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Still off limits to sleds

Despite court rulings, Old Mountain Road remains off limits to snowmobilers

By CHRIS KNIGHT, Enterprise Senior Staff Writer

LAKE PLACID - After seven years of fighting the state over motorized access to Old Mountain Road, and winning just about every case, Lake Placid snowmobiler Jim McCulley still can't ride his snowmobile on the road, at least according to the towns of Keene and North Elba.

But McCulley, who settled his federal lawsuit against the state Department of Environmental Conservation last week, says he didn't take on the state just to prove he or anyone else can snowmobile on the road, which runs through the Sentinel Range Wilderness and is part of the Jackrabbit Cross-Country Ski Trail.

"I think a lot of people have missed the point with my entire case," McCulley said. "Many people said it was about snowmobiling. It was more about the principle of the state just taking something they do not own."

In May of last year, DEC Commissioner Pete Grannis dismissed a fine McCulley had been issued for driving his pickup truck on the road, which the state had argued was part of the Sentinel Range Wilderness and off limits to motorized vehicles. Grannis found the road is a town road and was never properly conveyed to the Forest Preserve.

The decision essentially left it up to the towns of Keene and North Elba to decide if the road should be opened to snowmobiles or ATVs. But at the moment, neither town is interested in allowing motorized access to the road.

The town of Keene, where most of the road is located, approved a local law in December designating its section of the Old Mountain Road as a "public recreational trail."

"It shall be unlawful for any person to operate a motorized vehicle of any kind, including but not limited to all-terrain vehicles and snowmobiles, on the Old Mountain Road," the law reads.

The only exception is for town of Keene residents and property owners, who can ride ATVs on a .9-mile stretch of the road beginning at the end of Alstead Hill Lane during hunting season, and only with a permit from the town. Violation of the law is punishable by a fine of \$100 per incident.

Tony Goodwin, executive director of the Adirondack Ski Touring Council, which maintains the Jackrabbit ski trail, said the town's action has protected the road's status as a public recreational trail.

"I think the road is protected and we're unlikely to see any motorized use on it," he said. "The recognition of the Keene town board, some of whom are snowmobilers themselves, was that this was not a place that was appropriate for snowmobiles. It's too short and used by too many non-motorized users, and there are other places to snowmobile."

The town of North Elba hasn't formally taken up the issue of allowing motorized access to its end of the road since Grannis' ruling. But Supervisor Roby Politi says he believes the town's section of the road is closed to snowmobiles or ATVs, even though the road isn't posted as such.

"We don't intend to have any motorized vehicular use of the road," he said. "Nobody's asked, but I don't think it's our intention to open it up to vehicular access. My guess is it will continue to be a recreational pathway."

Ken Jubin, who owns property at the North Elba end of the road, said he's glad the towns now have the right to decide how to use the road. But he doesn't believe, in its current state, that the road would be safe for use by snowmobiles and ATVs while also being used by hikers, skiers and snowshoers.

"It's a recreational thoroughfare right now," Jubin said. "To change that just wouldn't make too much sense. It's just not practical to be a thoroughfare for snowmobiles."

But that hasn't stopped some snowmobilers from trying to use the Old Mountain Road. For several days in late February and early March, a snowmobile could be seen stuck in heavy, wet snow on the side of the trail, less than a mile from the North Elba end of the road. Goodwin said the sled is no longer there; its owner, whom the Enterprise could not determine, apparently was able to get it unstuck at some point in the past week.

McCulley admits he'd like to have the road open for snowmobiling, but he supports the towns having the final say in how they want the road to be used.

"It's their decision," he said. "It's been my stance all along that the people who own it should decide what happens to it. At least they have the choice."

If the current town boards don't want motorized access on the road, McCulley said a decision to change that "is just one election away."

He also questioned a provision in the Keene local law that only allows town residents to use ATVs on the road.

"I don't think that's legal," he said. "From a legal point of view, you can't choose who uses a public road. I have no desire to challenge that, but I think it's ridiculously silly."

After Grannis' decision, a DEC Region 6 attorney, Adirondack Council Executive Director Brian Houseal and state Adirondack Park Agency Chairman Curt Stiles urged the commissioner to revisit and clarify his ruling. Houseal and Stiles cited concerns about the precedent the Old

Mountain Road case could set for other Forest Preserve roads and asked Grannis to use state Highway Law 212 to permanently close the road.

Asked this week if Grannis had decided to revisit the ruling or invoke the Highway Law, DEC spokesman Yancey Roy said in an e-mail that "there is still nothing to report at this moment." Roy also noted that by agreeing to settle McCulley's federal lawsuit and repay him for \$58,000 in legal fees he incurred, DEC "makes no concessions about liability or the validity of his claims."

McCulley called the DEC Region 6 attorney's request to have Grannis revisit the ruling "a joke" and argued that Grannis can't legally close the road using state Highway Law 212.

"They know that's illegal, and they know they can't do that," he said. "They've never done it in the Adirondacks."

With the federal case now settled, this is the first time in seven years McCulley hasn't been involved in any active legal dispute surrounding the Old Mountain Road.

"It's a lot of relief," he said. "Nobody likes to fight all the time. I'm very disheartened by the fact that I had to go through all this. But I'm heartened by the fact that I was proven right and by the fact that it looks like finally the Adirondack people are standing up for their rights."