

**All-Terrain Vehicles in  
Vermont:**

**The outdoors has room for all  
who love it responsibly.**

ATV Collaborative Report and  
Recommendations  
Convened by Governor Jim Douglas  
December 22, 2004

## **Background**

Use of all-terrain vehicles (ATVs) in Vermont has increased over the past 10 years. With growing numbers of Vermonters owning ATVs, and only limited legal riding opportunities, illegal ATV riding has increased. For this report and recommendations, an ATV is defined as any vehicle manufactured for off-highway and off-road conditions and not designed exclusively to ride on snow or ice. Trails are defined in state law (10 VSA Chapter 20). Trails that are not part of the "trail system" anticipated in 10 VSA Chapter 20 are defined in 19 V.S.A. § 301. A Municipality may have a "trail" that is not considered to be part of the "trail system" in Title 10. For purposes of these recommendations, the Collaborative includes all trails.

Many riders feel there are not enough places for them to ride legally in Vermont. Vermonters are using ATVs more than ever to work in the woods and on the farm, to hunt and fish, and to enjoy the outdoors. At the same time, more Vermonters than ever are pursuing outdoor recreational activities such as hiking, skiing, snowshoeing, snowmobiling, biking, swimming, fishing, hunting, bird watching, nature walking and horseback riding. Many landowners contend that illegal ATV riding is causing significant damage to their property and to the environment. Other Vermonters feel strongly that ATVs impair their enjoyment of the outdoors. Other recreational users of town, state and federal land have been equally strong in their opposition to ATV riding on public land. The ATV riding community has identified an increased need to use public land to create a trail system. The Vermont ATV Sportsman's Association (VASA - the state umbrella group for ATV users) is dedicated to resolving these issues. VASA wants to make the ATV situation better for everyone: riders, other outdoor recreation users, and especially landowners. Everyone wants a successful resolution to these dilemmas.

In the past 10 years, the number of ATVs registered in Vermont increased almost 450 percent to 14,055 in 2004 from 3,138 in 1994. A majority of ATVs in Vermont are unregistered, and thus unidentified. VASA attributes the lack of registration to limited riding opportunities and the state policy prohibiting ATV riding on state land. Retail sales of ATVs by dealerships in Vermont increased almost 600 percent to 3,051 in 2003 from approximately 514 in 1994. Dealers estimate that 2004 sales are up 20 percent over 2003 sales. These figures do not include sales to Vermonters in New Hampshire and private resale. ATVs and snowmobiles are the most popular recreation vehicles in Vermont. Since ATVs can be used year round, they have the potential to have a greater economic impact than snowmobiles; but they can also cause more damage to land, aquatic systems, plants, and wildlife, and can create more conflicts with other recreation enthusiasts and landowners.

Riding ATVs on private land without the owner's permission is illegal, and currently, all public land in Vermont is also closed to ATV riding. Although there are many responsible and respectful ATV riders, the irresponsible ones are trespassing, in some cases damaging land and water, and angering neighbors and landowners. Many newspapers in the state have published letters from neighbors and landowners who are angry about the irresponsible ATV use. Newspapers rarely publish a story about the good work that VASA is doing to create and promote legal riding opportunities and help land managers alleviate the problems associated with unmanaged ATV recreation. This representation leaves the casual reader with the impression that all ATV riders are bothersome and do not appreciate our natural resources.

Some individuals and landowners want to prohibit all ATV recreational use, not just on their land, but everywhere. Other people are enthusiastic about ATVs and their benefits. All ATV riders face a significant task in contributing to solutions to this problem. VASA and its affiliate clubs have worked hard to solve the problem and will continue to do so. Without the active and constructive engagement of landowners, ATV enthusiasts will face steadily diminished opportunities to ride legally in Vermont on private land thereby creating greater demand for public land access.

With about 85 percent of Vermont's land in private ownership, a failure to establish and maintain good relations between landowners and the ATV riding community will become an ever-larger problem. Vermont's economy and quality of life depend on recreational access to private land. This tradition of public access to private land is part of Vermont's heritage. However, the popularity of ATV use can be a burden for Vermont's landowners. Repairing damage, such as rutted, eroding logging roads caused by illegal ATV riders, can be expensive. Landowners should not have to pay for repair of ATV damage or any other recreational damage to their land.

Landowners should be told and shown how much their generosity in allowing public use of their land is appreciated. Vermont would be very different without the ability to enjoy outdoor recreation of all types. Vermont's economy and quality of life depend on generously-offered and responsibly-used land access. Sharing with neighbors is part of our tradition in Vermont. However, abuses of this generosity have resulted in increasingly limited public access. Vermont's landowners have been vocal about ATV riders operating their machines illegally on their land, and damaging land, waterways, roads, and crops. Part of the goal of the ATV Collaborative recommendations is to restore the confidence of Vermont's landowners as well as to encourage partnerships between VASA and landowners to increase legal riding opportunities. Landowners, however, must be convinced that protection of their property rights is a high priority and that ATV damage to their land will be repaired.

#### **Vermont ATV Sportsman's Association (VASA)**

Many ATV riders are working hard to create a system that will address these important landowner concerns. There are 20 ATV clubs across Vermont. VASA (Vermont ATV Sportsman's Association) is the statewide umbrella organization. ATV club members are promoting safe riding, working with landowners to repair damage, building legal trails on private land with the landowners' consent, and creating good will with landowners and communities.

