

Brassua Lake Concept Plan

Poplar Hill, Brassua Lake

T1 R2 NBKP, Tomhegan Twp., Somerset County

Submitted by:

Moosehead Wildlands, Inc.

Submitted to:

MAINE LAND USE REGULATION COMMISSION

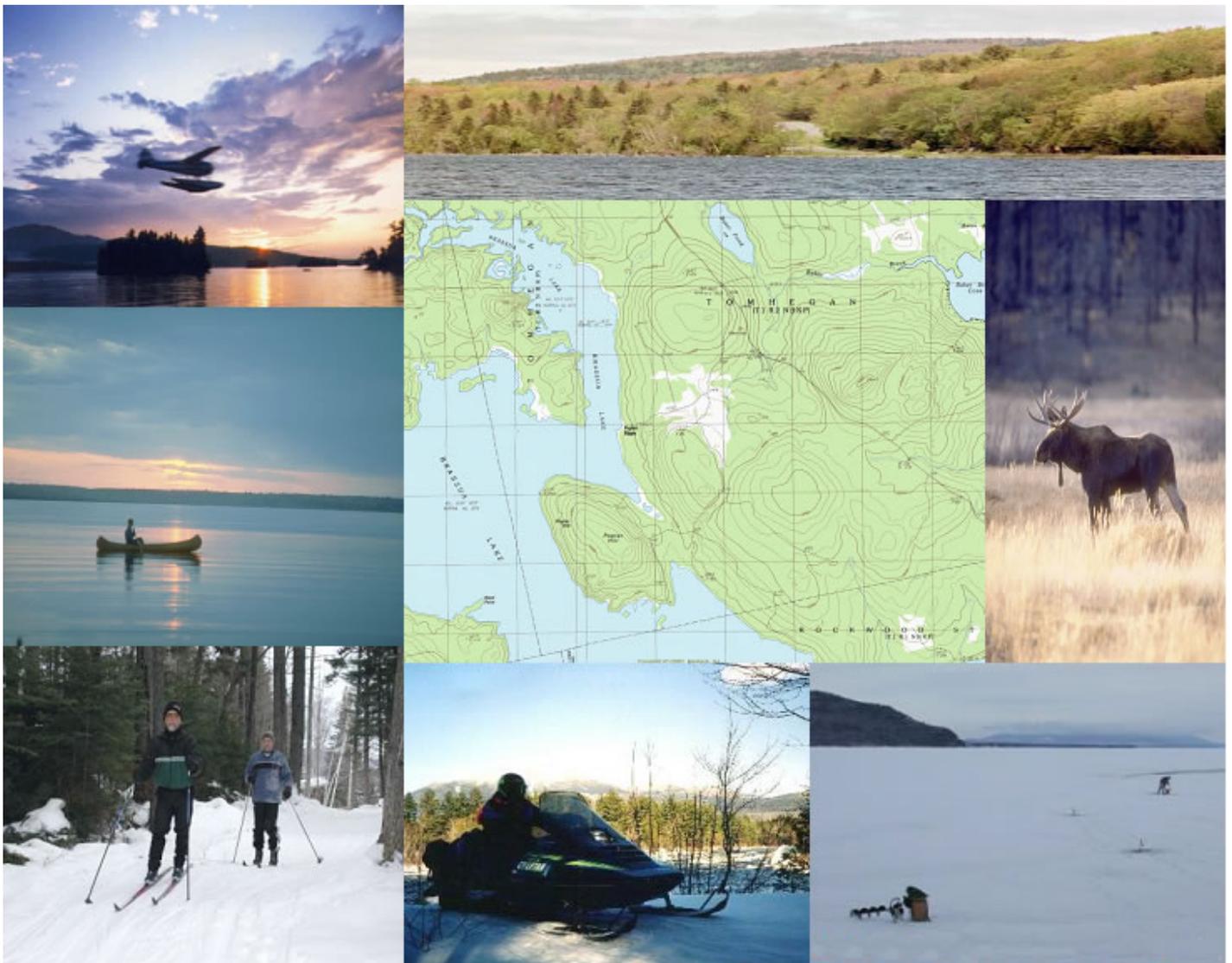


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Fact Sheet

<p>Background</p>	<p>The 10,500 acres, which Moosehead Wildlands, Inc. owns in Tomhegan Township, were purchased from Great Northern Paper Company in August of 1993. Over the last 8 years, any development by Moosehead Wildlands, Inc. has been concentrated around Moosehead Lake, including the sale of 145 land-leased lots on or near Moosehead Lake.</p> <p>The Brassua Lake Concept Plan was created as a means to responsibly develop shorefront lots that both blended with present forestry management and was compatible with the natural character that surrounds Brassua Lake.</p>
<p>Concept Plan Details</p>	<p>The Concept plan is designed to balance conservation and recreational development according to LURC's guidelines. This plan includes 5,673 +/- acres of timberland; 1,185 +/- acres are placed in permanent conservation; 4,117 +/- acres are placed in a 20-year conservation area; the remaining acreage is proposed for shorefront development, limited development, and includes a sporting camp.</p> <p>The Concept plan proposes the following development:</p> <ul style="list-style-type: none"> • Area A - 213 acre shorefront development on Poplar Hill - includes 52 lots that range in sizes from 1.5 to 7.5 acres and 3,000 feet of shorefront encompassing 40 acres of common open space. • Area B - 11 acre shorefront lot that supports the development at Poplar Hill and includes a private boat launch. • Area C – a 265 acre parcel with approximately 6,630 feet of frontage will support one shorefront manager's dwelling and a sporting camp with ten cabins and private boat launch. Three islands are attached to the sporting camp, one of which may have a primitive outpost cabin. Once the sporting camp and Area E location is selected, the remainder of the land, 193 +/- acres, will be managed as Conservation Area and the remaining approximately 3,130 feet of shorefrontage, (500 feet deep, 30 +/- acres), will be added to the Permanent Conservation Easement Area. • Area D - 7.5 acre shorefront lot on Baker Pond. A 2 acre site will be selected from this parcel and the remainder of the land (5.5 acres) will be placed in the Permanent Conservation Easement Area. An access road will be built through the

