

Eastern Trail Management District Board of Directors Agenda

October 11, 2006 • 8:30 – 10:30 am

Kennebunk Town Hall

Most of the items listed under “Agenda Items” will have an attached sheet that provides information including background, necessary attachments, staff recommendations and proposed motions. This should allow you to be better prepared and reduce the amount of time that I need to talk thus allowing more focus on the actual issues.

I. Welcome & Introductions

II. Presidents Report – As needed

III. Approval of Minutes

- A. Minutes for September 13, 2006 approval by consensus or as amended
- B. Minutes for May 10, 2006 approval by consensus or as amended
- C. Minutes for June 14, 2006 approval by consensus or as amended

IV. Agenda Items

A. Finances

- 1. Finance Report for September 2006 accepted by consensus
- 2. Potential impacts of TABOR on the ET

B. Grant Applications

- 1. Fund for the Efficient Delivery of Local/Regional Services FY 07 Application

C. Trail Projects

- 1. S. Portland – Scarborough Connector Project
 - a. Final Report
- 2. OOB Project
 - a. Status
 - b. ETA Easement
- 3. Scarborough Portland Farms Road Parking lot
 - a. Design & Planning Board outcomes
 - b. Request for Speed Tables of the Eastern Road
- 4. Scarborough Project
 - a. Bridge Topcoat Remediation
- 5. Kittery Dennett Road Project
- 6. Anderson Development

D. ET Trail Sign

E. GSGT

F. ETA Report – For items related to the events and activities of the ETA or its members

V. Consultant Report – As needed

VI. Next meeting November 8, 2006 8:30am – 10:30am

VII. Adjourn

2006 Meeting Schedule (Second Wednesday of the month)	
January 11	February 8
March 8	April 12
May 10	June 14
July 12	August 9
September 13	October 11
November 8	December 13

ETMD Agenda Commentary

Agenda Item: IV-A.2 Agenda Item: TABOR

• At the last meeting Workman was instructed to learn more about TABOR and to evaluate how it will impact funding of the ET. Workman attended two workshops at the Maine Municipal Convention last week that dealt with the content and predicted outcomes if TABOR is passed. Essentially the following points should be considered with regard to TABOR and the ET:

- TABOR seeks to establish spending limits for all level of government: state, municipalities, counties, schools and utility districts (quasi-municipal). It will determine the spending limit based on the smaller outcome of one of two formulas: (1) the rate of inflation adjusted by the annual change in town population (positive or negative); or (2) the percentage change in assessed value (positive or negative). School limits are calculated by the rate of inflation adjusted by the annual change in student enrollment (positive or negative).
- In order to spend above the annual TABOR limits a two-thirds vote by the community's legislative body is required. For 90% of the Maine municipalities, the legislative body is the annual town meeting. If the two-thirds vote is achieved, TABOR then mandates a follow-up community-wide ballot referendum. The same two-thirds vote and referendum process is also required to adopt a budget that increases either the town's property tax rate or any local fee by a penny or more.
- The ETMD as a non-profit is not directly subject to TABOR, but because it is dependent on state and municipal funds by default it will be impacted by TABOR.
- The Maine Municipal Association working with 15 municipalities conducted a three-month study of the impact of TABOR and concluded that long-term financial planning and budgeting by municipal government through reserve accounts and capital improvement plans would be sacrificed first under a TABOR budget process. Economic development efforts would be eliminated next followed by "non-essential" services such as town office hours of operation, library hours, recreation programs. The final impact would be reductions in essential services.
- The impact that TABOR would have if passed will likely not be readily visible to residents until year two or three of the TABOR process. Larger communities are expected to be able to preserve essential services for the first few years, while smaller towns would need to start cutting essential services sooner.
- TABOR intends to place these same restrictions on the state; however, by Maine Constitution the state does not have to adopt one single provision of TABOR. This means that the legislature could opt out of certain provisions while observing others or none at all, but all other bodies named in TABOR must live with the constraints of TABOR. If you don't think the legislature would do that you are reminded that it just did it when it adopted LD-1 which is not the same as what residents voted for. If the legislature does adopt TABOR some are predicting that the state will shift out responsibility for things under its umbrella back to the municipalities (roads, education funding, parks, etc.) so that it stays within the new TABOR limits.
- **Conclusion:** The ETMD is not subject to TABOR directly, but the state and municipalities which comprise the majority of its operational costs (construction & administration) are. Most ET Municipalities still present the ETMD as an outside agency (such as Red Cross, AIDS Response, etc.) during the budget process even though it is acting directly on their behalf. This class of appropriations historically is the first to go when budgets are tight. Based on the available data and dialogue between municipal staff, Workman believes that municipal funding of the ETMD will be eliminated within three years if TABOR is adopted. State construction funding would likely be impacted because of the state match required to trigger federal dollars. A less tangible impact to the ET is the anticipated reduction in staff at the municipal and state levels. Less staff at MDOT will drastically slow the movement of projects on an already over-burdened system. A reduction of municipal staff could impact the municipalities ability to send staff to serve on the ETMD Board, reduce any extra hours that staff can devote to ET work and reduce the ability of the ETMD and municipalities to maintain the sections of trail that are open. As essential services begin to be reduced public safety on the trail will also be reduced.

Workman is recommending that the ETMD take a position against TABOR and that Directors work independently to educate the public on the real impacts that TABOR will have. [\[See Attachment IV.A.2 – TABOR Resolution\]](#).

- **Proposed Motion:** Move that the ETMD adopt the proposed resolution against TABOR [as amended].
- For more information about TABOR go to the Maine Municipal Association site www.memun.org or ask Workman for hardcopies of the data used to predict the impacts of TABOR.

