

## **ACT 250 and TRAILS QUESTIONS FOR COMMENT**

*Thank you for taking the time to complete this survey. Please only fill out **one survey** for your organization.*

*Act 250, Vermont's land Use and development law, was passed in 1970 to mitigate the effects of certain developments and subdivisions through a permitting process that addresses the environmental and community impacts of projects that exceed a certain threshold. Currently, recreational trails may be subject to Act 250 and a variety of permits issued by the Department of Environmental Conservation.*

*With respect to Act 250 only, the threshold for jurisdiction (meaning that a project will need an Act 250 permit) depends on certain factors:*

- 1) If the proposed trail is part of the Vermont Trail System, the key question is how much ground disturbance will occur as part of the project (10 acres of disturbance or more is the threshold)*
- 2) If the proposed trail is not part of the Vermont Trails System, jurisdiction is triggered only if the trail is commercial, and depending on the size of the tract (or tracts) where the trail will be located*
- 3) Jurisdiction over trails may also be triggered if the proposed trail is considered to be a "material change" to an already existing Act 250 permitted project.*

*The Vermont Natural Resources Board and the Vermont Department of Forests, Parks and Recreation are seeking input concerning state regulation of trails, and we hope you will take the time to complete this brief survey. Your answers will be collated into a report to [The Commission on Act 250: the Next 50 Years](#) for consideration.*

**PLEASE RETURN THIS SURVEY NO LATER THAN 5 PM ON SEPTEMBER 17<sup>TH</sup>, 2018**

1. Please indicate your name, name of organization, and contact information (including email address).

***Cindy Locke, Executive Director of Vermont Association of Snow Travelers  
[cindy@vtvast.org](mailto:cindy@vtvast.org), 802-229-0005 ext. 11***

2. Is your entity a member of the Vermont Trails System?

***Yes***

3. Have you experienced any challenges in obtaining Act 250 permits for trails (please explain)? Please limit your response to personal experiences that you or your organization have experienced.

***Yes, see attached (LVRT and Phen Basin)***

4. If you or your organization has been through the Act 250 process with respect to trails, please recommend any changes including, but not limited to the following topics:

a. How to make the process more efficient

*For purposes of how Act 250 relates to trails, terms need to be clearly defined, and District Coordinators and judicial officers need to have a common understanding of those definitions in order to avoid inconsistency in applying them. Examples of needed clarifications are the term “project” and the phrase “material change.” (That is, what types of activities qualify as a “project” for purposes of Act 250 triggers? What outcomes constitute a “material change?” There also needs to be a clear and shared understanding of when the disturbance threshold clock starts. District coordinators should have benefit of legal counsel prior to any judicial proceeding so that they fully understand the process, with an outcome of less time in the entire process and less need for an expensive judicial process.*

*More specifically, greater efficiency would involve*

- *defining what constitutes a “project” and ensuring that district coordinators understand the application*
- *synchronizing district coordinators and their interpretations of the Act*
- *creating a reporting process that covers approved criteria that the*
- *district coordinators send to trail organizations*
- *Clarifying whether or not property boundaries “re-start” the disturbance threshold, as this would be a major threat to the future of outdoor recreation in Vermont*
- *FPR should facilitate an annual meeting between trail organizations and Act 250 coordinators*
- *district coordinators having access to guidance from legal counsel prior to the judiciary process.*

b. How to make the process a better fit for the unique development aspects of trails.

*Those charged with applying Act 250 standards need to be educated about the Vermont State Trail System (VSTS) and how it actually functions so that they are better able to differentiate between the “project” of a commercial development and the system of low-impact recreational trails running throughout the state and traversing private property as well as state lands. Unique aspects of the trail system include the fact that it is already extensively permitted with all the regulatory oversight that entails. Also, environmental stewardship is deeply engrained in the culture of trails management.*

*Many small towns in Vermont rely on the state’s trail system for their economic survival. While the economic benefits of trails are high, the environmental impact is low. The primary goal of any good trail professional is to design and maintain a beautiful, safe and sustainable trail. We are not only compelled to do so by existing federal, state and local laws and regulations, but also by the need to please our landowners, partners and users. Our commitment to the environment and sustainability inspires us to protect our trails and communities by attempting to avoid*

*sensitive areas and design and repair trails in ways that will minimize water and erosion issues.*

*Confusion created by inconsistent interpretation creates and places unnecessary burdens on private landowners. This real and perceived impact on landowners is of great concern given that 85% of Vermont's land is privately held. The development, maintenance and use of all current and future trails in Vermont is widely dependent upon the consent, cooperation and good will of our individual private landowners. If trail regulation becomes unnecessarily burdensome, landowners will simply withdraw their permission for public access.*

- c. Are Act 250 jurisdictional triggers with respect to trails clear? If not, how should the jurisdictional triggers be clarified?

