

To the Nash Stream Forest Citizen’s Committee, Department of Natural and Cultural Resources, Board of Trails, Fish & Game, and Department of Forests & Lands,

I attended the Nash Stream Forest Citizen’s Committee meeting of November 16th, 2021 as a member of the concerned public, under the impression that the Committee was dedicated to its mission “to work in partnership with the US Forest Service (easement holder), Division of Forests and Lands and other state agencies to serve as a focused source of public input to improve the information base influencing management decisions relative to the Nash Stream Forest.”

The NSFCC is not fulfilling the requirements of its role.

1.) The NSFCC has not worked in partnership with the U.S. Forest Service to secure their permission for the ATV trails in Nash Stream State Forest. The U.S. Forest Service stated that only internal trails could be approved without USFS permission:

“Under C.2, the conservation easement discusses public roads and public utilities and requires prior written approval of the Forest Service for the installation, operation, and maintenance of these facilities. In the case of this instrument, “public roads” does not include internal access roads and Forest Service involvement would only be required on roads that provide “through travel.” I see nothing in this provision that would preclude the State from considering internal access roads for ATV use.” (9/25/2001 ATV deed response letter.)

The ATV trails in Nash Stream provide through travel for the Ride the Wilds network:

“Report of the ATV Study Subcommittee

The committee met once for approximately 1.5 hours. There was no interest in having a second meeting. Initially 2 trails were under consideration, a connecting trail “West Side Trail” and a larger, self-contained interior trail. The committee felt it was premature to consider the interior trail and concentrated on the connecting trail... The length of the trail segment that will be on Nash Stream is approximately 7 miles and would connect existing ATV trails on private land.”
(NSFCC minutes 2/13/02)

In addition, the Appalachian Mountain Club submitted to CORD a legal opinion disputing the Forest Service’s classification of ATVs as vehicles permitted in Nash Stream:

“The attached memo summarizes a review of the Nash Stream State Forest easement, and of the distinctions made in New Hampshire statutes governing ATVs/OHRVs and snowmobiles. In short, this review clarifies that a previous legal opinion which equated ATV use/trails with snowmobile use/trails was mistaken and not supported by New Hampshire law or the terms of the Nash Stream State Forest easement. (9/22/20 CORD Legal Memo)

The May 16, 2002 NSFCC meeting minutes state that the West Side and Bordeau trails were permitted for ATV club (one?) use only, yet now these trails are open to the ATV public. Note the concerns regarding the “lack of Baseline environmental data and/or a monitoring program”:

“T. Miner feels that the Pilot Trail is well located and addresses the concerns that many people had. Barb Smith (Sierra Club) called T. Miner and stated that she is not concerned with the ATV Club itself, but expressed concern about the use of the trail by non-members and proper enforcement. She also stated that the Sierra Club was concerned about the lack of Baseline environmental data and/or a monitoring program. Tom Miner explained to her that both of these concerns are being addressed within the limits of available staff and resources available.”

This suggests that DF&L and F&G have been subsidizing the ATV lobby for two decades by diverting its staff time and resources to serve the interests of the ATV lobby at taxpayer expense.

2.) NSFCC is failing “to serve as a focused point of public input to improve the information base influencing management decisions relative to the Nash Stream Forest.”

- The majority of the members are ignoring public input, the reams of documents in the record, and willfully excluding from the information base, and their decisions, data that supports exclusion of ATVs from the Forest.

- The Committee did not pass on all the public input, if the document I received titled 'public input' was supposed to cover that. I sent the Chair of the Committee, Dave Govatski, nine documents, with the request that he forward them to the other Committee members. Were they distributed?

- None of the public input submitted was discussed by the committee, which only addressed, at a superficial level, agency input.

- The public was not allowed to enter the conversation during the meeting, and was thus allowed no part in the decisions made by the Committee. We were marginalized, silenced until the end of the meeting, with the clear message that we could blow off steam and the Committee would go through the motions of listening but had no intention of acting on anything we said. Unless one brought along paper and pencil and was able to keep track of all that was said in the first hour, one was left smothered by the Committee's (with one exception) charade, their incorrect assumptions, their deliberate abdication of their responsibilities, their exclusion of global warming and their bizarre dedication to offering up the Forest to ATV users' abuse.

- The Committee has not considered the effect that their permitting of ATV trails in Nash Stream has on the abutters to the rest of Ride the “Wilds”, which includes many town roads, and thus, the public.

Another huge problem for the Nash Stream Citizen's Committee and DNCR is the private conversations taking place between ATV club members seeking more trails, and landowners. We have no record of what goes on here, but these conversations are central to the trail proposals which are brought to the Nash Stream Forest Citizen's Committee.

What should happen, when the clubs propose a route, is that an independent group, paid for by the clubs, makes a standard e-mail/letter request to the landowners, asking for ATV access. These requests and any subsequent conversations must be on the record so there is no coercion, false information, the use of unsupported claims of economic benefit to pressure landowners to 'help Coos', or any implication that they will be doing harm and incur hostility if they say no. Landowners have to know from the start that these conversations are public, subject to Right-to-Know requests. They have to know they can decline to have the conversation. They cannot be told they are the one holdout; that 13 others have said yes. It is ridiculous and irresponsible for DNCR to trust the Clubs on this.

DNCR and the NSFCC are fully aware that landowners, abutters and those who speak out against ATVs have been intimidated by ATV club members/riders and others. This is in the record. No means no. If landowners say no, they must not be contacted again. They can always approach BOT's independent liason if they change their minds.

