



MADBURY CONSERVATION COMMISSION

13 TOWN HALL ROAD
MADBURY, NEW HAMPSHIRE 03823

December 9, 2015

Madbury Planning Board
13 Town Hall Rd
Madbury, NH 03823

Dear Planning Board,

At the public hearing on December 2, for the Smith subdivision (Map 1 Lot 22) at 281 Littleworth Rd, I commented on a question about Madbury's Shoreland Protection Overlay District and the delineation of the Bellamy Reservoir with respect to the Smith property.

Please find attached materials supporting the notion that the property does border the Bellamy Reservoir and is subject to Madbury's Shoreland district.

I also respectfully suggest that the driveway crossing may need a conditional use permit per the Wet Areas Conservation Overlay District.

Respectfully,

Eric Fiegenbaum
Chair, Madbury Conservation Commission

Items from the Chair of the Madbury Conservation Commission
regarding the Smith (Map 1 Lot 22) subdivision as proposed by Garvey and Berry

1. On the question of whether the parcel abuts the Bellamy Reservoir or Mallego Brook with respect to the Madbury Shoreland Protection Overlay District. The following items would seem to indicate that the parcel abuts the Reservoir and the ordinance should apply and restricts certain proposed activities.

Madbury Shoreland Protection Overlay District

- The subdivision plan should show the shoreland and presumably the district. (whether 75 ft or 300 ft)
- Under Section 2. A. ... the district is 300 feet horizontal distance of the seasonal high water level of the Bellamy Reservoir. The Planning Board published map of the overlay district shows a 300 ft protected area for this parcel.
- Under Section 4. B. Prohibited uses
The following land uses are prohibited in the Shoreland Protection Overlay District:
 1. The erection of any structure (except those explicitly permitted in this Section),
 2. Installation of an on-site wastewater treatment system,
 3. Alteration of the surface configuration of the land by the addition of fill or dredging except consistent with best management practices for agricultural and forestry land drainage.

City of Portsmouth information on the Reservoir (map attached)

- Portsmouth easement polygons, derived from materials during the formation of the reservoir, would seem to indicate that the reservoir and its easements continue up Mallego Brook into Barrington.
- Portsmouth delineation of the reservoir shows parcel abutting the reservoir, not Mallego Brook.

Barrington assessing information (attached)

- Barrington tax map 237 showing parcel as Reservoir
- Barrington tax card Map 237 Lot 3, showing parcel as owned by Portsmouth and referenced as Reservoir

Deeds for Map 1 Lot 22 (attached)

- Chikalla to Rockwell, book 1101 page 712, references parcel boundary as high water mark of Bellamy Reservoir
- Rockwell to Smith, book 1779 page 0045, references parcel boundary as high water mark of Bellamy Reservoir

Applicant's plan showing 250' reference line setback (attached is Madbury's page from the Consolidated List)

- Applicant shows a 250' setback, which is presumably the NH Shoreland Water Quality Protection Act (SWQPA) setback for the Bellamy Reservoir. *RSA 483-B:4. XVII. "Reference line" means: (a) For all lakes, ponds, and artificial impoundments greater than 10 acres in size, the surface elevation as listed in the Consolidated List of Water Bodies subject to the shoreland water quality protection act as maintained by the department.*
Mallego Brook is not listed in the Consolidated List and is presumably not a 4th order stream protected by the NH SWQPA. From an FAQ on the NH DES website: *"Which bodies of water are protected under the SWQPA? All lakes, ponds and impoundments greater than 10 acres, all 4th order and greater streams and rivers, all designated rivers and river segments under RSA 483 (The Rivers Management & Protection Act) and all waters subject to the ebb and flow of the tide (including tidal marshes, rivers and estuaries)*

Env-Dw 902 PROTECTING THE PURITY OF SURFACE WATER SOURCES OF DRINKING WATER (Env-Dw 902.30 attached)

- If the property abuts the Bellamy Reservoir then Env-Dw 902.30 Protection of the Purity of the Bellamy Reservoir and Its Watershed, would also apply and should perhaps be noted on the plan.

2. On whether the Madbury Wetlands Overlay District applies regarding the driveway crossing of wetlands. The following sections seem to layout the reasoning for its application and required process.

