

The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



September 20, 2026

Her Excellency, Governor Kelly A. Ayotte
 And The Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

Pursuant to RSA 4:40, authorize the Department of Environmental Services (NHDES) to sell its York Dam (dam number D051002) and Canal Dike (dam number D051045) on the Contoocook River in Concord, NH, its easements and dam at the Rolfe Canal Gates (dam number D051043) and easement at Canal Dam (dam number D051003), and its associated flowage and water rights and access easements to Briar Hydro Associates for \$725,000 effective upon Governor and Council approval. This dam and associated easements will be conveyed without any explicit covenants, restrictions, or permissions regarding hunting, fishing, or other recreational activities, and applicable local and state laws will govern such activities.

Pursuant to RSA 481:32, funds from the sale of York Dam and Canal Dike are to be deposited to the Dam Maintenance Fund, Account 03-44-442010-3817-009, RA #407531.

EXPLANATION

Briar Hydro Associates has offered NHDES \$725,000 dollars for the York Dam, Canal Dike, and associated easements, which matches the market value determined in the April 2, 2026 USPAP-compliant appraisal prepared by Brian D. Fogg, LLC. Briar Hydro Associates currently leases this property from NHDES under a 50-year lease that started on February 20, 1986, and has just under 10 years remaining until its expiration. The January 2026 appraisal shows that the dam's value exists only through its role in the Rolfe Canal hydropower system, where it provides hydraulic head and flow regulation to Briar Hydro's generating facility; it has no independent economic use and no meaningful market outside that integrated project.

Because only Briar Hydro can benefit from owning these assets, the offer price is unique to this buyer and would not be obtainable from any other party. The appraisal also confirms that hydropower facilities require significant ongoing capital investment, typically around three percent of system value annually, due to long-lived civil works. If Briar Hydro discontinued operations before the lease expires, NHDES would inherit responsibility for operating and maintaining the dam, the canal system, and the hydraulic control structures, repeating burdens the State has faced at other former hydropower sites.

In addition, York Dam is a high-hazard structure whose failure could inundate downstream homes and businesses, overtop State Route 3, and impact other dams, creating further liability for the State.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
 (603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

Her Excellency, Governor Kelly A. Ayotte
and the Honorable Council
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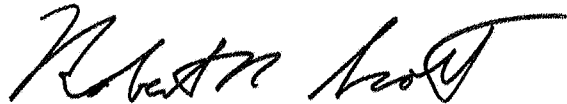
Selling the property secures guaranteed revenue, eliminates State ownership liability, and transfers the asset to the only entity capable of using and maintaining it effectively.

With the exception of York Dam and the Canal Dike, all easements being transferred are located on land fully owned by the City of Concord and are surrounded by public amenities, including access for hiking, fishing, boating, and snowshoeing through Contoocook River Park and the public boat ramp on the Contoocook River that is currently managed by Briar Hydro Associates. York Dam, an active dam that presents several public safety hazards, will continue to have limited public access following its transfer to Briar Hydro Associates, who already manage the structure. The Canal Dike is being transferred without any covenants, restrictions, or permissions related to hunting, fishing, or other recreational activities. All associated flowage rights are likewise being conveyed without new limits on recreation, hunting, or fishing, with these uses remaining subject to applicable local and state laws.

This request was presented to the Council on Resources and Development (CORD) on March 9, 2023, and voted to Recommend Approval of SLR 2023-003 as submitted. This was approved by Long Range Capital Planning and Utilization Committee on May 26, 2023 as LRCP 23-019.

This transfer request and deed has been approved by the Attorney General's Office as to form, substance and execution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a stylized flourish at the end.

Robert R. Scott
Commissioner

Inter-Department Communication

DATE: Sept. 28, 2026

FROM: Melissa Fzles

AT (OFFICE) Department of Justice
Office of the Attorney General

SUBJECT: York Dam

TO: Corey J. Clark, P.E., Chief Engineer
Dam Bureau, Water Division
New Hampshire Department of Environmental Services

The Office of the Attorney General has reviewed the transfer deed of and associated rights from the State of New Hampshire via its New Hampshire Department of Environmental Services to Briar Hydro Associates for the sale of York Dam (dam number D051002) and Canal Dike (dam number D051045) on the Contoocook River in Concord, NH, its easements and dam at the Rolfe Canal Gates (dam number D051043) and easement at Canal Dam (dam number D051003), and its associated flowage and water rights and access easements, and the supporting documents provided in completion with the above referenced conveyance and approves the conveyance for form and substance only. Please note that once approved by Governor and Council, and signed by all parties, the deed should be returned to this office for final review of execution before it is recorded in the appropriate county registry of deeds.

SIGNATURE: Melissa Fzles

PRINTED: Melissa Fzles

TITLE: Assistant Attorney General

Return to:
Briar Hydro Associates
369 Village Street
Concord, NH 03303

Quitclaim Deed

Know all persons by these presents, that the **State of New Hampshire, by the Department of Environmental Services**, having a mailing address of P.O. Box 95, 29 Hazen Drive, Concord, NH 03302 ("Grantor"), pursuant to the authority granted to the Commissioner under RSA 481:3 IV, for consideration paid, grants to **Briar Hydro Associates**, a New Hampshire limited partnership, with a principal place of business at 369 Village Street, Concord, NH 03303, County of Merrimack, State of New Hampshire ("Grantee"), with quitclaim covenants, the following dams, parcels, and property interests:

Perpetual easements on certain tracts of land in the City of Concord, Merrimack County and State of New Hampshire along and near the Contoocook River in the vicinity of the old Contoocook River Park for the purpose of constructing, reconstructing, repairing, maintaining, operating and inspecting dams and dikes on the Contoocook River, Canal Dike, Rolfe Canal Gate and Outlet (or Canal) Dams, as follows:

1. The Contoocook River Park Dam or York Dam (NH Dam No. D051002, FERC No. P-3240-NH), including all flowage and water rights that the State may have in said dam on the Contoocook River and at the removed dam formerly located on the Outlet (or Canal) (NH Dam No. D051003) near Washington Street in the City of Concord, County of Merrimack, State of New Hampshire being the same easements deeded by the City of Concord to the Grantor by deed recorded in the Merrimack County Registry of Deeds at Book 1015 Page 0435 dated October 10, 1967.