I was shocked that Mike Waddell's response to the news of the holdout landowner on the proposed Southern Connector Trail was to say that relentlessness was the key to securing trails, and that that was how the AT had been completed (with the clear implication that Ride the Wilds and ATV trails in Nash Stream were comparable in cultural value to the AT.) Advocating bribery and coercion of anyone is unacceptable, but Mike Waddell's abysmal ignorance of the implicit abuse of power that often occurs when coercion and manipulation are used to gain consent from women was unacceptable and at the very least he should have been censured by the Chair.

The Committee was silent when Jamie Sayen presented extensive documentation of the failure of any enforcement of the requirements for baseline studies before the establishment of the ATV trails. The Committee was silent on the lack of ongoing monitoring of ATV damages to the trails and ecosystem of Nash Stream. When Jamie Sayen pointed out that ATV use in Nash Stream S.F. was in violation of RSA 215-A:42: ("No ATV or trail bike trail shall be established [unless]... the Fish and Game Department shall enter into the memorandum only if it can commit sufficient resources to reasonably monitor for proper ATV use or trail bike use on the property and enforce the applicable laws.") Dave Govatski shut him down, saying, "That's your opinion." This statement struck several members of the public as a clear statement that the Committee's mission, as they saw it, did not include enforcing any conditions or MOUs nor of remedying the ATV problem in Nash Stream by closing the Forest to ATV use.

It is unacceptable that the Nash Stream Citizen's Committee joins CORD and the Department of Natural and Cultural Resources in ignoring state laws, its own rules, MOUs, and the data, and allows other interests to determine its actions (and inaction)

Do the Committee, the Department of Forests and Lands and the Department of Natural and Cultural Resources take the position that compliance with RSA 215-A:42, RSA 215-A:41 I(d), and RSA 215-A:41 I (e) is optional?

NSFCC has consistently approved the use of Division of Forests & Lands and Fish & Game funds/personnel for the few and inadequate studies and conciliatory assessments of ATV proposals and trail monitoring. None of these studies have addressed externalized costs. The ATV clubs are responsible for these expenses and for all future assessment and monitoring costs. Studies need to include sound maps, studies measuring peak sound on steep pitches during peak travel times (summer weekends, holidays), erosion and water quality studies, documentation of effects of ATVs on birds, amphibians, fish, insects, other wildlife and people, air quality data, including PM 2.5, and the carbon footprint of their ATV use.

The ATV clubs must be required to post a bond for the restoration of the ATV trails in Nash Stream which will be necessary when the 1995 Management Plan is restored and ATV use is no longer permitted.

The one management project of value to Nash Stream Forest and beyond is the Brook Trout restoration project, sponsored by Fish & Game and Trout Unlimited. 1.3 million dollars have been spent in restoring the damage done to Nash Stream by the dam breach in 1969. According to the National Fish Habitat Partnership “the resulting socioeconomic benefit resulting from these conservation outcomes is estimated to be \$8.2 million.” This project is now threatened by un-monitored, publicly subsidized ATV use of the West Side ATV Trail. A representative of Trout Unlimited, allowed to speak at the end of the meeting, was left begging the Committee to consider the trout.

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<http://indepthnh.org/2021/11/15/op-ed-a-distillation-of-kris-pastorizas-requests-for-agency-documents-pertaining-to-atvs-in-nash-stream-role-of-public-lands/>

NOTE: Kenneth Desmarais, Forest Management Bureau Administrator to Brad Simkins (DRED), 1/24/2013:

Agency Commenting: NH Division of Forests and Lands

Please check one:

_____ Concur with no conditions.

#13-01-04 Concur with the following conditions: (Indicate major reservations about the project and the specific substantive changes or modifications desired.)

#13-01-03 Do Not Concur (Summarize the major legitimate reasons for not concurring including documentation or references to plans, statutes, etc.)

_____ No Comment

Technical Comments: See below comments

Brad -

I am forwarding to you the Forest Management Bureau's review of the proposal to allow ATV's to use the southern portion of Nash Stream Road (Stark). Maggie and I have read the Nash Stream Plan as well as the Updates and Revision document and we both feel that the plan is quite clear that ATVs are not a low impact and traditional use of the property. In fact the writers of the plan felt that ATV use was so contrary to the intended uses of Nash Stream that they specifically added language prohibiting ATV use within the property. In the 2002 Update and Revisions document ATVs were allowed on the fringe of the property but the document specifically says "No other roads or trails are open to ATVs on the property". We have now been requested to approve 2 additional ATV sites on the property. The Forest Management Bureau is willing to concur on the Columbia site as the sole and final addition of ATVs on the property. This compromise is NOT something that the bureau is enthusiastic about but we are willing to go along with the proposal because of the unique nature that the Columbia access provides. Careful consideration should be given to requests to change the management plan. Seven years of very hard work was put into the plan's development and the vision for the property was thoroughly developed. Deviations from this very detailed planning process could easily change the direction of the property from the vision established; as stated on page 61 "the Vision includes Principles and Goals of Management which together provide timeless management focus plus a glimpse at what is hoped to be achieved through implementation of this Plan and those that follow". Let's not say "we will follow the plan...unless someone suddenly wants to do something different". Let's not allow the Management Vision to perish from a thousand paper cuts as each small proposal develops a management contrary to the original management vision. *A national and international destination site for motor vehicle use cannot be considered "low impact".*