



STATEWIDE PROGRAM OF ACTION TO CONSERVE OUR ENVIRONMENT

S.P.A.C.E. NEWSLETTER

SUMMER, 2003

LEGISLATIVE
UPDATE:

SPACE Monitors Active Legislative Session

This legislative session, SPACE was active in monitoring and influencing a number of bills related to current use. While other issues dominated the headlines this year, SPACE was active on four bills, and monitored several others to make certain that current use remains a strong and effective program.

Recreational Adjustment

In current law, current use landowners who allow others to use their land for certain pedestrian activities (hiking, hunting, fishing, cross-country skiing, snow shoeing, and nature observation) are eligible to receive a 20% reduction from their normal current use property tax assessment. Roughly 40% of the state's current use land receives this "recreational adjustment."

Representative John Pratt of Walpole introduced **House Bill 181**, *relative to horseback riding as a recreational use of land in current use taxation*. As introduced, this bill would have done two things:

- Require landowners receiving the 20% recreational adjustment to allow horseback riding on their property. This provision would require landowners to allow horseback riding "12 months of the year", just as the existing law applies to pedestrian activities, and
- Provide specific horseback riding liability protection, in addition to what already exists in state law, to landowners who allow horseback riding on their property.

The first part of this legislation, aimed at current use, was of significant concern to SPACE. As the organization pointed out to the House Environment & Agriculture Committee, horseback riding is significantly different than the other activities current included in the "recreational adjustment", as horses have the potential to do significant damage to roads, trails and off-trail areas during certain times of the year. SPACE was also concerned that if landowners who did not want horses on their land withdrew from the "recreational adjustment", other recreational users such as hunters and hikers would lose access to open space across the state.



SPACE monitors all proposed legislation for possible effects on the Current Use Program.

photo courtesy
New Hampshire Timberland Owners Association

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SPACE Monitors Active Legislative Session

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The House heard these concerns, and stripped the bill of any reference to current use. The Senate agreed. As passed, HB 181 is now *relative to limiting landowner liability for giving permission for horseback riding*, and explicitly extends certain liability protections to landowners who willingly allow horseback riding on their property. This liability protection has been signed into law, and now extends to landowners across the state.

SPACE expects the issue of recreational use of current use land to come up in future years. In addition to horseback riding, activities such as mountain biking and ATV use are growing in popularity, and may seek to be included in the "recreational adjustment." Thank you to all who completed and returned the survey on recreational use in the last newsletter. The SPACE Board of Directors will be using this valuable input to inform our position on these issues in coming years.

Shorefront Land

House Bill 772, an act including undeveloped shoreline property in land granted tax relief under current use, was sponsored by Representative Chris Christensen of Merrimack. This bill would have allowed landowners with at least two acres of undeveloped shoreline to enroll in current use. The House Environment & Agriculture Committee recommended this bill "inexpedient to legislate" (not passed), noting that "this was reported to be for the purpose of improving water quality, but no evidence was presented" that this bill accomplished anything that is not already covered by the Shoreline Protection Act. Upon this committee recommendation, the full House rejected this bill.

Current Use Treatment for All Property

Sponsored by Representative Thomas McCormick of New London, **House Bill 407** was titled *an act allowing municipalities the option of appraising property based on assigned values reflecting the current use of property, and requiring the current use board to adopt criteria for such appraisal*. This bill would allow municipalities to use state-established "current use" rates to assess all property, not just open space. New rates would need to be established for residential, commercial, industrial and utility land. After consideration by the House

Municipal & County Government Committee, the House found this bill inexpedient to legislate, noting that such a system "would lead to more confusion and higher costs."

Land Use Change Tax

House Bill 803, sponsored by Representative Ralph Akins of Lebanon and three others, establishes a *New Hampshire downtown development program*. This bill proposes a new downtown revitalization program that would, among other things, use several new revenue sources to pay for the program. One of those would be a 5% surcharge on the Land Use Change Tax (LUCT). SPACE opposed the LUCT surcharge. This bill was "re-referred" to the Municipal and County Government Committee of the House, essentially putting it into a study mode with a recommendation on the fate of the bill to come in January of 2004 when the legislature re-convenes. A subcommittee of the Municipal and County Government Committee chaired by Rep. Thomas Gillick of Hampton has had many work-sessions on the bill. The likely outcome of the 5% LUCT surcharge in the bill is not clear at the time of this newsletter. SPACE continues to monitor the work of the subcommittee and continues to oppose the LUCT surcharge.

Legislation for the 2004 Session

This year, legislators were able to file "legislative service requests" (LSRs) – essentially a request that a bill be drafted for future use – for the 2004 session of the legislature. Judging by the titles, two LSRs are of particular interest to SPACE, though more may involve current use once final legislative language is released. Representative Christiansen of Hudson is sponsoring LSR 2218, *restricting landowners from posting current use lands as "no hunting allowed" with certain exceptions*.