*No, they are not clear. They are not well defined, nor are they commonly and consistently understood and applied. Wherever possible, the trails system makes use of existing trails (e.g., old logging roads). We don't feel that rehabilitating these trails for low-impact recreational use should be considered a "material change," for purposes of triggering Act 250, especially when, rather than degrading the environment, trails management actually enhances the environment by preventing run-off into rivers and streams created by flooded and deteriorated old logging roads and other abandoned road beds.*

5. What are the strengths of Act 250's regulation of trails?

*The Act seems popular among a certain segment of the public who might otherwise not feel they have a voice in the regulation of Act 250 projects. Adjoining neighbors who fear increased noise or traffic could be an example of this type of stakeholder. That being said, there should be a limit on how much one person or party can appeal a decision, as we have seen many such do so over and over just to stall a project. All they do is re-appeal over and over again. The LVRT is one such example.*

6. How is Act 250 beneficial to the environmental quality of the state with respect to the regulation of trails?

*Existing permitting (stormwater, wetlands, etc.) for trails is what ensures environmental protection, along with the ongoing and culturally engrained commitment to environmental quality in the organizations that maintain the trail system. For trails, therefore, Act 250 is a redundant layer of compliance.*

7. Which [Act 250 criteria](#) are most relevant with respect to the regulation of trails (please explain)?

*See response to question 6.*

8. Which [Act 250 criteria](#) are least relevant with respect to the regulation of trail projects (please explain)?

**See Act 47 document, p. 5, 3A: "The purpose of Act 250 jurisdictional threshold is to focus Act 250 review on projects that have the greatest potential for significant impact due to their size or scope, or where the forms of adequate regulatory review do not exist." We don't believe the Vermont trail system constitutes "greatest potential for significant impact" on environmental quality, and an adequate layer of regulatory review already exists in the permitting process. Given the limited resources of the state, especially in staffing required to review and rule on Act 250 applications, it seems state resources would be better spent in addressing the challenges posed by large commercial development.**

9. Should all trail projects be exempt from Act 250 review? If so, what makes development of recreational trail projects different from other development that is subject to Act 250?

***No, but there should be a clear and logical threshold for trigger and a clear understanding of when the Act should not be triggered***

10. Should some trail projects be exempt from Act 250 review?

- a. If yes, please explain which types of trail projects should be exempt, and why.

***We do not see why there should be an Act 250 trigger every time a section of new trail connects two existing sections. In other contexts (e.g., grant funding, user feedback, etc.), interconnectedness is seen as desirable rather than inspiring suspicion.***

11. Do you have any recommendations for an alternative regulatory scheme for trail projects in the State of Vermont? Please share your thoughts.

***As a group, the trails organizations actually have a specific process to recommend that could give those charged with Act 250 implementation a better comfort level that they have oversight while, at the same time, not burdening trail organizations and private landowners with redundant regulatory compliance. (See below.)***

- a. Should trails be subject to some sort of "general permit"?

***Trails are already permitted as mentioned in question #6. Also, the VSTS already has standards and requirements for trails to be considered part of it. Adoption of standards and self-regulation for VSTS through decades of volunteerism and public-private partnerships has proven to be a successful model of environmentally sustainable recreation.***

- b. If so, what criteria should the general permit cover and how should terms of the general permit be enforced?

***Again, why is a general permit needed since we already do all the stormwater and wetland permitting? Why are we trying to burden trail organizations with limited budgets and that rely on thousands of volunteers and landowners?***

- c. Do you have any ideas about a possible trail development oversight program managed under the Agency of Natural Resources? Please explain.

***We do have a recommendation, based on a reporting form for trails that can be filed for each trail undergoing maintenance projects (moving forward) with ANR or FPR with a 5-year “good standing” review for each trail organization. We would be pleased to have the opportunity to discuss this recommendation further. Attached is a form that VAST uses with our clubs and volunteers and should be adaptable and acceptable moving forward.***

***A suggestion would be for the Commission, ANR and NRB to study this for more guidance in general:***

***[https://www.vtbar.org/UserFiles/Files/EventAds/4\)%20Act%20250%20Materials.pdf](https://www.vtbar.org/UserFiles/Files/EventAds/4)%20Act%20250%20Materials.pdf)***

## **Appendix A: Question 3 Response**



SNOWMOBILE VERMONT

In response to question #3

VAST has experienced challenges with Act 250.

We are sure you are familiar with the Lamoille Valley Rail Trail, the improvement of which was erroneously forced to receive an Act 250 permit. That process, partly through repeated appeals of a single landowner opposed to the trail, delayed trail development over a decade and ultimately added millions of dollars to the cost of the project.

We also had challenges with Act 250 regarding a trail in Phen Basin. VAST had a trail in the area through arrangement with the private landowner. It followed a pre-existing logging road. The landowner decided to develop the land and was required to get an Act 250 permit. The development never occurred and instead the land was conserved and transferred to State ownership.

Despite the development which triggered the permit being permanently cancelled through a conservation easement, the Act 250 board now has jurisdiction over the parcel. When the State (ANR) and the Catamount Trail Association (CTA) decided to improve the trail network there, it was considered a material change and they were required to get an Act 250 permit. The Act 250 board issued the permit, but it was under the condition that a (long pre-existing) stretch of trail near a beaver-pond complex be moved.

