



NH Lakes Management and Protection Program NH Lakes Management Advisory Committee



Procedure for LMAC Review of State Property Disposal

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Introduction

Under the Lakes Management and Protection Act, specifically, 483-A:5 II, “No state-owned property adjacent to or providing access to a lake shall be disposed of by the state except upon the review and recommendations of the advisory committee.” The Lakes Management Advisory Committee (LMAC) thus reviews all proposals to dispose of state-owned property that is adjacent to or provides access to any lake and makes a recommendation to the Council on Resources and Development (CORD) and other state agencies regarding whether the property should be disposed.

The criteria and procedures outlined in this policy are designed to provide guidance and ensure consistency when the LMAC reviews property disposal proposals and to assist the LMAC in making their recommendations to CORD and other state agencies.

Properties to be Considered

All properties being considered for disposal by CORD and other state agencies in the State of New Hampshire lying adjacent to or providing access to a lake will be considered for review by the LMAC. The term “adjacent” is defined here as land directly abutting or within 250 feet of the reference line (*i.e.*, ordinary high water mark) of a lake. The term “providing access to” is defined here as land that serves an essential segment of any public access route, path, trail, or otherwise to a lake without which that access could be terminated.

It is hereby recognized by the LMAC that the term “disposal” can refer to the transfer of land ownership (*i.e.*, fee simple acquisition), transfer of right-of-way, transfer of easement terms (*e.g.*, conservation, utility easements), lease of land, or any other means that alters the status of ownership.

Process for Consideration

It is the intention of the LMAC that all properties subject to this provision be brought to the attention of the Lakes Coordinator. In turn, the Lakes Coordinator will determine if the property being considered for disposal lies adjacent to or provides access to a public waterbody as defined in RSA 271:20. If the property is adjacent to or provides access to a public waterbody as defined above, then the Lakes Coordinator will immediately notify CORD and other state agencies of LMAC intention to assert jurisdiction and directly notify the LMAC at its next meeting.

Upon consultation with the Lakes Coordinator, or, in the absence of a Lakes Coordinator, the individual assigned by the Watershed Management Bureau Administrator to fulfill that role, the LMAC Chair and Vice Chair may recommend to categorically exclude proposals, such as utility lease renewals, from a comprehensive review by the full LMAC based on the expected *de minimis* impact of the proposed action on the lake. The Lakes Coordinator will then inform CORD and other state agencies on behalf of

the LMAC that the proposal does not appear to have a potential impact under the LMPP review criteria, and will directly notify the LMAC at its next meeting.

For properties not categorically excluded and adjacent to or providing access to a lake, the LMAC will determine by vote, based on information provided, the recommendations of the Lakes Coordinator, and the review criteria outlined below, to recommend for or against disposal of the land. The LMAC will inform CORD and other state agencies in the form of a written memo within 7 days of its review. Where the LMAC recommends for disposal the memo may include such conditions as necessary to achieve an appropriate balance of interests on the review criteria.

In cases where it is determined by the Lakes Coordinator, after consulting with the LMAC chair, that the LMAC will not be able to meet within the allotted timeframe for reviewing the proposed disposal, the Lakes Coordinator shall request an extension, with reason. A Review Checklist, prepared by LMPP staff, and the SLR will be distributed to the LMAC members.

Review Criteria

State land disposal proposals brought before the LMAC will be evaluated based on one or more of the following criteria:

- (a) Water quality shall not be degraded from existing water quality standards established in RSA 485-A.
- (b) Potential sources of pollution, whether point or non-point sources on the land or deriving from activity on the lake, shall be managed in such a way as to minimize their adverse impact on water quality. No significant adverse impact or cumulative adverse impact on water quality shall be permitted.
- (c) The environment for wildlife, particularly waterfowl and aquatic life, shall be maintained or improved.
- (d) The use of lakes and their drainage areas for flood protection and water supply shall be recognized and protected.
- (e) Public access shall be provided and maintained appropriate to suitable uses of the lakes.
- (f) Recreational uses of lakes shall be consistent with the carrying capacity and character of each lake and shall include, but not be limited to, the use of appropriate watercraft, swimming, and fishing. Permitted uses shall provide opportunity for the safe enjoyment of a variety of lake experiences within the state as a whole.

Other Review Criteria

- (a) The potential for adverse scenic beauty impacts, including disturbance of natural shoreland conditions or other outstanding features;
- (b) The potential for infringement upon the littoral rights of abutting property owners;
- (c) Other public interests affected by disposal, including community expansion and economic development.

After Review, LMAC will

- (a) Recommend disposal,
- (b) Recommend disposal with conditions, or
- (c) Recommend against disposal

LMAC will provide a copy of its recommendation to the appropriate NHDES programs.