Agenda Item: IV-B.2 Agenda Item: Efficient Delivery of Local Services Grant Application

• Workman submitted a 45,000 dollar proposal for the FY 07 Efficient Delivery of Services grant application on September 18. The proposal is focused on building the sustainability of the ETMD and improved management of the trail. In the proposal Workman outlines a four point plan which he believes are vital to the long-term sustainability of the ETMD and Trail [See plan below, a PDF of the entire application will be sent under separate cover]. Award announcements are expected in October.

• **Proposal Plan**

I. Education and Advocacy

A. Rationale: Educating the public is key to the success of any initiative. Construction is a highly visible act; however, as with most services there is a significant amount of “behind the scenes” work that is required before constituents see the fruits of their investment. This is the case with the Eastern Trail; however, our limited resources have not yet allowed us to present this to the public effectively. The ETMD has to be able to make a more meaningful connection of the benefits of the trail system, regional collaboration and the expenditure of tax dollars to the lives of its residents. Effective communication requires the consistent and duplicative dissemination of information. The ETMD must develop and implement a better system to articulate the work it is doing and why.

B. Action Steps:

1. Contract with specialized service providers (to include public relations, marketing & web design consultants) as needed to accomplish tasks.
2. Develop a marketing and communication plan.
3. Create a clear, concise, and consistent message for the public about the trail, ETMD and ETA.
4. Revise or create promotional materials that reflect the marketing and communication plan and public message.
5. Develop and produce public relations kits with identical information so that the same clear, consistent message is being delivered to the public.
6. Revamp the ETMD website into one that is highly interactive, allows visitors to get detailed information about the trail and its operation and take virtual tours of the entire existing and proposed trail.
7. Gather/develop material to create the virtual tour of the trail (See Goal 6).
8. Develop and produce a color promotional poster for the trail.
9. Increase the visibility of the trail by securing a minimum of 2 Eastern Trail submissions in news media, magazines and other local publications that will increase use and support of the trail.
10. Implement other recommendations as identified in the marketing and communication plan.

II. Planning Documents

A. Rationale: The work of municipal, state and federal governments is shaped through planning documents. Until a project, service or future goal is made a part of such documents the allocation of resources will not occur. In order to be successful, the Eastern Trail and bicycle/pedestrian issues must be included in local comprehensive plans and state and federal plans including transportation, recreation, land use, health and economics. These issues must also be included in private and charitable foundation investment plans such as the United Way in order to capture resources that are not dependent on taxes.

B. Action Steps:

1. Represent the Eastern Trail and bicycle/pedestrian issues at monthly meetings of MDOT established corridor committees including Route 236, Route 1 and the Southern Maine Corridors.

2. Participate in the formation of regional, state and federal policy, work plans and expenditures whenever appropriate to the Eastern Trail.
3. Represent the Eastern Trail and bicycle/pedestrian issues at MDOT public hearings and visioning and strategic planning sessions of significance to the Eastern Trail including KEYS Region Our Future by Design, the Seacoast United Way and others as identified.
4. Develop language about the Eastern Trail for inclusion in the Comprehensive Plan for each ET municipality.

III. Service Agreements & Ordinances

A. Rationale: The unification of the Eastern Trail municipalities was the first and most critical step; however, there are several subtasks that are required if the ETMD is to operate on behalf of the municipalities the way it was intended. Service agreements are important because they authorize and direct municipalities to provide a service for the trail that each is able to do cheaper and more efficiently than contracted services providers. Using maintenance as an example, town A has a grader, but town B does not under a service agreement the ETMD could provide materials purchased with its operating budget (co-mingled, municipal funds) but hire a municipal work force to do the work across multiple town lines because it can do it at a cheaper rate or as an in-kind service to the trail. This provides an immediate reduction in the need for greater tax dollars to operate the trail. The development of an Eastern Trail Ordinance will insure that enforcement is uniform across municipal boundaries. This allows municipal emergency services to legally enforce rules and usage and respond to emergencies on the trail without requiring the creation of a Eastern Trail enforcement agency.

B. Action Steps:

1. Research ordinances, policy and management plans for other state and national trails. When possible visit the trail and interview management.
2. Attend a national trails conference to gather information about the development and operation of other trail systems in order to bring new ideas and products back to Maine.
3. Meet with police, fire, and emergency service officials along the trail to determine what considerations should be included in responder agreements and an ET Ordinance.
4. Contract for legal services to develop and review an ET Ordinance as needed.
5. Draft and revise language for the ET Ordinance.
6. Develop an implementation plan for adoption of the ordinance by municipalities.
7. Begin the tasks outlined in the ordinance implementation plan.

IV. Alternative Funding Sources

A. Rationale: Property taxes alone cannot sustain the cost of constructing the Eastern Trail; however, there are several funding streams available for construction. There is a lack of funding sources available for on-going daily maintenance and operation of the trail. This means we must fund maintenance completely through the membership fee (i.e. property taxes). The problem with maintenance is that it is not “sexy”. People expect the trail to be in good repair to insure safe operation; however, you will not get the same outpouring of funds to fill a pot hole or correct erosion problems that the initial construction of the facility received. This problem can best be addressed through the creation of reserve accounts and an endowment fund that will provide for future, long-term maintenance and operation of the trail. The ETMD has not yet been able to establish reserve accounts because there has not been enough money to meet daily operational needs let alone future needs. The creation of an endowment fund requires the dedicated and specialized skills of a fund-raising professional combined with an educational component that explains why maintenance is vital to the continued operation of the trail.

