



MEMORANDUM

TO: Senator Peg Flory, Senate Institutions Committee Chair
Representative Alice Emmons, House Corrections and Institutions Committee Chair

THRU: Michael Snyder, FPR Commissioner 

FROM: Mike Fraysier, ANR Lands Director 

DATE: April 10, 2017

SUBJ: **Addition to Proposed Joint Resolution Pertaining to State Lands (JRS 25)
Smugglers' Notch Land Exchange**

Accompanying this memorandum is an addition to the Department's proposed 2017 Joint Resolution (JRS 25) authorizing the Commissioner of Forests, Parks and Recreation to enter into a land exchange with Smugglers' Notch Ski Area. This exchange proposal is summarized below:

Summary of Smugglers' Notch Exchange Proposal

Smugglers' Notch Management Co. Ltd leases approximately 2000 acres of Mt. Mansfield State Forest as part of the ski resort area. The current ski lease was executed in 1987 and can be renewed in 10 year increments until 2058. The current lease has been amended several times to adjust the leasehold boundary, most recently in 2005.

Under the terms of the Smugglers' Notch ski lease, the Madonna/Sterling base lodge (and all other buildings and structures within the lease boundary) are technically deemed property of the State. The Madonna/Sterling base lodge is 45 years old and in need of improvements. The current ownership arrangement of the base lodge makes financing difficult and is an impediment to investing in the building. The ski area has been reluctant to undertake such improvements because they would not accrue to the company as an asset. Because of this, Smugglers' Notch is proposing to take ownership of the Madonna/Sterling base lodge and approximately two acres of surrounding land currently within the ski area leasehold area. In exchange for taking this area out of the leasehold and transferring it to Smugglers' Notch, the ski area has offered to relinquish their leasehold interest in approximately 330 acres of state land near the summit of Whiteface Mt. Additionally, the resort would convey a right-of-way to the State across a separate parcel of land they own providing needed management access to Mt. Mansfield State Forest. (The proposed exchange parcels and right-of way are depicted on the attached map).

As a part of this proposal, Smugglers' Notch will continue to make payments to the State in lieu of base lodge ski lease rent using the same revenue formula as currently outlined within the ski lease over the 40 years remaining in the ski lease. These payments currently contribute more than \$20,000/year to

Smugglers' Notch ski lease payment. Upon obtaining ownership of the base lodge property, Smugglers' Notch would become responsible for paying property taxes on the lodge and 2-acre parcel, relieving the State of approximately \$12,000/year in Payment in Lieu of Tax (PILOT) payments to the town of Cambridge. Smugglers' Notch has also agreed to work with the Department to modernize and update the ski lease as per some of the recommendations from the State Auditor's 2015 report on ski area leases including:

- Include a new provision that authorizes the Department to add additional lease terms to reflect new laws and regulations in the event of a sale of the leasehold, including a sale of all or substantially all of the lessee's assets.
- Include a new provision that clarifies the various types of revenue generated within the ski leasehold area that must be incorporated into the ski lease fee payment. Note: This would not change the underlying lease fee formula, but would simply clarify that any revenue generated within state leasehold must be included in the lease payment.
- Update the indemnification and liability insurance language to be consistent with current State requirements.
- Clarify the public's right to access the property and the ski area's right to restrict access for safety reasons.

This exchange would be conditioned on the value of the lands and interests to be conveyed to the State being of least equal if not greater appraised value than the lands and interests to be conveyed to Smugglers' Notch ski area and receiving support from the Town of Cambridge.

Please let me know if you have any questions regarding this proposal. As always, we look forward to meeting with your respective committees to discuss this proposal at your convenience.

enc.

cc: Julie Moore, ANR Secretary
Michael Chernick, Legislative Council
Rebecca Wasserman, Legislative Council
Heather Calderwood, Legislative Council
Rebecca Baruzzi, Legislative Council
Meghan Purvee
Steve Sinclair
Kate Willard

Proposed Joint Resolution for Year 2017 Legislative Session (Smugglers' Notch Land Swap):

Whereas 10 V.S.A. §2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands, with the approval of the General Assembly, and

Whereas the General Assembly considers the following actions to be in the best interest of the state, now therefore be it

Resolved by the Senate and House of Representatives:

Resolved:

- (a) That the Commissioner of Forests, Parks and Recreation is authorized to enter into a land exchange with Smugglers' Notch Management Co. Ltd. at Smugglers' Notch ski area whereby the State would convey the Madonna/Sterling base lodge and approximately 2 acres of surrounding land within the ski lease area to Smugglers' Notch Management Co. in exchange for Smugglers' Notch relinquishing their leasehold interest in approximately 330± acres of land within the lease area below the summit of Whiteface Mt. and Smugglers' Notch Management Co. conveying a right-of-way to the Department, the route to be mutually agreed upon, through a separate parcel it owns on the West side of Rt. 108, providing access to Mt. Mansfield State Forest for management purposes. This exchange is contingent on support from the Town of Cambridge and requires that the appraised value of the Smugglers' Notch Management Co.'s leasehold interest in the 330± acres to be taken out of the ski lease is equal to or greater than the appraised value of the 2-acre parcel and base lodge being taken out of the lease and conveyed to Smugglers' Notch Management Co. Additionally, upon the conveyance of the base lodge parcel to Smugglers' Notch Management Co., Smugglers' Notch shall continue to pay the Department 2.5% of all revenue generated at the Madonna/Sterling base lodge through the remainder of their lease term with the State.
- (b) The Commissioner is further authorized to amend the Smugglers' Notch ski lease as follows:
 - 1) Revise the leasehold area boundary to reflect the land exchange authorized in paragraph (a) above;
 - 2) Include a new provision that authorizes the Department to add additional lease terms to reflect new laws and regulations in the event of a sale of the leasehold, including a sale of all or substantially all of the lessee's assets;
 - 3) Include a new provision that clarifies the various types of revenue generated within the ski leasehold area that must be incorporated into the ski lease fee payment. Note: This would not change the underlying lease fee formula, but would simply clarify that any revenue generated within state leasehold must be included in the lease payment;
 - 4) Update the indemnification and liability insurance language to be consistent with current State requirements; and
 - 5) Clarify the public's right to access the property and the ski area's right to restrict access for safety reasons.



VERMONT

Smugglers' Notch Ski Area Land Exchange

Vermont Agency of Natural Resources

vermont.gov



1: 41,814
April 4, 2017

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

2,124.0 1,062.00 2,124.0 Meters
 1" = 3484 Ft. 1cm = 418 Meters
THIS MAP IS NOT TO BE USED FOR NAVIGATION

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LEGEND

- State Natural Areas
- Ski Area Leases
- Managed Lands**
 - State Forest, Fee ownership
 - State Park, Fee ownership
 - Non-fee interest
- Town Boundary

NOTES

Map created using ANR's Natural Resources Atlas