<p>Concept Plan Details (continued)</p>	<p>permanent access area.</p> <ul style="list-style-type: none"> • Area E – 2 acre shorefront lot on Brassua Lake’s eastern shore located within Area C. • Area F – 54 +/- acres on Brassua Lake western shore with reserved rights for two dwelling units and access road. • Area G – 49 +/- acres on Brassua Lake eastern shore with reserved rights to divide into five (5) lots. Four (4) lots are proposed residential parcels with one dwelling each. The remaining parcel will be retained by applicant. • A Public Hand Carry Boat Launch site • A Recreational Trail and Cabin System with 9 Primitive Cabins
<p>Conservation Elements</p>	<p>The proposed Concept Plan places 1,185 +/- acres, (512 +/- acres on Brassua Lake’s western peninsula including shorefront, 200 +/- acres on Brassua Lake’s eastern shorefront, 108 +/- shorefront acres on Baker Pond, 30 +/- shorefront acres associated with Area C, 5 +/- shorefront acres associated with Area D, and 330 acres on the interior section of Poplar Hill), in permanent conservation. This includes 49,425 +/- feet of Brassua Lake’s shorefront, and 8,205 feet of Baker Pond’s shorefront; or a total of 10.9 +/- miles of shorefront.</p> <p>The proposed Concept Plan places 4,117 +/- acres in a Conservation Area. This Conservation Area includes eight (8) large lots (334 +/- acres) that were part of a pre-existing large lot land division.</p> <p>The proposed development on Poplar Hill places 3,000 feet (encompassing 40 acres) of Brassua Lake’s shorefront in common open green space held by the Homeowner’s Association on Poplar Hill.</p> <p>Protective deeded covenants include limits on building size and material and clearing size to maintain the existing character of Brassua Lake.</p>
<p>Area Overview</p>	<p>The proposed development is located 5 miles west of Moosehead Lake and approximately 25 miles north of Greenville.</p> <p>The Concept Plan area represents forested woodland and lake frontage. The land is used for forest management and primitive recreational activities. The lakefront is used for seasonal camps and primitive camping.</p>

LURC Review	<p>LURC has designated Brassua Lake as a Management Class 3 Lake “Potentially Suitable for Development” based on available information such as water quality, access, and regional development.</p> <p>The Lake Concept plan allows LURC direct input into the planning process, ensuring all that the plan meets or exceeds land use and protection standards.</p>
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Summary

