

Comments on DCNR's proposed
ATV Trail Development and Management Policy

submitted by the

Pennsylvania Land Trust Association

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The Pennsylvania Land Trust Association urges the Pennsylvania Department of Conservation and Natural Resources to rework its proposed *ATV Trail Development and Management Policy*, which, as drafted, would rescind DCNR's moratorium on ATV trail development and authorize DCNR to consider new ATV trails and connectors on state forest lands. In light of DCNR's trustee duties to conserve public natural resources under the Pennsylvania Constitution, DCNR should revise its draft to:

- Maintain the moratorium in regard to present state forest lands; and
- Lift the moratorium in regard to lands newly acquired by DCNR for the express purpose of providing for motorized vehicular recreation.

Article I, Section 27 of the Pennsylvania Constitution states that:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."

As reported across the country, ATV use (as well as certain other motorized vehicle use) is damaging to natural resources. This is not necessarily the case within a permitted path but is the case for lands in close proximity to the specified path. It is well-documented that efforts to enforce rules and keep the motorized vehicles to assigned paths fail with few (if any) exceptions. DCNR does not and likely never will have anywhere near the enforcement capacity that would be necessary to potentially break this pattern. Given this, it is presently impossible for DCNR to reconcile its constitutional trustee duty to the natural resource with expansion of ATV use on previously established state forest land.

It is, however, possible for DCNR to provide for demands for ATV trails by (1) acquiring new land for the express purpose of providing for motorized recreation and (2) facilitating the provision of trails on non-state land.

Regarding existing ATV trails that are not addressed under the present moratorium, DCNR should make careful study of the impact of these trails on public natural resources to inform future policy development and agency actions.

Background

Impact on Natural Resources

In brief, ATV use, especially off-trail use, is well documented to damage natural resources, including but not limited to the following impacts:

- **Increased runoff and sedimentation.** ATV traffic compacts the soil, leading to reduced infiltration and increased runoff, with impacts worsening with higher levels of usage.¹ In regions like Pennsylvania, with high levels of precipitation, “freshly disturbed soils on an ATV trail” may produce, in a rainfall event, “10 times more sediment” than an undisturbed area.²
- **Wildlife habitat destruction and disturbance.** ATV usage, most particularly when ATV users go off-trail, result in habitat fragmentation and destruction and other detrimental impacts to wildlife.³
- **Pollution.** ATV usage introduces new pollutants into the land, air, and water. ATVs can discharge fuel unburned directly onto the soil, contributing to water pollution and altering soil chemistry.⁴ As ATVs burn fuel, the machines pollute the air, emitting particulates, hydrocarbons, carbon monoxide, and nitrogen oxide.⁵ The air is further polluted with soil particles thrown up by the disturbance of soil.⁶
- **Invasive species.** ATV usage spreads invasive species—nonnative plants and animals that harm natural resources as well as the economy—to public lands, especially if careful, hard-to-enforce measures are not taken to minimize their spread. For example, Pennsylvania’s quarantine order for

¹ U.S. Forest Service and U.S. DOT FHWA [Effects of All-Terrain Vehicles on Forested Lands and Grasslands](#), December 2008. pp. 26-28.

² Ibid. Pg 83.

³ Leslie N. Karasin, April 2003, Working Paper “All-Terrain Vehicles in the Adirondacks” [Wildlife Conservation Society Study 2003](#). p. 22.

⁴ Leslie N. Karasin, April 2003, Working Paper “All-Terrain Vehicles in the Adirondacks” [Wildlife Conservation Society Study 2003](#). P. 21.

⁵ Ibid. pg 21.

⁶ U.S. Forest Service and U.S. DOT FHWA [Effects of All-Terrain Vehicles on Forested Lands and Grasslands](#), December 2008. p. 83

battling an infestation of spotted lanternfly specifically includes ATVs as a regulated item that should not move out of the quarantined region.⁷ Other states (e.g., Virginia and Wisconsin) also specifically mention ATVs in their outreach materials as items to inspect for spotted lanternfly egg masses.

Enforcement Problems

DCNR simply does not have and likely never will have the resources to adequately enforce ATV-riding rules and remediate damage to public natural resources that would result from expansion of ATV trails on existing state forest land. (This enforcement deficit is not unique to Pennsylvania; it appears universal.)