Section 2. District Boundaries

The Wet Areas Conservation Overlay District includes all areas identified as wetland, as defined by the State, poorly drained and very poorly drained soils, and vernal pools.

Section 4. Permitted, Prohibited, And Limited And Regulated Uses

C. Limited and Regulated Uses

The following land uses are allowed in the Wet Areas Conservation Overlay District if the Planning Board approves a Conditional Use Permit in accordance with the provisions of Article IV, Section 9 of this ordinance:

1. Uses otherwise prohibited (e.g., driveway access or wetland crossing) only if they are found to be consistent with this ordinance, and do not have an adverse impact on the wet area as determined by a wetland scientist and concurred with by the Planning Board.
2. Any use that involves a change to a wet area that requires a state dredge and fill application in accordance with (RSA 483-A).

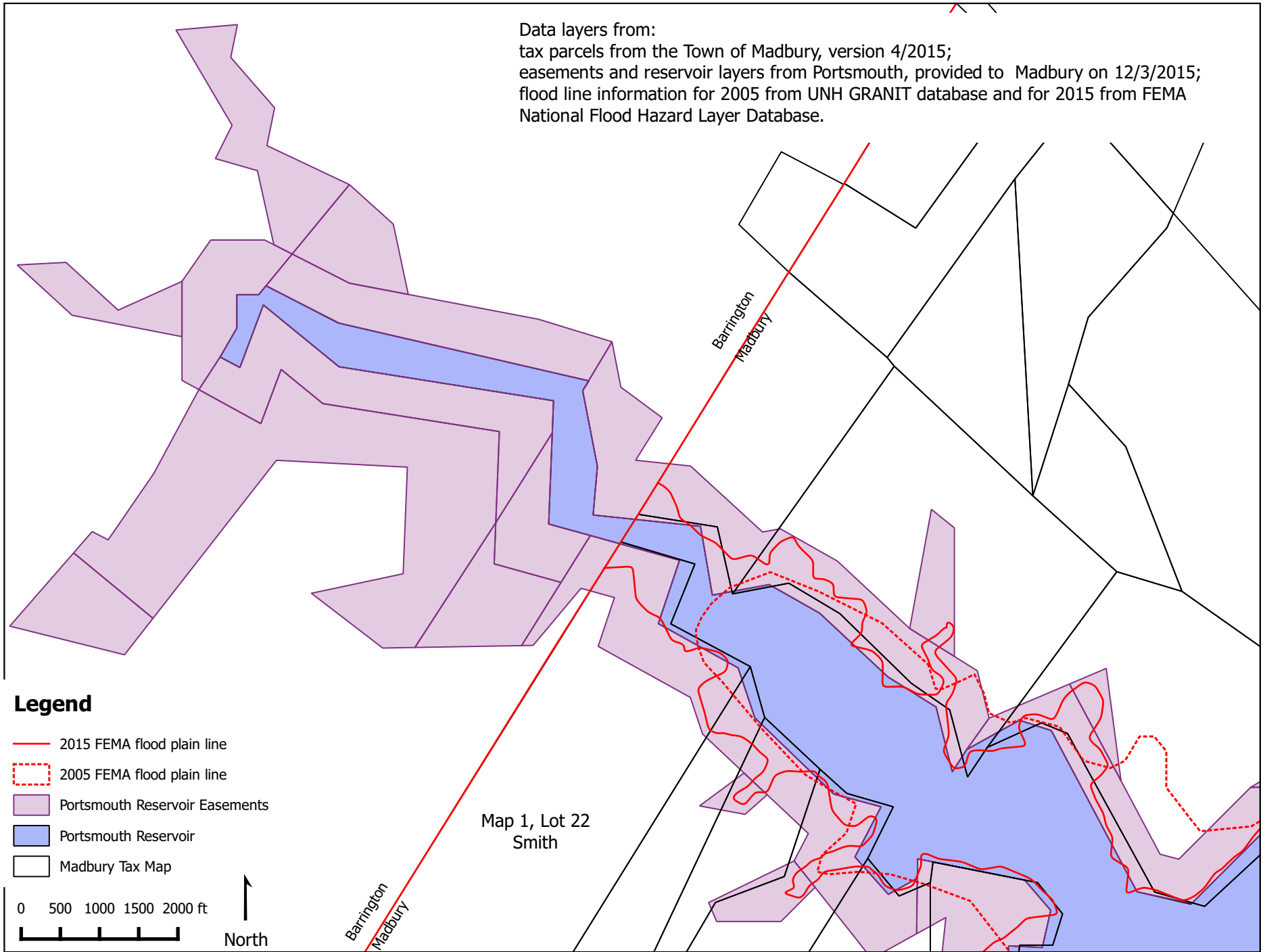
Section 8. Conditional Use Permit Criteria and Procedures

