ATTACHMENT ONE

CONCLUSIONS

ATV STUDY COMMITTEE
As charged under HB 717

December 19, 2001

Prior to embarking on widespread expansion of existing trails and creation of new ATV trails a number of issues have to be addressed. What was initially thought of as a rather simple and straightforward issue has proved to be an extremely complex issue.

As the issue of ATV trail development has unfolded before this committee it appears that the state lacks a comprehensive policy to deal with these issues. The popularity of the sport and the technical changes in the equipment has caught us unprepared. The existing infrastructure was not designed and developed with ATV's in mind.

The NH Legislature, DRED, NH Fish & Game and ATV Clubs must be prepared to step forward and fulfill their respective roles in this undertaking. I t has to be cooperative effort.

Along with the purchase of land by the state, or by clubs, for ATV use, the aspect of private land use should not be precluded. A program that includes public and private land use offers considerably more potential and increases the chances of a successful program.

The issues appear to be grouped in a few major categories: Education, Engineering and Enforcement. Each area will be treated separately.

EDUCATION

Reliance on an informal system of education, at the point of sale, seems inadequate. Most of the material submitted to the committee, print advertisements, actually seem counter-productive and fuel a negative public image. Television ads, for the most part, fall in the same category. The ads serve to reinforce a negative stereotype. These ads may sell machines but they don't convince the private landowner to open his land. Nor, do they persuade the conservationist that the rider is a steward of the land.

A uniform, state designed, program seems more appropriate. It should be a cooperative program, involving dealers, clubs and NH Fish & Game. This might serve as a more appropriate setting in place of current point-of-sale education

Education programs aimed at the 12-17 year olds are a positive example of cooperation between NH Fish & Game and ATV Clubs. A study to determine its effectiveness should be implemented.

Efforts should be made to educate private landowners and encourage the use of private land. Measures must be taken to protect them from liability and to ensure them, once in place, that an effective enforcement program exists. This education of landowners has to be a cooperative effort as well.

Financial incentives for private landowners, in the long run, could prove to be very cost effective. Innovative programs could overcome opposition and lead to successful relationships. Initially, involvement could be short term on a trial basis. If successful, terms could be extended.

ENGINEERING

The policy of "Coarse" and "Fine" filtering must remain in place. Environmental concerns and potential degradation of an area must always be the paramount consideration.

At the same time, DRED must be prepared to issue timely decisions based on consistent criteria. Local communities and ATV clubs should have representation during the decision making process. It's an opportunity to demystify the process and make it more inclusive. Involvement of the local community could head off subsequent opposition

Other trail uses, low impact, snowmobile and non-motorized, conflict with ATV use. ATV trail expansion should consider exclusivity. New or expanded trails should be for ATV use only. Trails could then be designed and engineered exclusively for this use and conflict issues will not arise.

ENFORCEMENT

NH Fish & Game, admittedly, is understaffed and under equipped to provide the necessary law enforcement component. Local departments lack the necessary personnel, training, funding and specialized equipment to address complaints and provide a consistent enforcement effort. The NH Department of Safety indicates that their jurisdiction is confined to the roadways and interstates.

A number of citizens appeared and testified before the committee. They have had their fill of: "I don't have the personnel – I don't have the funding – It's not my responsibility." These responses are unacceptable.

An innovative approach may be required. Accountability and responsibility, on the part of law enforcement, is fundamental. That fundamental accountability and responsibility should rest with the NH Department of Fish & Game. At the same time they must be adequately staffed, funded and equipped. We have to provide law enforcement with the tools, training and personnel they require.

Patrols, and other enforcement efforts, can be accomplished with NH Fish & Game personnel, local law enforcement personnel and ATV club members. Funding would come from fees, or program funding, and not burden local communities or individual state agencies. Special programs should be designed to deal with areas that that experience frequent and chronic violations.

Penalties must be sufficient to provide a deterrent. Local officials and local judges must be educated as to their role in a successful enforcement program. Appropriate fines and administrative sanctions will reduce repeat offenses. The ultimate goal is that of self-enforcement.

