

From: **Kris pastoriza** <krispastoriza@gmail.com>
Date: Tue, Dec 19, 2017 at 10:19 AM
Subject: Hodgdon
To: "Monroe, Pamela" <Pamela.Monroe@sec.nh.gov>

Please submit as a comment

From: mark.doperalski@eversource.com
Sent: Friday, February 3, 2017 10:44 AM
To: Boisvert, Richard A (Richard.Boisvert@dcr.nh.gov)
Subject: Fw: historic documentation of easement widths in Easton and Franconia

FYI

Mark Doperalski, M.A., RPA
Cultural Resources Specialist

EVERSOURCE

13 Legends Drive
Hooksett, NH 03106
603.479.1088 (cell)
603.634.2147 (office)
mark.doperalski@eversource.com

----- Forwarded by Mark Doperalski/NUS on 02/03/2017 10:43 AM -----

From: Marvin P. Bellis/NUS
To: Jerry P. Fortier/NUS@NU, "Johnson, Samuel" <sjohnson@burnsmcd.com>, "Rochon, Ovid" <orochon@burnsmcd.com>, Mark Doperalski/NUS@NU, Brian J. Bosse/NUS@NU, jtinus@burnsmcd.com,
Date: 02/03/2017 10:19 AM
Subject: Fw: historic documentation of easement widths in Easton and Franconia

FYI - Better perspective on the road width issue.

Marvin Paul Bellis
Senior Counsel
Legal Department
Eversource Energy
107 Selden Street
Berlin, Connecticut 06037
Direct Line: 860.665.5685
Facsimile: 860.665.5504
Email: marvin.bellis@eversource.com

THIS ELECTRONIC MAIL TRANSMISSION AND ANY ATTACHMENTS MAY CONSTITUTE PRIVILEGED AND CONFIDENTIAL INFORMATION, IS INTENDED ONLY FOR THE REVIEW OF THE PARTY TO WHOM IT IS INTENDED TO BE ADDRESSED, AND MAY BE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY RETURN IT TO THE SENDER. TRANSMISSION OF THIS INFORMATION TO AN UNINTENDED RECIPIENT SHALL NOT CONSTITUTE A WAIVER OF THE ATTORNEY/CLIENT PRIVILEGE.

----- Forwarded by Marvin P. Bellis/NUS on 02/03/2017 10:16 AM -----

From: Mark Hodgdon <mark@hodgdonlegal.com>
To: Marvin P. Bellis/NUS@NU,
Date: 02/03/2017 09:55 AM
Subject: RE: historic documentation of easement widths in Easton and Franconia

"EXTERNAL EMAIL SENDER: Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password."

Where to start? Jon Perron actually plotted the entire four rod layout and identified and "closed" the missing sections along Rt.

116. In other words, the areas where the 1800s 4 rod layout applies, are identifiable. I strongly suspect that extensive portions of the road she identifies are known 4 rod layout sections.

Given that, the mere presence of walls, fences and even buildings is not relevant in the areas of known layout. They at best provide “some” evidence of width in areas where prescriptive layouts apply. But, they are NOT definitive, only *some* evidence which needs to be considered with vast amounts of other pieces of information. Keep in mind, NHDOT policy considers 10-15 feet beyond the shoulder to be a minimum width on prescriptive roads for snow removal, drainage and brush cutting needs. (I have a copy of that memo).

Since the early 1800s NH law has recognized the difference between encroachments and encumbrances. The highways of our state are riddled with encroachments, which by definition is anything that intrudes into the “width” of the right of way but does not impact the highway use itself. Encumbrances, on the other hand, impact both the width of the right of way and impede the use or maintenance of the highway in some fashion. Consequently, the mere fact that walls, fences, over hangs or even building s encroach within the right of way is meaningless. It happens all the time. Indeed, the earliest case I am aware of was an encroachment of an underground cellar into the right of way. I will try to locate that case and send it to you.

Keep in mind, in most instances the actual width is irrelevant since we are within the confines of the disturbed areas anyways. Even on prescriptive portions, the disturbed areas are indisputably within the public easement.