B. Action Steps:

1. Research endowment funds and their financial management tools.
2. Identify what kind of fund is needed to meet the needs of the ETMD.
3. Establish the Eastern Trail Endowment Fund.
4. Contract with a fund-raising consultant to develop and implement a fundraising plan to build the endowment fund.
5. Join the Maine Association of Non-Profits to gain access to their national, charitable foundation database.
6. Research and apply for a minimum of two grants per year to support the identified goals of the ETMD.

Agenda Item: IV-C-1 Agenda Item: SP Connector Study

- Wilbur Smith is expected to deliver revised hard copies of the SP Study (there was one reference that was wrong in the copy you received last month) and the PDF version for posting on the ETA and ETMD websites. Workman has not received any additional feedback from directors about the pending study. Please return your hard copy of the study so that the revised page can be added and the rest of the report re-used. The Board needs to accept the study so that it can be released to the public and the project can be closed out with WSA.

- **Proposed motion:** Move that the Board accept the South Portland-Scarborough Connector Study as prepared by Wilbur Smith Associates.

Agenda Item: IV-C-2-a Trail Projects - OOB Project Status

- Workman has been meeting with Andy MacDonald (MDOT) and Dave Bragg (Milone & MacBroom) to complete final review and revisions of the trail plans and specifications for Pine Point Road to Milliken Mills Road. This is a time consuming process because it involves making sure that ETMD plans and specifications align properly with MDOT Standard Specifications, federal regulations and the drawings. It is also when Workman must certify that all permits are completed or underway, right-of-ways secured and utility notified and involved in process. Together these steps create the final construction documents which become our binding contract with a construction company.

- **Plan Review:** This is also the time when utilities, landowners and local planning boards have an opportunity to do a final review of the proposed design. Old Orchard Beach will not be requiring full planning board review because the scope of the project has little impact in OOB; however, plans will be sent to public works and the planning department so that they are aware of what will be occurring. Scarborough opted to bring the project before the planning board for what they call an “advisory opinion” of the project. Workman and Bragg will present the project on Tuesday, October 10. The proposed work at Blue Point Road including drainage and layout was also reviewed by the town engineer and the public works director because of the impact to a town road.

Agenda Item: IV-C-2-b Trail Projects – ETA Easement

- **ETA Easement** – Workman has completed a draft of the proposed easement needed from the ETA for the approximate 1,077 feet of corridor that it owns. Both the ETMD and OOB must be granted easement rights under MDOT policy as both have the shared obligation to maintain the completed trail for a minimum of 20 years. The proposed easement is in the process of being reviewed by the ETA and OOB. [\[See Attachment IV.C.2.b – Proposed ETA Easement\]](#).

- **Proposed Motion:** Move that the Board authorize the president to complete negotiations and execute an easement agreement with the Eastern Trail Alliance for ETA-owned corridor property starting approximately at the OOB-Scarborough Town Line and extending south along the corridor approximately 1,077 feet into OOB.

Agenda Item: IV-C-3.a Trail Projects – Portland Farms Road Proposed Parking Lot

- Bruce Gullifer and the Town of Scarborough have been working with a local developer and the ETMD to secure a 15-space parking area near the Desfosses section of trail. [\[See Attachment IV.C.3.a – Design & Location\]](#). Workman formally requested and the town include the ETMD on any agreements for the parking lot so that it can carry out its shared obligation to manage and maintain the lot as part of the ET facilities.

- A public notice has been sent to neighboring landowners explaining the project and it will be discussed alongside the OOB Project at the Scarborough Planning Board meeting on Tuesday, October 10. The Town, Gullifer and Workman have been receiving emails and phone calls from residents about both projects. Most were seeking clarification, but some were in opposition to the Portland Farms Road lot. More information will be available after the planning board meeting.

- **Proposed Motion:** Move that the Board endorse the proposed location and design of the Portland Farms Road trail parking lot.

Agenda Item: IV-C-3.b Trail Projects – Eastern Road Speed Tables

- As a result of the public dialogue about the proposed Portland Farms Road parking lot Bill Smith, president of the Autumn Pond Homeowners Association, contacted Workman by phone and then with a follow-up letter to state that it did not have an opinion for or against the proposed P. Farms parking lot, but that it was concerned about the safety of pedestrians and bicyclists on Eastern Road. The Association believes that the addition of 2-3 speed tables on the Eastern Road between the circle and Portland Farms Road would slow traffic and increase non-motorized safety. Workman explained that this was not within the jurisdiction of the ETMD to do, but that it regularly works with the towns to propose on-road improvements that will make the route safer for trail users. Workman said that he would bring the issue to the ETMD Board and Town. Workman expects this will come up at the planning board meeting and that he might have additional information to add. [\[See Attachment IV.C.3.b – Letter\]](#).

- **Proposed Motion:** Move that the Board recommend to the Town of Scarborough that it add two or three speed tables on Eastern Road to help slow vehicular traffic.

Agenda Item: IV-C.4.a Trail Projects – Scarborough Project – Bridge Topcoat

- Workman and Hamblen brought the remediation of the bridge and rail topcoat failure to an attorney working for Saco to begin the process of notifying CPM and Duncan Galvanizing that we would be seeking legal recourse if the problem wasn't immediately resolved to ETMD satisfaction. Workman was working with the attorney to explain the problem and contractual obligations, but put further legal action on hold when CPM contact him on October 6 to say that Duncan had finally responded and committed to an immediate remediation of the problem. Duncan admitted to our subs that they had used a new product in the process and that it had failed on several other projects. Duncan is completing the remediation plan and environmental containment plan for approval by Workman and CPM. If Duncan does not follow through, Casco Bay Steel (one of our subcontractors) has agreed to send their painting crew to make the repair and to charge Duncan for the work. Workman expects to receive the plan by the ETMD meeting and Duncan plans to start the work on October 16 pending weather conditions.