Vermonters wishing to join an existing club or to start a new one can call:

| Club Name                     | Area Served                       | Name and Number                         |
|-------------------------------|-----------------------------------|-----------------------------------------|
| VASA<br>Web: vtvasa.org       | All Vermont umbrella organization | Todd Sheinfeld<br>802-496-3806/249-8633 |
| North Country ATV Association | Franklin County                   | Claire Willette<br>802-849-6729         |
| Green Mountain ATV Club       | Lamoille County                   | Debra Tourangeau<br>802-888-6296        |

| Club Name                       | Area Served                                 | Name and Number                                 |
|---------------------------------|---------------------------------------------|-------------------------------------------------|
| Central VT ATV Club             | Washington County                           | Eric Bailey<br>802-223-3916                     |
| Twinfield Trail Blazers         | Washington County                           | Mark Hart<br>802-454-1137                       |
| Champlain Valley Explorers      | Addison County                              | Heather Seeley<br>802-388-4326                  |
| Champlain All Terrain Sportsmen | Rutland County                              | Sherrie Hanley<br>802-537-2269                  |
| W Rutland ATV Sportsman's Club  | Rutland County                              | Jacque Lockwood<br>802-948-2661                 |
| Bennington County 4 Wheelers    | Bennington County                           | Mark White<br>802-379-5558                      |
| Kingdom Travelers               | Orleans County                              | Lisa Kennison<br>802-334-2294                   |
| Albany All Terrain              | Orleans County                              | Edward Grimes<br>802-755-6183                   |
| Moose Trail Riders              | Essex County                                | Tonilyn Fletcher<br>802-822-9809                |
| Tri-County ATV Club             | Essex County                                | Linda Nadeau<br>802-723-6288                    |
| Caledonia All Terrain Travelers | Caledonia County                            | Dan Hale<br>802-472-6727                        |
| Stream Mill Brook               | Caledonia County                            | Tim Moran<br>802-563-2448                       |
| Topsham Trail Riders            | Orange County                               | Anah Tuttle<br>802-439-5674                     |
| Northeast Trail Blazers         | Orange County                               | Carole Taylor<br>802-222-4590                   |
| Westshire ATV Club              | Orange County                               | Bruce Durkee<br>802-333-9351                    |
| Central VT Quad Runners         | Windsor County                              | Everett Lyon<br>802-234-9618                    |
| Chateaguay Mountain Riders      | Windsor County                              | Duke Maguire<br>802-672-3202                    |
| Reading All Terrain Sportsmen   | Windsor County                              | Dennis Allen<br>802-484-9751                    |
| No clubs yet for                | Grand Isle, Chittenden and Windham Counties | VASA<br>Todd Sheinfeld<br>802-496-3806/249-8633 |

In its work and deliberations, the ATV Collaborative heard from many ATV riders that there needs to be a managed, legal trail system in Vermont where they can ride safely and responsibly. ATV riders also want to be recognized as an important recreation constituency, with the same rights and obligations of other recreation groups. VASA seeks parity. Many families enjoy

riding ATVs as their form of outdoor recreation. When too few managed, legal riding areas exist, as is now the case, the temptation to ride illegally increases. The ability to form clubs to educate members about legal riding, safety, and ethics is also diminished when there are not enough places to ride legally and trail systems can't be developed. VASA is providing information to ATV riders about legal ATV riding opportunities through responsible and active local clubs. Education about legal riding is best addressed by other ATV riders.

When snowmobiles first appeared in the late 1960s in large numbers in Vermont, snowmobilers were viewed then much as ATV riders are viewed now. When snowmobiles clubs formed, trails were expanded with landowner consent, state laws were overhauled, and VAST was created to manage all snowmobile use. This system is working; many people now hope that a similar structure can work for ATVs.

Creating a well managed ATV trail system is a greater challenge than building the snowmobile system was 30 years ago. Dramatic shifts in land uses and values, increased development, and urban expansion are some of the changes affecting rural Vermont communities. This shift affects Vermont's land-based recreation, a sector of our economy which we value. Another challenge is that ATVs sometimes, but not always, need hardened trails. ATVs also can be operated year round, so the investment in trails, maintenance management and repairs is likely to be greater than the VAST trail system requires. Also, the presence of ATVs on trails are not always a detriment to other trail users, nonetheless, ATV trail planning is likely to require greater attention to planning, safety, and ethics than for snowmobiles, as there are more trail users and types of trail users in the summer months than in the winter months.

#### **The Governor's ATV Collaborative Members and Process**

As a result of all these concerns, Governor Douglas appointed an ATV Collaborative to look into the issues and recommend solutions. This report is the culmination of almost a year of productive meetings designed to address concerns, opportunities, and problems related to ATV use in Vermont. A wide range of perspectives are represented on the Collaborative, including ATV enthusiasts, conservation organizations, and municipal, public safety, and law enforcement officials. The Collaborative heard and discussed concerns from all quarters. The task of the ATV Collaborative has been to hear and understand all these issues and craft sensible, practical proposals to address them. The Governor asked the ATV Collaborative to recommend workable suggestions to address the concerns of landowners, the public, other recreationalists, environmental organizations, local governments and law enforcement, without impeding the safe riding, farm and forest use, and recreational enjoyment of the ATV community.

The ATV Collaborative first met in March, 2004, and has met monthly since then. Smaller working sub-groups have examined specific issues, crafted solutions and budgets, and then reported back to the full group. The Collaborative has developed these recommendations by building agreement around the most pressing issues, and focusing on the solutions that we generally agreed to be most likely to succeed. The Collaborative decided at the beginning of its work that we would put forth only recommendations on which we came to consensus, in order to assure that these recommendations would find the support of as many Vermonters as possible. We succeeded in that effort with the exception of the recommendations regarding public land.