Clubs, if given the authority to invoke administrative sanctions or administrative fines could decrease the amount of law enforcement action needed in their area. Forfeiture of a machine should only be considered for the most flagrant offenses. Seizure, for a specified period of time, could provide another valuable enforcement tool.

Areas that host ATV trails should have the opportunity to have members of local agencies receive training and equipment made available for use. Local clubs can provide safety patrols and an emergency response capability. Training and funding would be provided.

A successful enforcement program is critical to the long-term success of ATV trail expansion and development

Attachment #2

RECOMMENDATIONS

ATV STUDY COMMITTEE

December 28, 2001

TRAIL DEVELOPMENT/ENGINEERING

1. **The Trails Bureau should move forward with projects in process where trail maintenance is insured through working agreement with local ATV club. Example: Hillsboro (to be a test case for determining guidelines for future development of similar public lands/private lands trail development).**

2. **DRED should move forward with the planning and approval process for a connecting trail in Nash Stream in cooperation with local ATV club.**

3. **DRED, through the Trails Bureau, within 90 days should select one site on public land which meets all environmental and other criteria for development of a new ATV trail system. The Trails Bureau should utilize DRED's process of lands evaluation for ATV trails on public lands.**

4. **The Office of State Planning, directly or through outside contractors, in cooperation with DRED/Trails Bureau, should prepare an ATV trails plan that will accomplish the following:**

    - **provide an assessment of statewide trails currently available, estimate the possible trails needed in the next five years, and establish criteria for the number of trail systems and miles of trail required to reasonably accommodate the public need for the next five years.**

    - **propose additional sites of strategically located land where public/private partnerships will allow development of ATV trails.**

- **propose sites for acquisition of strategically located land by the state for the development of ATV trails.**

- **emphasis should be on development of self-contained trails, not linear trails. This is not to exclude development of connecting trails between two or more self-contained trail systems over private land.**

- **complete the plan by December 31, 2003.**

- **funds for the study and additional trail development will be sought through an increase in registration fees.**

5. **New ATV trails shall be created only when:**

    - **there is a working agreement between the Trails Bureaus and a local "organized" club or where there is an expectation by the Trails Bureau that a club will be formed. DRED/Trails Bureau has the resources to monitor and maintain trails for ATV use,**

    - **DRED/Trails Bureau has the resources to monitor and maintain trails for ATV use, and**

    - **Fish and Game has the resources and made the commitment to *reasonably* monitor ATV use and enforce applicable laws.**

6. **An ATV trail shall be closed if and when a club is no longer capable of providing the maintenance required by the agreement unless the Trails Bureau accepts responsibility for maintenance the trail when the maintenance requirements are beyond the capability of a club.**

7. **It is understood that current policy encourages multiple use trails. Some trails developed for ATVs will not be compatible with other uses; likewise, many trails currently used by snowmobilers, hikers, bikers, equestrians and skiers are not compatible with use by ATV operators. The Trails Bureau should study the potential of working with organized clubs to have trails that have been developed primarily for ATV made available to other users in "off hours" or designated time periods.**

8. **The closure of trails on public lands shall be the responsibility of the Trails Bureau.**

ENFORCEMENT

Point of Sale

ATV dealers must inform buyers of the laws that apply to their use, especially the law requiring landowner permission. A disclosure statement must be provided to each purchaser indicating where it is legal and not legal to ride ATVs in New Hampshire with a description of the state operated trails which allow ATV use. The buyer must sign the document as acknowledgement that he or she has read and understands the information. One copy is provided to the buyer and the second copy is attached to the title documents.