- The trail is now open to vehicular access under the terms of the IFW Easement that requires said access during hunting season which began October 2. The trail will again be closed to traffic at the conclusion of hunting season toward the end of December.

Agenda Item: IV-C-5 Trail Projects – Kittery Dennett Road Project

- Workman and MDOT completed revisions to the MDOT Project Agreement and a final version was sent for execution on October 10.

- Once the agreement is in place Workman will be meeting with town officials to determine when work can be done and to develop a project agreement between the town and ETMD so that it can be built by the town crew. Based on the remaining time before the paving plants close because of temperatures some or at least final work will probably not occur until early spring 2007.

Agenda Item: IV-C-6 Trail Projects – Anderson Development

- Nothing new to report from the project. Scarborough Planner reports that the original trail alignment is still on the table and is the preferred alignment of the town. The planner did state that trying to make the developer responsible for constructing the trail on property not under his control was a stretch and combined with objecting neighbors probably not feasible.

Agenda Item: IV-D Proposed ET Route Sign

▪ At the last meeting it was decided to take additional time for review and comments of the sign and to send feedback to Workman and Hamblen. For the record, you will notice if you re-read the September agenda there was no proposed motion to adopt the sign or any other course of action except to provide feedback on the proposed design. The purpose, as originally stated, for proposing a new sign is four-fold: The East Coast Greenway logo is outdated, the ETMD as the managing body does not appear on the sign and the current sign is un-necessarily large for an off-road trail marker and we have depleted our store of spare signs. We are replacing on-road signs at a relatively slow pace; however, many new route markers are needed for our new off road sections of trail. It does not make sense to spend money on an outdated sign that does not meet our needs. The only new feedback, outside of what was said at the September meeting, was sent through Andrews as follows:

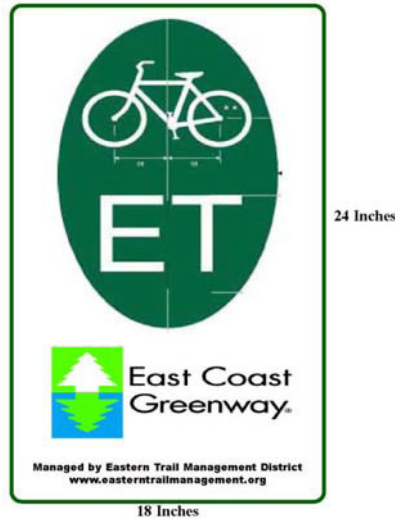
- It’s pretty busy with all the logos.
- What’s the blob next to the ETMD?
- The sign looks ok though I question whether the “management district” needs a logo and space on the sign...the more logos, the more distracting. Will MDOT want their logo too?
- I don’t think the ETMD can afford to dedicate significant staff resources to the design of highway signs.
- In the short term I recommend ETMD order more of the current highway signs for those that are reported missing.

• In response, the board could consider the following:

Original Proposed 9-11-06



Minimalist Sign Proposed 10-10-06



• Workman also recently found another product which might serve as a better system for signing the off-road trail. Called the Rhino Marking and Protection System it allows for condensed, color coded, 3-sided markers that will accept a provided graphic. [\[See Attachment IV.D – Rhino Markers Specifications\]](#).

Agenda Item: IV-E GSGT Agreements

• Nothing new to report as of the release of this agenda, but was directed to put it on the agenda for an update.

Resolution of the Eastern Trail Management District

Attachment IV.A.2

Whereas, the proposed initiative known as the “Taxpayer’s Bill of Rights” (TABOR) will be put to a vote in the general election on November 7, 2006 as Question 1 on the ballot, and

Whereas, TABOR establishes budget restriction formulas that attempt to dictate the amount of money local voters can raise and spend to provide municipal and school services, directly interfering with local control over crucial budget decisions, and

Whereas, TABOR relies on questionable population and economic data in establishing these annual spending limits, applying one formula to all of Maine’s 489 unique municipalities, and

Whereas, the TABOR budget restriction formula is particularly irrational and unfair with respect to Maine’s towns and cities that serve as service centers, which tend to be experiencing flat demographic changes but ever-increasing demands for region-wide governmental services, and

Whereas, TABOR would abolish Maine’s long tradition of majority rule by requiring a supermajority 2/3 vote of approval by every town meeting or town or city council in order to: (1) override the TABOR spending restriction, or (2) increase the property tax rate or any user fee by so much as a penny, or (3) authorize significant capital investments, and

Whereas, TABOR does not allow communities to adopt an ordinance or local charter that would suspend, repeal or amend any of the budget formulas or governance procedures that are dictated by TABOR, and

Whereas, current law allows any municipality to adopt the TABOR system if the voters of that community choose to do so, without TABOR being imposed from above, and

Whereas, TABOR threatens to restrict the ability of state government to fulfill its obligations to local government; and

Whereas, TABOR threatens the quality of life across the state of Maine through less investment in transportation and other infrastructure, public safety and public health, and

Whereas, Colorado, the only state that has ever adopted a TABOR system, suspended the core element of TABOR in 2005 because of deteriorating infrastructure, public services and schools, and

Whereas, TABOR threatens to eliminate both in-kind and financial municipal support of the Eastern Trail because of the spending cap that it imposes on municipal expenditures., and

Whereas, TABOR threatens to eliminate state matching funds that support the construction of the Eastern Trail because of the spending cap that it could impose on state expenditures., and

Now, therefore, the Board of Directors of the Eastern Trail Management District hereby resolves:

- a) To oppose TABOR because it is not in the best interests of the Eastern Trail;
- b) To work to defeat the measure by informing local voters of the potential negative impacts of TABOR on the Eastern Trail, and local control over taxes and spending, and
- c) To authorize the directors and executive director to participate in activities that are deemed necessary and appropriate in the furtherance of this resolution.

