VERMONT

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Agency of Natural Resources

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MEMORANDUM

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

THRU: Julie S. Moore, ANR Secretary

THRU: Michael Snyder, FPR Commissioner

FROM: Mike Fraysier, ANR Lands Director

DATE: February 6, 2017

SUBJ: **Proposed Joint Resolution Pertaining to State Lands**

Accompanying this memorandum is a proposed Joint Resolution authorizing the Commissioner of Forests, Parks and Recreation to (1) amend a Deed of Conservation Easement held by the Department on the former Hancock lands and assorted in-holdings in Essex County, and (2) sell two parcels of state land in the towns of Mendon (Bertha parcel) and Killington (Burch parcel) to the Trust for Public Land with the goal of these lands being transferred to the federal government for inclusion within the Green Mountain National Forest. Both proposals are explained in detail below:

(1) Hancock and Averill Inholdings Easement Amendment
The purpose of the proposed easement amendment is to clarify that certain forestry-related structures and associated utilities, infrastructure and disturbance within the easement area may be allowed if approved by the Department. The Department acquired the Hancock Deed of Conservation Easement in 1996 from the John Hancock Mutual Life Insurance Company and the Deed of Conservation Easement on the Averill Inholdings in 2005 from the Trust for Public Land with federal Forest Legacy funding. The purpose of the Forest Legacy program is to conserve environmentally important forest lands that are threatened by the conversion to non-forest uses. The Hancock Forest Legacy Easement covers over 31,000 acres of forestland with a primary purpose of protecting recreational values and allowing use of the easement area for commercial forest management activities. The easement allows for 12 separate subdivisions (up to 13 parcels), defined largely by existing roads and town boundaries. This right to subdivide has been exercised and the parcels are now owned by several different entities. The easement area is depicted on the attached map.

While the Hancock Forest Legacy project is a tremendous success story, both for Vermont and for the Forest Legacy Program as a whole, the Hancock Easement language regarding forestry-related structures is antiquated and ambiguous at best, resulting in conflicting provisions and interpretations. Vermont's standard Forest Legacy easement language has evolved substantially since 1996 to address these ambiguities.

The limitations of the Hancock Easement became evident recently with the proposal from a new landowner (Sweet Tree Holdings, LLC.) to construct a reverse osmosis (R/O) facility on the 3,300+/- acre Warren's Gore parcel. The easement is specific about defining sugaring and syruping as an allowed forest management activity, however it is less clear about describing the circumstances under which associated requisite structures (such as a sugarhouse or R/O structure) can be permitted. After careful consideration, the Department concluded that Sweet Tree's proposed R/O facility was consistent with the easement language and allowed it to be constructed under certain specific conditions. The Department worked closely with Sweet Tree to integrate recreation and public access into their overall sugaring operations.

The USDA Forest Service (which administers the Forest Legacy Program) questioned whether forestry-related structures should be permitted under the existing easement as written. Both the Department and the Forest Service agreed that the best remedy for this situation would be to amend the easement to provide needed clarity.

The Department and the Forest Service believe amending the easement is a positive step that will strengthen and improve the Hancock Easement. The amendment will bring the Hancock easement in line with current Forest Legacy easement language regarding forestry-related structures, provide clearer direction to the Department in stewarding the easement, and offer certainty to existing and future landowners that such structures, if approved by the Department, are consistent with the terms of the easement.

The immediate priority will be to amend the easement on those former Hancock parcels where forestry-related structures have already been permitted by the Department including the Sweet Tree parcels in Warren's Gore and Avery's Gore and on an adjacent parcel in Norton where the Department has previously approved construction of a sugarhouse. Over the long term, the Department's preferred outcome is to have consistent language for all 13 Hancock parcels and the Averill inholdings, but the decision whether to amend the easement will require agreement of each individual landowner.

(2) Sale of State Land in Killington and Mendon to The Trust for Public Land

The sale of the Burch and Bertha parcels to the Trust for Public Land with the goal of their subsequent transfer to the United States of America would further the consolidation of federal ownership within the purchase boundary of the Green Mountain National Forest in this area while allowing for the continued protection of the Long Trail. The proceeds from the sale of these parcels would enable the permanent conservation of additional Long Trail lands by the State.

The Bertha tract is a 113± forested parcel located in the Town of Mendon. The adjacent 58-acre Burch tract is located in the Town of Killington. The Long Trail bisects both parcels. These parcels were acquired by the Department from the Green Mountain Club in 2003 for Long Trail protection. The Green Mountain Club retains an easement on both tracts. The state funding used for these purchases came from a legislative appropriation for Long Trail protection.