Registration

- **Repeal the exclusion from registration for ATVs used for transportation.**

- **All ATVs, except those operated on a person's personal property, must be registered annually at the following fee rates:**

in-state	**$**	**67.00**
out-of-state	**$**	**87.00**

- **A license plate of an appropriate size to be easily visible will be provided to each registrant to be attached to the vehicle. Stickers may be used for renewals.**

Operator Requirements

- **By the end of fiscal year 2004, all ATV and trail bike operators must be a member of an organized ATV/trail bike or other trail use club to use their vehicles on public trails or roads.**

- **All operators must satisfactorily complete a state approved**

education program which includes training on safety, environmental protection, applicable laws, rights of property owners and personal responsibility as well as "hands on training" on the use of the equipment. This mandatory requirement be implemented through a phase in process based on age. Those convicted of certain offenses would be required to successfully complete an approved safety education class prior to operating an ATV.

- Penalties for misuse should be increased including fines, confiscation of machines, loss of opportunity to operate a vehicle on public trails and roads.

Fish and Game Department Enforcement

- Primary responsibility for enforcement for ATVs will remain with Fish and Game. However, the Commissioner of DRED and the Executive Director of the Fish & Game Department should create a "Program Office for Trails" co-chaired by the Chief of the Trails Bureau and the F&G captain of law enforcement. The purpose of this office is to assure full communication and appropriate cross-functional co-ordination for decisions and direction on all aspects of trail development, management, education and enforcement. A quarterly report on trails activities and decisions should be prepared and submitted to the Commissioner and Executive Director and Chairmen of appropriate committees in the legislature. All fee revenues will received by type of equipment (ATV, TB, snowmobile, other) shall be reported. Disbursements by function (education, trail development, trail maintenance, enforcement, etc.) under type of equipment involved shall be reported. (The cooperative land management committee now in place does not accomplish this important ongoing and necessary function of full communication and joint decisions so the new Program Office is recommended.

- A portion of increased registration fees is dedicated to Fish and Game enforcement activities and these funds must be used for ATV and trail bike enforcement through contract programs with law enforcement agencies other than state agencies. The department will accept responsibility to train law enforcement officers and as necessary, provide equipment to assist the local agency. Responsibility for care and maintenance of this equipment will rest with the local agency. The committee recommends a $20,000 appropriation for a pilot program to be conducted in the summer/fall of 2002.

FEES

Increase fees effective July 1, 2002 as follows:

	Current	Recommended
Annual Registration		
Resident	**$ 37.00**	**67.00**
Non-Resident	**47.00**	**87.00**

Use of Funds

	Recommended Fee Increases	
	Resident	**Non-Resident**
Land Easements & Purchases	**$ 9.00***	**$ 10.00***
ATV Exclusive Trail Development	**10.00**	**10.00**
F&G Enforcement	**10.00**	**19.00**
Increase in Agent Fee	**1.00**	**1.00**
Total Increase	**$30.00**	**$40.00**

****The funds allocated for land purchases will be escrowed until such as the DRED determines it is appropriate to purchase land for ATV use.***

	Current Fees	
	Resident	Non-Resident
Agent Fee	$ 1.00	$ 1.00
F&G Search/Res	1.00	1.00
F&G Operations	9.70	11.90
Trails Bureau	25.30	33.10
Total	$ 37.00	$ 47.00

Financial Assumptions: If there are 20,000 resident registrations in fiscal year 2003, the recommended fee increases would generate $600,000 of additional revenue; if there are 5,000 non-resident registrations, the fee increases would generate $200,000 of additional revenue. If current ATVs are "grand fathered" and not required to obtain certificates of title, and sales of new ATVs number 2,500 in fiscal year 2003, the additional revenue will be $75,000.

OTHER POLICIES

Amphibious vehicles and ATVs larger than 50 inches wide and over 800 pounds are prohibited from state ATV trails as they are defined as OHRV.

Organized Club: An organized club is recognized by the Trails Bureau when it completes the appropriate application with the Secretary of State and his office has provided a certificate in good standing. A club also must have federal tax status which will allow it to receive grant-in-aid funds for trail maintenance. A club may reach agreement with the Trails Bureau to monitor and oversee use and maintenance of a one or more trails and be held responsible for pre-agreed upon standards of performance. If the club fails to meet these standards, it will not receive future grant-in-aid funds and the trail(s) it was responsible for may be closed. The club would be responsible for maintenance, signage, monitoring, education and as possible, enforcement.