The undersigned, Robert Hamblen, President of The Eastern Trail Management District (the “Corporation”), hereby certifies that this resolution was duly adopted by the Board of Directors of the Corporation, by a majority vote at a meeting of the Board held on October 11, 2006. The undersigned further certifies that he is the duly elected President of the Corporation and continues to serve as such as of the date hereof.

Robert Hamblen, President

Dated

Trail Easement

Attachment IV.C.2.b

The Eastern Trail Alliance (“ETA”) a Maine not-for-profit corporation with an address of P.O. Box 250, Saco, Maine 04072 in consideration of one dollar and other valuable consideration, hereby grants without covenants of any kind to the **EASTERN TRAIL MANAGEMENT DISTRICT** (ETMD) a Maine not-for-profit corporation with an address at P.O. Box 840, Kittery, Maine 03904, the **TOWN OF OLD ORCHARD BEACH** (Town) a body municipal corporate and politic with Town Offices at 1 Portland Avenue, Old Orchard Beach, Maine 04064 (ETMD and Town hereinafter collectively (“Holder”)) a trail easement for the purposes described below, at the following described premises (“Premises”) under the following conditions:

Section One - Premises

The Premises is a parcel of land situated in the municipality of Old Orchard Beach, York County, Maine, as more particularly described as follows:

Being a certain strip of land 66 feet wide and 1077 feet, more or less, in length, and being more particularly located and described as follows:

Beginning at a stake set in the center of said strip, said stake being 2156 feet, more or less, distant from the northeasterly sideline of the Milliken’s Mill Road, so-called, as measured northeasterly along the center line of said 66 foot strip, said stake also being at the point of intersection of a line parallel to and 85 feet distant southeasterly measured at right angles from the center line of Central Maine Power Company’s 34.5 kV transmission line designated as Section #193 extending from Pole #153 North 21°57’ East and said center line of above-said 66 foot strip; thence, extending northeasterly along the old railroad right-of-way 1077 feet, more or less, to the Scarborough-Old Orchard Beach Town Line

Said Strip contains approximately 1.63 acres and formerly being a portion of the Boston and Maine Railroad 66 foot right-of-way.

The above-described strip being the premises conveyed to New England Telephone and Telegraph Company by Central Maine Power Company on October 17, 1975 and recorded in York County Registry of Deeds in Book 2105, Page 458. Then conveyed to Eastern Trail Alliance by Verizon New England, Inc. (formerly New England Telephone and Telegraph Company) on March 19, 2001 and recorded in York County Registry of Deeds in Book 10508, Page 237.

Section Two – Term

The term of this Easement is to be perpetual unless abandoned by Holder.

Section Three - Specific Use

Holder may only use the Premises to access, construct, operate and maintain a 12-foot wide paved or unpaved public recreational Trail (“Trail”) with appurtenances. The Trail shall be designed and designated so that it will not be used by motorized vehicles such as snowmobiles, ATV’s, dirt bikes and other off-road vehicles. This use restriction is not intended to preclude use by motorized wheelchairs and by authorized motorized vehicles engaged in emergency response, enforcement, construction, maintenance or repair of the Trail. The Premises shall not be used for camping or for any other use without prior written approval from ETA. Holder may install improvements such as culverts, bridges, safety barriers and signs. ETA reserves the right to grant rights to third parties for use of all or part of the Premises; however, ETA and its assignees shall work with Holder to minimize the impact on the Trail, and shall undertake reasonable care not to disturb or damage the Trail or its components.

Section Four - Operation and Maintenance

Holder shall perform or arrange for the performance of routine and major maintenance and repair of all improvements related to the construction and use of the Trail located on the Premises, so that they remain orderly and safe. Holder shall also take reasonable steps to keep the Premises free of litter. Holder shall also maintain the Trail in a safe condition, including grading, bridge and culvert construction, maintenance of vegetation affecting the Trail and maintenance of all Trail related signs.

Holder is hereby given the right and obligation to post and enforce all applicable governmental laws, orders, ordinances and regulations that govern the use of the Trail and Premises including, but not limited to, the terms of this Easement and ETMD policies and procedures to prevent harm or damage to the Trail, Premises and users.

Section Five - Requirements of Law

Holder and ETA shall comply with all governmental laws, orders, ordinances and regulations and with any lawful order of any public officer or official.

Section Six – Insurance

Holder covenants and agrees, at its sole cost and expense, to obtain, keep, and maintain in full force and effect for the term of this Easement and any extension thereof for the mutual benefit of ETA and Holder, a comprehensive general liability insurance policy against claims for damage to persons and property arising out of the use and occupancy of the Premises or any part or parts thereof, with a combined single limit of One Million Dollars (\$1,000,000.00) with no more than a Ten Thousand Dollar (\$10,000.00) deductible.

Each party hereto claims statutory and/or sovereign immunity from liability under 14 M.R.S.A. §159-A, et seq.; and/or 14 M.R.S.A. §8101, et seq. as said statutes may be amended, and any successor provisions thereof; and under any other applicable provision of law, and no party hereto waives any rights to any limitation of liability provided to owners and operators of land available to the public for recreational use without charge. This paragraph shall not be deemed a waiver of the obligations of Holder to the ETA under this Easement, which shall continue, notwithstanding the provisions of this paragraph, and shall survive until termination of the Easement.

Section Seven – Release / Indemnification

Holder is fully familiar with the physical condition of the Premises. ETA has made no representations of whatever nature in connection with the title to or condition of the Premises and Holder accepts the Premises “as is”. Without limiting the foregoing, ETA does not warrant or represent that it has sufficient interest in all or any part of the Premises for Holder to exercise the rights described herein. ETA shall not be liable for any latent or patent defects therein.