2. Perpetual easements deeded by the City of Concord to the Grantor by deed recorded in the Merrimack County Registry of Deeds at Book 1015, Page 0435, dated October 10, 1967, being Tracts No. 4 and No. 5 (City Assessor's Lots No. 7430 and No. 7442, respectively), located at the Northerly and Southerly ends of the Contoocook River Park Dam.

3. A perpetual easement deeded by the City of Concord to the Grantor by deed recorded in the Merrimack County Registry of Deeds at Book 1015, Page 0435, dated October 10, 1967, being a portion of City Assessor's Lot No. 7430, and a portion of Tract No. 2 of said deed, for the construction, reconstruction, repair, and maintenance of a dike across the Canal just upstream of the Contoocook River Park Dam on the right bank, said easement being more particularly bounded and described in said deed.

4. The right to construct, maintain, repair and operate a water control structure just upstream of the Island Road Bridge crossing of the Rolfe Canal Gate Dam (NH Dam No. D051043, FERC No. P-3240-NH). This easement lies near Lots No. 7424-C, No. 7424-D, No.

7430-C and No. 7430 as noted on the City Assessor's map. All this easement lies within the road right of way. Being the same easements deeded by the City of Concord to the Grantor by deed recorded in the Merrimack County Registry of Deeds at Book 1015 Page 0435 dated October 10, 1967

5. An access road easement of the above noted deed from Elm Street to Lot No. 5 of the Merrimack Manufacturing Co., Inc. land now owned by the City of Concord. This easement shall include the right to pass and repass on foot or by vehicle to the said Lot No. 5 to construct, reconstruct, repair, maintain, inspect and operate the Contoocook River Park dam. Being the same easements deeded by the City of Concord to the Grantor by deed recorded in the Merrimack County Registry of Deeds at Book 1015 Page 0435 dated October 10, 1967.

6. A perpetual right and easement to pass and repass on foot or by vehicle being 40 feet wide over property now or formerly of the Merrimack Manufacturing Company, Inc., being the same perpetual right and easement deeded by Alfred L. Bolduc and Beatrice Bolduc to the Grantor by deed dated June 21, 1967, recorded in Merrimack County Registry of Deeds Book 1015 Page 0437, on October 10, 1967.

7. A perpetual right and easement to construct, repair, inspect, maintain, and operate a dike over and across Dry Brook (NH Dam No. D051045), leading from the Contoocook River to the Canal, together with the right to store various equipment used in connection with and during the pursuit of said activities, being the same perpetual right and easement as deeded by Alfred L. Bolduc and Beatrice Bolduc to the Grantor by deed dated June 21, 1967, recorded in Merrimack County Registry of Deeds Book 1015 Page 0437, on October 10, 1967.

8. Tract No. 1 deeded by the City of Concord to the grantor by deed recorded in Merrimack County Registry of Deeds Volume 1015 Page 0435, dated October 10, 1967. This easement is for public access to Contoocook River. Said tract lies Easterly of City Assessor's Lot No. 7431 and extends from Island Road Southwesterly to the Contoocook River. This tract is Lot No. 7430, as shown on the City Assessor's Map.

There is reserved to the property owners the right and privileges to use above described tracts which are owned by the grantor and said Boston and Maine Railroad, a predecessor in title to certain of the above described tracts, in any manner and for any purpose not inconsistent with the full use and enjoyment of the grantees of the right and privileges herein granted.

The above described tracts and easements being the same as described in the lease agreement executed between the State of New Hampshire, by the Department of Environmental Services and its predecessors, and Briar Hydro Associates dated February 20, 1986.

This conveyance is made subject to all liens or other encumbrances of record against the property and subject to any leases, easements, or other encumbrances of record.

Executed this _____ day of _____ 2026

By _____

Robert R. Scott,
Commissioner
New Hampshire Department of Environmental Services

State of New Hampshire
Merrimack, SS

The foregoing document was acknowledged by the said Robert R. Scott, Commissioner of the New Hampshire Department of Environmental Services, before me this _____ day of _____, 2026.

Notary Public/Justice of the Peace
My Commission expires: _____

In accordance with RSA 78-B:2,1, this deed is recorded without the payment of New Hampshire Transfer Tax.

Approved by the Council on Resources and Development by majority vote at a meeting on **March 9, 2023 (NHRSA 4:40)**

Approved by the Legislative Long Range Capital Planning and Resources Committee, by a majority vote on **May 26, 2023 (NHRSA 4:40)**

Approved by the Governor and Executive Council on _____ **(NHRSA 4:40)**

Approved by the Office of the New Hampshire Attorney General as to form, substance and execution on _____ **2026.**



BRIAR HYDRO ASSOCIATES

c/o ESSEX HYDRO ASSOCIATES, LLC
673 PLEASANT STREET
WINTHROP, MASSACHUSETTS 02152

TELEPHONE:

617-367-0032

May 20, 2026

State of New Hampshire
Attention: Corey Clark
Department of Environmental Services
Dam Bureau
29 Hazen Drive: P.O. Box 95
Concord, NH 03302-0095

Dear Mr. Clark:

Following our phone conversation today, I am confirming our continued interest in purchasing the York Dam from the State of New Hampshire, at the updated price of price of Seven Hundred Twenty Five Thousand Dollars (\$725,000).

We look forward to completing the process and are ready to assist as necessary. We will await further guidance from you on the next steps. In the meantime, please don't hesitate to contact me at 617-367-0032 with any questions.

Sincerely,

Andrew Locke
President

Essex Hydro Associates, L.L.C.

A General Partner, Briar Hydro Associates

ACQUISITION AGREEMENT

THIS ACQUISITION AGREEMENT (this "Agreement") is made and entered into as of this _____ day of _____ (month), 2026 between the seller, New Hampshire Department of Environmental Services ("NHDES"), an agency of the State of New Hampshire (hereinafter referred to as "Seller" or "State"), and Briar Hydro Associates, LP, a New Hampshire Limited Partnership (hereinafter referred to as the "Buyer") (together, Seller and Buyer may sometimes be referred to each as a "Party" and jointly as the "Parties").