The Study Committee should review the following:

- **recommendations to clarify current law to define and provide language for ATVs, snowmobiles and trail bikes.**
- **requirements for manufacturers to install state of the art equipment to reduce noise and air pollution.**
- **current age restrictions for ATV operators.**
- **incentives to encourage participation of private landowners in trail development programs including possible legal assistance in event of lawsuits.**
- **fees and regulations relative to commercial rental operations where machines are run on public land.**
- **new or expanded role(s) for Trails Advisory Committee in trail development, management and closure.**

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

MEMORANDUM

DATE: **October 23, 2002**

TO: **Honorable C. Jeanne Shaheen, Governor**
Honorable Gene Chandler, Speaker of the House
Honorable Arthur P. Klemm, President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Honorable Tammy L. Wright, Assistant Senate Clerk
Michael York, State Librarian

FROM: **Rep. John R.M. Alger, Chair**
935 East Rumney Road, Rumney NH 03266-3037
(603) 786-9562

SUBJECT: **Final Report on HB 717 (Chapter 259, Laws of 2001), establishing a committee to make recommendations on policy concerning State-operated trails and private lands used by all-terrain vehicles and trail bikes and relative to increasing the resident and non-resident OHRV registration fees for snow-traveling vehicles**

The Study Committee under HB 717 completed six public hearings and two Committee deliberative sessions in the year 2001, which resulted in a report to you recommending legislation to accomplish two primary objectives:

1. Create a mechanism and monetary support for the Fish and Game Department to contract with local police departments for the purpose of regulating operations of all-terrain (ATV) and trail bike (TB) operations on State-owned or leased trails.

2. Create legislation and monetary support for the Trails Bureau of the Department of Resources and Economic Development (DRED) to develop additional ATV and TB trails and to prepare a plan for the State for additional trails, anticipating significant growth in the recreational sport of riding ATV's and TB's.

Following the report of last year, the Committee introduced HB 1273, which was designed to accomplish the above objectives. That bill was heard in public session both in the policy and financial committees of the House and Senate, was amended significantly, but it was passed into law effective July 1, 2002 addressing the two objectives brought forward in the study report.

The HB 717 Study Committee remains in existence until November 2002, hence this second report. Two additional hearings were held, one in August and the other in September of 2002 for the purpose of addressing additional recommendations for law change, primarily as a result of implementation of HB 1273. The recommendations were made by the Trails Bureau of DRED, the Fish and Game Department, and by a citizen of Windham. An especially significant issue emerged in the recent hearings. It concerns the authority of local authorities to regulate the development and use of ATV and TB trails on private lands, including litigation intended to resolve a situation in Lyndeborough. The position of the Commissioner of DRED and this Committee is set forth in the attached letter and is included as part of one of the proposed committee bills. These recommendations have been assembled into two bills being developed by committee members for hearings in the 2003 session.

The Study Committee finds, further, that continuing growth of ATV and TB registrations in the state is causing significant controversy regarding noise, dust, and illegal operations of various kinds, especially in towns of southern New Hampshire. That is where the greatest concentration of people live and where people from Massachusetts easily come across the state line to drive on New Hampshire trails. Therefore, the Committee has two recommendations:

1. That the Fish and Game Department make a high priority of controlling illegal operations of ATV's and TB's on private as well as public lands and trails while making maximum use of new authority for contracting with local law enforcement organizations.

2. That appropriate House and Senate committees convene a public hearing in joint assembly on the annual financial reports required in January under HB 1273 of the Trails Bureau and Fish and Game Department. The purpose would be to discuss the revenues and expenditures made for ATV's and TB's and to hear the progress and the issues in the expansion of this growing recreational sport. That report should also hear progress on developing a statewide plan of trails for ATV's and TB's, as also required under HB 1273 now in the law.

JA:co

cc: Joel Anderson, Researcher
Study Committee Members