



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



December 27, 2022

Commissioner Taylor Caswell, Chair
NH Department of Business and Economic Affairs
100 North Main Street
Suite 100
Concord, NH 03301

Re: Sale of York Dam and associated water rights and easements in Concord to Briar Hydro Associates

Dear Commissioner Caswell:

The Department of Environmental Services (NHDES) proposes 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. 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.

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.

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. During the remaining years of the lease, the rent, which is a percentage of the revenue that Briar Hydro Associates receives from power generated at the project, can now be reduced based on the operation and maintenance costs of the project.

Please submit this proposal to the Council on Resources and Development (CORD) for review at its next meeting. If you have any questions, please contact Corey Clark at (603) 271-8871.

Sincerely,


Robert R. Scott
Commissioner

cc: Stephanie N. Verdile, Principal Planner, Office of Strategic Initiatives

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 Outlet, and all associated flowage and water rights, and access easements

Term of Lease or Easement: n/a

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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

1. 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.

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

The use of the property will remain the same.

3. 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.

4. 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 four structures built on four easements that the state holds on property owned by the City of Concord for the purpose of constructing, reconstructing, repairing, maintaining, operating and inspecting dams. The first structure is the York Dam 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 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 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 structure is the Rolfe Canal Penstock Intake Dam near the outlet of Rolfe Canal that was built by Briar Hydro Associates in 1986, under the terms of the lease of the property between NHDES and Briar Hydro Associates, on an easement held by NHDES. Pictures of the structures are provided in Figures 4 through 7.

5. 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.

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

6. 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 Canal Dike is within the Contoocook River Park. The easement on which the Rolfe Canal Gates were constructed is just upstream of the Island Road Bridge where it crosses the Rolfe Canal. The easement on which the Rolfe Canal Penstock Intake Dam was constructed is upstream of the Washington Street Bridge across the Rolfe Canal.

7. 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).

8. 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 trails through the Contoocook River Park 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 Rolfe Canal

Penstock Intake Dam was constructed is accessed from Washington Street or Electric Avenue.

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

**9. 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. 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.

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

No effect

10. 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.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Wetlands (Prime and NWI)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Threatened or endangered species.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Wildlife Action Plan Critical Habitats.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Increased impervious surface.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Potential stormwater flow changes.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Agricultural soils of prime, statewide, or local importance.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Potential river channel change.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Other special designations	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

National Heritage Bureau DataCheck Tool inquiry indicates the presence of rare or natural communities in the adjacent area.

11. Attach photographs and maps of the property. Maps should highlight the requested property location and help to adequately place the property within the town.

- a. Municipal tax map copy showing all abutters
- b. General location map with scale, north arrow, nearby roads, and water bodies/features*
- c. Aerial Photograph*
- d. Any site plans for new or proposed development prepared at the time of application
- e. Maps depicting rail lines, wetlands, conservation lands, rare species and exemplary natural communities, or topographic features are welcome but not required

* Maps can be created with GIS, Google, Mapquest, GRANIT data mapper, or any other readily available mapping service.

Please paste any maps and photographs submitted as part of this application here.