WHEREAS Seller owns the York Dam (NHDES Dam No. 51.02) and related structures and all rights appurtenant to the York Dam and related structures located on the Contoocook River and the so-called Outlet or Rolfe Canal in the City of Concord (Village of Penacook), New Hampshire (more particularly described below in ¶1);

WHEREAS Seller has determined that the properties described herein as the Dam Facilities are surplus to the State's needs and wish to sell them to Buyer pursuant to RSA 4:40;

WHEREAS the Buyer entered into a Lease Agreement for the Dam Facilities on February 20, 1986 with the New Hampshire Water Resource Board (the "Lease"), the predecessor to NHDES.

WHEREAS the Parties agree to terminate the Lease, Buyer desires to purchase the Dam Facilities, and Seller agrees to sell the Dam Facilities. At Closing, as defined in Paragraph 7, Seller will deliver to Buyer all the Dam Facilities in the condition described herein and Buyer shall pay the purchase price to Seller as described herein.

NOW THEREFORE, Seller agrees to sell, and Buyer agrees to purchase the following described property pursuant to the following terms and conditions:

- 1. Property being sold:** The York Dam (aka Contoocook River Park Dam) and Canal Dike on the Contoocook River, its easements for the Rolfe Canal Entrance Gate and Canal Dam (removed), and all associated flowage and water rights, and access easements along with public access for boat ramp to the Contoocook River being more particularly described in the Quitclaim Deed attached hereto as Exhibit A (and hereafter referred to as the "Dam Facilities"). The Dam Facilities are being sold "as is where is."
- 2. Purchase and Sale:** In consideration of the mutual covenants and promises contained in this Agreement, and other good and valuable consideration received by each party, the Seller hereby agrees to sell, and the Buyer hereby agrees to purchase the Dam Facilities, upon the terms and conditions hereinafter set forth. In no event shall the Seller be required to accept less than the purchase price set forth in ¶3 below as consideration for the conveyance of the Dam Facilities.
- 3. Purchase price:** Buyer shall pay to the Seller a total purchase price for the Dam Facilities of Seven Hundred Twenty Five Thousand and 00/100 Dollars (\$725,000.00),

Seller(s) Initials RHS

Buyer(s) Initials NO AH

which shall be due and payable by certified check made out to "Treasurer, State of New Hampshire" at Closing. The funds shall be placed into the Dam Maintenance Fund pursuant to RSA 482:55 and RSA 481:32.

4. **Contingencies/Access to Dam Facilities:** This Agreement is contingent on the Buyer receiving satisfactory results to any inspections and due diligence investigations, including good, marketable, insurable title, Buyer may elect to conduct at Buyer's expense and with access provided by Seller, subject to the requirement that all deficiencies shall be made known to Seller no later than sixty days after G&C Approval, at which time this inspection and due diligence contingency shall be eliminated. Alternatively, Buyer may terminate this Agreement before eighty days after G&C Approval, unless the Parties are able to reach an agreement addressing all deficiencies identified by Buyer's inspection(s) and/or due diligence investigations, including title.

With respect to Buyer's access to perform any site inspections and physical due diligence investigations, the Buyer shall indemnify, defend, and hold harmless the State from and against any and all claims, actions, damages, or losses arising out of the Buyer's activities pursuant to such site inspection and due diligence activities and subsequent tasks related thereto which are caused by Buyer's negligence. The Buyer shall require any and all contractors who are retained for the purpose of completing due diligence or for any other purpose necessary to carry out the terms of this Agreement, and who will need to access the Dam Facilities, to obtain commercial general liability insurance in the amount of \$2 million aggregate, \$1 million per occurrence naming the State as an additional insured. Buyer shall also require any such contractors to execute the Buyer's standard indemnification form, naming both the Buyer and the State as indemnified parties. The standard indemnification form shall be as follows, unless written approval of a requested change is granted by both the State and Buyer:

"The contractor agrees to indemnify, defend, and hold harmless the Buyer and the State of New Hampshire Department of Environmental Services, their officials, officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation which may be injured or damaged by the contractor in the performance of this contract. In any case, the foregoing provisions concerning indemnification shall not be construed to indemnify the Buyer or State of New Hampshire Department of Environmental Services for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Buyer, State of New Hampshire Department of Environmental Services, or their employees. This indemnification shall survive the expiration or early termination of this agreement."

5. **Conditional Nature:** Consistent with N.H. RSA 4:40, the Seller's obligations under

Seller(s) Initials JMS

Buyer(s) Initials MO AN

this Agreement and its obligation to sell the Dam Facilities to Buyers are conditional on New Hampshire Long Range Capital Planning and Utilization Committee approval, following advice from the Council on Resources and Economic Development, refusal to purchase the Dam Facilities by the applicable town, city, or county, consistent with RSA 4:40 and other applicable statutes, as well as approval by the New Hampshire Governor and Executive Council ("G&C Approval"). This Agreement is a binding contract, which shall become effective upon G&C Approval, pursuant to RSA 4:40. All of the foregoing elements set forth within RSA 4:40 must be satisfied prior to Closing. If the approvals required by RSA 4:40 are not provided by October 31, 2026, this Agreement may be terminated by either Party upon written notice to the other Party.

6. **Title:** Good, marketable, and insurable title to the Dam Facilities shall be conveyed by Seller by Quitclaim Deed in substantially identical form to that annexed hereto as Exhibit A (the "Deed") and shall be delivered to the Buyer at Closing. Buyer, at Buyer's sole cost and expense, shall cause the title of the Dam Facilities to be examined by their attorney or other agents representing or acting on behalf of Buyer ("Title Examination"). Buyer shall notify Seller of any encumbrances, defects in title or other objections to Seller's title to the Dam Facilities ("Title Objections") within thirty (30) days after G&C Approval ("Review Period") in writing ("Notice of Title Objections"), sent to Seller's counsel. In the event that Buyer, using best efforts, provides a timely Notice of Title Objection to Seller, then in such event, Seller at its sole election and on or before ten (10) days after receipt of the Title Objection, TIME BEING OF THE ESSENCE, shall use reasonable efforts to cure the Title Objection. If Seller fails to cure any Title Objections within the applicable Cure Period, then Buyer may elect to terminate this Agreement. Alternatively, Buyer shall have the election, at that time, to accept title to the Dam Facilities subject to such defects in title, in which case, Seller shall deliver such title with proper reference in the Deed that title is delivered subject to the aforementioned defect(s). The Quitclaim Deed shall contain no warranties or covenants of title and shall convey all the Seller's right, title, and interest in the Dam Facilities, subject to the following:

- a) Easements, including public access, liens, restrictions, and/or encumbrances of public record or any other matters of public record in existence at the time of the Closing accepted and approved by the Buyer;
- b) Provisions of building and zoning laws in effect at the time of the Closing.