The Planning Board shall consider a conditional use permit only if:






- A. A wetland scientist has provided written evidence that there will be no adverse impact to the wet area.
- B. The applicant has addressed any recommendations provided by the Madbury Water Resources Board and the Madbury Conservation Commission.

Map provided by the Madbury Conservation Commission, 12/8/2015.

Data layers from:
tax parcels from the Town of Madbury, version 4/2015;
easements and reservoir layers from Portsmouth, provided to Madbury on 12/3/2015;
flood line information for 2005 from UNH GRANIT database and for 2015 from FEMA
National Flood Hazard Layer Database.



Legend

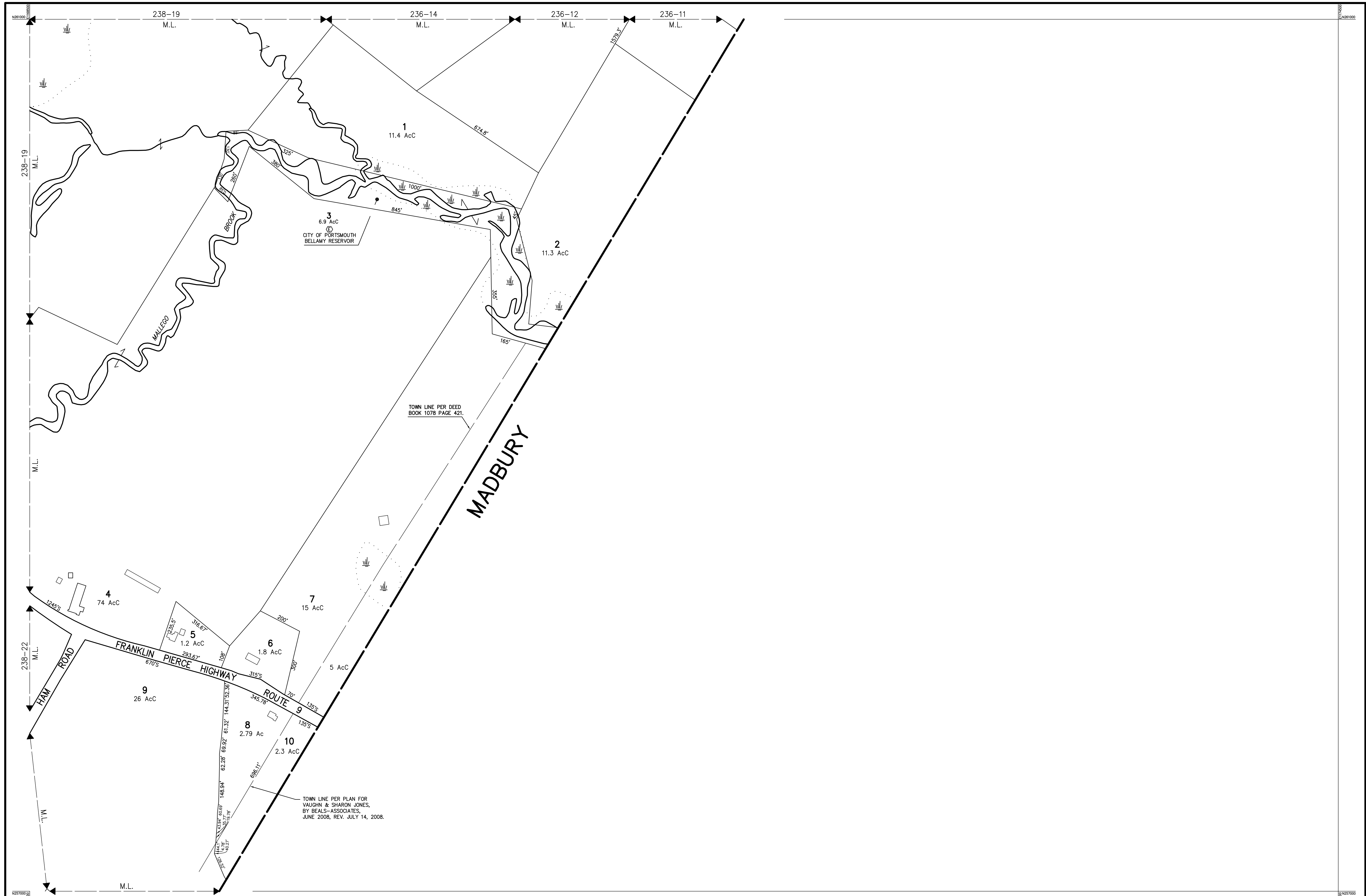
-  2015 FEMA flood plain line
-  2005 FEMA flood plain line
-  Portsmouth Reservoir Easements
-  Portsmouth Reservoir
-  Madbury Tax Map

