

John Echeverria
232 Justin Morrill Memorial Highway
Strafford, Vermont 05072
February 23, 2025

VIA EMAIL AND REGULAR MAIL

Josh Hanford
Director, Intergovernmental Affairs
Vermont League of Cities and Towns
89 Main Street
Montpelier, VT 05602

Re: S. 4 Testimony

Dear Mr. Hanford,

I am writing regarding your testimony on S. 4 before the Senate Committee on Transportation on February 18, 2025. Your testimony inaccurately described the results of a VLCT survey of municipalities regarding legal trails, compounded one serious error in the VLCT survey report, and failed to explain why you think the survey results can justify stripping property owners of their legal right to determine whether and how to maintain legal trails crossing their private lands. I base these comments on my review of the VLCT survey report submitted as an exhibit to a motion filed by the Town of Tunbridge on November 15, 2024, in the pending litigation between me and my wife and the town.

As you know, there are 247 municipalities in the State of Vermont. According to data compiled from town highway mileage maps by the Vermont Agency of Transportation, 157 of these municipalities (64%) have at least one legal trail.

The League states in its survey report that it sent a survey questionnaire to the 157 municipalities with at least one legal trail. According to the copy of the report I have, 42 municipalities responded to the survey. (In your testimony before the Committee you stated that 45 municipalities responded to the League's survey questionnaire; I cannot explain this discrepancy.) 42 is 27% of 157, meaning that 73% of municipalities in Vermont with at least one legal trail did *not* respond to the League's survey. Thus, for all the survey data show, many if not most of these communities may be respecting the existing statutory

limits on municipal authority and not attempting to maintain trails crossing private lands. Certainly, that is the case with the Town of Tunbridge, which did not respond to the survey and has acknowledged in the ongoing legal case that it has *never* conducted trail maintenance since legal trails were established in the town nearly 40 years ago.

You stated in your testimony that 44 of the 45 municipalities responding to the survey are “actively maintaining” legal trails in the municipalities, but that statement is not supported by the survey report. The questionnaire posed the following question: “What kinds of maintenance work are performed on legal trails? Whether by the municipality or other organizations?” By my count, at least a dozen municipalities, and perhaps as many as half of the municipalities, responded to the survey by saying they do not maintain legal trails (or they are unaware whether maintenance is being conducted), stating: “None at this time;” “None;” “No maintenance performed;” “Unsure;” “Maintained by others;” “None;” “None;” “None;” “Braintree does not conduct any maintenance work to trails;” “No maintenance currently;” “Very little is done by the municipality;” “None. The Town doesn’t conduct any maintenance;” “The town does not maintain these trails or bridges;” “No maintenance work is done except by private landowners living on trail or by VAST in very limited sections. The Town does no maintenance;” “Little maintenance performed;” “Unknown, but none formally.” Thus, contrary to your testimony that virtually every municipality responding to the survey is conducting maintenance of legal trails, a very substantial number of the limited set of municipalities responding to the survey explicitly stated that they do *not* maintain legal trails.

As to the error in the survey report compounded by your testimony., the survey report states the number of legal trails in the Town of Strafford is “10.” This is plainly mistaken; the Strafford mileage map identifies a single legal trail in the town, which is 0.45 miles in length. In your testimony you refer to 10.45 miles of legal trails In Strafford. The source of this figure is a mystery, but it too is plainly incorrect. Thus, your testimony greatly exaggerates the significance of the legal trails issue as it relates to Strafford. I am not familiar with the other municipalities you highlight in your testimony and therefore I cannot comment on the accuracy of your estimates of the mileage of legal trails in the other municipalities.

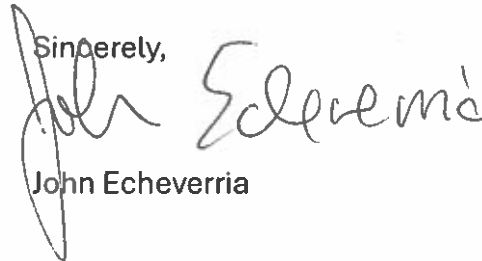
The example of Strafford is telling because it illustrates that, at least in some communities, the mileage of recreational trails created through voluntary partnerships with private landowners far exceeds the mileage of legal trails. According to the town website, the Strafford Trail System consists of 26 miles of trails, “most” of which are located on

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private lands with landowner permission. The 0.45 mile legal trail segment in Strafford has been incorporated into the Town's voluntary trail system, meaning that the legal trail segment would be essentially useless for recreational purposes but for the physical trail's continuation on each end onto private lands as a result of grants of landowner permission. Legislative action designed to assert exclusive town control over the 0.45 mile of legal trail in Strafford would be pointless for the purpose of promoting recreation and might well undermine Strafford's successful trails system by alienating the landowners whose voluntary generosity makes the trail system possible.

Finally, your testimony fails to explain what you believe to be the significance of the number of towns that you assert currently are (and are not) attempting to exercise maintenance authority on the legal trails in their communities. The pending legal question in the court case is whether municipalities have the authority to determine whether and how to maintain legal trails crossing private lands under Vermont law. If municipalities lack this authority under state statute, as we believe to be the case, municipalities cannot properly claim the ability to manufacture trail maintenance authority by unilaterally acting in excess of their statutory authority.

I am copying members of the Senate Transportation Committee and cosponsors of S. 4 on this letter.

Sincerely,

John Echeverria

Cc: Senate Transportation Committee
Cosponsors of S. 4

