council will have to decide whether to close the trail to OHRV use, allow the trail to remain open to OHRV use or request additional information.

New Hampshire Council on Resources and Development



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December 14, 2016

Brad W. Simpkins, Director
New Hampshire Division of Forests and Lands
NH Department of Resources and Economic Development
Brad.Simpkins@dred.nh.gov

Chris Gamache, Chief
NH Trails Bureau
Department of Resources and Economic Development
Division of Parks and Recreation
Christopher.Gamache@dred.nh.gov

Dear Director Simpkins and Chief Gamache:

On December 8, 2016 the Council on Resources and Development made several decisions regarding ATV trail use in Nash Stream Forest and whether such use is consistent with the principles set forth in RSA 162-C:6 for management of LCIP lands.

Concerns about the establishment of the two existing Nash Stream ATV trails – West Side Trail and Kelsey Notch Trail – were brought to the Council’s attention by the Appalachian Mountain Club, the Society for the Protection of New Hampshire Forests and The Nature Conservancy in a letter dated May 5, 2016.

In response, the Council adopted the enclosed Findings, which includes General Findings for any ATV use in Nash Stream Forest, as well as Findings specific to West Side Trail and to Kelsey Notch Trail.

In addition, the Division of Forest and Lands submitted a Nash Stream Forest OHRV Briefing Paper and requested guidance from the Council on three proposed ATV trail options for

inclusion in the 2016 revision of the Nash Stream Management Plan. The Council's guidance is based on consistency with the principles of RSA 162-C:6 for the management of LCIP lands.

The Council determined that both Options 1 and 2, as proposed in the Briefing Paper, are consistent with the principles set forth in RSA 162-C:6, with West Side Trail and Kelsey Notch Trail each subject to the specific conditions outlined in the Council's December 8, 2016 Findings. The Council further determined that Option 3, as proposed in the Briefing Paper, is not consistent with the management vision for Nash Stream Forest nor with the principles set forth in RSA 162-C:6.

The Council's motion regarding the proposed options for the Nash Stream Management Plan is enclosed at the end of this document.

Please be in touch with questions or concerns.

Best wishes,



Amanda A. Merrill
Director, Office of Energy and Planning
Chair, Council on Resources and Development

cc: CORD Members
 Jeffrey Rose, Commissioner, Department of Resources and Economic Development
 Phil Bryce, Director, Division of Parks and Recreation, DRED
 Christopher G. Aslin, Assistant Attorney General, Department of Justice
 Susan Arnold, Vice President for Conservation, Appalachian Mountain Club
 Matt Leahy, Public Policy Manager, Society for the Protection of New Hampshire Forests
 Jim O'Brien, Director of External Affairs, The Nature Conservancy
 Will Abbott, Vice President for Policy and Reservation Stewardship, Society for the
 Protection of New Hampshire Forests
 Larry Gomes, Nash Stream OHRV Task Force

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FINDINGS REGARDING ATV/UTV USE IN NASH STREAM FOREST **ADOPTED BY CORD ON DECEMBER 8, 2016 (8-0)**

General Findings:

The Council finds that in order to perform its statutory duty to manage LCIP lands, members must review and find that any use of ATV/UTVs, as currently defined by statute, within Nash Stream Forest is consistent with the principles set forth in RSA 162-C:6 prior to implementation.

CORD further finds that any ATV/UTV use in Nash Stream Forest must be limited to specific ATV/UTV trails approved by CORD in advance. In order to be consistent with the principles set forth in RSA 162-C:6, CORD finds that each proposed ATV/UTV trail must meet the following conditions: (1) the trail must be designed, sited, and used so that it preserves and does not adversely impact natural resources and conservation attributes of the property and does not interfere with or detract from the other uses of Nash Stream Forest; (2) the trail must be authorized in a current management plan, which has been reviewed by CORD for consistency with RSA 162-C:6 and has had appropriate public and state agency input; (3) the trail must comply with the requirements of RSA 215-A and all other applicable ATV/UTV and environmental regulations and standards, and the state's most recently adopted best management practices for trail construction and erosion control; (4) after construction, the trail must be continually managed to protect natural resources and conservation attributes and to limit interference with other uses of Nash Stream Forest; (5) CORD must be adequately informed on an ongoing basis of the status of management, maintenance, and enforcement efforts related to ATV/UTV use, as well as impacts of ATV/UTV trails on the Nash Stream Forest; and (6) CORD reserves the right to periodically reassess whether ATV/UTV use in the Nash Stream Forest, or on any of the trails therein, remains consistent with RSA 162-C:6 and reserves the right to temporarily or permanently close trails if necessary as circumstances change over time.