The Collaborative members are representatives of organizations that include all the interested parties in resolving the ATV dilemma in Vermont. There were many other groups and individuals who could have been included. Governor Douglas elected to keep the group small but balanced to represent all points of view. The ATV Collaborative member and advisory organizations are:

Vermont ATV Sportsman's Association; Governor's Environmental Council; Vermont Woodlands Association (a landowner group); The Nature Conservancy of Vermont; Vermont Natural Resources Council; an individual ATV rider; a representative of ATV dealers and retailers; Vermont Fish & Wildlife Game Wardens, Vermont Department of Forests, Parks and Recreation; Green Mountain National Forest; Vermont Association of Snow Travelers; Vermont Department of Motor Vehicles; Vermont Department of Public Safety; Vermont League of Cities and Towns; The Center for Woodlands Education & *Northern Woodlands* magazine (a landowner publication); and the Vermont Land Trust.

Public meetings during October 2004 in Springfield, Rutland, St. Johnsbury, and St. Albans generated many comments on the recommendations to the Governor included in this Report. The Collaborative received public comment through November 10, 2004. Many Collaborative members attended all public meetings, and all members attended at least one meeting where we listened carefully to the opinions expressed. The hundreds of verbal and written comments from the public, state agencies and private organizations given to the Collaborative affirmed that the Collaborative grasped the issues and dilemmas involved in the ATV debate in Vermont. The range of public comments was consistent with the debate within the Collaborative. We then prepared this final Report and Recommendations.

### Summary of Public Comment

All of the comments, both verbal and written, are submitted to the Governor with this Report. The following is a brief representative summary of the verbal and written comments received:

1. Great way to enjoy the outdoors with family and friends, cover lots of distance, see lots of the state and enjoy a year round sport legally in Vermont
2. Want a trail system like the one in New Hampshire with hardened trails
3. Wants ATVs banned
4. All public land should be closed to ATVs
5. All public land should be open to ATVs
6. ATVs should be allowed on public land in a managed system
7. ATV revenues to state and to businesses could be great
8. Need systematic enforcement
9. ATV tires have high environmental impact, water quality impact,
10. Concerned about ATV damage to hiking and biking trails
11. Wants to use existing logging roads on federal, state and private land
12. ATV rider wants to help promote respectful use
13. Need a process for dealing with increasing number of complaints, injuries, etc.
14. Need mechanism for compensating private and public landowners for increasing damage and trespassing
15. Concerned with noise, pollution and safety; wants peace and quiet

16. Local clubs, ATV dealers and manufacturers should develop partnerships to create and maintain trails
17. Concerned that trail system may become a jumping off point for illegal use, especially since advertisements encourage "wild" riding
18. Any trail construction should be subject to siting and permitting processes
19. Enforcement should be funded properly—registration fees are not sufficient
20. Don't use public funds for enforcement
21. Require licensing and insurance
22. Don't require licenses
23. Want a solution that addresses all forms of recreation
24. Safety concerns, wants more education for riders
25. Need to improve public perception of ATV riders

### **Executive Summary of the Collaborative Report and Recommendations**

This Report has several sections. These sections cover general areas of concern and have recommendations in each of them. The sections are Common Vermont Values; Goal for ATV Use; Protecting Property Rights; Trail System Planning and Protecting Natural Resources; Public Land and Private Conserved Land; Statutory Process for New Trails; Recreational Director for Vermont Forest, Parks and Recreation; Organized User Group – VASA; Safety and Ethics Course for Riders; Registration and VASA Membership; Enforcement of Laws; Penalties; Commercial Operators; Out of State Riders; Budget; and Rider Information Publications.

The 24 Recommendations that the Collaborative makes in this Report to the Governor are:

1. develop a long-term sustainable trail system based on statewide recreational objectives that enhances recreation opportunities for Vermonters, conserves natural resources and habitats, and protects landowner property rights
2. ensure that the landowner liability law covers ATV issues and holds landowners harmless in cases of injury to persons or damage to personal property
3. repair damage caused by illegal ATV riding
4. have a safe, well-managed place to ride so that irresponsible and illegal riding is reduced
5. have good planning, siting, construction, maintenance, and monitoring of the trail system including Act 250 review as applicable
6. address appropriate standards with VASA as the coordinating user group.
7. use the current process for evaluating and siting any new trail or use on state land
8. recognize the Green Mountain National Forest is addressing the issue of ATVs on federal land in a separate process that follows NEPA requirements, and all other appropriate federal laws, rules, regulations and guidelines
9. leave the discretion to open or restrict access to town roads and legal trails with the appropriate municipality
10. ask conservation easement holders to develop a process and criteria for evaluating and deciding what if any conserved land will be considered for a trail link for ATV use
11. provide funding for Vermont Department of Forest Parks and Recreation for permanent staff to coordinate all trail user groups and systems in Vermont
12. have a mandatory rider safety and ethics course
13. have mandatory membership in VASA to ride off of one's own land

14. require title and registration for all ATVs
15. develop an effective and collaborative enforcement strategy
16. establish a clear and consistent set of laws pertaining to ATVs
17. require helmets for all riding an ATV
18. require ATVs to be sized appropriately to the rider age
19. require direct accompanied supervision of riders under age 16 by an adult over the age of 20
20. have significant penalties for violations of ATV and other laws
21. have special regulations for commercial operators
22. address non-resident pass system for out of state riders
23. adopt the proposed budget attached to this report
24. coordinate rider and landowner information publications

### **The Governor's ATV Collaborative Report and Recommendations**

#### **Common Vermont Values**

The following recommendations have their roots in what we feel are beliefs and values that Vermonters hold in common.