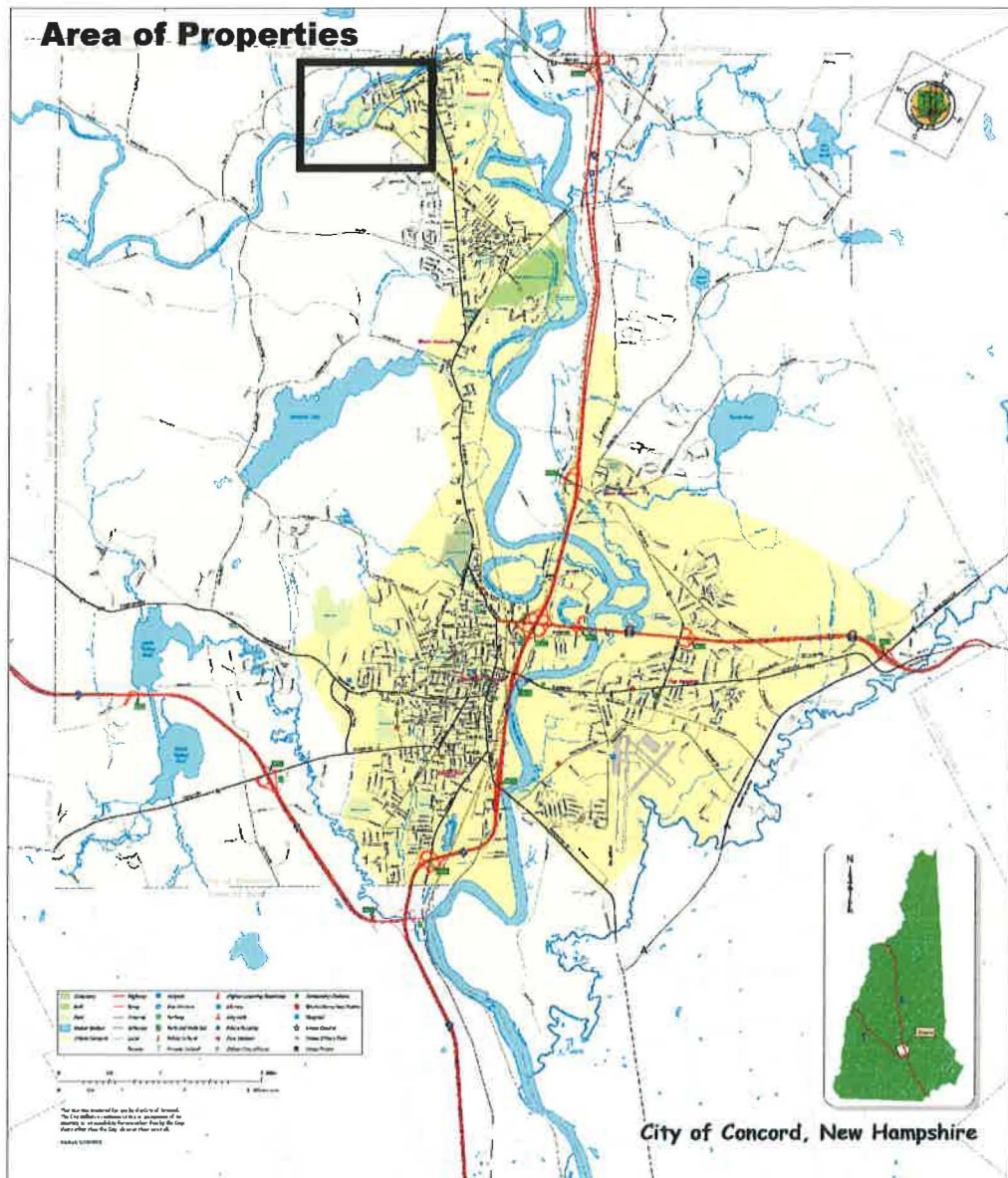


Figure 1. Location Map



Figure 2. Location of Properties



Figure 3. Municipal Tax Map



Figure 4. York Dam



Figure 5. Canal Dike



Figure 6. Rolfe Canal Gates



Figure 7. Rolfe Canal Penstock Intake Dam

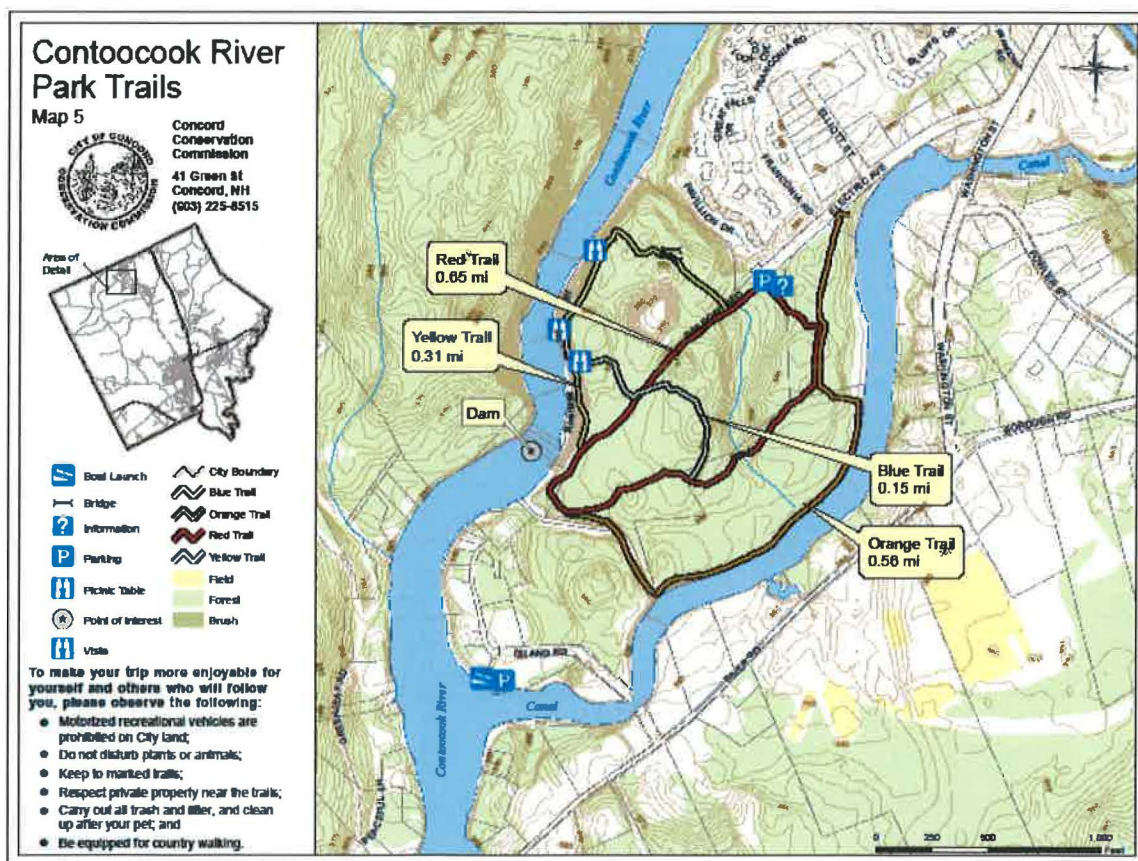


Figure 8. Contoocook River Park Trails Map showing public access to waterbodies surplus-land-application - York Dam