Neither ETA, or its directors, officers, or employees shall be liable for, and Holder hereby releases them from, all claims of any kind or nature, including but not limited to claims for loss of life, personal injury or damage to property sustained by Holder or any person claiming through Holder resulting from any accident, occurrence or condition in or upon the Premises or related to this Easement, except for damage caused solely by negligent acts of ETA.

Each party shall be liable for their own attorneys’ fees in litigating any matter arising between the parties concerning the enforcement or interpretation of this Easement.

The provision of this Section shall survive termination of this Easement.

Section Eight - Notices

Any notice under this Easement shall be in writing and shall be deemed to be delivered when mailed by registered or certified mail, postage prepaid, addressed to the address of such party set forth below.

ETA

Eastern Trail Alliance
PO Box 250
Saco, Maine 04072

HOLDER

A. If to ETMD

Eastern Trail Management District
PO Box 840
Kittery, Maine 03904

B. If to Town of OOB

Old Orchard Beach
1 Portland Avenue
Old Orchard Beach, Maine 04064

Either party may change its above address by giving notice of the change to the other party of such change of address to become effective for all purposes hereunder three (3) days after such notice is given.

Section Nine - Assignment

Holder shall not assign this Easement or its rights hereunder nor sublet the Premises or any part thereof without the prior written consent of ETA.

Section Ten - Authorization

Holder hereby warrants and represents that the execution of this Easement and the carrying out of all acts required of Holder by the terms of this Easement have been properly and effectively approved and authorized by Holder in accordance with the Maine State Constitution, the Maine Revised Statutes, and the Articles of Incorporation and Bylaws of Holder.

Section Eleven - Miscellaneous Provisions

If any covenant, provision or condition of this Easement or the application thereof to any person or circumstances shall be declared to any extent to be invalid or unenforceable, the remainder of this Easement or application thereof shall remain in full force and effect.

This Easement shall inure to and be binding upon the respective successors and permitted assigns of the parties.

No waivers, alterations or modifications of this Easement shall be valid unless in writing and duly executed by both parties.

This Easement shall be governed by and constructed in accordance with the laws of the State of Maine.

The captions appearing in this Easement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of the paragraphs of this Easement or in any way affect this Easement.

The covenants, provisions and conditions contained in this Easement constitute the entire agreement between the parties with respect to the subject matter of this Easement.

IN WITNESS WHEREOF, the parties hereof have executed this instrument acting through their duly authorized representatives as this _____ day of _____, 2006.

Seen and agreed to:

EASTERN TRAIL ALLIANCE

By: _____

Name: John Andrews

Title: President

Date: _____

State of Maine

County of York ss.

_____, 2006

The above named John Andrews, President, Eastern Trail Alliance, personally appeared before me and acknowledged the foregoing Easement to be his free act and deed in his said capacity and the free act and deed of said Eastern Trail Alliance.

Before me,

Notary Public/Attorney at Law

Printed Name: _____

My commission expires: _____

Title: _____

Seen and agreed to:

EASTERN TRAIL MANAGEMENT DISTRICT

By: _____

Name: Robert Hamblen

Title: President

Date: _____

State of Maine

County of York, ss.

_____, 2006

The above named Robert Hamblen, President, Eastern Trail Management District, personally appeared before me and acknowledged the foregoing Easement to be his free act and deed in his said capacity and the free act and deed of said Eastern Trail Management District.

Before me,

Notary Public/Attorney at Law

Printed Name: Steve Workman

My commission expires: October 11, 2008

Title: Notary

Seen and agreed to:

TOWN OF OLD ORCHARD BEACH, MAINE

By: _____

Name: James Thomas

Title: Town Manager

Date: _____

State of Maine

County of York, ss.

_____, 2006

The above named James Thomas, Manager, Town of Old Orchard Beach, Maine, personally appeared before me and acknowledged the foregoing Easement to be his free act and deed in his said capacity and the free act and deed of said Old Orchard Beach, Maine.

