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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
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September 30, 1997

John T. Ewing, Chair
Vermont Environmental Board
National Life Records Center Building
Drawer 20
Montpelier, VT 05620-3201

Re: Declaratory Ruling Request #338
Beebe Spur Rails-to-Trails

Dear John:

In accordance with your Preliminary Ruling dated April 1, 1997, I am writing to inform you that by November 17, 1997 the Agency of Transportation (AOT) will have plans for this project that are "so settled in intention and purposes that it can be called ready to commence."

The plans will show a fairly simple project. AOT will propose to put down a surface of crushed material approximately four inches deep and 14 feet wide on the railbed. The surface will be rolled to compact it, and will be at a grade that is satisfactory for pedestrians and bicyclists. The existing trestles will be upgraded with pressure-treated decking and pressure-treated railing. There will be signs to indicate the following: beginning/end of trail; approaching US/Canadian border; motorized vehicles are not permitted anywhere on the trail; advanced warning signs on town highways indicating a trail crossing.

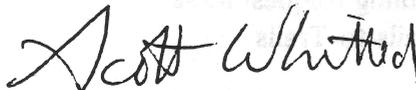
AOT has made the following commitment to the community. If the selectboard determines, at some point in the future, through a community-based process, that there is a desire for further improvements to the path, AOT will begin a project development process. These further improvements could include such things as parking, landscaping, fencing, interpretative areas and the like. AOT will be willing to submit those proposed improvements to the appropriate administrative agencies for jurisdictional/permit determinations, as appropriate. The project for which AOT will submit plans by mid-November will not include any such improvements, and will include only the path itself and the affiliated signs. This is not an effort to

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avoid Act 250 jurisdiction by "segmenting" the project. AOT anticipates that it will take some time for the community to decide if it wants further improvements, and in the meantime the agency would like to construct the actual path and open it for use.

There are a couple other points I should mention in this letter. First, AOT needs to do some mowing in the right-of-way, as part of its obligation to maintain the railbed for future rail use. Also, the agency may have to do some routine maintenance on existing ditches and culverts. Some or all of that work is likely to occur this fall, but will not indicate that construction of the recreation path is about to commence. Second, there have been some serious encroachments onto one portion of the right-of-way. These encroachments include the bulldozing of dirt onto the railbed and the clearing of trees and other vegetation. AOT and the Agency of Natural Resources are attempting to identify the responsible parties (which do not include, to the best of my knowledge, any of the persons involved in this declaratory ruling proceeding), and intend to pursue enforcement/remediation actions.

Sincerely,



Scott A. Whitted
Assistant Attorney General

saw/bem

cc: As per Certificate of Service
Glenn Gershaneck, Secretary of Transportation
John K. Dunleavy, Assistant Attorney General
Samuel B. Lewis, Transportation Program Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 1997, the foregoing letter regarding Beebe Spur Rails to Trails Project, Declaratory Ruling Request #338, was sent first class mail, postage prepaid to the following:

Derby Board of Selectmen and
Planning Commission
c/o Town Clerk
P.O. Box 25
Derby, VT 05829

Newport Board of Selectmen
and Planning Commission
c/o Town Clerk
74 Main Street
Newport, VT 05855

Northeastern Vermont Development
Association
P.O. Box 640
44 Main Street
St. Johnsbury, VT 05819

Andrew Raubvogel
Associate General Counsel
Agency of Natural Resources
103 S. Main, 3 Center
Waterbury, VT 05671-0301

Kathryn B. Bizzarro, Secretary
Beebe Spur Landowner's Association
RR 2, Box 234
Newport, VT 05855

Robert Orr
Janet Orr
P.O. Box 560
Derby, VT 05829

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P.O. Box 371
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Newport, VT 05855

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76 Lindsay Road
Newport, VT 05855

Lakemont Beach Association
c/o Duncan Kilmartin, Esq.
22 Third Street
Newport, VT 05855

Charles Gallagher
District #7 Coordinator
184 Portland Street
St. Johnsbury, VT 05819

Gregory and Billie Howe
RR 2, Box 145A
Newport, VT 05855

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Scott A. Whitted
Assistant Attorney General