Duration of Plan	<p>The Lake Concept Plan will be in effect for 20 years from the date of approval by the Land Use Regulation Commission.</p> <p>The conservation measures within the Lake Concept Plan will apply in perpetuity on 1,185 +/- acres. The conservation measures within the Lake Concept Plan remaining acreage, 4,117 +/-, will apply for 20 years from the date of approval of the Plan. Conservation measures will be implemented in accordance with the Phasing of Development and Conservation section of this plan (Section IV, Part B).</p>
Area of Concept Plan (See Map # 1 and Map #6)	<p>The Concept Plan area covers 5,673 +/- acres of woodland and several islands, which includes 78,689 +/- feet of shorefront along Brassua Lake and 8,405 +/- feet of shorefront along Baker Pond. The entire parcel of land lies within Tomhegan Township; the eastern parcel lies between the shoreline of Brassua Lake and a straight line described as an intersection of a camp road and the northern property line of Moosehead Wildlands, Inc. extending to a point 8,700 feet east from the Brassua Lake shorefront along the Tomhegan Township boundary line, encompassing 5,107 +/- acres; the western parcel lies between the shoreline of Brassua Lake westward to the Tomhegan Township boundary line, encompassing 566 +/- acres.</p>
Jurisdiction	<p>The entire Lake Concept Plan area is located in Tomhegan Township (T1 R1 NBKP). Hence, it falls wholly within the Maine Land Use Regulation Commission's official jurisdiction and is subject to the Commission's regulatory provisions under 12 M.R.S.A., section 681 et seq.</p>

**Proposed
Development
(See Map #6)
(continued)**

Area A – 213 +/- Acres

Area A's proposed development will consist of 52 lots that range in sizes from 1.5 to 7.5 acres each with 200 + feet of frontage; the lots will be accessible by an existing loop trail proposed to be upgraded to subdivision road standards. Deeded Covenants will include building size, height, drive width limitations, and buffer and screening areas. The lot owners must be part of a Homeowner's Association. Forty (40) acres and 3,000 feet of shorefront are to be placed in common open space.

Area B – 11 +/- Acres

Area B's intent is to support Residential Area A and to promote primitive recreational use within the Concept Plan Area. Area B's proposed limited development area consist of two lots.

The proposed shorefront lot (4 +/- acres) will consist of a private trailered boat launch site, a drive and parking area large enough to handle trailered vehicles, and an attendants' cabin.

The proposed interior lot (7 +/- acres) will consist of storage buildings for recreational equipment (such as motor-boats, canoes, kayaks, skis and bikes), a rental office, guest parking and a waste transfer area (concrete pad and dumpsters).

Area C – 265 +/- Acres

Area C's proposed limited commercial development area will consist of an area that is limited to primitive recreational use. The owner's intention is to reserve the right to build one lakefront dwelling for a recreational area attendant/manager, to build a sporting lodge with ten (10) cabins, an outpost cabin on one island and a private boat launch, and to build an access road to the site. The sporting camp will be located on not more than 40 acres with approximately 3,300 feet of shorefront. Once the location is identified, the remainder of the land, 193 +/- acres will be managed as Conservation Area and the remaining approximately 3,130 feet of shorefrontage, 500 feet deep, 32 +/- acres, will be added to the Permanent Conservation Easement Area.

Area D – 7.5 +/- Acres

Area D's proposed development area will consist of one single undividable lot. The lot is associated with The Birches and shall not be conveyed separately from The Birches. The owner's intention is to reserve the right to build a residential dwelling upon this lot. Access will be by a new road through the Permanent Conservation Area. The dwelling will be located on 2 acres with 200 feet of shorefront.

**Proposed
Development
(See Map #6)
(continued)**

The remainder of the land, approximately 5 acres and 465 feet of shoreline, will be added to the Permanent Conservation Easement Area.

Area E – 2.0 Acres +/-

Area E's proposed development area will consist of a single undividable lot. The location of the lot will be within Area C. The owner's intention is to reserve the right to sell or build a residential dwelling upon this lot. Lot use restrictions will be the same as Area A.