0 500 1000 1500 2000 ft



Map 1, Lot 22
Smith

Barrington
Madbury



THIS MAP IS FOR ASSESSMENT AND PLANNING PURPOSES ONLY. IT IS NOT TO BE USED FOR DESCRIPTION, CONVEYANCE, OR DETERMINATION OF LEGAL TITLE.

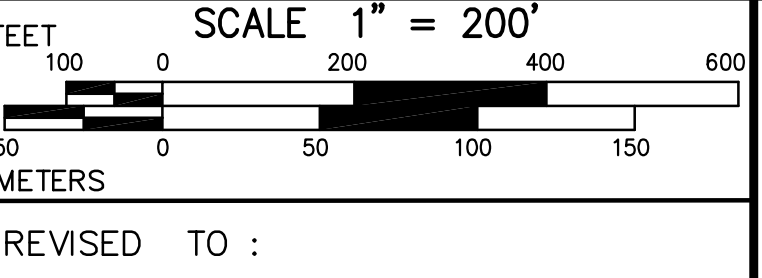
THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM, NAD 83.

PHOTOGRAPHY DATE: APRIL 25, 2003 COMPLETION DATE: NOVEMBER 2003



AREA SURVEYED	Ac
AREA CALCULATED	AcC
RECORD DIMENSION	100'
SCALED DIMENSION	100'S
MATCH LINE	← M.L. →	
WATER	← W →	

EXEMPT PROPERTY	Ⓢ
SUBDIVISION LOT NO.	Ⓣ
BUILDING	▭
RIGHT OF WAY/ACCESS	— RW —
COMMON OWNERSHIP	—
WETLANDS	Ⓜ



PROPERTY MAPS

BARRINGTON

NEW HAMPSHIRE

INDEX	DIAGRAM
235 236	GN
238 252	
251 252	

MAP NO.