- As Vermonters we respect the integrity of our landscape.
- We strive to learn about its fragility and resiliency and to balance public access with conservation in a thoughtful way.
- We respect the rights of private property owners and the tradition of public recreational use of private and public lands.
- We strive to be courteous and respectful in our relationships with property owners, property users, and policy makers.
- We believe local communities should be the primary decision makers in the matter of the use of municipal land and resources, while keeping in mind regional and statewide needs, issues and plans.
- We are careful and deliberate when it comes to making those and other big decisions and are respectful of this mode of decision making.

Vermonters cherish our natural environment. Trail systems wind through our woods, over the ridges and along streams. Trails allow people access to open-air recreation within a reasonable distance of their home, whether it is pedestrian, animal, mechanical, or motorized. We have made a significant investment in public lands. We understand that these lands were acquired for a broad array of uses. We realize that a high degree of protection of all resources, including the ecological integrity of the land, must be balanced with providing appropriate access for sustained recreational use. We acknowledge that this balance will look different for each individual piece of land and community. In going forward with our planning for managing and expanding legal ATV use in Vermont, we have the benefit of evaluating strategies and policies implemented by other states and can adopt, adapt, and utilize best practices for trail planning, trail building, management, maintenance, funding, and enforcement systems proven in other areas. We also understand that ATV use has become a very popular form of recreation for a large number of people over the last decade.



### **Goal for ATV Use**

The goal for an ATV Use Plan for Vermont is to develop a long-term and sustainable trail system based on statewide recreational objectives that enhances recreation opportunities for all Vermonters, conserves natural resources and habitats, and protects landowner property rights. Sound trail construction and maintenance methods, protection of natural resources and landowner property rights, increased opportunities to appropriately site trails, and respect for all uses and users of recreational trails, including ATVS, must be incorporated into the plan.

### **Protecting Property Rights**

Granting recreational access to the public is each landowner's choice. Except for hunting and fishing, there are no constitutional or other legal rights to use someone else's land for recreation. To encourage landowners to allow ATV trails on their land, ATV riders must continue to build good will with landowners, and landowner's interests must be addressed. Foremost among these interests is the need to ensure that the landowner liability law covers ATV issues and holds landowners harmless in cases of injury to persons or damage to personal property. Next, a properly funded process to help build trails where landowners want them, and to repair trail damage and other damage caused by illegal trespass where trails are not authorized is critical.

The key to getting legal trails over private lands is the consent of the landowner. To obtain such consent, the landowner must have some incentives to let an ATV club have a legal trail. It has been demonstrated by VASA that when the club keeps the trail in good repair, and if the club keeps ATV users off the rest of the land, then there is a benefit to the landowner.

A trespass repair fund should be set up for use by public and private landowners for repair of any damage caused by illegal riding of ATVs related to or adjacent to a legal trail system. The repair fund also can be used to repair damage caused by ATVs deviating from a municipal highway that is open for use by ATVs onto land that is not open for ATV use. The fund will not be used to pay for repair of damage caused by other recreation (non-ATV) users. Any riding off of a designated legal trail is unacceptable. The only exceptions are riding on land that the rider owns, or riding with the written permission of the landowner. The written permission must be carried by the rider when riding on all lands that are not part of the legal trail network.

A repair fund is included as a line item in the budget proposed by the Collaborative. The fund needs to be administered consistent with the intention that repairs needed due to illegal trespass related or adjacent to a legal trail system should be paid for by the ATV riders. Part of the administration should be evaluation of what is the appropriate funding for the repair fund. VASA should have significant responsibility for this repair fund, consistent with the operation of other trail manager arrangements, such as that between VAST and Vermont Forest, Parks and Recreation.

All other trespass and damage complaints will be addressed through law enforcement and legal means. VASA is committed to creating good will with landowners. VASA has been working diligently with landowners to address trail issues. VASA will work to expand the trespass repair

fund and its effectiveness as its organization grows with the registration of more ATVs in Vermont.

### **Trail System Planning and Protecting Natural Resources**

One of the purposes of creating an ATV trail system is to have a safe, well-managed place to ride so that irresponsible and illegal riding is reduced. Good planning, siting, construction, maintenance, and monitoring of any trail system are essential to accomplishing this goal. VASA will take the lead in identifying trail sites and working with federal, state, and municipal government, as well as local groups and landowners to create and manage approved trails. VASA will also work closely with landowners hosting trails on their land to assess and repair any damage caused by ATVs. Currently there are several small, local, legal trail systems scattered around the state. Greater riding opportunities are needed in more areas of the state than are currently available. These trails must have enough length and diversity to provide an interesting and varied riding experience to keep the riders from straying off designated trails, and enough mileage to adequately disperse the user community.

Existing roadbeds and historic routes might be part of an expanded system, but must meet all the other criteria and be satisfactory to the landowners involved. VASA feels that these roads are an essential part of the system and plans to work closely with municipalities to make the appropriate roads available to the legal managed system.