Area F – 54 +/- Acres

Area F's proposed development will consist of a single lot. The lot will be restricted to two residential dwellings. The owner's intention is to retain this lot for use by family members. Access will be by a new road through the Permanent Conservation Easement Area.

Area G – 49 +/- Acres

Area G's proposed development will consist of five lots. Four lots will be restricted to one residential dwelling each. The applicant will retain the remaining lot in an undeveloped state for the term of the Concept Plan.

Islands

All the islands except for four (4) are placed in the Permanent Conservation Easement Area.

Three islands are associated with Area C.

One island, Area H, south of Poplar Hill, is placed in the 20-year conservation area.

The permanent conservation islands are proposed as primitive recreational use areas, as has been the tradition in the past.

Recreational Use Trail and Cabin System

It is the owner's intention to provide a trail system throughout the Permanent Conservation Easement Area and Conservation Area on both sides of Brassua Lake. The trail system will consist of a 14' wide corridor (to allow trail groomers room to maneuver) with low vegetation. Within the corridor shall be a trail (walking path).

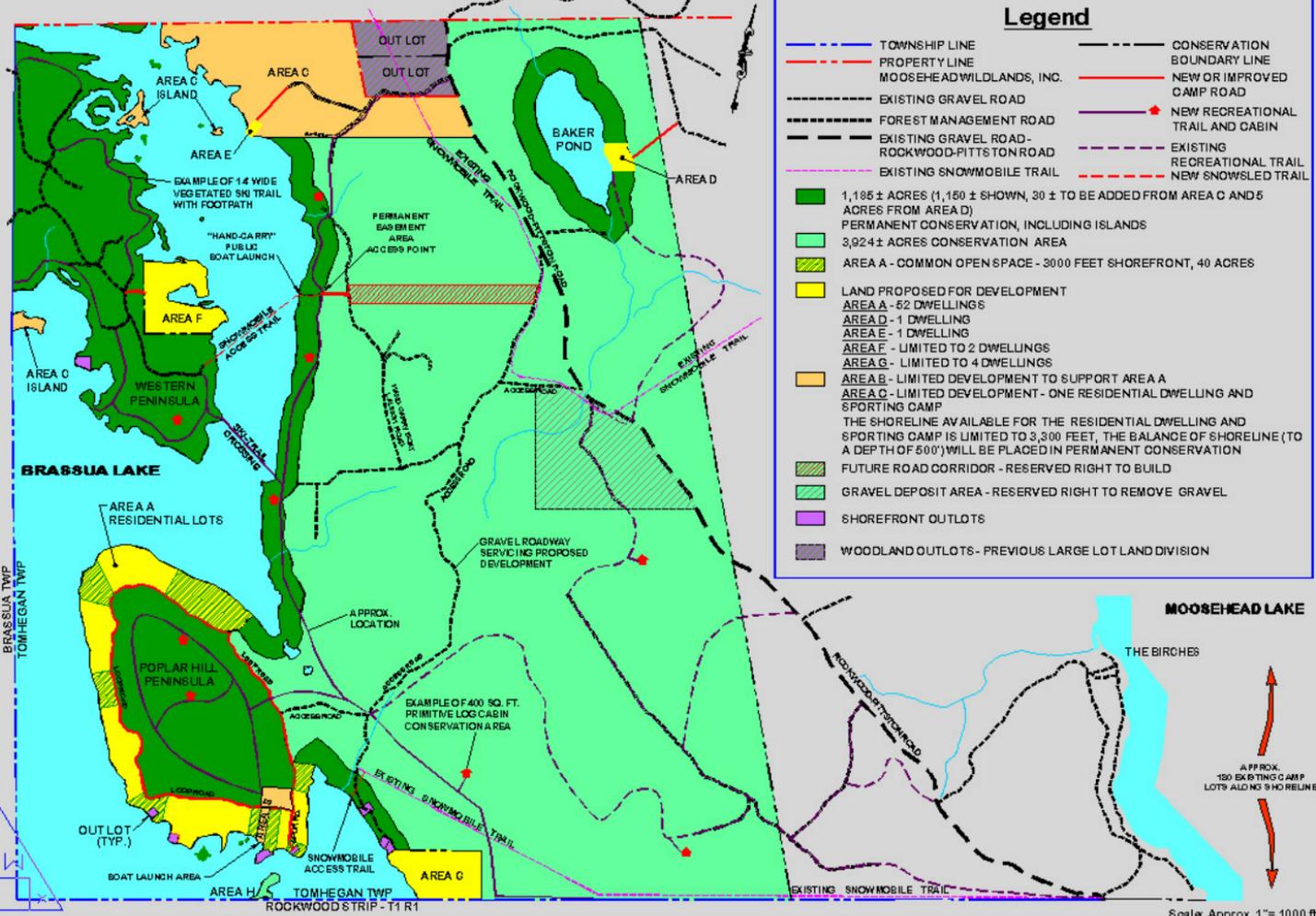
It is the owner's intention to build 9 cabins with primitive septic systems within the conservation areas.