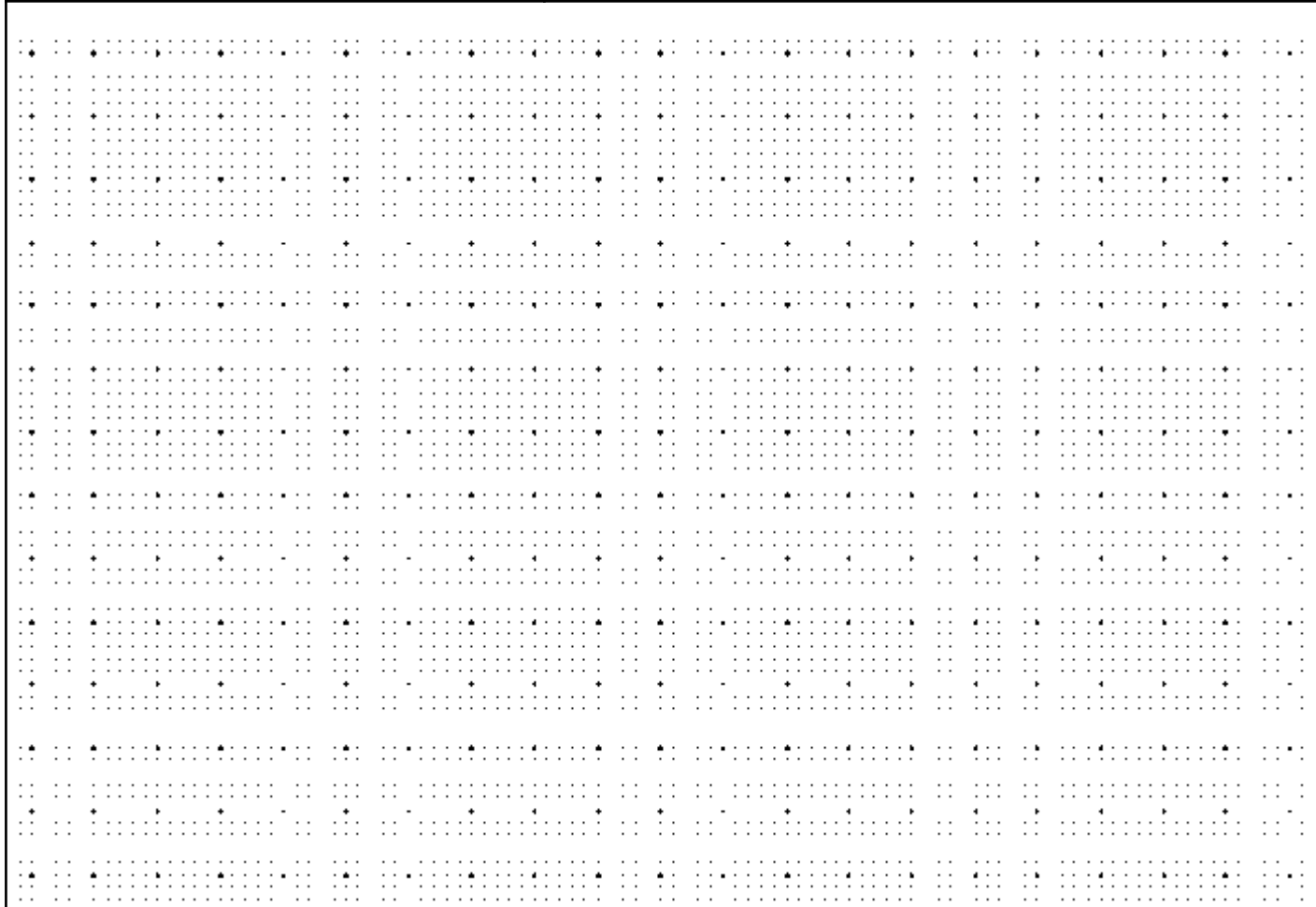
237

OWNER INFORMATION	SALES HISTORY	PICTURE												
PORTSMOUTH CITY OF 1 JUNKINS AVE PORTSMOUTH, NH 03801	<table border="1"> <thead> <tr> <th>Date</th> <th>Book</th> <th>Page</th> <th>Type</th> <th>Price</th> <th>Grantor</th> </tr> </thead> <tbody> <tr> <td colspan="6"> </td> </tr> </tbody> </table>	Date	Book	Page	Type	Price	Grantor							
Date	Book	Page	Type	Price	Grantor									
LISTING HISTORY	NOTES													
06/23/14 MWRR 02/20/14 BHCL	OLD MAP & LOT #: 015-0026-0000/LAND=WET LAND CONSIDERED WASTE (FKA PORTSMOUTH RESERVOIR) 2014 NO KNOWN ACCESS, BELLAMY RESERVIOR													

EXTRA FEATURES VALUATION							MUNICIPAL SOFTWARE BY AVITAR				
Feature Type	Units	Length x Width	Size Adj	Rate	Cond	Market Value	Notes	BARRINGTON ASSESSING OFFICE			
PARCEL TOTAL TAXABLE VALUE								Year	Building	Features	Land
								2013	\$ 0	\$ 0	\$ 13,800
								Parcel Total: \$ 13,800			
								2014	\$ 0	\$ 0	\$ 13,800
								Parcel Total: \$ 13,800			
								2015	\$ 0	\$ 0	\$ 13,800
								Parcel Total: \$ 13,800			