7. **Closing/Lease Termination/FERC Co-Licensee Removal:** The Closing shall take place within ninety (90) days after G&C Approval, which may be extended by written, mutual agreement of Buyer and Seller. Buyer shall pay for the services of the Closing Agent. The purchase price described in ¶3 above shall be delivered at Closing and the Quitclaim Deed described in ¶6 shall be delivered to Buyer. At Closing, Buyer and Seller agree to terminate the Lease by mutual agreement. At Closing, Buyer and Seller shall execute a written agreement of Lease termination which agreement shall specify provisions of the Lease which will not apply or be waived by the State (such as those set

Seller(s) Initials

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Buyer(s) Initials

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forth in sections 12(b)). Buyer shall, however, pay the State the pro rata shares of this current year's annual rental installment computed to the date of the Closing. Notwithstanding this Agreement, the Lease shall continue in full force and effect until terminated. Once terminated, any provisions or requirements within the Lease that survive termination of the Lease shall continue in full force and effect subject to the terms of this Agreement. At Closing, Seller agrees to take all actions reasonably necessary to be removed as a co-licensee under the FERC license, including executing filings and instruments reasonably requested by Buyer, and to cooperate with and support Buyer's efforts to effectuate such removal.

- 8. Compliance with Applicable Laws:** Buyer shall, at all times after Closing, comply with all applicable local, state, and federal laws, including, but not limited to, obtaining all applicable permits related to ownership or operation of the Dam Facilities.
- 9. Department Disclosure:** Seller makes no warranties or representations regarding any environmental contamination or sub-surface conditions with respect to the Dam Facilities and Buyer is buying the Dam Facilities and associated infrastructure "as is where is" with full opportunity to inspect such Dam Facilities and related infrastructure prior to Closing.
- 10. Possession:** Except as otherwise set forth herein or agreed between the Parties, full possession of the Dam Facilities shall be given to the Buyer immediately upon transfer of title. The Dam Facilities shall on the date of Closing be free of Seller's property and in substantially the same condition as at present.
- 11. Casualty or Condemnation:** In the event that the Dam Facilities, unless stated otherwise in the Lease, are damaged by fire, flood, collapse, or other casualty prior to Closing, the Buyer or the Seller, at any time after the occurrence of such damage or casualty, may elect to terminate this Agreement by written notice, in which event all other obligations of the Parties hereunder shall cease and this Agreement thereupon be void and of no further force and effect, subject to any provisions that are specifically stated to survive this Agreement.
- 12. Adjustments, Prorations, and Closing Costs:**
 - a) Real estate taxes: Not applicable, Seller is exempt from the payment of municipal real estate taxes.
 - b) The Buyer shall pay all New Hampshire real estate transfer tax applicable to this transaction at closing and any and all utilities after Closing.
 - c) Buyer shall pay to record all of their deeds and any related financing documents to take title to the Dam Facilities.
 - d) Seller shall pay its own attorneys' fees.

Seller(s) Initials KA

Buyer(s) Initials MA AS

- e) Buyer shall pay their own attorneys' fees.
- f) Buyer shall be responsible for any change fees to any existing title insurance policies and/or the cost to obtain any new title insurance policies.
- g) There are no broker's or finder's fees.

13. Disclosure: Buyer waives the requirement of a completed Property Disclosure Statement from Seller.

14. Brokerage: Seller and Buyer represent and warrant to each other that neither party has engaged the services of any real estate broker with respect to this transaction.

15. Default: In the event that either Buyer or the Seller fails to fulfill its obligations hereunder, the non-defaulting party shall be entitled to pursue all legal and equitable remedies available against the defaulting party, subject to this Agreement.

16. Applicable Law: This Agreement shall be governed, interpreted, and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the Parties to express their mutual intent and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the proper superior court of the State of New Hampshire, which shall have exclusive jurisdiction thereof. Buyer hereby submits to the jurisdiction of the courts of the State of New Hampshire. Buyer hereby waives any right to a jury trial.

17. Entire Agreement; Amendments: This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings with respect to the subject matter hereof. This Agreement may not be changed, modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by each of the Parties hereto. Any change, modification, or amendment shall require approval by the New Hampshire Governor and Executive Council and such change, modification, or amendment shall be effective only upon such approval by the Parties and the Governor and Executive Council.

18. Binding Effect; Successors and Assigns: The terms and provisions of this Agreement and the respective rights and obligations of the Parties hereunder shall be binding upon, and inure to the benefit of, their respective heirs, successors, assigns, and nominees.

19. Counterparts: This Agreement may be signed on any number of identical counterparts with the same binding effect as if the signatures were on one instrument.