West Side Trail:

The Council finds that the use of ATV/UTVs on the West Side Trail, as currently managed, is consistent with its management obligations under RSA 162-C:6 as long as: (1) the memoranda of agreement required by RSA 215-A:42 relating to monitoring, maintenance, and enforcement

remain up-to-date and contain sufficient detail and safeguards to ensure that the trail is maintained in a safe and environmentally appropriate manner; and (2) conditions and use of the trail do not change in such a way that makes continued use of ATV/UTVs on the West Side Trail inconsistent with the requirements of RSA 162-C:6 as determined by CORD.

Kelsey Notch Trail:

The Council finds that, based on current available information, it is not able to determine at this time whether continued use of ATV/UTVs on the Kelsey Notch Trail is consistent with CORD's management obligations under RSA 162-C:6. In order to assist in this determination, CORD requests the following additional information regarding the use, maintenance, and impacts of ATV/UTVs at this location:

1. By the January 12, 2017 CORD meeting, DRED shall submit to CORD for review the following:
 - a. An updated coarse and fine filter analysis of the Kelsey Notch Trail, pursuant to RSA 215-A:43;
 - b. An interagency memorandum of understanding, pursuant to RSA 215-A:42; and
 - c. Written agreements between DRED and a local ATV/UTV club, pursuant to RSA 215-A:42.
2. At such time that CORD has reviewed the information above and determined that it is sufficient for the Kelsey Notch Trail to provisionally re-open for ATV/UTV use, DRED shall then submit the following to CORD for review as they become available:
 - a. The annual reports required pursuant to the interagency memorandum of understanding; and
 - b. Such additional reasonable and appropriate studies, data, and information as CORD may require to adequately assess whether the continued use of ATV/UTVs on the Kelsey Notch Trail is consistent with RSA 162-C:6.
3. CORD will assess this additional information for three years (beginning in 2017) and at the end of this time period, or at any other time as circumstances dictate, CORD shall determine, based on available information:
 - a. That additional information and assessment is necessary to determine whether the use of ATV/UTVs on the Kelsey Notch Trail is consistent with RSA 162-C:6; or
 - b. That use of ATV/UTVs on the Kelsey Notch Trail is consistent with RSA 162-C:6, subject to the general conditions for any ATV/UTV use in Nash Stream Forest; or
 - c. That ATV/UTV use on the Kelsey Notch Trail is not consistent with RSA 162-C:6 and the trail shall cease to be open for ATV/UTV use.
4. During the pendency of CORD's review of the Kelsey Notch Trail no expansion of the area of disturbance for ATV/UTV use shall be permitted without prior CORD approval.

MOTION ON GUIDANCE TO DRED REGARDING ATV TRAIL OPTIONS
FOR 2016 REVISED NASH STREAM FOREST MANAGEMENT PLAN

“In looking at the three options presented to CORD from DRED, and given the preliminary findings of the Technical Team, Option 3 would not be consistent with both the management vision as well as RSA 162-C:6. Both Option 1, keeping the status quo, and Option 2, keeping OHRV use consistent with the 2002 Management Plan amendment, would be consistent with both the management vision and CORD’s LCIP responsibilities. However, Option 1 needs to reflect CORD’s determination earlier in today’s meeting.”

Adopted by Council on Resources and Development (7-0)
December 8, 2016

New Hampshire Council on Resources and Development

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Via Email (Sarah.L.Stewart@dncr.nh.gov)

March 29, 2021

Sarah Stewart, Commissioner
Department of Natural and Cultural Resources
172 Pembroke Road
Concord, NH 03301

Re: Kelsey Notch Trail Assessment - Additional Reporting Requirements

Dear Commissioner Stewart:

I send this letter as Chair of the Council of Resources and Development (CORD).

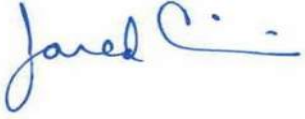
As you know, at its January 14, 2021 meeting, CORD voted to grant the request of the Department of Natural and Cultural Resources (DNCR) for two (2) additional years to study OHRV use in the Kelsey Notch Trail, as long as the existing conditions of CORD's 2016 findings continue to be met and with the caveat that CORD would be subsequently discussing additional annual reporting requirements.

At its March 11, 2021 meeting, CORD voted to require the following additional reporting requirements for DNCR's annual Kelsey Notch reports:

1. Identify and discuss any invasive species and all related treatment plans;
2. Identify and discuss any trail erosion issues and all restoration plans;
3. Include annual trail count information;
4. Discuss relevant adequacy of staffing and budget issues;
5. Identify the opening and closing date of trail;
6. Invite Fish and Game Fisheries biologist to DNCR's site visit; and
7. The annual report shall be filed with CORD on or before December 15th each year.

Thank you and please contact me if you have any questions.