Both the Bertha and Burch parcels are adjacent to federal Forest Service lands within the Green Mountain National Forest and (see attached map) and are within the Forest Service's "purchase boundary" for the Forest. Normally, such parcels would be acquired by the Forest Service. At the time these acquisition opportunities presented themselves, however, neither the Town of Killington or Mendon supported additional federal land acquisition. Additionally, the timber rights on both parcels were held by another party (A Johnson Co.). Because of these issues, the Forest Service was not interested in acquiring these parcels at that time. The Department then stepped in and acquired these parcels to protect the Long Trail

with the goal of eventually transferring these parcels to the Forest Service for inclusion in the Green Mountain National Forest. The Green Mountain Club's easements on these parcels anticipated such action at some point in the future and include a provision that the easements would automatically terminate upon the transfer of the parcels to the federal government for inclusion in the Green Mountain National Forest.

The current situation is now much more conducive to federal ownership of these parcels. The Trust for Public Land is actively working to acquire the timber rights on the Bertha and Burch parcels as part of a larger land conservation project in this area that would result in the transfer of multiple contiguous parcels to the Forest Service for inclusion in the Green Mountain National Forest. The United States of America is now interested in acquiring these parcels from The Trust for Public Land (provided federal funding is available for the purchase).

This proposal would be contingent on the Trust for Public Land securing official support from the towns of Killington and Mendon of federal ownership of the Burch and Bertha tracts. Consequently, the Department is seeking the authority sell these parcels at their current, restricted fair market value to The Trust for Public Land, with the intent that they can reunite the timber rights and transfer the parcels to the United States of America for inclusion within the Green Mountain National Forest. The proceeds from the sale of these parcels would be deposited in the Agency of Natural Resources Land Acquisition Account to be used acquire additional properties for Long Trail protection purposes.

Please let me know if you have any questions at this time on either of these proposals. Given that each proposal may generate a fair amount of discussion, we are open to reviewing these proposals separately with the committees if you feel that would be the best approach. Either way, we look forward to meeting with your respective committees to discuss these proposals at your convenience.

enc.
cc: 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:

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: That the Commissioner of Forests, Parks and Recreation is authorized to

(1) Amend certain terms and conditions of the Deed of Conservation Easement acquired with federal Forest Legacy funding by the State of Vermont, Department of Forests, Parks and Recreation on 31,000+/- acres (the so-called Hancock Lands) from John Hancock Mutual Life Insurance Company on December 17, 1996 and the Deed of Conservation Easement acquired with federal Forest Legacy funding by the State of Vermont, Department of Forests, Parks and Recreation on 210 acres (the so called "Averill Inholdings) from the Trust for Public Land on December 7, 2005to better define and clarify the allowed uses and associated forest management related structures and facilities, related site preparation activities, and associated infrastructure and utilities that may be allowed within the easement areas if approved by the Department.

(2) Sell the 113± acre so-called "Bertha" tract in the Town of Mendon, acquired by the State of Vermont, Department of Forests, Parks and Recreation from the Green Mountain Club on March 31, 2003 and the 58± acre so-called "Burch" tract in the Town of Killington, acquired by the State of Vermont, Department of Forests, Parks and Recreation from the Green Mountain Club on March 31, 2003 to The Trust for Public Land, pursuant to the terms of a mutually satisfactory Purchase & Sale Agreement with the goal of conveying the parcels to the United States of America for inclusion into the Green Mountain National Forest. The selling price shall be based on the parcels' fair market value as determined by appraisal. The sale of these parcels is contingent on support from the towns of Killington and Mendon. Sale proceeds shall be deposited in the Agency of Natural Resources Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes.

Hancock Forest Legacy Easement Lands
Essex and Orleans Counties, Vermont

Vermont Department of
Forests, Parks & Recreation

Cartographer: K. Sudhoff Date: 12/27/2016

This map is for illustrative purposes only. The accuracy of the data layers shown on this map are limited by the accuracy of the source materials. No warranty as to the accuracy or the usefulness of the data is expressed or implied.