Seller(s) Initials MAJ

Buyer(s) Initials MD AM

- 20. Binding Contract:** When signed by all Parties, this Agreement is a binding contract. A copy of this Agreement is to be received by all Parties, and a receipt of a copy is hereby acknowledged.
- 21. Reservations:** Nothing herein shall be deemed a waiver of any ability of the State to regulate the Dam Facilities or enforce any applicable statutory or common laws with respect to the Dam Facilities at present or in the future. Notwithstanding any provisions within this Agreement, nothing in this Agreement shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This provision shall survive termination of this Agreement.
- 22. Authority of Signatory:** Buyer hereby represents and warrants that undersigned agent for the Buyer is duly authorized to execute, acknowledge, and deliver this Agreement on behalf of the Buyer and all other named undersigned entities and to thereby bind the Buyer to the same. This warranty shall survive the delivery of the Quitclaim Deed.
- 23. Assignment:** Buyer may not assign this Agreement, or any interests herein, without the prior written consent of the Seller.
- 24. Effect of Termination; Survival of Agreement:** Upon any termination of this Agreement in accordance with its terms, neither Party shall have any further liability or obligation to the other Party under this Agreement, except for obligations and liabilities that accrued prior to termination, remedies arising from a default, and any provisions expressly stated to survive termination. Only those agreements, covenants, representations, warranties, and provisions expressly stated in this Agreement to survive Closing, expiration, or termination shall survive.
- 25. Waivers:** Failure on the part of any Party to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall not be deemed to be a waiver of such Party's rights hereunder. No waiver at any time of any provision hereof by any Party shall be construed as a waiver of any other provision hereof or a waiver at any subsequent time of the same provision.
- 26. Severability:** If any term of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent be deemed invalid or unenforceable, the remainder of this Agreement and the application of such terms to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected.
- 27. Section Headings:** The section headings contained in the Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.
- 28. Time of the Essence:** The Parties agree that time is of the essence in performance of their respective obligations under this Agreement.

Seller(s) Initials

AMS

Buyer(s) Initials

MD ASK

IN WITNESS HEREOF, the Parties hereto have executed this Agreement in counterparts as of the day and year first above written:

BUYER:

Briar Hydro Associates, LP

By: Essex Hydro Associates, L.L.C.
A General Partner

By: [Signature]
Andrew Locke
Its President

Date: 10/1/2026

By: Eagle Creek Oxford, LLC
A General Partner

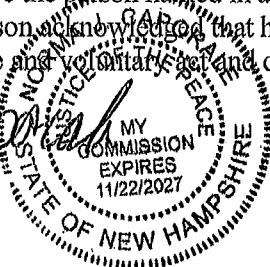
By: [Signature]
Matthew Ocwieja
Its Vice President

Date: 9/22/2026

STATE OF New Hampshire
COUNTY OF Merrimack

In Boscawen (City/Town), on the 1st day of October, 2026,
before me, personally appeared Andrew Locke, President of Essex Hydro Associates, L.L.C.,
known to me or proved to be the person named in and who executed the foregoing instrument, and
being duly sworn, such person acknowledged that he executed said instrument for the purposes
therein contained as his free and voluntary act and deed.

[Signature]

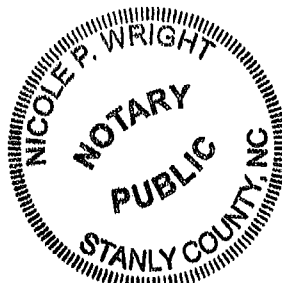


11-22-2027

My Commission Expires:

STATE OF NC
COUNTY OF Stanly

In Badin (City/Town), on the 22 day of Sept., 2026,
before me, personally appeared Matthew Ocwieja, Vice President of Eagle Creek Oxford, LLC,
known to me or proved to be the person named in and who executed the foregoing instrument, and
being duly sworn, such person acknowledged that he executed said instrument for the purposes
therein contained as his free and voluntary act and deed.



[Signature]

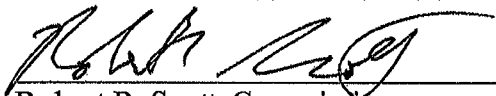
My Commission Expires:

My Commission Expires 07/02/2027

SELLER:

**THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES**

By:



Robert R. Scott, Commissioner
New Hampshire Department of
Environmental Services

Date:

10/1/26

YORK DAM, CANAL AND DIKE TRANSFER ALONG WITH ASSOCIATED RIGHTS



PURPOSE:

Request from the Department of Environmental Services (NHDES) to sell its Contoocook River Park or York Dam and Canal Dike on the Contoocook River, its easements at the Rolfe Canal Gates Dam and Canal Outlet dam (removed), and its associated flowage and water rights and access easements to Briar Hydro Associates. The property is located off Island Road and Electric Avenue and near Washington Street in Concord, NH.

Attached maps, photographs and CORD application for property at York Dam.

- a. General location map with scale, north arrow, nearby roads, and water: Figure 1
- b. Aerial Photograph: Figure 2
- c. Municipal tax map copy showing all abutters: Figure 3
- d. Photos of York dam and appurtenances Figures 4-9.
- e. Trail map: Figure 10.
- f. CORD application 2023: Attachment "A"