Before me,

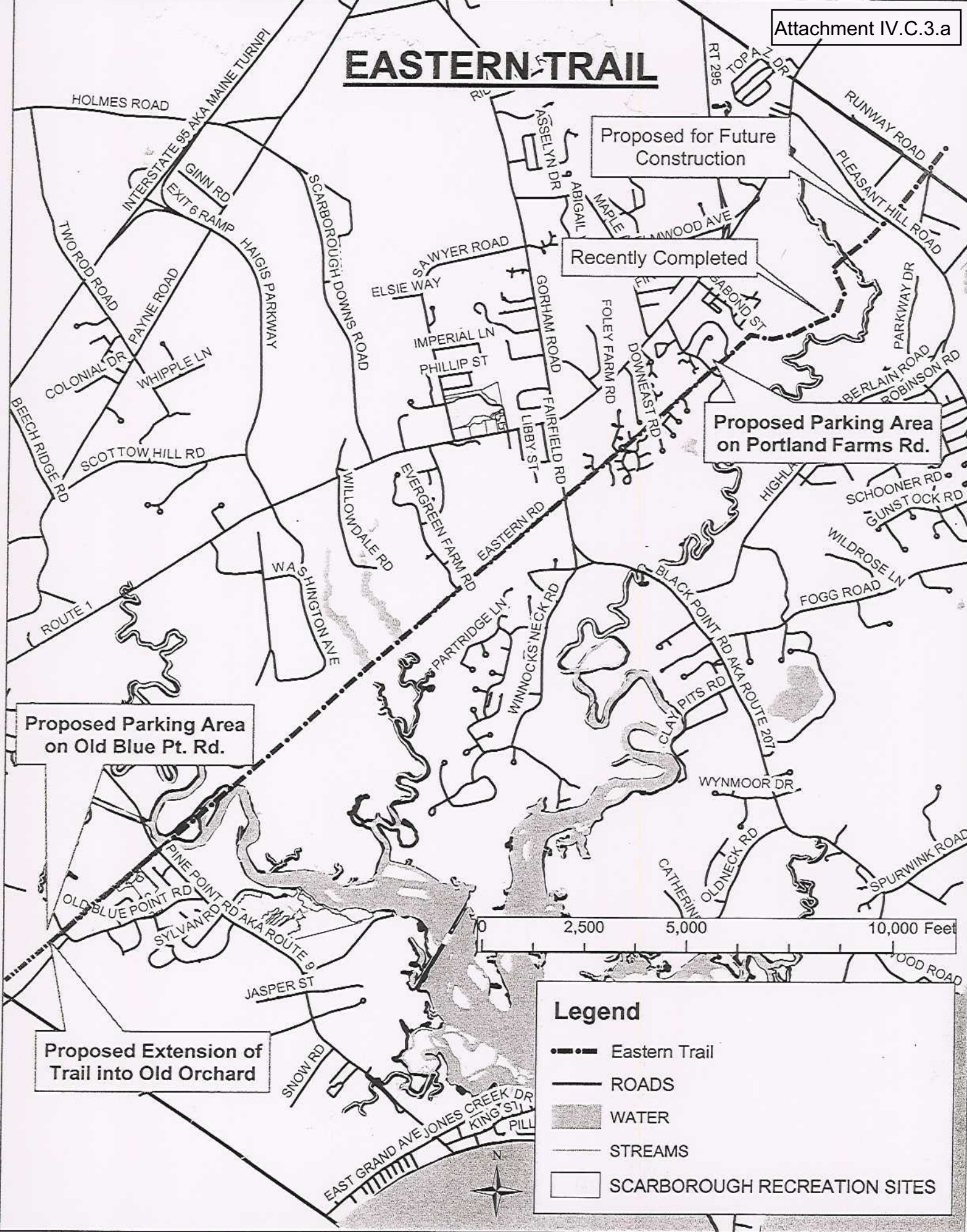
Notary Public/Attorney at Law

Printed Name: _____

My commission expires: _____

Title: _____

EASTERN TRAIL



Proposed for Future Construction

Recently Completed

Proposed Parking Area on Portland Farms Rd.

Proposed Parking Area on Old Blue Pt. Rd.

Proposed Extension of Trail into Old Orchard

Legend

- Eastern Trail
- ROADS
- WATER
- STREAMS
- SCARBOROUGH RECREATION SITES

- 11) Property is sub...
via granted by...
of Scarborough by...
Book 3056, Page 2
- 12) Property is sub...
Cohen to Central &...
Telephone and Tele...
recorded in Book 2
- 13) Property is sub...
Hall to New Englan...
dated February 2,