The use of the trail system will be free except during the cross-country ski season.

<p>Proposed Development (See Map #6) (continued)</p>	<p>The use of the trail system during cross-country ski season will be fee based to cover construction cost, grooming and upkeep of the trails.</p> <p>The cabin usage will be fee based to cover construction cost and normal maintenance and repair.</p> <p><u>Public Access</u> Public access for recreational purposes to the Permanent Conservation Easement Area is provided in perpetuity, except that access to and use of the Permanent Conservation Easement Area located on the Poplar Hill Peninsula is by applicant permission only. Public access for recreational purposes is provided to the Conservation Area for the life of the Plan.</p> <p><u>Public Hand Carry Boat Launch</u> A Public Hand Carry Boat Launch Site is proposed on Brassua Lake (See Map #6 for location). Access will be over existing land management roads. A parking area/turnout area will be developed near the site. A trail will be developed through the Permanent Conservation Area to Brassua Lake. The applicant reserves the right to build a new access road to the parking area. (See Map #6 for location).</p>
<p>Phosphorus Impact</p>	<p>A preliminary phosphorus impact study has been done for the proposed development, and the phosphorus loading is below the limits established by Maine’s Department of Environmental Protection.</p>
<p>Proposed Conservation (See Map #6)</p>	<p>Permanent conservation measures are proposed for 1,185 +/- acres, including 49,425 +/- of shore frontage along Brassua Lake and 8,205 +/- feet of shore frontage along Baker Pond. The land includes 512 +/- acres on the western peninsula of Brassua Lake, 198 +/- shorefront acres on Brassua Lake’s eastern shore, 108 +/- shorefront acres on Baker Pond, 32 +/- shorefront acres associated with Area C, 5 +/- shorefront acres associated with Area D, and 330 +/- acres on the interior section of Poplar Hill. The shorefront acreage extends from the normal high water mark to a 500 ft. setback on the Brassua Lake’s eastern shore and around Baker Pond. This conservation measure helps to ensure that the cultural character and scenic beauty of the northern part of Brassua Lake and the shoreline of Baker Pond are preserved.</p> <p>A Conservation Area is proposed for an additional 4,117 +/- acres of interior land on the east side of Brassua Lake. No development, except for timber harvesting, mineral extraction, limited access</p>

<p>Proposed Conservation (See Map #6) (continued)</p>	<p>roads, and a trail and cabin system is allowed in this area.</p> <p>As part of this Concept Plan, 8 of the 10 lots (334 +/- acres) of a previously approved large-lot subdivision will be eliminated and the lands included into the Conservation Area.</p> <p>The remaining 2 lots (82 acres +/-) are not part of this concept plan and will not be rezoned. These lots are illustrated as outlots on Map 6. Allowed uses on the remaining 2 lots will be in accordance with LURC’s Districts and Standards effective at the time of conveyance of the lots.</p> <p>Area A’s homeowners association will hold 3,000 feet of Brassua Lake shore frontage encompassing 40 +/- acres among the developed lots on Poplar Hill as “common open green space”, and conservation area in perpetuity.</p>
<p>LURC Commitments</p>	<p>The Land Use Regulation Commission, by approving this concept plan, commits to:</p> <ol style="list-style-type: none"> 1. The proposed provisions of this Lake Concept Plan. 2. Accepting the proposed number, type, and location of development as approved in concept. 3. Allowing lots that LURC deems as unsuitable or undesirable due to existing natural resources, to be substituted by another lot, equal in size along the shoreline. 4. Accepting that the new zoning of the Lake Concept Plan Area will be designated as (P-RP) Resource Plan Subdistrict. 5. Rezoning is not necessary in developing the proposed lots, provided the landowner submits information normally required for applicable permit approvals, as appropriate, and obtaining such approvals, prior to proceeding with the development.
<p>Applicant</p>	<p>The Applicant is Moosehead Wildlands, Inc., c/o John Willard, P.O. Box 81, Rockwood, Maine.</p> <p>The Applicant is placing 1,185 +/- acres in permanent conservation along the shoreline of Brassua Lake and Baker Pond for public benefit and use.</p>