LAND VALUATION													
Zone: RURAL			Minimum Acreage: 2.00			Minimum Frontage: 200			Site:		Driveway:		Road: PAVED
Land Type	Units	Base Rate	NC	Adj	Site	Road	DWay	Topography	Cond	Ad Valorem	SPI R	Tax Value	Notes
IF RES	6.900 ac	x 2,000	X	100	100	100	100		100	13,800	0 N	13,800	
										13,800	13,800		

PICTURE	OWNER	TAXABLE DISTRICTS	BUILDING DETAILS								
	PORTSMOUTH CITY OF 1 JUNKINS AVE PORTSMOUTH, NH 03801	<table border="1"> <thead> <tr> <th>District</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	District	Percentage			Model: Roof: Ext: Int: Floor: Heat: Bedrooms: Baths: Fixtures: Extra Kitchens: Fireplaces: A/C: Generators: Quality: Com. Wall: Stories: <div style="text-align: right;">Base Type:</div>				
District	Percentage										
PERMITS											
<table border="1"> <thead> <tr> <th>Date</th> <th>Permit ID</th> <th>Permit Type</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>			Date	Permit ID	Permit Type	Notes					
Date	Permit ID	Permit Type	Notes								



BUILDING SUB AREA DETAILS

2014 BASE YEAR BUILDING VALUATION	
Year Built:	
Condition For Age:	%
Physical:	
Functional:	
Economic:	
Temporary:	%

KNOW ALL MEN BY THESE PRESENTS, That GERALD G. CHIKALLA and JESSIE E. CHIKALLA of Northfield, Vermont,

for consideration paid, grant to MURRAY V. ROCKWELL and JANET G. ROCKWELL, as joint tenants, of Bellingham, Massachusetts,

with warranty covenants

A certain parcel of land with building thereon bounded and described as follows:

Beginning at an iron pin on the Northwesterly sideline of Littleworth Road, so-called, in the Town of Madbury, at the Southeasterly corner of land now or formerly of Lagass, thence running North 32° West along said roadway a distance of Seven Hundred Eighty Eight (788) feet more or less to the Madbury-Barrington town line thence turning and running along said town line North 48° East a distance of Two Thousand Thirty (2030) feet more or less to the high water mark of the Bellamy Reservoir, so-called, thence turning and running in a generally Southeasterly direction along said high water mark a distance of One Thousand (1000) feet more or less to an iron pin thence turning and running South 48° West a distance of Eighteen Hundred Twenty (1820) feet more or less to the point of beginning. Said premises consisting of 33.7± acres.

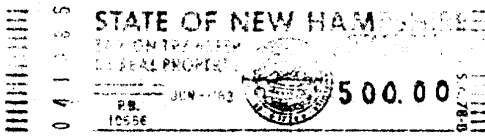
Being the same premises conveyed to the Grantors herein by deed of Richard W. and Joan M. Buckley, deed of William Bischoff, Jr. and deed of William Bischoff, Jr. as Administrator wwa estate of William A. Bischoff, Sr., recorded at the Strafford County Registry of Deeds, Book 910, Page 500, Book 950, Pages 78-79 and Book 950, Pages 80-81, respectively.

1983 JUN 10 PM 12:26

5278

Shirley D. Carey

005056



Signed this 10TH day of June, 1983

Gerald G. Chikalla L.S.
Jessie E. Chikalla L.S.

State of New Hampshire

Rockingham ss.:

June 10, A. D. 1983

Personally appeared Gerald G. Chikalla and Jessie E. Chikalla

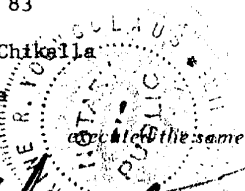
known to me, or satisfactorily proven, to be the persons whose name subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes therein contained.