LSR 2202, sponsored by Representative Jasper of Hudson, is *relative to land use change tax funds* and LSR 2031 *establishing a study committee on local land taxes* is sponsored by Representative Allen of Harrisville. Final legislative language for these and other LSRs will be evaluated by SPACE once available, probably not until sometime in the Fall.

As always, SPACE tries to make information on legislation involving current use available to all interested parties. If you have questions about legislation, or need a copy of a bill, please don't hesitate to contact us at 603/224-3306.

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TO CONSERVE OUR ENVIRONMENT
54 PORTSMOUTH STREET
CONCORD, NH 03301-5400
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Summary of ATV Survey Responses

532 RESPONSES TABULATED

In our Summer 2002 SPACE newsletter we asked current use landowners to tell us their experience with All Terrain Vehicles (ATV's). Here are the results of 532 landowner responses; at right, some conclusions drawn from the results below. Thank you for your participation!

- Most landowners do not own an ATV, trail bike or motorcross bike themselves.
- Of landowners who own ATV's they are more frequently used for work than for recreation.
- Most landowners are not being contacted for permission to use their land for motorized vehicles. However, most landowners (72%) are not posting against motorized wheeled uses.
- Over half (54%) of the respondents have observed evidence of unauthorized use, primarily by ATV's.
- Of landowners who observed unauthorized use, creation of trails across, through and within their property was the most frequent complaint, with use of snowmobile trails after the season the next most frequent complaint.
- The most common problems resulting from unauthorized use were:
 1. Erosion and rutting of existing roads and trails (reported by 70% of 287 landowners);
 2. Litter (50% of 287)
 3. Excessive noise (49% of 287)
 4. Damage to fields, pastures and seeded crops (34% of 287).
- Most landowners do not think the existing state laws are effective in deterring unauthorized use of ATV's on private lands.
- Of 54% who reported having observed evidence of unauthorized use on their land, only 32% of landowners contacted law enforcement
- Although those who contacted law enforcement officials about the problem were mostly satisfied with the timeliness of the response, over half were not satisfied with their effectiveness at preventing further unauthorized use, and were overwhelmingly not satisfied with the compensation for the damage to their property.

1. In total, how many acres of land enrolled in current use do you own in whole or in part?

10-49 acres.....	40%	250-499 acres.....	7%
50-99 acres.....	26%	500-1000 acres.....	4%
100-249 acres.....	22%	Greater than 100 acres ...	1%

(Question 2 was regarding the municipalities current use land is owned. No tabulated response for this question.)

3. Do you own an ATV? Yes...**20%** No...**80%**

3a. If YES, how many do you own?

(1) 3 or 4 wheeled ATV	1... 51%	2... 44%	3... 2%
(2) Trail bike/Motorcross	1... 5%	2... 4%	3... 1%

3b. Choose only ONE of the following that indicates your PRIMARY reason for using ATV(s):

- (1) Recreational, pleasure riding...**37%**
- (2) Support for fishing/hunting...**8%**
- (3) Work — including forestry, farming, maple sugaring, cordwood cutting, etc.) ...**53%**

3c. Do you register your ATV with the state?

YES...**58%** NO...**41%**

4. Do you allow ATV's or trail bikes to ride on your land?

YES...**34%** NO...**63%**

5. Do you allow other motorized recreational uses, such as snowmobiles or 4WD trucks? YES...**52%** NO...**47%**

6. Have you ever been contacted for permission to ride an ATV, trail bike or 4WD truck on your land? YES...**29%** NO...**72%**

7. Is your property posted against motorized wheeled trespass?

YES...**26%** NO...**72%**

8. During the past year, have you observed any unauthorized ATV or 4WD truck use or evidence on your land?

YES...**54%** NO...**45%**

If no go to question 9. If yes, please answer the following questions:

8a. On your property, unauthorized use is primarily from:

(check one)	3 or 4 wheeled ATV... 60%
	4WD truck use ... 20%
	Trail bike/motorcross ... 20%

8b. Check the type of unauthorized use found on your property. Check all that apply.

Creation of unauthorized trails across, through or within property... 51%
Use of Class VI roads ... 19%
Use of logging roads and/or skid trails ... 24%
Use of snowmobile trails after winter conditions cease to exist ... 39%
Use of existing utility Right-of-Way ... 19%
Use of abandoned and/or working railroad beds ... 20%
Other ... 6%

8c. Check any problems you have observed resulting from unauthorized use of your property from motorized wheeled vehicles. Check all that apply.

Damage to stream and pond banks ... 24%
Damage to fields, pastures and seeded crops ... 34%
Fires ... 12%
Excessive noise ... 49%
Damage to gates and fences ... 28%
Damage to signs ... 30%
Damage to regeneration of forest stand ... 25%
Litter ... 53%
Unauthorized camping ... 16%
Erosion and/or rutting of existing roads, trails, skid trails, etc... 70%
Sedimentation and siltation of streams, ponds and wetlands ... 12%
Damage to wildlife habitat ... 22%
Harassment or evidence of harassment of wildlife ... 16%
Other ... 18%

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S.P.A.C.E. relies exclusively on the contributions of current use landowners for its financial support.