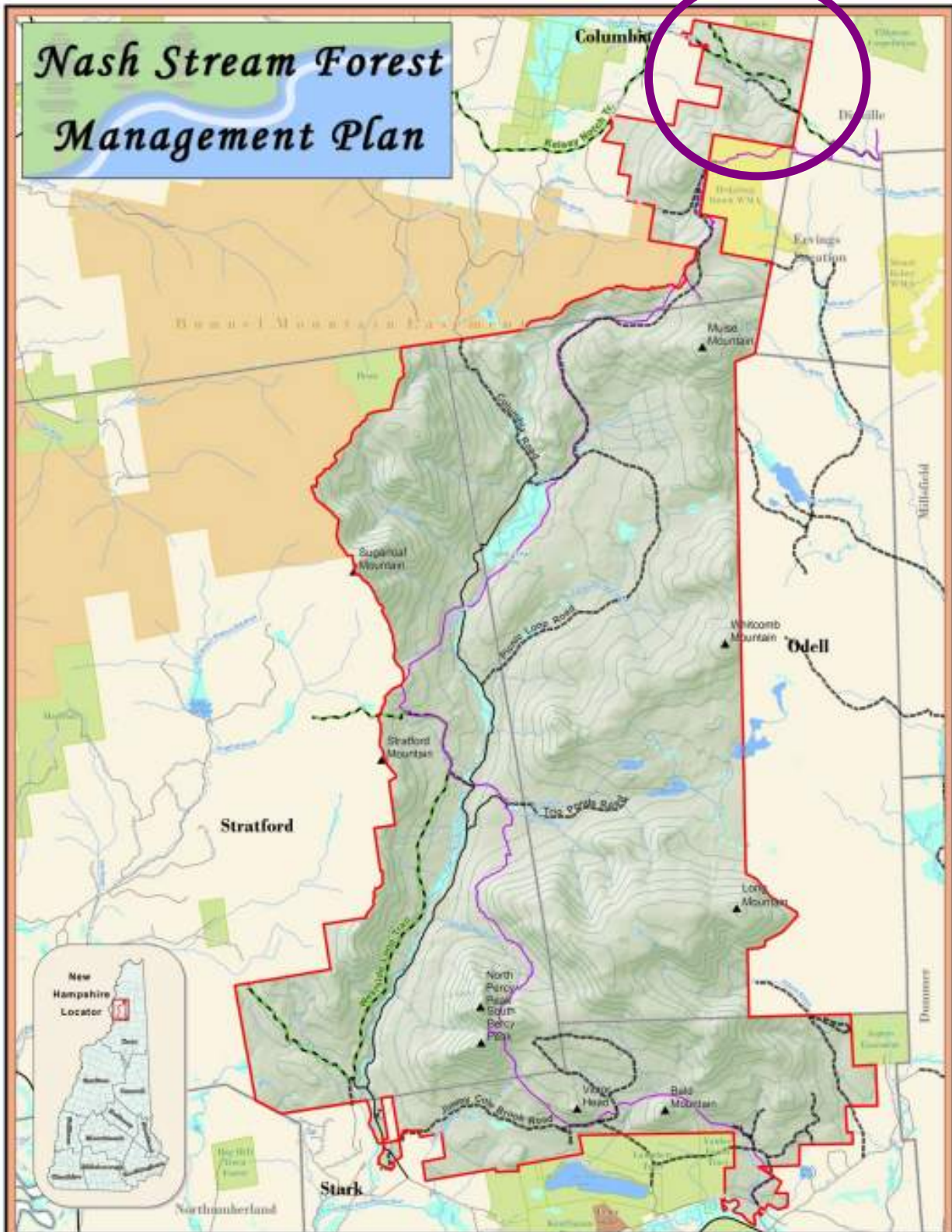
Best,

A handwritten signature in blue ink that reads "Jared Chicoine". The signature is written in a cursive style with a horizontal line extending to the right.

Jared Chicoine, Chair
Council of Resources and Development

Cc: CORD Members (via email)

Nash Stream Forest Management Plan



**Map 1:
Nash Stream
Forest**

<ul style="list-style-type: none"> ~ State Routes ~ Local Roads ~ Main Access Road ~ Multi-Use Trails with ATV Usage ~ The Cohos Trail ▲ Peaks ▭ Nash Stream Forest Property Boundary 	<ul style="list-style-type: none"> Dept of Natural and Cultural Resources (DNCR) Lands DNCR Conservation Easement Lands NH Fish and Game Lands Other Conserved Lands 	<ul style="list-style-type: none"> ▭ Town Boundaries — Rivers and Streams Waterbodies Wetlands 	<p><small>Data Sources: NH GRANIT Digital Data (1:24,000) NH Department of Transportation DNCR Forests & Lands</small></p> <p><small>DNCR makes no representations or guarantees as to the accuracy of the features and designations of this map.</small></p> <p><small>Map Produced by GIS Services DNCR Forests & Lands Contact: Lisa.Sexton@nh.gov Ph: (603) 271-2214 Ext. 222</small></p> <p><small>This map is for planning purposes only. It is not to be used for legal boundary determinations or for regulatory purposes.</small></p>
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Last updated: 6/2007

