

Appendix H

LMF Public Access Policy for Water Access and Conservation and Recreation Projects

- A primary purpose of the LMF program is to secure lands for hunting, fishing, trapping, and outdoor recreation by the general public. Accordingly, as a standard condition of LMF funding, all parcels must be both physically accessible and have a guaranteed legal right of public access (guaranteed public access) in one of the following forms (in all cases, documentation will be required prior to closing):
 - Access via a public road;
 - Access via an abandoned public road over which there is a public right of way;
 - Access via a private road where the applicant holds or will acquire deeded rights allowing the public to access the property;
 - Access (by vehicle, foot, or other means) across adjacent conservation land or via a trail easement that is either owned/controlled by the applicant or permanently protected with guaranteed public access (provisions to further secure this access may be added to the Project Agreement);
 - Access by water when the property is on an island, tidal shoreline or includes navigable river or lake frontage and, in the judgment of the LMF Board, it is consistent with the purposes of the project for the primary public access to be by water.
- An access easement granting the applicant the right to access the property over a private road does not provide guaranteed public access for the purpose of receiving LMF funding unless the easement clearly provides for access by the general public.
- The LMF Board recognizes that many parcels throughout Maine are accessed by private roads or are bisected by utility corridors that do not include public access rights, and that there is a long history of public use in many of these areas. The Board further recognizes that some purposes and benefits of conservation projects (e.g., habitat protection or climate change mitigation) do not rely on public access. If a parcel will not have guaranteed public access, the applicant may request that this standard condition be waived, allowing the project to receive LMF funding with existing access. This waiver is at the discretion of the LMF Board, and may be granted only if:

- The primary purposes and benefits of the project do not depend on public access, and/or the parcel has historically been accessible by the public and public access is likely to continue in the foreseeable future even if it is not guaranteed;
 - The sponsoring State agency supports the acquisition even if guaranteed public access is not secured; AND
 - The applicant has exhausted all reasonable avenues for securing guaranteed public access.
- If a parcel does not have guaranteed public access at the time of the proposal, or if guaranteed public access to a portion of the parcel is prevented due to the presence of a utility corridor that does not include public access rights, the proposal should include the following information:
 - Existing and traditional public access to and use of the property;
 - What would be needed in order to secure guaranteed public access to the property; and
 - The status of efforts to secure guaranteed public access and whether any agreement is in place.
 - If a project is selected as a finalist without guaranteed public access to all parcels, or if guaranteed public access to the entirety of the parcel is prevented due to the presence of a utility corridor that does not include public access rights, the LMF Board will indicate at the time of the selection whether the standard condition requiring guaranteed public access is waived or conditionally waived (e.g., the applicant should continue to attempt to secure guaranteed public access but the standard condition is waived if those efforts fail), whether the standard condition is not waived but the applicant may request this waiver at a later date, or whether the project will receive LMF funds only if the standard condition is met.
 - If a proposal states that there is guaranteed public access to all parcels or it will be secured, and it is later learned that one or more parcels in the project will not have guaranteed public access, the applicant may request a waiver of the standard condition as a modification to the approved project requiring LMF Board approval.