

ENCROACHMENTS¹ ON STATE LANDS

Philosophy:

Encroachments on lands managed or leased to the Department are a form of preemption of public resources and/or property for unauthorized private purposes. They are a breach of the public trust and a misuse of public investment. Also, they can result in loss of established uses of state lands, increased liability, user conflicts, abuse of natural resources, and conversion of land dedicated to open space conservation.

Policy:

It is the policy of the Department that encroachments will not be allowed on state lands. If encroachments do occur, they will be dealt with in an expeditious, equitable, and safe manner, where the public's interest, Department employees, private citizens, and natural resources are all protected. Such a process includes investigating, verifying, and ensuring correction of encroachments.

Procedure for Implementation:

Any suspected encroachment, whether through an employee's observations or a report from others, shall be brought to the attention of the appropriate District Forestry Manager or Parks Regional Manager.

The District/Regional Manager (or authorized representative designated in writing) shall make a preliminary investigation. If confirming the occurrence of the encroachment (to the best of his/her knowledge), and it is minor and seems able to be remedied easily, the District/Regional Manager or authorized representative may contact the responsible party to seek voluntary correction. If the problem cannot be resolved this way, the Manager shall inform the Director of Lands Administration.

The Director shall inform the Commissioner of the incident and direct a more thorough investigation of the alleged encroachment, recording findings and documenting facts through surveys, property records, photographs, and/or other available means. The results of this investigation shall be written in a report to the Commissioner, with findings and recommendations.

The Commissioner, upon confirmation of the encroachment to his/her satisfaction, shall take whatever steps deemed necessary to remedy the situation, preferably in a progressive manner from verbal warning to legal action, depending on such variables as the degree of compliance by the encroacher, urgency of the situation, permanence of the encroachment, and public safety.

¹ **Encroachments** are actions on state lands which are not allowed under general Department or Agency policies, or are conducted without proper approval. Examples include but are not limited to: construction on state lands; removal of fences or boundary markers; removal of resources, products, or materials; growing of products; grading of land; illegal dumping; use of state lands for private gain.

When necessary, the Commissioner shall seek counsel with the Vermont Attorney General's Office on proper or recommended legal procedures.

The District/Regional Manager shall monitor the situation and report at appropriate times to the Director of Lands Administration.

In implementing this policy, it is important that the following be in writing:

- **designation of authorized representatives**
- **records of all actions taken**
- **all communications**

Conrad M. Motyka, Commissioner

Effective Date: May 5, 1992