1:150,000

0 1 2 4 6 Miles

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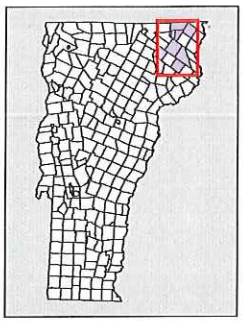
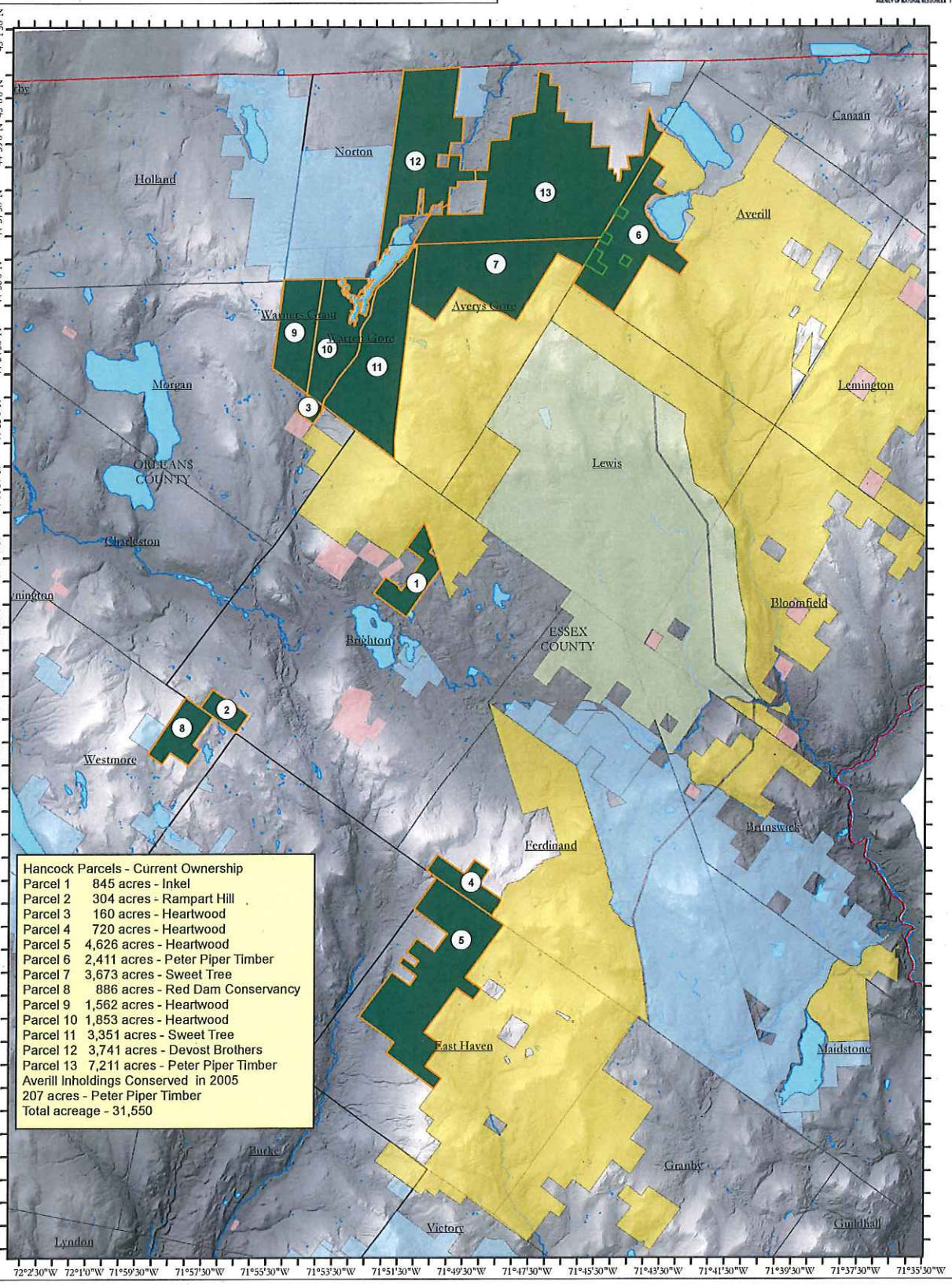