For reference, we have attached a memorandum from the middle of that process where ANR, CTA, and VAST jointly appealed to the Act 250 board to remove the requirement to relocate the trail. Despite the dissent of three board members, and the trail being designated for winter use only and complying with other State permits, the board ultimately required the trail to be rerouted.

This added layer of permitting, with an unpredictable outcome, would stifle our ability to maintain a trail network if applied to more trails.

## **Appendix B: Act 250 memorandum re: Phen Basin**



**VERMONT ENVIRONMENTAL BOARD**  
**10 V.S.A. §§ 6001- 6092**

Re: Vermont Department of Forests,  
Parks, and Recreation (Phen Basin)

Land Use Permit Amendment  
#5W0905-7-EB

**MEMORANDUM OF DECISION**

The Agency of Natural Resources (ANR) moves to alter the Findings of Fact, Conclusions of Law, and Order (Decision) and Land Use Permit Amendment #5W0905-7-EB (Permit) issued on September 7, 2005. In addition, the Vermont Association of Snow Travelers (VAST) moves to intervene as a party and moves to alter the Decision and Permit. As set forth below, the Board grants VAST's motion to intervene and denies both motions to alter in part, vacating the Permit.

**I. PROCEDURAL SUMMARY**

On July 15, 2003, the District 5 Environmental Commission (Commission) issued Land Use Permit #5W0905-7 (Commission Permit) and accompanying Findings of Fact, Conclusions of Law, and Order (Commission Decision) to the Vermont Department of Forests, Parks and Recreation, authorizing the construction of 200 feet of mountain bike trail, 1,000 feet of cross-country ski trail and three replacement trail bridges, and a previously built recreational trail system excluding certain snowmobile trails, on a 2,695-acre project tract known as the Phen Basin in the Town of Fayston, Vermont (Project).

On August 14, 2003, Catamount Trail Association (CTA) filed a Motion to Alter Condition 12 of the Permit which requires relocation of the Trail. On November 3, 2003, the Commission issued a Memorandum of Decision denying CTA's Motion to Alter.

On December 2, 2003, CTA filed an appeal with the Environmental Board (Board) from the Commission Permit and Commission Decision, challenging Condition 12 of the Commission Permit, which requires CTA to relocate a portion of the Catamount Trail/Trail 17A (Trail) away from a wetland complex.

Board Chair Patricia Moulton Powden convened a Prehearing Conference on January 8, 2004. A Prehearing Conference Report and Order was issued on January 12, 2004 (PCRO). The PCRO, among other things, identified issues on appeal and set the matter for hearing.

After the PCRO was issued, several continuances were granted at the parties' request. ANR and CTA filed joint stipulated proposed findings and conclusions on May 7, 2004.

The Board deliberated on the stipulation on June 23, 2004. On July 15, 2004, the Board issued a Memorandum of Decision holding that the stipulation was insufficient to demonstrate compliance with the criteria on appeal, and a Scheduling

Order setting the matter for hearing. After these orders were issued, several continuances were granted at the parties' request.

On October 13, 2004, the Board convened a public hearing at its offices in Montpelier. At the hearing, the Board granted the parties' request to file supplemental stipulated facts and a revised proposed permit condition to address some of the concerns raised at the hearing. On October 29, 2004, the Board issued a Hearing Recess Order, which formalized this action and which also set the matter for a site visit in November 2004.

On December 17, 2004, the Chair granted the parties' requests to extend the deadline for the supplemental filings to December 22, 2004, and to delay the site visit until June 2005. On December 22, 2004, ANR and CTA submitted their joint stipulated supplemental findings of facts and proposed permit conditions.

On June 3, 2005, the Board conducted a site visit and reconvened the hearing in this matter, taking testimony and making observations on the record. The Chair granted the parties' request to have until June 17, 2005 to file supplemental proposed findings and conclusions, stipulated exhibits, and any supplemental or revised proposed permit conditions.

The Board deliberated on June 3, 2005, July 20, 2005, August 17, 2005. Based on the record, related argument, and the parties' proposed findings of fact and conclusions of law, the Board declared the record complete and adjourned. The Decision and Permit were issued on September 7, 2005.

On September 22, 2005, VAST filed a Motion to Intervene and a Motion to Alter. ANR filed a Motion to Alter on the same date. The Board deliberated on October 19, 2005.

## **II. DISCUSSION**

### **A. VAST's Motion to Intervene**

VAST moves to intervene as an interested person. Board rules ordinarily require interested persons to petition for party status on or before the date of the prehearing conference. EBR 14(C). However, the rule authorizes the Board to grant an untimely petition if there is good cause for the delay, and if the late appearance will not delay the proceedings or prejudice any party. *Id.* Such is the case here.

As noted in the Decision, part of the Project is collocated with VAST snowmobile trails. In fact, the trail segment in question is a VAST Trail as well as a

CTA trail. It is axiomatic that Act 250 permits run with the land. *In re Estate of Swinington*, 169 Vt. 583, 585 (1999)(mem.). Therefore, the Permit and Decision in this appeal necessarily affect part of VAST's trail network. VAST not only has an interest that may be affected by the Project, it has an interest in the Project itself since part of the Project is actually part of the VAST trail project.