	<p>Moosehead Wildlands, Inc. intends to practice forestry management within the Conservation Area as established by the Moosehead Wildlands, Inc.'s Forest Management Plan which is drafted to provide for sustainable yield timber management and in accordance with LURC land use and protection standards (Appendix 6).</p> <p>Moosehead Wildlands, Inc., upon receiving all necessary permits and approvals, will make lots available for sale to the general public.</p> <p>Moosehead Wildlands, Inc. reserves the right to remove mineral resources in the designated location as shown on Map #6.</p>
<p>Conservation Easement Holder</p> <p>Third Party Holder</p>	<p>Western Mountains Foundation, a Maine certified non-profit conservation organization, with offices in Carrabassett Valley, Maine, is the Conservation Easement Holder.</p> <p>The Department of Conservation - Bureau of Parks and Lands is the third party holder of the Permanent Conservation Easement.</p>



Legend

- | | | | |
|--|--|--|----------------------------------|
| | TOWNSHIP LINE | | CONSERVATION BOUNDARY LINE |
| | PROPERTY LINE | | NEW OR IMPROVED CAMP ROAD |
| | MOOSEHEAD WILDLANDS, INC. | | NEW RECREATIONAL TRAIL AND CABIN |
| | EXISTING GRAVEL ROAD | | EXISTING RECREATIONAL TRAIL |
| | FOREST MANAGEMENT ROAD | | NEW SNOWSLED TRAIL |
| | EXISTING GRAVEL ROAD - ROCKWOOD-PITTS TON ROAD | | |
| | EXISTING SNOWMOBILE TRAIL | | |

- 1,185 ± ACRES (1,160 ± SHOWN, 30 ± TO BE ADDED FROM AREA C AND 5 ACRES FROM AREA D)
- PERMANENT CONSERVATION, INCLUDING ISLANDS
- 3,924 ± ACRES CONSERVATION AREA
- AREA A - COMMON OPEN SPACE - 3000 FEET SHOREFRONT, 40 ACRES
- LAND PROPOSED FOR DEVELOPMENT
- AREA A - 62 DWELLINGS
- AREA D - 1 DWELLING
- AREA E - 1 DWELLING
- AREA F - LIMITED TO 2 DWELLINGS
- AREA G - LIMITED TO 4 DWELLINGS
- AREA B - LIMITED DEVELOPMENT TO SUPPORT AREA A
- AREA C - LIMITED DEVELOPMENT - ONE RESIDENTIAL DWELLING AND SPORTING CAMP
- THE SHORELINE AVAILABLE FOR THE RESIDENTIAL DWELLING AND SPORTING CAMP IS LIMITED TO 3,300 FEET, THE BALANCE OF SHORELINE (TO A DEPTH OF 500') WILL BE PLACED IN PERMANENT CONSERVATION
- FUTURE ROAD CORRIDOR - RESERVED RIGHT TO BUILD
- GRAVEL DEPOSIT AREA - RESERVED RIGHT TO REMOVE GRAVEL
- SHOREFRONT OUTLOTS
- WOODLAND OUTLOTS - PREVIOUS LARGE LOT LAND DIVISION

Moosehead Wildlands, Inc.
 Tomhegan Twp.
 Planning Jobs
 Lab & Concept Plans
 AMES AE
 ARCHITECTS & ENGINEERS
 6
 Scale: Approx. 1" = 1000 ft.