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8d. Please estimate how much money, if any, you have spent in the past year to address any problems resulting from unauthorized motorized wheeled vehicle use of your property.

\$0 ...**34%**
Between \$1 and \$499 ...**46%**
Between \$500 and \$999 ...**8%**
Between \$1000 and \$1499 ...**5%**
Between \$1500 and \$1999 ...**4%**
Between \$2000 and \$2500 ...**2%**

9. How effective do you believe existing state laws are in deterring unauthorized use of ATV's on private lands?

Choose a number on the scale below, with 1 being 'Not Effective at all' and 10 being 'Highly Effective'.

Not effective		Somewhat effective			Highly effective				
1	2	3	4	5	6	7	8	9	10
33%	18%	12%	6%	10%	9%	4%	5%	1%	1%

10. Have you sought law enforcement support or action for unauthorized ATV use of your land? *Circle all that apply.*

Municipal	YES 20%	NO 80%
County	YES 2%	NO 98%
State	YES 9%	NO 91%
Federal	YES 1%	NO 99%

10a. If YES to any of the above, were you satisfied with the response and results? *Circle ONE for each attribute.*

Timeliness:	Not Satisfied 28%	Satisfied 48%	Very Satisfied 24%
Effectiveness at preventing further unauthorized use:	Not Satisfied 52%	Satisfied 35%	Very Satisfied 13%
Compensation for damage:	Not Satisfied 77%	Satisfied 20%	Very Satisfied 4%

SPACE Updates Important Land Use Change Tax Research

Land Use Change Tax Still Pays Communities Back!

SPACE has recently updated research that examines Land Use Change Tax (LUCT) revenues in ten selected New Hampshire towns: Amherst, Boscawen, Canterbury, Durham, Gilford, Haverhill, Londonderry, Madbury, Merrimack and Rollinsford. The LUCT is the penalty assessed when current use land is subdivided or developed and no longer qualifies for current use. The penalty is 10% of the fair market value.

The methodology for this research was developed and first conducted in 1989 by Dr. Douglas E. Morris of the University of New Hampshire. Dr. Morris sought to determine if the 10% LUCT was enabling towns to recoup property taxes abated when the property was enrolled in current use. Dr. Morris' study researched parcels removed from current use from 1980-1987 in the ten towns, which were selected to be representative of New Hampshire communities. Dr. Morris's study found 249 parcels exiting current use with a total of \$1,493,173 in LUCT revenues. His analysis determined an annualized rate of return of 56%. The annualized rate of return shows the amount of revenue returned to the town over the revenue "lost" when the property was enrolled in current use. In other words, it compares the revenue received by the town from current use taxes and the LUCT versus the revenue that would have been received by the town had the property remained in *ad valorem* for the same time period. The 56% equates to \$1.56 received from the LUCT for every \$1.00 in "lost" property tax revenue.

The research was conducted a second time in 1995 by Charles Levesque of Innovative Natural Resource Solutions, and examined parcels coming out of current use from the same ten communities from 1988-1994. Mr. Levesque's research found 332 lots (equaling 2,116 acres) exited the program, with the towns receiving \$2,681,221 in LUCT revenues for an annualized rate of return of 35%. The average amount of time these lots were in current use was 11.4 years.

Because of increasing development pressures and rising property values the SPACE Board of Directors decided it was time to update the research. SPACE contracted Antioch master's degree candidate Cynthia Belowski to conduct the research, examining the same

towns for the years 1995-2000. Only seven of the original ten towns were updated in this research: Rollinsford did not have any current use parcels exit the program, and Amherst and Madbury no longer kept data necessary for this research. Of the remaining seven towns there were 719 parcels (totaling 1582 acres) removed from current use and LUCT revenue in the amount of \$3,160,505,

revealing an annualized rate of return of 9.3%. The average time these lots were in current use was 18 years.

The current research clearly indicates towns are receiving more in LUCT revenues than was "lost" while the property was in current use. Although the average annualized rate of return was lower than earlier studies, a review of the individual towns showed all but one town receiving more than they would have had the property remained in *ad valorem*, with two towns receiving over 20%. Also, the smaller sampling size (only seven towns compared to ten towns in the prior research) makes it difficult to compare the results against the prior research.



The Land Use Change Tax usually means an end to open space.

Copies of this research or Mr. Levesque's or Dr. Morris' research are available from SPACE in print for \$3.00 for contributors and \$5.00 for non-contributors. Both the current research and Mr. Levesque's research are posted on our website at no charge. For more information or to order copies of the research call the SPACE office at (603) 224-3306.

www.nhspace.org



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