VAST was a party below and was given notice of the prehearing conference in this appeal. VAST did not attend the prehearing conference or otherwise notify the Board of any interest in this appeal until it filed these motions. It did, however, appeal from the Coordinator's rulings that jurisdiction attached to the VAST project.<sup>1</sup>

VAST has since conceded that an Act 250 permit amendment is required for the trail segment in question, and the Board's decision establishing jurisdiction over the VAST trails has not been appealed. *Re: Vermont Association of Snow Travelers*, Declaratory Ruling 430, Findings of Fact, Conclusions of Law, and Order (Altered) (Jun. 7, 2005). To continue to operate its trails, including the segment in question in this appeal, VAST must obtain a permit amendment from the Commission. There is no question that VAST's interests stand to be affected by the instant appeal, since it involves the same trail segment, and facts found and conclusions reached by the Board concerning that trail segment may bind the Commission in deciding any permit application VAST may file concerning this identical trail segment.

There has been no opposition to VAST's motion to intervene, and no reason to believe that VAST's untimely motion to intervene will cause prejudice to any party or interest protected by Act 250. VAST's participation will cause no delay in this matter since VAST has only sought consideration of its request to alter, and has not asked to reopen the hearing. Given the absence of delay or prejudice from VAST's late appearance, and the unresolved nature of Act 250 jurisdiction over VAST's trails at the time of the prehearing conference in this appeal, the Board finds sufficient good cause to consider VAST's untimely petition.

VAST's motion to participate as a party is granted.

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<sup>1</sup> The parties were given the option of consolidating the cases, but did not wish to do so. The Board has respected the parties' wishes procedurally, however, the fact that VAST was not a coapplicant or party to this appeal until now cannot affect the Board's decision on the merits.

## **B. Motions to Alter**

ANR and VAST each challenge the trail relocation and reclamation requirements in the Permit and related findings and conclusions in the Decision. As set forth below, the Board grants these motions in part to delete the relocation and reclamation conditions. However, the Project cannot comply with Act 250 without blocking visual and physical access to the wetland from the existing trail segment by replanting the path and placing some form of barrier on either end of the trail segment. In addition, the trail segment must be moved at least 100' away from this sensitive area, as set forth in the Decision, if it is going to continue to exist. Accordingly, the Board grants the parties' request to alter the Decision and Permit by removing the relocation and reclamation requirements. This necessarily results in denial of the parties' permit application.

However, the parties may submit a new amendment application to the Commission pursuant to EBR 31(B). This would provide a practical way for all the parties to work together to address the relocation issues, including those unrelated to Act 250. Whether VAST and the parties in this appeal should be coapplicants is an issue for the Commission. EBR 10(A).

## **C. ANR's Motion to Alter**

ANR challenges the Board's holding that Criteria 8(A), 1(G) and 9(K) require relocation and reclamation of a segment of trail near the wetland complex, arguing that it is unsupported by the evidence, that the relocation and reclamation are not reasonable mitigation, and that they conflict with an easement over the Project tract.

### *Sufficiency of Evidence; Mitigation Specifics*

The record in this appeal contains ample evidence of the habitat value of this unique wetland complex to many species of wildlife including waterfowl and wading birds, the sensitivity of these waterfowl and wading birds to disturbance during important periods in their life cycle such as nesting, and the visual draw of this area to trail users in all seasons. For instance, with respect to species such as great blue heron, American bittern, Virginia rail, or wood ducks, ANR's wildlife biology expert testified that:

a few people on the wrong day, or the right day as the case may be, while the birds are trying to either lay eggs or incubate eggs in the nest, and they're gone. They won't come back. . . . They're just very sensitive.

Testimony of John Austin, Oct. 13, 2004 Mr. Austin also testified that ANR originally recommended the 300' buffer due to concerns that the wetland complex "wasn't capable of supporting a lot of human activities during, in particular in June, July and August, the months when you would have nesting and breeding activity by birds like bitterns and herons and rails and waterfowl," and that these species "would be displaced by people just milling about; doing the things that we do and there's no harm in doing them other than they are just too close to this area – it can't buffer itself from loud noises and activities by people." *Id.*

ANR later revised its position on the buffer requirement based in part on a lack of evidence of the level of actual nonwinter use, and in part on the erroneous assumption that the unpermitted VAST trail would remain in place. However, the record supports the Board's finding that there already is some nonwinter use of the area by hikers, bikers and ATV users. The Board observed mountain bike and all-terrain vehicle tracks visible on the trail in close proximity to the wetland, despite the fact that recent foot traffic had not left visible tracks. More important, it is clear that this trail segment provides direct and easy access to the wetland and the wildlife habitat it provides. This, coupled with the significance of the habitat and sensitivity of waterfowl and wading birds to human disturbance, requires that the permit be denied unless the trail segment is relocated, the existing trail segment and path to the pond are replanted to facilitate revegetation, and physical access blocked at either end of the existing trail segment.