I. Introduction

This Lake Concept Plan is proposed by Moosehead Wildlands, Inc., a Maine Corporation, with an office in Rockwood, Maine. This Lake Concept Plan is for the long-term management and conservation of the corporation's lands in Tomhegan Township, T1 R2 NBKP, surrounding Brassua Lake and Baker Pond. Moosehead Wildlands, Inc.'s land holdings in the plan contain 5,673 +/- acres; of those, 1,148 +/- acres (1,185 +/- acres after site selections are complete) with 57,530 feet of shore frontage are proposed for permanent conservation easement and 3,924 +/- acres (4,117 +/- acres after site selections are complete), which include 334 acres of a pre-existing large lot land division (which 8 lots have been included), are proposed for a 20-year conservation area. The area proposed for development includes 561 +/- acres of which 331 acres will be selected for development and the remaining land set aside as conservation area; and 40 +/- acres are proposed as common open green space along Poplar Hill development. The developed areas will include residential dwellings, limited commercial development to support the residential dwellings and a sporting camp and cabins. A trail and cabin system is proposed throughout the conservation areas. The property includes approximately 14 miles of shore frontage on Brassua Lake and its islands, as well as 1.5 miles of shorefront on Baker Pond. The concept plan can be viewed by examining Map #6.

The concept plan is being submitted to the Maine Land Use Commission (LURC) under the agency's "Lake Concept Plan" procedures. According to LURC's Comprehensive Land Use Plan:

"Lake concept plans are landowner-created, long range plans for the development and conservation of a large block of shoreland on a lake... The plan is a clarification of long-term landowner intent that indicates, in a general way, the area where development is to be focused, the relative density of proposed development, and the means by which significant natural and recreational resources are to be protected."

Owners' Intentions

Moosehead Wildlands, Inc. intends to manage the area for forestry practices and primitive recreational purposes, to develop a shorefront subdivision on Poplar Hill Peninsula, to develop several limited commercial development areas including a sporting camp and cabins, to develop a trail and cabin system, and to place a large amount of shorefront of Brassua Lake and Baker Pond, the western peninsula of Brassua Lake, as well as the interior of Poplar Hill Peninsula in permanent conservation easement. The income from sale of shorefront lots will generate income to pay Maine State Property taxes and for mortgage debt services, ensuring the company will be able to maintain the majority of the land in wood production and primitive recreational use.

Concern for Development

A concern of Moosehead Wildlands, Inc. was how and to what extent this development would be allowed. After discussions with land use consultants and the LURC staff, the decision was made that the Lake Concept Plan approach to development was clearly the most sensible. This Lake Concept Plan approach allows the Land Use Regulation Commission, Moosehead Wildlands, Inc. and the public to:

1. Know areas and extent of development that will be allowed on the proposed residential development area.
2. Know areas and extent of development that will be allowed on the proposed *limited* development area.
3. Remove the uncertainty of rezoning approval for developments along the shorefront.
4. Better manage their capital expenditures knowing the limit and scope of the development and removing associated risk in developing the shorefront of Brassua Lake.

The Lake Concept Plan allows LURC to have:

1. Input to where, what size, access, covenants and the amount of development that will take place within the property, thereby avoiding haphazard development along the shoreline of Brassua Lake.
2. Public Hearings/Written Testimony in order to gain expert assistance in preparing a comprehensive plan with input from public concerns, such as LURC employees, Fish and Wildlife Biologists, Soil Scientists, Wetland Specialists, Forest Management Specialists, Environmental Groups and the Public.
3. Approval of the Conservation Easement Holder.

To summarize, Moosehead Wildlands, Inc is proposing to develop a residential subdivision with a limited use commercial lot on Poplar Hill Peninsula, a lot south of Poplar Hill peninsula, retain a lot on the western shore for personal and family use and a lot on the northeastern shoreline of Brassua Lake, a lot on Baker Pond associated with The Birches, and a limited use commercial development to allow for a sporting camp and cabins and one residential dwelling at the northeastern shoreline of Brassua Lake. This acreage represents 331 acres, 6% of the acreage within the Lake Concept Plan. The remaining 5,342 +/- acres or 94% will remain in some form of conservation including 1,185 +/- acres in permanent conservation in perpetuity, 4,117 +/- acres in a 20-year conservation easement area, and 40 +/- acres in common open green space held by the homeowners association on Poplar Hill. The amount of shoreline permanently protected from development is 57,630 feet or 10.9 +/- miles, which represents 73% of Moosehead Wildlands, Inc. shorefront ownership within the concept plan area.

