Metal Detecting on State-owned Lands in Vermont: What is not permitted and what opportunities exist

What is not permitted and why on State Lands?

Per Vermont Statute 22 V.S.A. § 762, metal detecting is generally not permitted on State-owned lands or in State waters.

- State-owned artifacts and the archaeological sites of which they are a part are held in public trust, meaning they are preserved and protected for the public.

- One of the principal practices of the State's stewardship of archaeological sites is preservation of any artifacts in place with minimal or no disturbance, especially for those sites that are not faced with damage or destruction from development activities or natural processes. The known and yet-to-be discovered historic resources on Vermont State-owned lands are important touchstones and time capsules that help to tell the story of our past. Although archaeologists can learn many things through the excavation of an archaeological site, excavation is an inherently destructive practice. Leaving sites intact in the ground ensures that when better and potentially less-destructive analytical or excavation techniques are developed in the future, the sites will be there to be studied.

- Moving artifacts from State-owned archaeological sites to private hands in most cases renders them invisible and lost to the public in the future. The value of artifacts rests in what they reveal about the people who made or used them. Events in the past are reconstructed by analyzing how and where artifacts were deposited, how they relate to other artifacts at a site, and how a site is situated on the landscape. By selectively removing or disturbing metallic artifacts from their locations at sites, the artifacts themselves may become less meaningful to the study of the past. Their removal may also create a false sense of the site for people in the future.

- A common misconception is that metal-detecting preserves metal artifacts that would otherwise rust away. Although it is true that ferrous (iron-based) artifacts will not last indefinitely in the soil, in actuality, most iron-based items can last for centuries if completely buried. Other metal types, such as copper or lead-based metals, can in many cases last for millennia. However, as soon as iron-based

and certain other metals become exposed to air, they will immediately begin to rust, develop verdigris, or corrode. If these artifacts are not conserved relatively quickly after exposure, they will degrade and eventually crumble away completely. Proper conservation of metal artifacts is an often expensive and/or time-consuming affair, which many individuals would not be willing or able to accommodate.

- The retrieved artifacts have the potential to become commodities that are bought and sold, perpetuating a market for artifacts derived from metal detecting.

What are the opportunities for metal detecting on State Lands?

- Per Vermont Statute 22 V.S.A. § 762, the State reserves to itself the exclusive right of field investigations of sites owned or controlled by it.
- Per Vermont Statute 22 V.S.A. § 764, the State may provide a permit for archaeologists to conduct those field investigations on its behalf.
    - Permits are rarely granted, and only in the context of an educational activity conducted in partnership with a professional archaeologist(s).
    - Permits are typically provided to professional archaeologists working on State land in advance of ground disturbing activities (i.e. – new or improved roads or buildings, etc.).
    - In all cases where a permit is issued, 22 V.S.A. § 764 states that artifacts recovered from field investigations on State land or State waters are the property of the State. Artifacts derived from field investigations on State land or State waters are never given to private individuals.

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Metal detection is a means to discover metallic artifacts in the ground through the production and interpretation of electromagnetic fields by a handheld device. Some metal detectors can also differentiate between types of metals. There is no way, however, to determine what an artifact is, or if it is part of a larger archaeological site, until the user excavates into the soil and retrieves it. This destroys the context, rendering the artifact unable to contribute to the significance of Vermont's history:

- One of the principal tenets of VDHP's stewardship for archaeological sites is preservation in place with no or minimal intrusion, especially for those sites that are not faced with damage or destruction from modern development. The known and yet-to-be discovered historic resources on Vermont State-owned lands are important touchstones and time capsules that help to tell the story of the state's past. Not every historic-era site needs to be excavated to be understood. Visible site remnants can be mapped, photographed, interpreted, and compared to other sites in the area and region to enable a basic understanding of their place within the broad patterns of our history. Moreover, once a site is disturbed, whether minimally or through extensive investigation, the story it can tell is typically marginalized or even fully destroyed.