With respect to the installation of boulders at either end of the existing trail segment, ANR argues the use of heavy equipment "is an unnecessary disturbance which should be avoided." (ANR's Motion at 4.) The Board shares ANR's concern, which is supported by the record, and which is why the Permit prohibited any such disturbance between April 1 and September 1. The existing trail segment is situated in a way such that the wetland pond is a real draw from both directions, so it must be replanted and access blocked. In addition, ATVs can access this part of the trail from the north. Although the Board did not conduct its site visit in those northerly areas at ANR's suggestion, there was an ATV track in the vicinity of the trail segment to the south of the wetland and testimony that ATVs and mountain bikes can access the trail segment from the north. There was also credible evidence that gates are not an effective way to block access on trails. Although placing boulders at either end of the existing trail segment is a reasonable and feasible means of blocking access to the path and the pond, as long as the use of heavy equipment is prohibited between April 1 and September 1, there may be some other effective way to blocking physical access to the existing trail segment. Should the parties return to the Commission for reconsideration of a revised amendment application, the Commission will have the flexibility to require that access be blocked by something other than boulders or gates.

ANR also argues that the path could be revegetated down to the pond without a Conditional Use Determination (CUD). Although ANR's suggestion is made in the context of its request to delete the trail relocation requirement, which the Board declines to grant, the suggestion does have merit. Therefore, the Board grants this part of ANR's Motion to Alter. The hand aeration and replanting of the compacted path need not be restricted by the 50-foot buffer.

Without relocation of this trail segment as set forth in the Decision, and blocking access to the existing trail and replanting the compacted path as modified herein, the Board concludes that the Project significantly imperils the necessary wildlife habitat, and that the environmental loss to the public from the imperilment of the species is not outweighed by the recreational and other benefits of the trail. *Re: Southview Associates, #2W0634-EB (6/30/87), aff'd, In re Southview Associates, 153 Vt. 171 (1989).* The Decision is altered accordingly, and the Permit vacated.

#### *Reasonableness and Feasibility; the Easement*

ANR's second argument is that the relocation is not "reasonable and feasible" mitigation. ANR is correct that the Board did not take extensive evidence on the details of the trail relocation and how best to block access to the old trail segment. ANR is also correct that there was evidence that the Long Range Management Plan (LRMP) and the conservation easement may render these mitigation measures infeasible. Accordingly, the Board grants this part of ANR's motion. Without this mitigation, however, the Board cannot issue an Act 250 permit. The Commission might be able to issue a permit, however, if an alternate route within the parameters provided by the Board were approved.

While the Board appreciates that the LRMP and the conservation easement may pose legal and practical difficulties for the parties in decommissioning and relocating this trail segment, these are property rights issues beyond the Board's jurisdiction. *In re Estate of Swington, 169 Vt. 583, 585-586 (1999).* The Board's jurisdiction is limited to deciding whether the proposed development complies with the criteria on appeal. Without meeting the requirements previously ordered by the Board and modified in this decision, the Project does not comply with Criteria 1(G), 8(A), and 9(K).

Denial of this permit application is not only required by Act 250, it may prove to be a more sound and efficient approach in the long run. This way, the Commission can take evidence from all affected parties on where and how best to relocate the trail segment in question, and any proposal to block physical access with means other than boulders or gates.

#### **D. VAST's Motion to Alter**

VAST argues that the Board lacks jurisdiction over the VAST trail. As noted above, the VAST trail includes the trail segment in question in the instant appeal, and the law is clear that Act 250 permits run with the land. *In re Estate of Swinington*, 169 Vt. 583, 585 (1999)(mem.). Moreover, the Board has ruled that the VAST trail is subject to Act 250 jurisdiction. While it is true that VAST opted not to participate in this appeal until this point, neither that fact, nor the fact that these trails were improved without a permit amendment, affects the extent of Act 250 jurisdiction over this trail segment.

With respect to the relocation of the trail segment, discussed above, VAST also requests that findings 42 and 43 be deleted. VAST is correct that extensive evidence was not taken on the topography to the immediate west of the trail segment, and this part of VAST's motion is granted. This will provide the parties and the Commission more flexibility to explore the best alternate route for this portion of the trail.

VAST also argues that the Board cannot "impede or relocate the real property interest in the conservation easement." (VAST's Motion at 3.) As discussed herein, VAST is correct that the Board lacks jurisdiction to determine property interests unrelated to Act 250, but the requirements of relocation and decommissioning to protect the necessary wildlife habitat are well within the Board's authority. Although this decision results in the Permit being vacated and jurisdiction being returned to the Commission, the parties may file an amendment application within the parameters set in the Decision and Permit and as modified herein. This will allow the parties to address any legal, topographical or other practical issues in a manner that complies with Act 250.

### **III. ORDER**

1. VAST's Motion to Intervene as an Interested Person is GRANTED.
2. ANR's Motion to Alter is GRANTED in part and DENIED in part.
3. VAST's Motion to Alter is GRANTED in part and DENIED in part.
4. Land Use Permit #5W0905-7-EB is VACATED.