VASA and ATV clubs can show their effectiveness in developing and maintaining trails and responding to landowner issues. Agreements about parking areas, signage, trail construction, closure, maintenance, monitoring, damage assessment, repair, mitigation, and compensation will be developed, implemented and monitored. VASA will work with ANR, AOT, and others to develop and implement appropriate standards for trail siting and construction, for sound abatement standards for other users and neighbors, for odors, for hours of operation, for trail grade and drainage and trail surface appropriateness for different users, for user conflict resolution, for sources of funding and funding needs, for rider education, and for enforcement strategies. Linkages between trail systems to create regional and inter-regional trail systems should be identified and developed. Limited areas of federal, state, municipal and conserved land will be more likely to support only trail linkages or corridors, rather than self-contained trail systems, so planning for the larger trail network must keep this in mind.

Trails must have enough length and diversity to provide an interesting and varied riding experience to keep the riders from straying off designated trails. They must also be sited and constructed in such a way as to protect natural resources. If particular trails do not function well, there must be a system in place to shut down use until any problems can be corrected. All trail users will be encouraged to support an ATV culture that is courteous and law-abiding, that will increase recreation opportunities, reduce user conflict, protect property rights and natural resources. This applies to ATV riders as well as all other trail users.

### **Public Land and Private Conserved Land**

The recommendations in the state land and federal land sections that follow reflect the thinking of a substantial majority of the Collaborative members, but not all. The Collaborative recognizes that significant differences of opinion on ATV access to state and federal land exist. A majority of the Collaborative members make the following Report and Recommendations to the Governor regarding state and federal land. After the federal land section, two other points of view are expressed on the subject of access to public land.

#### **State Land**

State land will not be open to ATV use except when all conditions for use outlined below are met. The current process for evaluating and siting any new trail on state land will be followed. This includes criteria that all new trail locations and expansions are in keeping with the State's overall recreation and natural resource goals. Any proposal for a connector trail on public lands now includes an assessment of the ability of lands to accommodate motorized recreation, and the appropriate management for individual parcels of public land. Any use will be limited to carefully-selected connecting corridors away from sensitive areas and other incompatible sites. ANR will communicate clearly with VASA about these criteria and the appropriate process.

The connecting corridor must be sited and designed intelligently and only to connect the overall ATV trail network located on private land. The criteria for considering a carefully selected connecting corridor include full site specific environmental review and evaluation, public involvement, a designated user group agreement for use, repairs and maintenance, an initial pilot project to review the effectiveness of the system including regular monitoring of the use and thresholds for unacceptable site impact. Examples of some of the site impacts that will be monitored are: trail erosion, impacts upon water quality, impacts of trail corridor on wildlife, and introduction of invasive species along trail corridor. The effectiveness of the user groups and land managers ability to manage a corridor will be determined before connecting corridors are established on public lands. Finally, trails located on state owned land are subject to public comment and review through the long-range management planning process, or individual review opportunities if long-range management plans have already been completed.

Part of the review and monitoring process will include a limited pilot project to evaluate whether ATV access on state land can be managed to prevent the current resource damage caused by illegal ATV riding. There will be mechanisms created and implemented to identify and correct any problems promptly. If problems can't be corrected then there will be a mechanism to stop the ATV use and re-evaluate the pilot project. 10 VSA Chapter 20 already exists giving state land managers the authority to decide to allow ATVs on state land. It states "It is the intent of the legislature that trails be established within and without the boundaries of the state parks and forests and, when feasible, to interconnect units of the state park and forests system, as well as such federal and municipal lands as may be appropriate." 10 VSA Section 442(3) includes ATV riding as a trail use.

Whether ATV recreation is a compatible and appropriate use for Wildlife Management Areas as well as for other state lands will be evaluated for each parcel. Inappropriate sites will not be allowed. Some state land, such as state highways, has specific statutory prohibitions against the

operation of ATVs. Operation of ATVs on other types of shared use paths constructed with federal funds are also prohibited by federal law, for example bicycle and pedestrian paths.

#### Federal Land

Federal land in Vermont totals approximately 400,000 acres and is located primarily in the Green Mountain National Forest running north to south through the southern half of Vermont. Federal land in Vermont also includes wildlife refuges, national parks, flood control areas, and transportation systems. Trails located on federal land are subject to the National Environmental Policy Act and its environmental review process. In addition, each agency or department has its own review policies. NEPA has extensive review criteria, including but not limited to public involvement, environmental review, mitigation of adverse effects, and monitoring. The role of national forestland in Vermont is currently being explored through the forest plan revision process for the Green Mountain National Forest. The Green Mountain National Forest is currently evaluating if and how ATV trails will be allowed in the forest. Public involvement on this issue has been completed, and the Draft Forest Plan and Environmental Impact Statement will be out for public review and comment this winter.

Federal land policy is dictated by comprehensive laws, regulations and policies intended to balance recreational, environmental, economic and other factors. The state's role in federal land decisions is usually advisory. Some formal mechanisms exist giving more weight to the state's advice. ATVs are prohibited on some federal land around the country and allowed on others. ATV use of federal land has not been authorized yet in Vermont. The GMNF may have a different policy for ATVs than the State of Vermont.

Federal land may be more likely to support trail linkages or host trail head facilities, rather than trail systems, so planning for the larger trail network must keep this in mind. The current process for evaluating and siting any new trail on federal land will be followed.

#### Different Points of View

One different point of view about ATV access to public land is expressed by The Vermont Natural Resources Council. VNRC supports the position of the Vermont Agency of Natural Resources' ATV Committee, the U.S. Fish and Wildlife Service, and a significant portion of the public comments that opening public lands to ATV use is currently not appropriate. Public lands throughout Vermont have been conserved to represent a host of ecological, recreational, and traditional values for current and future generations of Vermonters. VNRC believes that those values should not be compromised. VNRC believes VASA and local ATV clubs should focus trail development on private land in strategic regional locations that promote high quality riding experiences.