Area of Properties

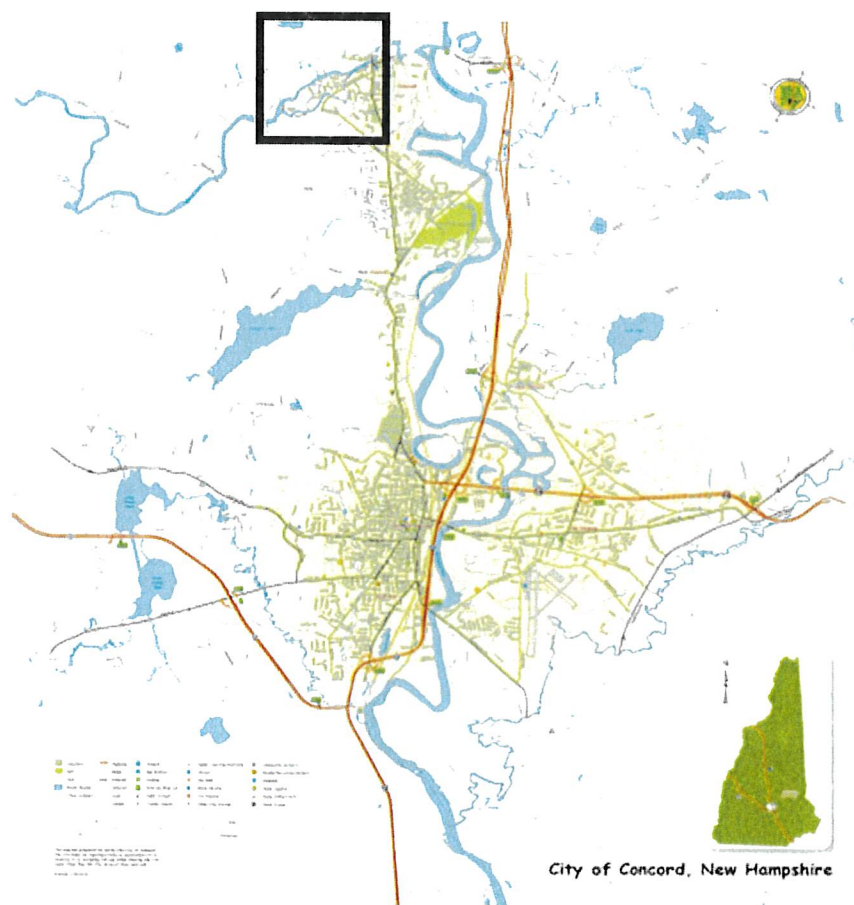


Figure 1. Location Map



Figure 4. York Dam



Figure 5. Canal Dike



Figure 6. Rolfe Canal Gates

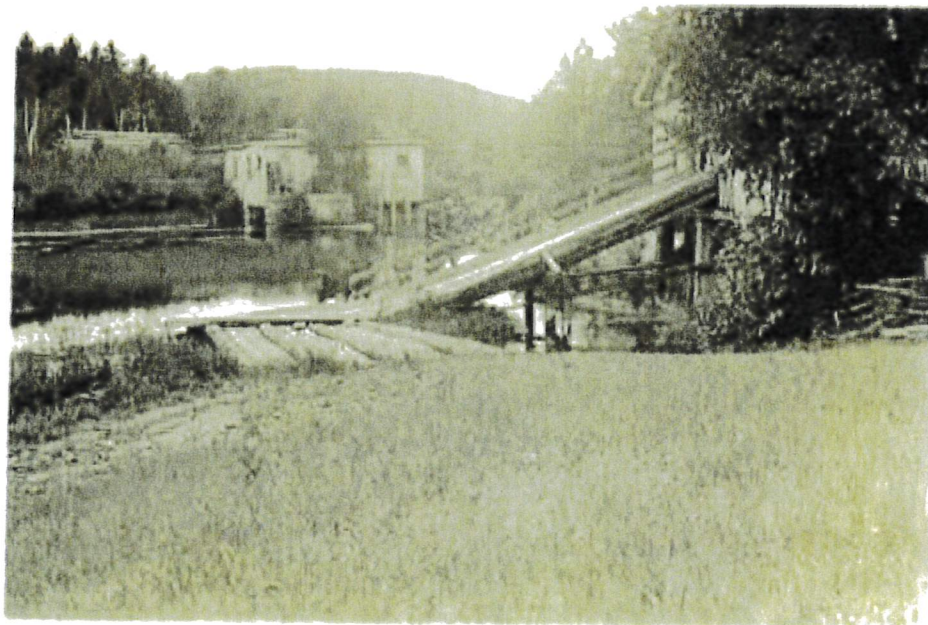


Figure 7. Canal Dam (circa 1934 – removed in 1980)



Figure 8. Boat Ramp upstream of Rolfe Canal Dam



Figure 9. Boat Ramp sign near ramp

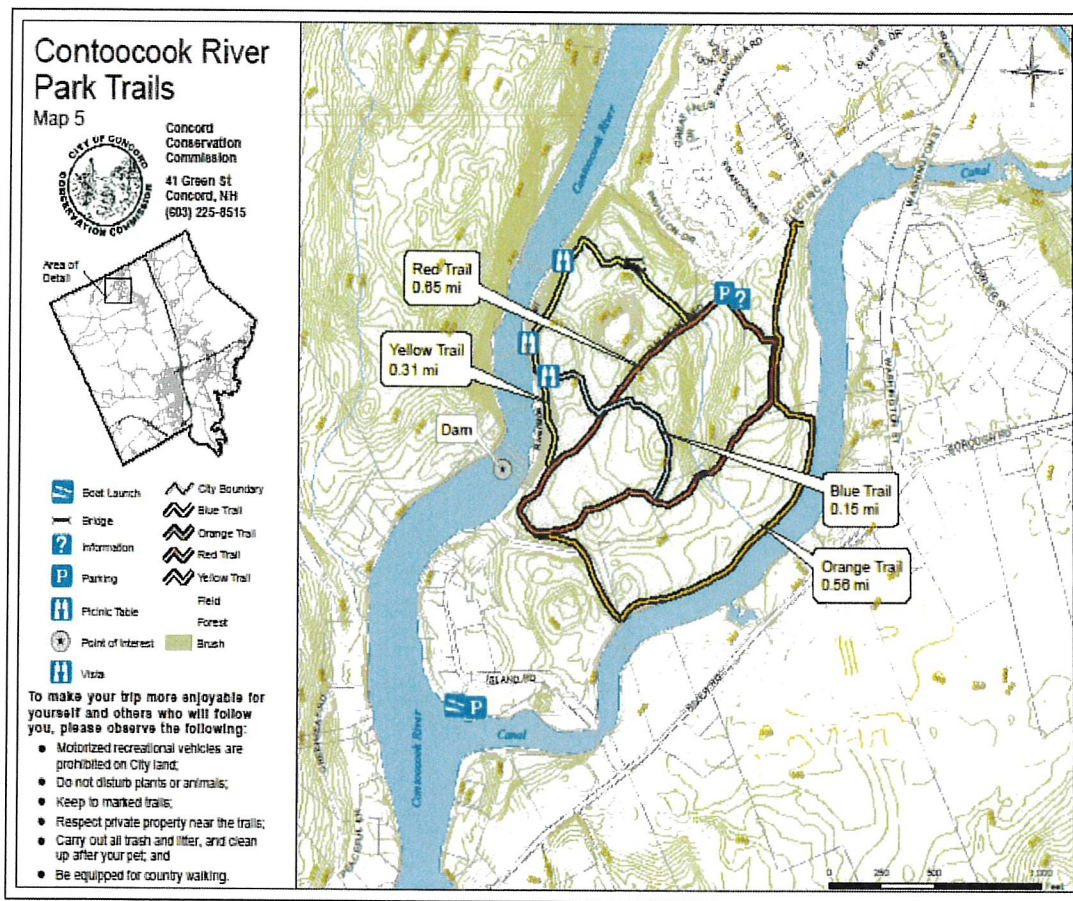


Figure 10. Contoocook River Park Trails Map showing public access to waterbodies

Attachment: A

Council on Resources and Development
REQUEST FOR SURPLUS LAND REVIEW ACTION

Name of Requesting Agency: Department of Environmental Services

Agency Contact Person: Corey J. Clark
Address: 29 Hazen Drive, Concord, NH
Phone Number: 603-271-8871
E-Mail: Corey.J.Clark@des.nh.gov