DATED at Montpelier, Vermont this 18<sup>th</sup> day of November, 2005.

ENVIRONMENTAL BOARD

/s/ Patricia Moulton Powden  
Patricia Moulton Powden, Chair  
George Holland\*  
Patricia Nowak\*  
Alice Olenick  
Richard C. Pembroke, Sr.\*  
Jean Richardson  
Christopher D. Roy

\* **Board members George Holland, Patricia Nowak and Richard C. Pembroke, Sr., DISSENT:** We would grant ANR's and VAST's Motions to Alter to remove the relocation and reclamation requirements, consistent with our dissent from the Board's Decision and Permit.



## **Appendix C: VAST trail construction grant application**

# Construction Grant-In-Aid Project Application

**Project Number**

(A project number will be assigned upon approval)

The following affiliated snowmobile club of the Vermont Association of Snow Travelers, Inc. is applying for funding of a snowmobile trail development and/or maintenance project.

## Club Information

Club	Date
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Club Address Street

Town, State, Zip Code	County
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## Project Information

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Project Coordinator: \_\_\_\_\_ Phone Number: \_\_\_\_\_

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Project Location:

Town:

Land Ownership: ☐ Private ☐ Municipal ☐ State ☐ Federal

## Project Description

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**Project Details**

The following questions and your relevant details/answers provide a self-analysis of your proposed trail project, its need and its compatibility with the existing trails system. These questions provide a necessary planning function for any well-planned project and will prioritize VAST funding in accordance with the ranking criteria of our adopted Trail Policy (03/16).

**Where?**

Is the location of the Project on the current VAST Map? *(Include a copy with this application)*

☐ Yes ☐ No

Detailed written description of project location:

**Why?**

Describe why such work is needed:

**Who?**

**A.** Landowner Permissions obtained *(attach a copy of LOP forms)*.

☐ Yes ☐ No *If NO, please provide explanation:*

**B.** Will the club hire a contractor?

☐ Yes ☐ No

<input type="checkbox"/> Excavator	<input type="checkbox"/> Dozer	<input type="checkbox"/> Truck	<input type="checkbox"/> Other
No. of Hrs:	No. of Hrs:	No. of Hrs:	No. of Hrs:
Rate/Hr.:	Rate/Hr.:	Rate/Hr.:	Rate/Hr.:

Total Hrs: \_\_\_\_\_ *(Estimate)* Total \$: \_\_\_\_\_ *(Estimate)*

**C.** Club participation: volunteer time, equipment or other

**What?**

**Materials required:** *Please check all that apply*

☐ Culverts ☐ I-beams ☐ Steel Diaphragms ☐ Blocks ☐ Hardware  
☐ Lumber ☐ Seed ☐ Gates ☐ Poles

**Culverts**

Total No: \_\_\_\_\_ Total \$: \_\_\_\_\_

Size(s): \_\_\_\_\_

**I-beams**

Total No: \_\_\_\_\_ Total \$: \_\_\_\_\_

Size(s): \_\_\_\_\_

**Lumber**

☐ PT ☐ Hemlock ☐ Other

Total \$: \_\_\_\_\_

Lumber Size(s): \_\_\_\_\_

Other

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Total Trail  
Distance  
Involved

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Total Bridge  
Distance

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Estimated  
Project Cost

Equipment \$

Materials \$

Total \$

Permits  
Required

*Please check all that apply*

☐ Stream Bank Alteration

☐ Wetland

☐ Zoning

☐ Act 250

☐ No permits are required for this project:

Note: It is the club's responsibility to obtain all necessary Federal, State or Local permits connected with this construction project. The VAST Trails Administrator can help you determine your needs as necessary.

Field Inspection

The outlined trail construction/maintenance project has been reviewed and has been found to be in compliance with the VAST Guide for The Development of Snowmobile Trails, latest edition.

County Trails Coordinator:

Date:

Submit this application, a map showing the exact location of this proposed trail project, copies of necessary permits (if any) and the signed landowner(s) permission form(s).

**Applications must be at the VAST office by June 30<sup>th</sup>!**

Funding will not be approved without the above!!

For Office  
Use Only

This project has been reviewed and has been found to be in compliance with the VAST Guide for The Development of Snowmobile Trails, latest edition.

VAST/SSTP Project Number:

County:

Project Estimated Cost:

Funding Alloted: \$

Approved by VAST Trails Administrator:

Date:



Vermont Association of Snow Travelers, Inc.  
26 Vast Lane  
Barre, VT 05641  
T 802.229.0005 • F 802.223.4316  
www.vtvast.org

## Construction Grant-In-Aid Program Trails Agreement

This agreement is made between the Vermont Association of Snow Travelers, Inc. hereinafter called VAST, and

\_\_\_\_\_  
(Club Name)

hereinafter called the Project Applicant, for the purpose of providing assistance for the development and maintenance of the snowmobile trails detailed in this application.