AREA
362,394 square fe

OWNERS OF RECORD
Clearview Limited I...
Book 10331, F

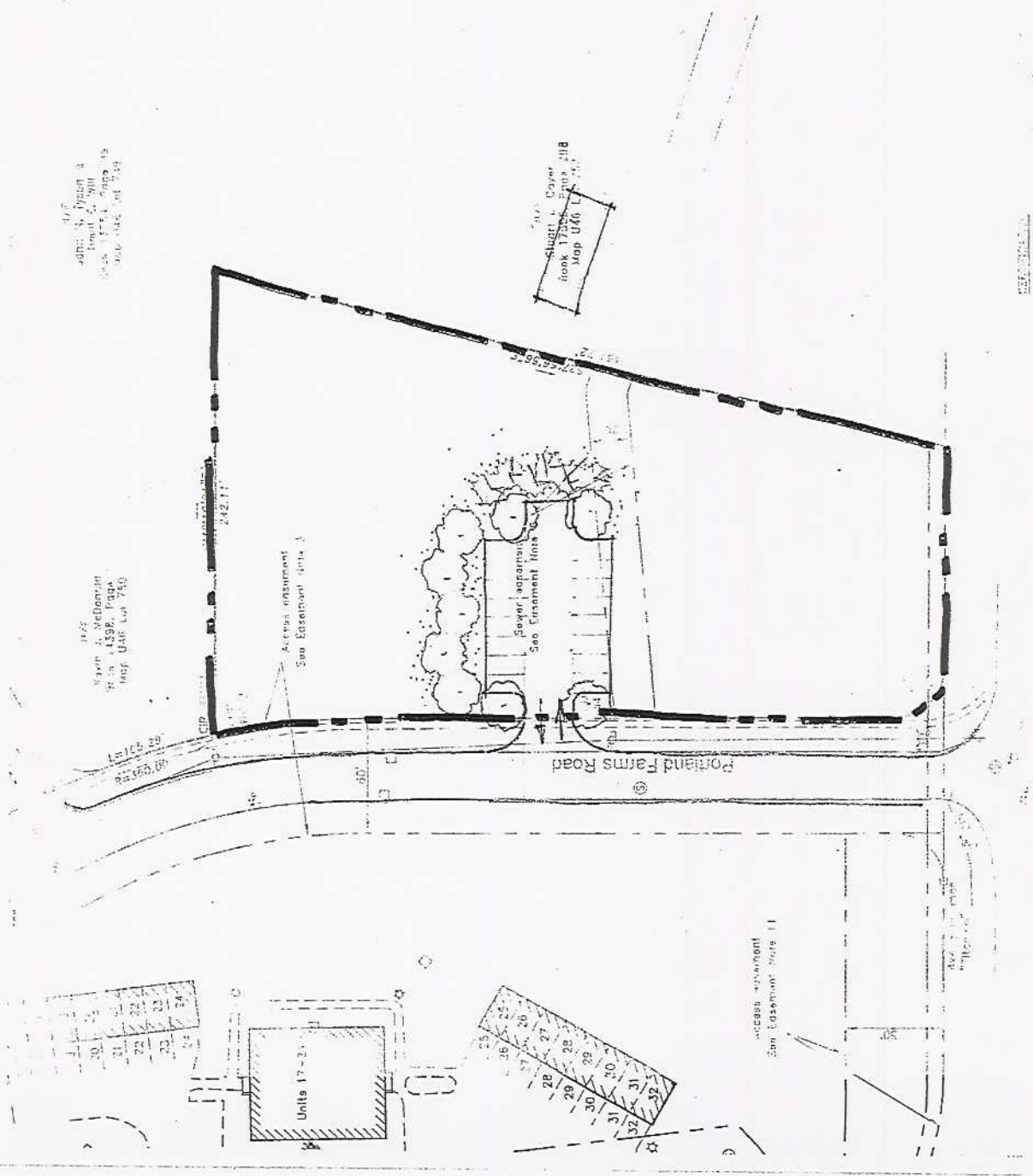


C

Portland Farms Road

Fish

Proposed ET Trail Parking Lot off Portland Farms Road



1477
John S. Pysan &
David C. Hill
Book 17348, Page 15
Map U66 of 718

1478
John S. Pysan &
David C. Hill
Book 17348, Page 15
Map U66 of 718

Sheet 1, Cover
Book 17348, Page 218
Map U66

**AUTUMN POND HOMEOWNERS ASSOCIATION
PO Box 81
Scarborough, Me 04070-0081**

To Eastern Trail Management District,

Hi Steve,

As we discussed last week, Autumn Pond Homeowners Association has no positive or negative opinion concerning the proposed parking lot at the corner of Eastern Rd and Portland Farms Rd.

However, we would like to express to you our strong feelings about the safety of walking on Eastern Rd, especially between the circle near the condominiums and Portland Farms Road. Although Scarborough Police do an adequate job patrolling the area, speeding on this section of Eastern Rd is being extremely dangerous. With more foot traffic as a result of the Eastern Trail expansion and the proposed parking lot, we would like to suggest the following.

Please ADD 2-3 Speed tables on Eastern Rd from the circle to Portland Farms Rd. This would help slow traffic, possibly lessen traffic and make this dangerous section of Eastern Rd, safer, more walkable and more enjoyable for all parties involved.

If you can have any influence on this matter, it would be greatly appreciated. Let's try and prevent an accident from ever occurring.

Sincerely,

Autumn Pond Homeowners Association
Board of Directors.
Bill Smith; President

Rhino TriView™

The highly visible Rhino TriView's™ triangular design ensures that your warning message can be seen from any direction. The Rhino TriView™ is so durable and flexible that it can withstand repeated vehicle impacts and still snap back up to its original upright position.

Temperature and Ultraviolet Light Stable

The Rhino TriView™ was originally designed as an outdoor marker for buried cables and pipelines. This versatile post has ultraviolet light stabilizers that will keep the bright color of the post from fading in the sun. The Rhino TriView™ is also temperature stable from -30 degrees Fahrenheit to +150 degrees.

Independent Laboratory Test Summary

“We have completed 2000 hours of exposure on samples sent by your company. The exposure test followed ASTM G53. The appearance of the TriView samples is unchanged from unexposed material. All of the exposed specimens remained flexible and showed no signs of cracking.”

TriView™ Road Closure Chain Marker



Make sure drivers, snowmobilers, etc., see your road closure chain. The TriView™ Road Closure Marker also lets everyone know that no trespassing is allowed.

3" Reflective band makes the TriView visible at night.



TriViews can be buried to create a flexible marker post that will bend over & snap up if hit by a vehicle.

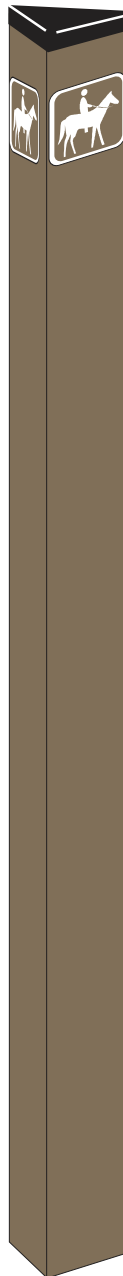
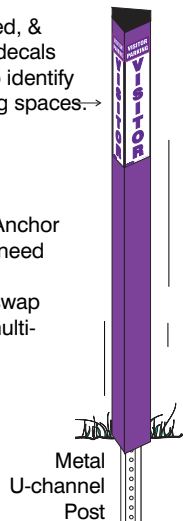
Hundreds of stock decals are available as well as any custom decal you need.

TriView Anchor System prevents pull out.



Visitor, Reserved, & Handicapped decals can be used to identify specific parking spaces→

TriView™ Soil Anchor eliminates the need to dig a hole & allows you to swap out posts on multi-use trails.



360°
Visibility



Temperature
Stable



8 colors

Over 200 standard decals



Custom decals in any size, shape, or color

The Rhino TriView™ Survives Repeated Impacts

Flexible & Durable

The unique triangular shape and material of the Rhino TriView™ allows it to bend and rebound when struck by a vehicle, even at speeds up to 55 M.P.H.! The Rhino TriView™ will withstand repeated hits and still effectively mark your pipeline or cable.



Flexible Multi-Use Marking System

The TriView 400™ combined with the 3-Rail™ create an easy to use, flexible, marking system that can be changed in seconds.

Summer Use



Quick Conversion



Winter



Rhino TriView™ Installation Options