At a minimum, public lands (state and federal) should not be considered for ATV use until it is clearly demonstrated that there is adequate enforcement to deal with illegal ATV activity, that widespread illegal encroachment on public lands is halted, and that ATVs do not jeopardize environmental values on public land. Furthermore, VNRC agrees with the concluding recommendation of the Agency of Natural Resource's ATV Committee Report (2000) that "it would be prudent to not legislatively or administratively relax existing public lands regulations on ATV use until there is a sufficient knowledge base to assess whether Vermont's public land

base can accommodate environmental protection demands and existing non-motorized and snowmobile usage before accommodating more.”

VASA holds another point of view. VASA believes that public and conserved land must be available to host a trail where the land and old road beds are suitable for use within acceptable criteria. Without these parcels of land, many of which currently host other forms of recreation, a state wide trail system is impossible. For instance, federal land alone breaks the state in half. Contained on federal land are old and historic routes used to connect communities across the Green Mountains. The inability to bisect those federal tracts of land diminish the possibility of an east-west route from the state line in Bennington County to just about the southern boundary of Chittenden County. Additionally, state lands such as Groton State Forest, currently have adequate road beds in good order. The present lack of access to state and federal land prevents the two VASA clubs on either side from joining together their respective trails. VASA also feels strongly that the state has an obligation to provide recreational opportunities to the public, within reason, where and when those recreational opportunities are not present on private land.

#### Municipal Land

Existing municipal rights of way (town roads and legal trails) might serve as part of a trail system, however, the legislature must leave the discretion to open or restrict access to town roads and legal trails with the appropriate municipality. Each municipality will be able to develop its own process for evaluating and deciding what, if any, municipal rights of way will be open to ATV use. Each municipality will be responsible for creating and implementing monitoring and enforcement systems to address problems caused by ATV use. VASA is dedicated to working with each municipality to host a legal trail system, and develop and implement monitoring and enforcement programs to address ATV use. Club members have proven to be effective in other communities with ATV trails. Club members provide courtesy and trail patrols, and are a prominent component of VASA's management planning

#### Conserved Land

Conserved land is also subject to a review process that is determined by each conservation easement holder. The owners of conserved land also must be asked to consent to any ATV trail link. Generally conservation easements prohibit the use of conserved land for ATVs except for farm and forestry use by the landowner. Some conservation easements allow the recreation use of ATVs but only by the owner of the conserved land. Conservation easement holders will each develop a process and criteria for evaluating and deciding what, if any, conserved land will be considered for a trail link for ATV use. Public roads often pass through or by conserved land. These roads could be appropriate as part of a statewide trail system. Again, VASA would work with the landowner, the municipality and the conservation organization to identify appropriate linkages for the ATV trail.

#### Statutory Process for New Trails

If a new trail falls under the existing Act 250 jurisdiction then trails will be required to be sited and maintained in compliance with Act 250. Other state and federal regulations and guidelines may also apply. An efficient and consistent system of administration should be devised with the cooperation of the Environmental Districts.

### **Recreational Director in FP&R.**

Funding should be provided to Vermont Department of Forest, Parks and Recreation for permanent staff that would be responsible for coordinating all trail user groups and trail systems in Vermont. The FP&R staff could administer multiple-use trails on state, federal, and private lands; assist organizations, municipalities, and trail clubs with the development of trails on both public and private lands; and coordinate multiple recreational uses of state land. Coordination of and assistance to the many trail user groups in Vermont can be helpful to the continuance and development of recreation in Vermont, and the long term viability of trail-based recreation in the state. An active advocacy role by state government would assist VASA in appropriate trail development.

### **Organized User Group – VASA**

In the late 1960s, Vermont had similar issues with the increasing popularity and use of snowmobiles. The Vermont Association of Snow Travelers (VAST) was created to be the advocate and governing body for a statewide snowmobile trail system. Now, the Vermont ATV Sportsman's Association (VASA) will assume the same role for ATV riders. VASA faces challenges that VAST did not, including:

- Properly constructed ATV trails can require significantly more engineering and cost than snowmobile trails.
- Current land use value conflicts, rapidly changing ownership, and environmental awareness make trail acquisition more expensive and time consuming than it was 30 years ago.
- The general public takes a more active interest in trail construction and siting than it did 30 years ago.
- Since the inception of VAST there has been an increase in oversight, rules, and regulations relating to projects of this nature.
- ATVs often are used year-round and on public roads as well as trails.

As VASA takes on this role, its tasks will include establishing good landowner relations; managing and maintaining the trail system to standards; educating riders on safety and ethics; and showing it can play a prominent role in reducing illegal and damaging riding behavior. VASA currently has an active role in managing trails and repairing damage caused by errant ATV riders. VASA has and will continue to work collaboratively with enforcement agencies to develop and implement strategies to curtail illegal trail use.

Landowners need to know they can go to VASA for help with rider management and damage repairs. VASA has and will continue to assist land owners wherever possible. Without a strong reliable local and statewide ATV group that is responsive to landowners, many landowners will continue to feel powerless in their efforts to regain control of their own land. By managing riders and dealing with damage, VASA will not be taking the blame, but will be showing that it is responsive to problems and willing to help with solutions. VASA will also have to prove it can manage its own members, and develop a protocol for dealing with members who do not ride legally or who do damage by riding at inappropriate times, in inappropriate areas, or on

unauthorized trails. In addition, VASA will reach out to errant riders who are doing the damage and explain to them that this behavior threatens the effort to establish a statewide trail system.