VAST agrees to reimburse the Project Applicant 100% of the **approved** snowmobile trail project costs or the actual cost, whichever is the lesser of the two, for materials, and leased/rented or contracted equipment necessary to complete the project. Reimbursement will be made upon the completion of the project, final inspection/approval by the County Trails Coordinator and receipt of documentation of actual costs incurred. Donated equipment, materials or services will not be reimbursed.

VAST reserves the right to consider reimbursement or funding from any and all other sources in determining a net figure as the 100% reimbursement amount. Any and all reimbursement or funding available or anticipated, from any source, to offset the cost of the project shall be disclosed to VAST prior to any determination of the project cost. VAST reserves the right to reevaluate its determination of the project cost in the event that funds become available to offset the cost following its initial determination.

All documentation that supports the total cost of the project must be submitted. The Trails Request for Reimbursement form shall be approved by the County Trails Coordinator before the final project paperwork is submitted to the VAST Office.

By signing the Trails Agreement below the Project Applicant acknowledges that:

- A representative from the applying club has attended the most recent VAST Spring Construction Seminar or has reviewed the approved course curriculum, understands it, and will adhere to the information contained within the curriculum while performing this trail project.
- Landowner permission to complete the trail project has been obtained.
- All necessary Local, State and Federal permits have been obtained to complete the trail project.
- The trail project meets acceptable standards as outlined in the *VAST Guideline for the Development of Snowmobile Trails*, latest edition.
- All trails are signed according to the *VAST Guideline for Snowmobile Trail Signing and Placement*, latest edition.
- None of the requests for reimbursement are fraudulent in any way and that all expenses being reimbursed have been paid by the Project Applicant.
- The trail will be open for use by VAST members for the upcoming snowmobile season.

Trail projects must be completed and all necessary paperwork must be submitted by December 15<sup>th</sup> of the application year. All projects not completed by December 15<sup>th</sup> of each year may be carried over. Extensions should be requested in writing to the VAST Trails Administrator prior to December 15<sup>th</sup>.

By:

\_\_\_\_\_  
(Project Director)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name)

By:

\_\_\_\_\_  
(VAST Trails Administrator)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name)



# Construction Grant-In-Aid Policies and Procedures

The following are the Vermont Association of Snow Travelers, Inc. policies and procedures developed by the VAST Trails Committee, which includes the County Trail Coordinators from each county. These policies and procedures have been reviewed and adopted by the VAST Board of Directors. These policies and procedures along with any revisions are current as of May 2016. In order for Grant-in-Aid Application to be considered clubs/contractors must be compliant with all VAST policies and by-laws (latest edition).

## A. Trail and Bridge Development

In order to qualify for VAST grant-in-aid, trail construction and maintenance projects must be constructed according to the standards set forth in this document:

### 1. **VAST Guide for the Development of Snowmobile Trails (Latest edition)**

### 2. **Construction Grant-In-Aid Policies and Procedures**

#### A. Applications and Project Approval

- In order to qualify for a grant a designated representative from each club who applies for Construction Grant in Aid funding must attend the most recent VAST Spring Construction Seminar, or review the approved course curriculum online and acknowledge that they have reviewed, and understand all information contained within the curriculum by completing the exercise. By signing the Trails Agreement Form the designated representative from the applying club acknowledges that they and the applying club will be responsible for completing the project according to the VAST Guide for The Development of Snowmobile Trails and will adhere to the information outlined in the course curriculum. Upon request, the course curriculum materials can be sent directly to clubs not able to participate online. Clubs who participate using this format must acknowledge through the designated agent that they have reviewed, and understand all information contained within the curriculum via signed agreement.
- Prior to starting work on a project for which a Grant-in-Aid request will be made, a Construction Grant-in-Aid Project Application must be submitted to the VAST Trails Administrator for approval. The County Trails Coordinator and VAST Trails Administrator shall review and approve all Construction Grant-in-Aid Applications. Work on the project should not begin until written approval has been granted by the VAST Trails Administrator.
- In order to avoid the appearance of impropriety, or a conflict of interest, County Trail Coordinators shall not sign off on Grant-in-Aid Applications or corresponding paperwork for the club to which they belong. Paperwork shall be signed by the County Director or an authorized agent as outlined in the corresponding counties by-laws,

or as approved by the VAST Trails Administrator upon written notice from the County Trail Coordinator.

- Projects submitted as part of a Grant-in-Aid Application may be inspected at the discretion of the Trails Administrator.
- Completed applications shall be submitted for the next fiscal year and must be received in the VAST office by **June 30<sup>th</sup>** each year.
- The VAST Trails Administrator shall rank each project request in order according to the VAST Trails priority list that appears in this policy (*See section B. Priority Ranking of Corridor Trail Projects*).
- Projects shall be approved in priority order up to the amount budgeted for the fiscal year.
- Work on projects may be started upon receipt of notification that the project has been approved for construction, however funding may not be available until after October 1<sup>st</sup>.
- Projects that are denied may be re-submitted the next fiscal year.
- All projects not completed by December 15th of each year may be carried over. Extensions should be requested in writing to the VAST Trails Administrator prior to December 15th.