My commission expires November 22, 1983. Before me,

Arthur J. [Signature] Notary P

Shirley D. Carey

REGISTER OF DEEDS STRAFFORD COUNTY



WARRANTY DEED

WE, MURRAY V. ROCKWELL, and JANET G. ROCKWELL, husband and wife of North Manchester, Indiana, for consideration of ONE HUNDRED SEVENTY-FOUR THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (174,500.00) grant to LAURA S. SMITH, a married person, of 281 Littleworth Road, Madbury, New Hampshire, individually, with

WARRANTY COVENANTS

A certain parcel of land with the buildings thereon bounded and described as follows:

Beginning at an iron pin on the Northwesterly sideline of Littleworth Road, so-called, in the Town of Madbury, at the Southeasterly corner of land now or formerly of Lagass, thence running North 32° West along said roadway a distance of Seven Hundred Eighty-Eight (788) feet more or less to the Madbury-Barrington town line thence turning and running along said two line North 48° East a distance of Two Thousand Thirty (2030) feet more or less to the high water mark of the Bellamy Reservoir, so-called, thence turning and running in a generally Southeasterly direction along said high water mark a distance of One Thousand (1000) feet more or less to an iron pin thence turning and running South 48° West a distance of Eighteen Hundred Twenty (1820) feet more or less to the point of beginning. Said premises consisting of 33.7 +/- acres.

Being the same premises conveyed to us by deed of Gerald G. Chikalla and Jessie E. Chikalla dated June 10, 1983 recorded with the Strafford County Registry of Deeds at Book 1101, Page 712.

This is not homestead property.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 18th day of November, 1994.

Murray V. Rockwell
Murray V. Rockwell

Janet G. Rockwell
Janet G. Rockwell

STATE OF NEW HAMPSHIRE

STRAFFORD, SS.

November 18, 1994

Then personally appeared the above named MURRAY V. ROCKWELL AND JANET G. ROCKWELL and acknowledged the foregoing instrument to be THEIR fee act and deed, before me,

Karen D. Eldredge
Notary Public
My Commission Expires: 12/16/99

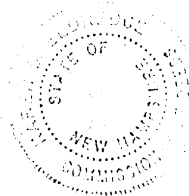
STATE OF NEW HAMPSHIRE

DEPARTMENT OF REVENUE ADMINISTRATION REAL ESTATE TRANSFER TAX

xxx1 THOUSAND xx7 HUNDRED AND x45 DOLLARS

MO. DAY YR.	AMOUNT
11-18-94	161425 \$ 1745.00

VOID IF ALTERED



Leo Lessard
REGISTER OF DEEDS
STRAFFORD COUNTY

94 NOV 18 PM 1:24
REGISTER OF DEEDS
STRAFFORD COUNTY

017284

BK 1779PG0045

**DES Consolidated List of Waterbodies Subject to RSA 483-B, the
Shoreland Water Quality Protection Act**

Town	River / Stream Name	Where River/ Stream becomes jurisdictional under the SWQPA	Lake / Pond Name	a.k.a.	Size in Acres	Surface Elevation		
Madbury	Bellamy River	Outflow of Bellamy Reservoir	Barbadoes Pond		14.2	132		
	Oyster River	Juncture of Duby Brook	Bellamy Reservoir Dam		382.2	140		
Madison	Pequawket Brook	Juncture of Banfield Brook	Cooks Pond		28.4	470		
			Davis Pond		21.7	484		
			Durgin Pond		10.8	550		
			Ledge Pond		18.5	542		
			Loud Pond		18.5	1070		
			Mack Pond		12.1	474		
			Pea Porridge Ponds	Middle and Lower	53	636		
			Purity Lake		86	458		
			Silver Lake		995	468.2		
			Upper Pea Porridge Pond		142.2	648		
			Upper Pequawket Pond		14.2	459		
			Whitton Pond		142.6	808		
			Manchester	Piscataquog River - Designated Segment	South, Middle and North Branches. North Branch - From the Outlet of Deering Lake Dam in Deering to the confluence with the South Branch in Goffstown (omitting Lake Horace and Everett Flood Control Area) South Branch - From the outlet of Pleasant Pond in Francestown to the river's mouth at Bass Island in Manchester. Middle Branch - From the outlet of Scobie Pond in Francestown to the confluence with the South Branch in New Boston.	Amoskeag Dam	On Merrimack River	478
Merrimack River	Juncture of Pemigewasset & Winnepesaukee Rivers in Franklin	Crystal Lake				Mosquito Pond	18.6	206
Piscataquog River	Juncture of unnamed 3 rd order in Weare	Dorrs Pond					17.6	270
Black Brook	Juncture of Purgatory Brook in Goffstown	Kelley Falls Dam				On Piscataquog River	129	160
Cohas Brook	Juncture of unnamed 4 th order stream	Long Pond					28.3	255
		Massabesic Lake					2900	249
		Nutt Pond					16.1	237
		Pine Island Pond				Goffs Falls Dam	42.4	151
		Stevens Pond		15.5	315			