Applicant Contact Person: _____
Address: _____
Phone Number: _____
E-Mail: _____

Location of Property: Off Island Road and Electric Avenue and near Washington Street in Concord, NH

Acreage: None

Requested Action: Sale of the state's Fee Simple Interest in the York Dam (aka Contoocook River Park Dam) and Canal Dike on the Contoocook River, its easements for the Rolfe Canal Entrance Gate and Canal Dam(removed), and all associated flowage and water rights, and access easements along with public access for boat ramp to the Contoocook River.

Term of Lease or Easement: n/a

.....

Please complete ALL questions below, submit one digital copy, one hardcopy with original signatures, and three photocopies of the completed application to:

NH Bureau of Economic Affairs
NH Office of Planning & Development
100 North Main St, Suite #100,
Concord, NH 03301
Attn: Stephanie N. Verdile, Principal Planner stephanie.n.verdile@livefree.nh.gov

2. What is the current use of this property?

The property is currently leased to Briar Hydro Associates, the proposed purchaser of the property, to divert water from the Contoocook River into the Rolfe Canal to their hydropower plant located at the outlet of the canal in Penacook.

3. What is the proposed use of this property if surplus? Please note if proposed use is intended to create a public benefit.

The use of the property will remain the same.

4. Does the proposed use of this property entail new development? ☐ Yes ☒ No

a. If yes, is it consistent with adjacent and existing development? ☐ Yes ☐ No

b. Please describe how the proposed new development differs from or is similar to its surroundings. Also indicate how it may initiate a future change in the use of the property or its surroundings.

5. Are there any structures located on this property? ☒ Yes ☐ No

a. If yes, please describe the structures including how many and what kind?

There are three structures built and one former structure on five easements that the state holds on property owned by the City of Concord for the purpose of constructing, reconstructing, repairing, maintaining, operating, inspecting and accessing the dams. The first structure is the York Dam (NH Dam No. D051002) located on the Contoocook River, which is owned by NHDES and is currently leased to Briar Hydro Associates. The second structure is the Canal Dike (NH Dam No. D051045) across the entrance of Dry Brook from The Contoocook River. That structure is also owned by NHDES and is currently leased to Briar Hydro Associates. The third structure is the Rolfe Canal Gates Dam (NH Dam No. D051043) at the Inlet of Rolfe Canal that was built by Briar Hydro Associates in 1988, under the terms of the lease of the property between NHDES and Briar Hydro Associates, on an easement held by NHDES. The fourth easement was for Rolfe Canal Dam (NH Dam No. D051003) which was removed in 1980. This dam existed approximately 850 feet upstream on the canal from where Briar Hydro Associates built the Rolfe Canal Intake Dam in 1986. Pictures of the structures are provided in Figures 4 through 7.

6. Are there historical architectural or archaeological resources identified on this site?

☐ Yes ☒ No

a. If yes, describe the resource(s)?

NHDES does not believe that there are historical resources on the property. The oldest structure is the York Dam, which was acquired by the State from the City of Concord in 1967 and completely rebuilt by the State's Dam Maintenance Crew in 1968. The construction replaced a timber crib dam, which dated back to at least 1886, with a reinforced concrete gravity dam. In 1970 the State Dam Maintenance Crew added concrete in the crest of the dam to raise the elevation of the crest by 2 feet. The Rolfe Canal Dam was removed in 1980 when the site was redeveloped for hydropower use.

b. If no, contact the NH Division of Historical Resources prior to application submission.

7. Is there any existing development or structures on adjacent sites? ☒ Yes ☐ No

a. If yes, describe the use and number of structures of adjacent sites.

If no, where is the nearest development? (Describe distance, use, and number)

There are no structures adjacent to York Dam or the Canal Dike. The right abutment of York Dam (looking downstream) is on the City of Concord's Contoocook River Park and the left abutment is on conservation land owned by the City of Concord. The Dry Canal Dike is within the Contoocook River Park. The easement on which the Rolfe Canal Gates Dam was constructed is just upstream of the Island Road Bridge where it crosses the Rolfe Canal. The easement for the Boat Ramp is upstream of the Island Road Bridge across on the north side of the Rolfe Canal near a residential area.

8. Does the site represent the entire state property in this location? ☒ Yes ☐ No

a. If no, please describe its relationship to the entire state holding (percentage of total acreage, percentage of overall rail length, etc.).

9. Is access to this property available? ☐ Yes ☐ No

a. If yes, how is the site accessed? (from rail, water, across applicant's property, etc.)

The left side of York Dam (looking downstream) is accessed by way of an easement from Elm Street through conservation land owned by the City of Concord, on which the state has the right to travel on foot or by vehicle to construct, reconstruct, repair, maintain and operate the dam. The right side of York Dam (looking downstream) and Canal Dike are accessed from easement over trails through the Contoocook River Park off Electric Avenue and from Island Road on which the state has the right to travel on foot or by vehicle to construct, reconstruct, repair, maintain and operate the dam and dike. The easement on which the Rolfe Canal Gates were constructed is accessed from Island Road. The easement on which the now removed Rolfe Canal Dam was accessed from Washington Street or Electric Avenue.

- b. If yes, is there a potential for public access interruption? ☐ Yes ☒ No

10. Are there water resources related to this property, such as:

Lakes/Ponds - ☒ Yes ☐ No **OR** **Rivers** - ☒ Yes ☐ No **OR** **Wetlands** - ☐ Yes ☐ No?

- a. If yes, please indicate the size or extent of such resources.