#### B. Priority Ranking of Corridor Trail Projects

Projects shall comply with the VAST Strategic Plan or be part of the existing SSTS and be shown on the current VAST Trails Map. Projects shall be approved based on priorities. Within each priority, projects on heavily used trails will be approved first in the following order:

##### a. **Maintenance**

1. Bridges in need of repair or replacement for the upcoming season.
2. Projects that bring trails up to VAST safety-related standards (*as outlined in the VAST Guide for the Development of Snowmobile Trails (Latest edition)*) by removing obstructions alongside of trail, in tread, widening curve radii, increasing sight distance at critical locations, etc. or by correcting underlying causes of dangerous conditions like erosion, ice boils; all as called for in standards for the existing trail class. ***This work would not upgrade a trail to a higher class.***
3. Installation of gates and culverts
4. Projects on secondary trails using the same priorities as used for corridor trails



## b. Trail Construction

1. Trail relocation due to land closure, landowner request or onto a permanent easement or unplowed public highway or projects that remove trails from a plowed highway, river or other body of water.
2. Project upgrades trail to a higher class as approved by the Club, County, and the VAST Trails Committee:
  - Trail upgrades proven to be necessary to maintain overall trails continuity and when other options are not possible will be considered.
  - Trail upgrades, which are not necessary to maintain trail continuity or trail upgrades that create a parallel corridor trail, will most often not be approved.
3. Construction of new trails as proven necessary and approved by the county and VAST Trails Committee. The following criteria shall be used when determining the practicality of the project.
  - Permanence of Trail (*location of Federal, State or private or onto an easement*)
  - Level and cost of construction
  - Current grooming situation
  - Equipment used to maintain the trail
  - The cost associated with adding miles to current grooming contract as well as projected usual and unusual maintenance costs that may be necessary going forward.
  - Length of season and area where trail will be located (higher elevations vs. lowlands and valleys)
  - Volume of traffic on adjacent trails and new trail
  - Major trail connections (E-W, N-S corridors)
  - Connection to services
  - a. No new trail construction shall be implemented that will exceed the historic level of 4,700 miles of VAST funded corridor trails unless specifically approved by the Board of Directors and budgeted for any fiscal year.
4. Projects on secondary trails using the same priorities as used for corridor trails.

## Bridge Policy

All bridge construction projects will require the standard construction documents including but not limited to Stream Alterations Permit/approval, Army Corp of Engineers Permit/approval, Local Zoning Permit/approval as well as a signed Landowner Bridge Agreement (when necessary). This Agreement will be supplied by VAST and must be signed by the landowner, local Club President, County Trails Coordinator, and VAST Trails Administrator before any construction begins. Clubs will be responsible for obtaining the necessary permits/approvals and providing them to the VAST Trails Administrator before any construction begins.

### Landowner Bridge Agreement

This agreement shall include a provision that in the event the designated VAST trail leading to the snowmobile bridge

is either discontinued or relocated off the landowner's property then the landowner agrees to one of the following:

- Allow the local club, VAST, or their representatives to enter & remove the bridge from their property, and repair the property in a good and husband like fashion.
- Purchase the bridge from VAST at its fair market value as determined by VAST or its duly authorized agent at the time of sale.
- Become sole owner of the bridge (if the original cost for construction of the bridge was less than \$2,500) and save the local snowmobile club, VAST and any of their agents or servants harmless from any liability arising out of the construction, use, or ownership thereof.

This policy will be reviewed and implemented on a case-by-case basis according to the VAST Trails Administrator, County Trails Coordinator and Club Trail Master.

## c. Reimbursement

The County Trails Coordinator or the VAST Trails Administrator must inspect all projects prior to the Grant-in-Aid payment being authorized. The signature of either on the Trails Request for Reimbursement must demonstrate this inspection. Approved projects shall be reimbursed based on the following criteria:

- Upon proof of payment, purchased material for trail projects such as culverts, fill, I-beams, bridge planking, etc. as well as leased/rented or contracted equipment, shall be reimbursed at 100% of the amount approved by the VAST Trails Administrator. Copies of detailed/itemized invoices must be submitted by the project coordinator and provided with the Trails Request for Reimbursement. Donated equipment, materials or services will not be reimbursed.
- VAST reserves the right to consider reimbursement of funding from any and all other sources in determining a net figure as the 100% reimbursement amount.
- Upon proof of payment labor associated with contracted equipment may be reimbursed at the discretion of the County Trails Coordinator and VAST Trails Administrator. All other incurred labor cost will be at the club's expense unless previously approved by the VAST Trails Administrator.
- If the total cost of a project exceeds the amount approved by the VAST Trails Administrator the overage will be the responsibility of the applying club. The overage, or a portion of the overage may be paid at the discretion of the VAST Trails Administrator.
- Any and all reimbursement of funding available or anticipated, from any source, to offset the cost of the project shall be disclosed to VAST prior to any determination of the project cost. VAST reserves the right to reevaluate its determination of the project cost in the event that funds become available to offset the cost following its initial determination.