- At its most basic, archaeology is the study of the human past through the things people left behind. For trained archaeologists, the value of artifacts rests in what they reveal about the people who made or used the items. A fundamental principle of this is Context, which is all the information associated with the artifact including where it is located, the environment in which it was found, and the relationships between it and other artifacts/ecofacts/structures/features. Events in the past are reconstructed by analyzing how and where artifacts were deposited, how they relate to other artifacts at a site, and how a site is situated on the landscape. By removing or disturbing metallic artifacts from their locations, not only do the artifacts themselves likely not contribute anything meaningful to the study of the past, but their removal creates a false sense of the site for people in the future. The areas excavated during the retrieval of metallic artifacts is also disturbed in the process. In short, once an item is removed from the area it was originally deposited, the site's story is altered or lost.

- Beyond issues of preservation and context, artifacts and the sites of which they are a part on State-owned land are held in trust for the public. Unless the finder makes significant efforts to conserve, interpret, and provide access to the

recovered artifacts, moving them to private hands effectively renders them forever invisible and lost. Moreover, these retrieved artifacts have the potential to become commodities that are bought and sold at auction, further stimulating the desire for artifacts derived from metal detecting in the future.

- Material Deterioration: Although it is true that ferrous (iron-based) artifacts will not last indefinitely in the soil, they can generally last for centuries. Other metal types, such as copper or lead-based metals, can last indefinitely. As soon as iron-based and certain other metals become exposed to air, however, they will begin to rust, develop verdigris, or corrode. If these artifacts are not conserved relatively quickly after exposure, they will eventually rust away completely.

Therefore, although permitted by Statute, no permits have been granted for the exploration and field investigations on State lands or within the boundaries of designated State archaeological landmarks to an amateur. All professional investigations have the direct involvement of the State Archaeologist and Survey Archaeologist and follow the Guidelines for Conducting Archaeology in Vermont.

Relevant State Legislation and Federal Code:

Title 22: Libraries, History, and Information Technology
Chapter 014: Historic Preservation
Subchapter 007: Protection of Archaeological Information
(Cite as: 22 V.S.A. § 762)
§ 762. Field investigation
The State reserves to itself the exclusive right of field investigation on sites owned or controlled by the State in order to protect and preserve archaeological and scientific information, matter, and objects. All information and objects deriving from State lands shall remain the property of the State and be utilized for scientific or public educational purposes. (Added 1975, No. 109, § 4.)

Title 22: Libraries, History, and Information Technology
Chapter 014: Historic Preservation
Subchapter 007: Protection of Archaeological Information
(Cite as: 22 V.S.A. § 764)
§ 764. Permits for exploration

The State Historic Preservation Officer, with the advice of the State Archaeologist, may issue permits for exploration and field investigations to be undertaken on State lands or within the boundaries of designated State archaeological landmarks to an amateur or professional whom the State Historic Preservation Officer deems properly qualified to conduct the activity, subject to such rules and regulations as the Division may prescribe, with a view toward disseminating the knowledge gained through his or her activities;

and, provided that a summary report of the undertakings, containing relevant maps, documents, drawings, and photographs be submitted to the Division; and, provided further, that all specimens so collected under permit shall be the permanent property of the State and that the State Archaeologist shall make prior arrangements for the disposition of specimens derived from the activities in an appropriate institution of the State or for the loan of the specimens to qualified institutions in or out of the State. (Added 1975, No. 109, § 4; amended 2001, No. 35, § 5.)

Although not directly related to Vermont State Lands in most cases, the following are Federal Regulations pertaining to Federal Lands to consider for additional context:

Code of Federal Regulations (36 CFR 261.9) states:

The following are prohibited: (g) digging in, excavating, disturbing, injuring, destroying, or in any way damaging any prehistoric, historic, or archaeological resources, structure, site, artifact, or property. (h) removing any prehistoric, historic, or archaeological resources, structure, site, artifact, or property.

Archaeological Resources Protection Act (ARPA, 16 U.S.C. 470cc) prohibits these activities, stating:

No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage or otherwise alter or deface any archaeological resources located on public lands or Indian lands unless such activity is pursuant to a permit.