

DRAFT - Procedure for RMAC review of State property disposal

Amended: 02/14/02
Amended: 04/12/06
Amended: 2/2/09
Amended: 4/23/13
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Introduction

Under the Rivers Management and Protection Act, specifically RSA 483:8, VII, the Council on Resources and Development (CORD) may not recommend for disposal ~~of~~ any state-owned property that lies adjacent to or provides access to a river except upon the review and recommendation of the Rivers Management Advisory Committee (RMAC). RSA 483:14 further provides that state-owned property cannot be disposed of unless the RMAC recommends such disposal. The RMAC thus reviews all proposals to dispose of state-owned property that are adjacent to or provide access to any river and makes a recommendation to 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 RMAC reviews property disposal proposals and to assist the RMAC in making 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 **any** river or **any** river segment will be considered for review by the RMAC. The term “adjacent” is defined herein as land directly abutting or within 250 feet of the reference line (*i.e.*, ordinary high water mark) of a river.¹ The term river is defined here as all year-round flowing waters as determined by the New Hampshire Hydrography Dataset. 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 river without which that access point could be terminated.

It is hereby recognized by the RMAC that the term “disposal” can refer to the transfer of land ownership (*i.e.*, fee simple acquisition), transfer of rights-of-way, transfer of easements (*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 RMAC that all properties being considered for disposal be brought to the attention of the Rivers Coordinator. In turn, the Rivers Coordinator will determine if the property

¹ The ~~Comprehensive~~ Shoreland ~~Water Quality~~ Protection Act, RSA 483-B, establishes the protected shoreland zone as all land located within 250 feet of the reference line of public waters. RSA 483-B:4, XV. The reference line for rivers is the ordinary high water mark. RSA 483-B:4, XVII(d). In order to ensure that the intent of RSA 483:8, VII is met (*i.e.*, cannot be circumvented by subdividing a narrow ribbon of land to separate a larger parcel from directly abutting a river), and in view of the General Court’s determination that a 250-foot zone is appropriate for the protection of shorelands, the RMAC has determined that it is appropriate for this policy to apply to lands that are within 250 feet of the ordinary high water mark of a river.

Comment [TS1]: Discussion Point: The footnote references the “protected shoreland,” whose definition has recently changed for 1st-3rd order designated rivers to encompass only 50 feet. LMAC’s procedure document simply defines adjacent as 250’ and does not attempt to justify that distance.

being considered for disposal lies adjacent to or provides access to a river or river segment, and if such is the case will notify CORD and other state agencies of RMAC intention to assert jurisdiction.

If the property is adjacent to or provides access to a designated river as defined in RSA 483:15, then the Rivers Coordinator will notify the Chair of the appropriate Local Management River Advisory Committee (LMRAC) established under RSA 483:8-a and will request the LMRAC's review of the property being considered for disposal. The LMRAC will advise the Rivers Coordinator within 30 days of notification of its recommendations for disposal in writing. The Rivers Coordinator will present these recommendations at the next RMAC meeting.

If the property being considered for disposal is not associated with a designated river as defined above, then the Rivers Coordinator will directly notify the RMAC at its next meeting.

Upon consultation with the Rivers Coordinator, the RMAC Chair and Vice Chair may recommend to categorically exclude proposals from a comprehensive review by the full RMAC based on the expected *de minimis* impact of the proposed action on the river. The Rivers Coordinator will then ~~make the proposal available to the full RMAC for comments for the period of one week. Should an RMAC member have pertinent information about the proposal that suggests a comprehensive review is required, a full review and vote by the RMAC will be conducted. Otherwise, after the one week comment period has expired, the RMAC will~~ inform CORD and other state agencies that the RMAC is not opposed to the proposed action, and will directly notify the RMAC at its next meeting.

For all lands adjacent to or providing access to a river or river segment, the RMAC will determine by vote, based on information provided, the recommendations of the LMRAC, where appropriate, and the review criteria outlined below, to recommend for or against disposal of the land. The RMAC will inform CORD and other state agencies in the form of a written memo within 7 days of its review. Where the RMAC recommends for disposal the memo may include such conditions as are necessary to achieve an appropriate balance of interests on the review criteria.

In cases where it is determined by the Rivers Coordinator that this process could result in an extensive delay in CORD's and other state agencies' responsibilities for state property disposal, he/she shall notify CORD and other state agencies and may request an extension of action after consulting with the appropriate LMRAC chairperson and the RMAC chairperson.

Review Criteria

State land disposal proposals brought before the RMAC will be evaluated based on the following criteria:

- a. The potential for public access to the river to be interrupted or terminated;
- b. The potential for infringement upon the rights of abutting property owners such as by trespassing or littering;
- c. The likelihood of adverse riparian corridor impacts including vegetation removal, river channel or flow modification, water quality or biological community impairment, and impact to wetlands;
- d. Other public interests affected by disposal including community expansion and economic development.