The York Dam across the Contoocook River creates a 250-acre impoundment upstream and diverts water into the Rolfe Canal. The Rolfe Canal is approximately 4,300-feet-long from its entrance on the Contoocook River to the Penstock Intake Dam owned by Briar Hydro. From there, it is another 2,900 feet to its confluence with the Contoocook River.

- b. If yes, briefly describe how the requirements of RSA 483-B (Shoreland Water Quality Protection Act) apply to potential development of this property:

There can be no additional development of the property. The use of the easements is limited to the construction, reconstruction, repair, maintenance and operation and inspection of dams that have already been constructed on the easements.

- c. If yes, briefly describe how any municipal zoning requirements for buffers or setbacks from lakes, rivers or wetlands apply to potential development of this property:

There can be no additional development of the property. The easements granted to the state from the City of Concord limit their use to the construction, reconstruction, repair, maintenance and operation and inspection of dams that have already been constructed on the easements.

- d. Is the property within 250 feet of a lake/pond or river/stream? ☒ Yes ☐ No

- e. If lakes or rivers are related to this property, describe current public or private access from the site to the water body? ☒ Public ☐ Private ☐ No Access Available

Description: The access to the Contoocook River and Rolfe Canal is public through the City of Concord's Contoocook River Park. In addition there is a public boat ramp owned by the City of Concord on the Contoocook River at the entrance to the Rolfe Canal. See Figure 8&9.

- f. How would the proposal affect the access opportunities described in e?

No effect

11. Please identify any other significant resources or sensitive environmental conditions known to be located on or adjacent to this property.

	Yes (property)	Yes (adjacent property)	No
a. Steep slopes	☐	☐	☒
b. Wetlands (Prime and NWI)	☐	☐	☒
c. Threatened or endangered species.....	☐	☒	☐
d. Wildlife Action Plan Critical Habitats.....	☐	☐	☒

- e. Increased impervious surface..... ☐ ☐ ☒
- f. Potential stormwater flow changes ☐ ☐ ☒
- g. Agricultural soils of prime, statewide, or
local importance ☐ ☐ ☒
- h. Potential river channel change ☐ ☐ ☒
- i. Other special designations ☐ ☐ ☒

Please provide a description for any "yes" responses to question #10.

National Heritage Bureau Data Check Tool Inquiry indicates the presence of rare or natural communities in the adjacent area.



The State of New Hampshire LRCP 23-019
Department of Environmental Services

Robert R. Scott, Commissioner



May 12, 2023

Mark McConkey, Chairman
Long Range Capital Planning and Utilization Committee
Room 102, State House
Concord, NH 03301

Approved by the Long Range
Capital Planning & Utilization
Committee May 26, 2023

Dear Chairman McConkey:

Requested Actions

1. Pursuant to RSA 4:40, authorize the Department of Environmental Services (NHDES) to sell its York Dam (D051002) and Canal Dike (D051045) on the Contoocook River in Concord, NH, its easements at the Rolfe Canal Gates (D051043) and Rolfe Canal (D051003), and its associated flowage and water rights and access easements to Briar Hydro Associates for \$600,000.
2. Pursuant to RSA 4:40(III-a), waive the \$1,100 administrative fee.

Explanation

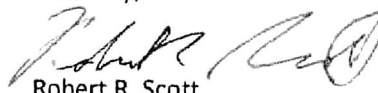
Briar Hydro Associates has offered NHDES \$600,000 to purchase the property, which is an amount consistent with the market value of the property as determined in an appraisal of the property performed by the Public Utility Appraiser at the New Hampshire Department of Revenue Administration. Briar Hydro Associates currently leases this property from NHDES under a 50-year lease that started on February 20, 1986, and has nearly 13 years remaining until its expiration.

York Dam and the Canal Dike divert water from the Contoocook River into the Rolfe Canal which feeds the hydropower generating facilities of Briar Hydro Associates at the downstream end of the canal. In addition, as allowed under the lease, Briar Hydro Associates has constructed and operates and maintains the Rolfe Canal Gates Dam on a NHDES-owned easement at the inlet of the canal, as well as the Rolfe Canal Penstock Intake Dam near the outlet of the canal. All of these properties are part of the Rolfe Canal Hydropower Project licensed by the Federal Energy Regulatory Commission (FERC) to Briar Hydro Associates under FERC License No. P-3240.

NHDES seeks to sell the property to free the State of New Hampshire from liability associated with ownership of York Dam, the failure of which could inundate homes and businesses downstream, overtop State Route 3 and impact downstream dams. In addition, the certainty of the revenue from the sale is preferable to the uncertain revenue stream from rent over the remaining term of the lease.

This was presented to CORD on March 9, 2023, and voted to Recommend Approval of 2023 SLR 003 as submitted. If you have any questions, please contact the Dam Bureau Chief Engineer, Corey Clark, at (603) 271-1961.

Sincerely,


Robert R. Scott
Commissioner



New Hampshire Department of
**BUSINESS AND
ECONOMIC AFFAIRS**



New Hampshire Council on Resources and Development
NH Office of Planning and Development
100 N Main St., Concord, NH 03301

RECOMENDATION MEMORANDUM

TO: Robert R. Scott, Commissioner
Corey J. Clark, Chief Engineering & Construction Engineer
NH Department of Environmental Services

FROM: Stephanie N. Verdile, Principal Planner
NH Office of Planning and Development

DATE: March 16, 2023

Reference: 2023 SLR 003

Request from the Department of Environmental Services (NHDES) to sell its York Dam and Canal Dike on the Contoocook River, its easements at the Rolfe Canal Entrance and Outlet, and its associated flowage and water rights and access easements to Briar Hydro Associates. The property is located off Island Road and Electric Avenue and near Washington Street in Concord, NH.

On March 9, 2023, the Council on Resources and Development (CORD) voted to **recommend approval** of the above referenced Surplus Land Review Application #2023 SLR-003.

Cc via email: Taylor Caswell, Commissioner, NH Dept of Business and Economic Affairs and Chair, Council on Resources and Development Taylor.Caswell@livefree.nh.gov
Pamela Ellis, LBA Staff, Legislative Long Range Capital Planning and Utilization Committee
Pamela.Ellis@leg.state.nh.us

📍 100 North Main Street, Suite 100
Concord, New Hampshire 03301

☎ 603.271.2341

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