Env-Dw 902.30 Protection of the Purity of the Bellamy Reservoir and Its Watershed.

(a) The purpose of this section is to protect the purity of the water of the Bellamy Reservoir, which is the principal drinking water supply for the city of Portsmouth.

(b) This section shall apply within the Bellamy river watershed above the dam that is located at approximate latitude 43° 10' 49", longitude 70° 56' 55", in the towns of:

- (1) Barrington;
- (2) Dover; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(3) Madbury.

(c) Any person violating this section shall, in accordance with RSA 485:26, be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

(d) In accordance with RSA 485:24, the health officers and the boards of health of the towns of Barrington, Dover, and Madbury and their duly authorized agents, and the board of water commissioners of the city of Portsmouth and its duly authorized agents, may act as agents of the department for the enforcement of this section in cooperation with the department.

(e) Where any provision of this section is in conflict with local ordinances, the provision that is more protective of the surface water shall apply.

(f) Any deviations from this section shall be by written consent of the department, in accordance with Env-Dw 902.05. The provisions of this section shall not apply to officials or employees of the town of Madbury or the city of Portsmouth board of water commissioners engaged in the performance of necessary duties for the protection of public safety or the protection and control of said reservoir.

(g) In addition to any prohibitions adopted by local ordinance, the prohibitions that apply in the Bellamy Reservoir watershed described in (b), above, shall be as follows:

(1) A person shall not build, continue, or maintain any building or structure of any kind in which animals or fowls are kept within 75 feet of the high water elevation of Bellamy Reservoir, as defined by the existing spillway elevation of 136.0 feet, or within 75 feet of any inlet thereof or tributary thereto;

(2) A person shall not discharge any sewage or other waste, as defined in RSA 485-A:2, X, treated or otherwise, into said reservoir or any inlet thereof or tributary thereto;

(3) A person shall not throw or deposit any dead animal or fish or parts thereof, perishable or decayable material, manure, or human wastes into said reservoir or any inlet thereof or tributary thereto, or leave or allow any such materials to remain on the surface of the ground within 75 feet of said reservoir or any inlet thereof or tributary thereto;

(4) A person shall not bathe or swim in said reservoir or any inlet thereof or tributary thereto;

(5) A person shall not operate any boats propelled by means of inboard or outboard motors other than electric motors on the waters of said reservoir or any inlet thereof;

(6) A person shall not enter upon or conduct any activity on the ice of said reservoir within 100 feet of the Route 9 bridge, said bridge not being construed to include the causeway;

(7) All activity whether of recreational, occupational, or other nature, in or on the waters of said reservoir within a distance of 2,000 feet of the water supply intake structure, the farthest extent of said area to be marked by signs or buoys, is hereby prohibited;

(8) A person shall not throw, deposit, or allow to remain upon the ice of the waters of said reservoir or upon the ice of any inlet thereof or tributary thereto, any sewage or other waste as defined in RSA 485-A:2; and

(9) A person shall not operate any seaplane or any motor vehicle as defined in RSA 259:60, other than an all-terrain vehicle as defined in RSA 215-A:1, I-b or a snowmobile as defined in RSA 215-A:1, XIII, on any portion of said reservoir.

(h) The city of Portsmouth shall post a summary of the prohibitions contained in (g), above, at all public access locations where persons might reasonably be expected to access Bellamy Reservoir or its

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

tributaries. This posted summary may also contain any prohibitions enacted by local ordinance. These rules shall not apply to staff or hired employees.

Source. (See Revision Note at part heading for Env-Dw 902)
#10602, eff 5-20-14