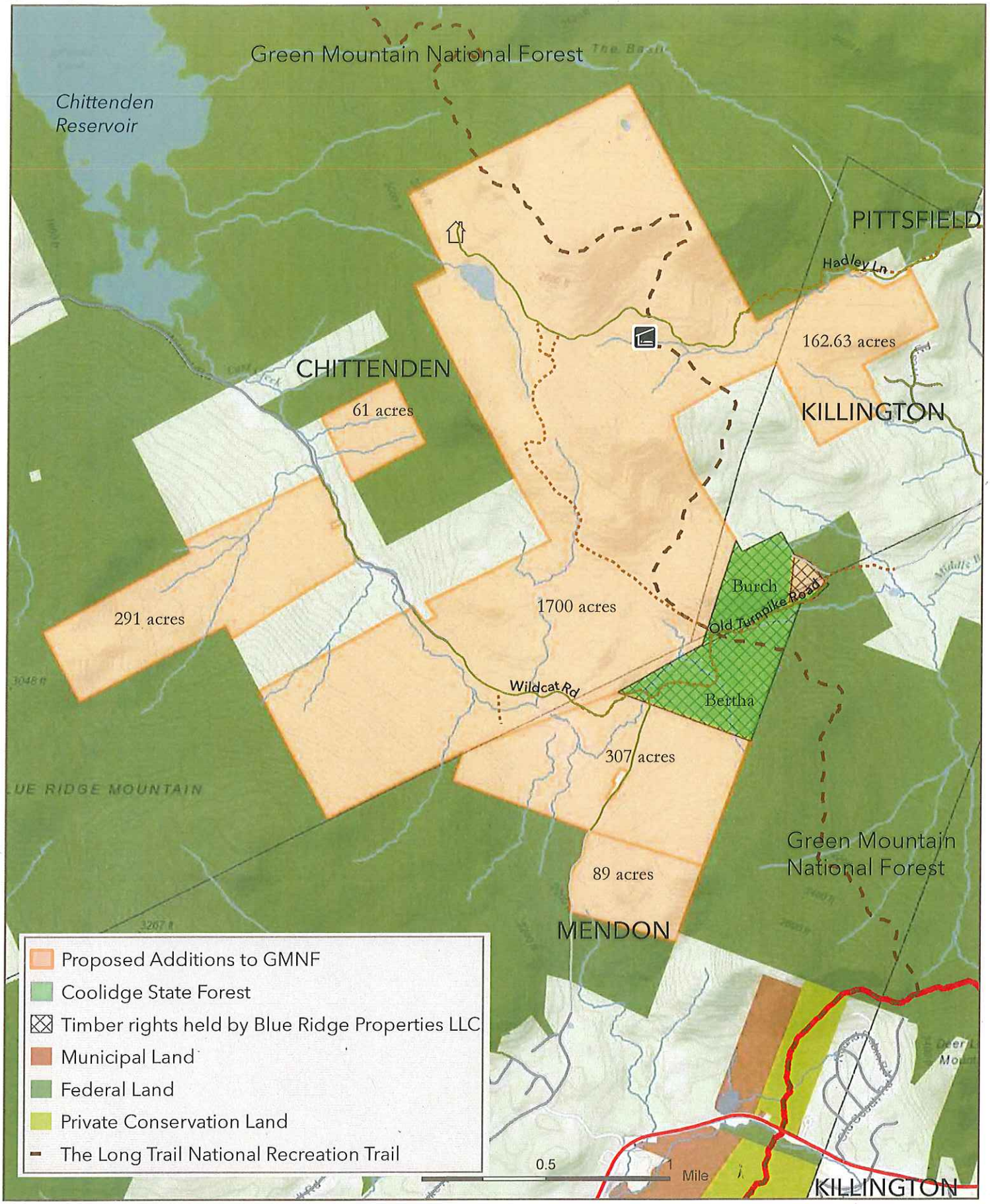
Legend

- Hancock Legacy Easement 1996
- Averill Inholdings Easement 2005
- State Owned Fee Land
- State-held Easement Land
- Conserved Federal Lands Conte NWR
- Conserved Local Government Lands
- State Boundary
- County Boundary
- Town Boundary

VERMONT
AGENCY OF NATURAL RESOURCES



Hancock Parcels - Current Ownership
Parcel 1 845 acres - Inkel
Parcel 2 304 acres - Rampart Hill
Parcel 3 160 acres - Heartwood
Parcel 4 720 acres - Heartwood
Parcel 5 4,626 acres - Heartwood
Parcel 6 2,411 acres - Peter Piper Timber
Parcel 7 3,673 acres - Sweet Tree
Parcel 8 886 acres - Red Dam Conservancy
Parcel 9 1,562 acres - Heartwood
Parcel 10 1,853 acres - Heartwood
Parcel 11 3,351 acres - Sweet Tree
Parcel 12 3,741 acres - Devost Brothers
Parcel 13 7,211 acres - Peter Piper Timber
Averill Inholdings Conserved in 2005
207 acres - Peter Piper Timber
Total acreage - 31,550



Rolston Rest

Addition to Green Mountain National Forest

Chittenden, Mendon & Killington, VT

THE TRUST FOR PUBLIC LAND

July 6, 2016