The history of unauthorized ATV usage on public and private lands in Pennsylvania evidences that voluntary compliance by ATV users with rules does not work. There may be any number of rule-abiding riders, but it does not take many rule breakers to severely impact natural resources and create other problems. A 2018 Pittsburgh Post-Gazette article describes the problems of ATV users pushing the “limits of legality.”⁸ The Pennsylvania Game Commission has, in the last several years, increased enforcement authority and the cost of citations for off-trail violations in recognition of the on-the-ground facts that ATV users do not always follow the marked trail rules. One of the Commission’s reasons for this increased enforcement effort is that “illegal ATV operation is a major source of wildlife habitat destruction across the state.”⁹

Reports from other states provide additional evidence that enforcement of trail usage is hugely difficult at best and impossible at worst. It is clear that a certain segment of ATV users will ride off-trail in an unauthorized fashion, and that resources for prevention and enforcement are not up to the challenge. A small sampling of state experiences follows:

⁷ Order of Quarantine, Spotted Lanternfly.

https://www.agriculture.pa.gov/Plants_Land_Water/PlantIndustry/Entomology/spotted_lanternfly/Documents/QuarantineOrder.pdf

⁸ Hayes, John. Demand for ATV trails outstrip supply in Pennsylvania. May 14, 2018.

<https://www.post-gazette.com/life/2018/05/14/Pennsylvania-ATV-UTV-trails-public-land-all-terrain-vehicles/stories/201805110092>

⁹ Brelje, Beth. Pa. trying to put brakes on ATV riders in state game lands. June 27, 2012.

<https://www.poonorecord.com/article/20120627/NEWS/206270318>

Alaska: The Associated Press recently documented that ATV users were illegally driving through a critical Alaska salmon spawning area, even though it is illegal to drive ATVs recreationally outside of listed locations without a permit.¹⁰

Connecticut: Except for special permitted uses, ATVs are banned from all state forests and parklands, yet illegal ATV riding and trail cutting is a major problem in the state. To quote a state forester, “once a trail is cut, it becomes extremely difficult to stop people from using it.”¹¹

Georgia: Off-road ATV users, riding illegally in the Georgia National Forest of Chattahoochee-Ocononee are “causing severe damage to a sensitive wetland environment,” according to a Patrol Captain. A National Forest Supervisor added, “we are seeing more and more illegal riding taking place on the national forests and it is causing unacceptable resource damage.”¹²

Minnesota: In a 2009 report, state conservation officers describe the frustrations of trying to protect public lands from ATV damage with one stating that: “It seems like some of them think they can ride anywhere they wish regardless of what guidelines and laws there are.”¹³ The report detailed that riders were “ignoring signs or driving around barriers put up to stop them” and reviewed the immense negative impact of large numbers of scofflaws.

New York: New York’s 2011 “Strategic Plan for State Forest Management”¹⁴ addressed ATV use and problems:

Illegal use of ATVs and OHVs on State Forest roads and trails officially closed to ATV and OHV use is frequent, difficult to prevent, and presents significant enforcement issues. Despite a variety of signs, gates, boulders, and other barriers designed to notify ATV and OHV users that particular roads and trails are closed to their use, a large amount of illegal riding

¹⁰ Associated Press. ATV drivers are illegally crossing salmon spawning area on Kodiak Island. August 29, 2019. <https://www.adn.com/alaska-news/rural-alaska/2019/08/29/atv-drivers-are-illegally-crossing-salmon-spawning-area-on-kodiak-island/>

¹¹ Hladky, Greg. Illegal ATV Trails in State Forests a Growing Problem. Sept 23, 2016. <https://www.courant.com/news/connecticut/hc-illegal-state-forest-trails-20160918-story.html>

¹² Cracking down on illegal ATV use in national forests. July 29, 2008. <https://accesswdun.com/article/2008/7/211898>

¹³ Shaffer, David, Tom Meersman and Glenn Howatt. Renegade Riders. Aug. 19, 2009. <http://www.startribune.com/part-i-renegade-riders/28308249/?refresh=true>

¹⁴ New York State DEC Strategic Plan for State Forest Management, 2011: http://www.dec.ny.gov/docs/lands_forests_pdf/spsfmfinal.pdf

continues to occur on these prohibited areas. Illegal use of ATVs presents significant enforcement problems because illegal riding often occurs in remote areas, where apprehension of violators is difficult and impoundment of unregistered ATVs is impractical. (p. 213)

Over the years, attempts have been made to accommodate off highway and all terrain vehicle use on several State Forests but in each case, the use was not sustainable. Serious issues with soil erosion, illegal off-trail use and trail rutting developed. In all cases DEC was not able to find acceptable ways to mitigate the impacts, even when organized user groups were included in the process. In the end, each of the former off-road vehicle trail systems was closed. (p. 214)

Where ATV trails have been opened in the past, enforcement staff found it very challenging if not impossible to prevent illegal use. (p. 221)

... recreational ATV use [is] not compatible with State Forest management goals and cannot be successfully managed on State Forest lands. (p. 213)



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