#### **Safety and Ethics Course for Riders**

There should be a mandatory rider safety and ethics course, developed by the State Police, the Vermont Fish & Wildlife Department, Vermont DMV and VASA. Once the ATV Rider Safety and Ethics course is created, a group of people will be certified to teach the class. The coordinating enforcement agency will hold periodic seminars to train enough instructors to reasonably satisfy the needs created by mandatory education. Classes will be held periodically throughout the state, similar to the Vermont Rider Education Program (VREP) delivered by the DMV and should include the ATV Safety Institute ATV Safety Training methodology and the Tread Lightly!™ curriculum.

The safety and ethics course should be broadly designed to include environmental awareness, rider and machine safety, ethics of use of other's land, courteous riding habits, awareness of special dangers such as avoiding railroad beds, interstate crossings and use of state and federal highways, obeying and understanding all pertinent laws and signs, penalties for violations, demonstrated ability to handle the machine, and appropriate gear. The instructors must be similarly trained.

New ATV owners will be required to register for the next available course and current owners will have to complete the course within 2 years, unless they can produce proof of satisfactory completion at a similar safety seminar, such as one sponsored by the manufacturer, or pass a test addressing the core safety and ethical issues with an acceptable passing score. Riders will be required to have proof of satisfactory completion at all times when out on the trails. There could also be a branch of this training corps that offers the course to students at regional high schools. Local VASA clubs will each have a member or club officer in charge of local education efforts.

#### **Registration and VASA Membership**

Having an identification system for all ATVs is a critical piece of effective law enforcement. Membership in VASA will be mandatory in order to use the VASA trail system, therefore, as will ATV titling and registration for all ATVs. If the ATV is not used off of land that the ATV rider owns, then VASA membership will not be required, but registration and titling will be. Registration and titling of ATVs should be done in the same fashion as it is for cars, trucks and snowmobiles, whether the sale is through a dealer or is private. Since some folks use their ATVs solely for farm or forestry purposes, we propose that they pay only a minimal registration fee. The fine for riding in violation of these conditions will be severe. Dealers in Vermont will be actively involved in point of sale titling and registration just as with automobiles. Most Vermont dealers are currently selling VASA and club memberships, as they do for VAST in the winter months.

### **Enforcement of Laws**

An effective enforcement strategy must be developed. A coordinating agency will have to be identified from among the existing law enforcement agencies. Law enforcement needs adequate resources to provide effective regulation. Private landowners have difficulty determining which law enforcement agency to call with ATV complaints, and find their complaints often go unanswered. We propose significantly more coordination and funding for a group of officers to focus primarily on enforcing ATV laws. This will help ensure prompt and appropriate responses to landowner complaints, and will streamline enforcement efforts. This problem should also be looked at in the larger context of consistent enforcement of all recreation laws, and having a unified approach to working with all recreationalists.

The officers will help develop the ATV Rider Safety and Ethics course and certification system. Enforcement will be a collaborative effort. State Police (SP) and Vermont Fish and Wildlife (F&W) both have assets they can bring to the enforcement problem and have experience working together. State Police has a larger number of officers, has the dispatch capability, has barracks around the state, and has mechanics to work on machinery. Fish and Wildlife has more experience in the woods, and its wardens are often the closest ones to respond to complaints or observe illegal activity. The enforcement agencies will work together to designate a coordinating agency, publicize a complaint call number, work out all the details of this new enforcement effort, and then implement it appropriately. Training for these officers is critical and should include environmental awareness, land stewardship, public outreach, ethics, landowner issues, natural resource, recreation and motor vehicle laws. Fish & Wildlife volunteered to be the coordinating agency. The coordinating agency should be identified immediately.

We need to establish a clear set of laws pertaining to ATVs and their use. The best understood laws are those for automobiles and snowmobiles. ATV laws should be closely related to those for motor vehicles and snowmobiles. Registration and titling of ATVs should be done in the same fashion as it is for cars, trucks and snowmobiles, whether the sale is through a dealer or is private.

There should be a mandatory helmet law, as there is for motorcycles and snowmobiles. Machines must be sized appropriately for the rider. ATV safety research has concluded that ATVs with an engine size of 70cc to 90cc should be operated by people at least 12 years of age and ATVs with an engine size of greater than 90cc should only be operated by people at least 16 years of age. Riders under the age of 16 must be accompanied and supervised by an adult at least 20 years of age. Anyone riding an ATV off of a legal trail must have in their possession written permission from the landowner(s) on whose property they are riding. If this permission is not in their possession, they will be subject to appropriate penalties. Insurance and safety inspections should be required, as are for automobiles and snowmobiles.

Penalties and points against the operator's motor vehicle driver's license will be assessed for violation of these laws. If a rider under 16 years of age violates the laws, the under age rider's parents or guardians will be assessed the fines, fees, penalties and points. DMV will develop a registration and administration system to implement these concepts.



### **Penalties**

Current penalties, court proceedings and enforcement efforts are ineffective in controlling or reducing illegal and damaging ATV use. Fines for any new ATV civil infractions should be set by the customary judicial panel, and should be in line with other recreation vehicle violation penalties. Penalties for ATV infractions also should be accrued on the operator's motor vehicle driver's license, since ATVs are motor vehicles and are operated year round. The point system used for automobile infractions could be altered and amended to allow for this. Points would be in addition to monetary penalties. If a minor violates the laws, then the minor's parents or guardians will be assessed the penalties and points. Any revenues generated from penalties shall be used for ATV education.

### **Commercial Operators**

"Commercial ATV operation" will mean the operation of an ATV on any ATV trail open to the public, by a guided tour or by someone who has rented an ATV from an individual or corporate entity charging a fee for the tour or rental. Commercial ATV operators shall be required to display a Commercial ATV registration plate, a commercial trail pass, and club membership issued by VASA and a local ATV club, on every ATV participating in a tour, or that is being rented and used on the trail. The commercial operator shall obtain written permission from any landowner whose property is being used by commercially registered ATVs.

Before each tour or before a rented ATV can be released to a renter, the commercial operators will be required to present a short, condensed version of the ATV Rider Safety and Ethics course, if there are people in the tour group or renters who have not completed, or do not have proof of completion of, such a course. A commercial ATV operating on any private or public land, private or public water, or natural area shall display a decal or flag identifying the individual or entity that owns the ATV. The enforcement agency will take tours with the commercial operators to ensure this is being done. There will be a significant fine for non-compliance and a loss of commercial operator's license for repeat offenders.

### **Out of State Riders**

With the opening of a significant trail system in the state, there will no doubt be riders from adjacent states, and perhaps Canada, who will come to ride our trails. These riders will not be required to register their ATVs in Vermont as long as they are legally registered in another state or Canadian Province. They will be required to purchase a non-resident Trail Pass directly from VASA that will ensure that the individual rider is a member of VASA and a local club that has gained permission for the use of the land for an ATV trail. The Collaborative believes that, for the foreseeable future, the State of Vermont should not actively promote Vermont as a venue for ATV tours and rentals.

### **Budget**

The Collaborative consensus is that any ATV program should be user-fee based. A substantial majority of the collaborative members recommend a \$55 registration fee. Our budget submitted with this Report is based on an initial annual registration fee for each ATV of \$55.00. VASA will set its membership annual fees in addition to this registration fee. The fee to register an ATV exclusively for agricultural or forestry work only on the ATV owner's land will be set to cover DMV overhead costs of registration. The attached budget is a first step toward appropriate funding of a comprehensive approach to ATVs in Vermont. It is not the last step or the only step needed. There are many unknowns in the budget. The budget represents our best estimate of income and expenses. We hope that numbers of ATVs registered will increase steadily over several years until all ATVs are registered. This will provide more funding to support a well-managed system. As the needs in the system become more apparent through experience, the Collaborative anticipates that funds will be reallocated to training, on the ground repairs and maintenance, and other appropriate adjustments. The Collaborative strongly encourages, therefore, that an annual review process be implemented as part of any comprehensive ATV program. We encourage the administration to plan for the institutional willingness to change as we go forward with the Recommendations in this Report. Ultimately, the goal is for the ATV program to be paid for by ATV riders. The payoff for ATV riders supporting these Recommendations is that they obtain a statewide, well-managed, legal trail system.

### **Governor's Office to Coordinate Rider Information Publications**

There is much to be done to inform ATV riders, the public, and landowners about Vermont's laws about ATVs and trails. The Governor's office should work with VASA and DMV to produce a comprehensive info booklet to address:

- registration, insurance and proof of ownership
- out of state and commercial registrations
- theft
- who may operate an ATV
- safety and ethics courses
- responsibility of parents and owners
- use of ATVs on public roads
- use of ATVs on private land
- use of ATVs on public land
- required equipment and gear
- riding restrictions
- local laws
- accidents
- damage responsibility and toll free number

The Collaborative members thank the Governor for this opportunity to help Vermont address these issues and help bring ATV management in line with other recreational uses and programs.

# ***ATV Operating Budget VT ATV Sportsmen Association***

## **Income**

|                                                                                      |                     |
|--------------------------------------------------------------------------------------|---------------------|
| 85% Return of ATV Registrations (Based on 20,000 Annual ATV Registrations @ \$55.00) | 935,000.00          |
| Less FP&R Administration Fee                                                         | <u>14,000.00</u>    |
| Total Available for Program From ATV Registrations                                   | 921,000.00          |
| VASA Memberships (2,500 @ \$25.00)                                                   | 62,500.00           |
| Grants                                                                               | <u>50,000.00</u>    |
| <b>Total Income</b>                                                                  | <b>1,033,500.00</b> |

## **Expense**

|                                                      |                     |
|------------------------------------------------------|---------------------|
| Administration (Salaries, Wages, Taxes and Benefits) | * 136,500.00        |
| Law Enforcement (Fish and Wildlife Calculations)     | * 470,000.00        |
| Trail Liability Insurance                            | * 130,000.00        |
| Illegal Trespass Fund                                | * 130,000.00        |
| User Training/Safety Education                       | * 50,000.00         |
| Public Relations                                     | 10,000.00           |
| Office Rental                                        | 8,000.00            |
| Office Utilities                                     | 5,400.00            |
| Office Supplies and Equipment                        | * 4,500.00          |
| Maps (\$3.00 x 5,000)                                | 1,500.00            |
| Trail Planning                                       | 5,000.00            |
| News Letter (Four Issues)                            | 8,100.00            |
| Trail Maintenance (\$60/Mile x 750)                  | * 42,000.00         |
| Trail Construction (130/miles x 250)                 | <u>32,500.00</u>    |
| <b>Total Expense</b>                                 | <b>1,033,500.00</b> |

**Income vs Expense (+ (-))      0.00**

\* The items marked with an asterisk are funded through the use of ATV registration Fees