The concept plan area can be viewed by examining Map #1, Map #5 and Map #6.

The concept plan is submitted to the Maine Land Use Regulation Commission under Section 10.16, F of the Commission's Land Use Districts and Standards pursuant to the criteria for approval for P-RP (Resource Plan Protection Subdistrict) zoning.

References and sources of information are listed at the end of this document.

Benefit To Landowner

Moosehead Wildlands, Inc., through this Lake Concept Plan, will receive approval for shorefront and interior land development, assuming technical requirements can be met. If the location of proposed development is determined by the Commission to be undesirable or unsuitable, or otherwise would not meet the Commission's land use and protection standards, the proposed lots may be relocated to other more suitable areas in the Lake Concept Plan or lot boundary size may be altered. These alterations are subject to applicable land use and protection standards. Any alterations will not lessen the number of shore land conservation acres or length of shore frontage in permanent conservation. Any and all alterations will not diminish the purposes or intent of the Lake Concept Plan.

Landowner Benefits:

1. The concept plan allows the owner to develop 52 lots on the shorefront of Brassua Lake near Poplar Hill, a limited commercial support area on Poplar Hill for the 52 lot development that includes a private boat launch, a single lot on the northeast shoreline of Brassua Lake, 5 lots (one retained by owner in undeveloped state) south of Poplar Hill Peninsula, a limited commercial development area that includes a shorefront dwelling (managers dwelling) and a sporting camp with ten cabins and outpost cabin and private trailered boat launch on the northeast shoreline of Brassua Lake, a public hand carry boat launch on the eastern shoreline of Brassua Lake, a shorefront lot for personal use on the western shoreline of Brassua Lake, a shorefront lot on Baker Pond associated with The Birches, and a recreational trail and cabin system.
2. The Concept Plan removes the uncertainty of rezoning approval for developments along the shorefront.
3. The landowner can better manage his capital expenditures knowing the limit and scope of the development and removing associated risk in developing the shorefront of Brassua Lake.
4. Approval of the Lake Concept Plan may increase the value of the land; land recognized as having development potential is more valuable than land with unknown potential.
5. The landowner can better manage long-range timber harvesting plans when designated development areas and conservation areas have been established.
6. The landowner projects "good land stewardship" by preparing a comprehensive plan that establishes developed areas and conservation areas to protect the scenic shoreline and interior land holdings.
7. The landowner benefits from expert assistance in preparing a comprehensive plan with input from public concerns, such as LURC employees, adjacent landowners, Fish and Wildlife Biologists, Soil Scientist, Wetland Specialist, Forest Management Specialist, Environmental Groups, and the Public.

Benefit To The Public

The public's approval or disapproval has been a general concern in developing this Lake Concept Plan and public forums have been and will be held so that each party has input prior to the Commission's decision. However, it should be noted that Moosehead Wildlands, Inc., through this Lake Concept Plan, provides direct and indirect benefits to the general public.

Public Benefits:

1. The Public benefits in the access and primitive recreational use of 1,185 acres placed in permanent conservation in perpetuity. The Public benefits in the use of 4,117 acres for a 20-year period. The public benefits in use of a trail system throughout the permanent conservation area and 20-year conservation area.
2. This Lake Concept Plan gives the public assurance that access would continue to Brassua Lake and the shoreline, and without such a plan no assurances are in place that this access would continue.
3. The Public benefits in that in the absence of such an extensive conservation measure along the shorefront of Brassua Lake, the lake frontage could be developed at a rate of two (2) dwellings in a five-year period (rate based on single ownership) without any regulatory oversight by LURC. This type of development is not planned and at best haphazard. This plan establishes where the proposed development is to be located and places predictable restrictions on the density and extent of development.
4. Limiting development to specific areas ensures that a majority of the shoreline is placed in permanent conservation and can be enjoyed by many generations of visitors to Brassua Lake. The public gains a permanent conservation easement of 1,185 +/- acres, which includes 49,425 +/- feet of shore frontage on Brassua Lake and 8,205 feet of shore frontage on Baker Pond. This is of particular benefit to present users of Brassua Lake and current shorefront property owners. Limiting development ensures minimal impact on wildlife and fishery resources.
5. Listing the development restrictions in the Lake Concept Plan, such as building size and material siding type, lighting, noise, and lot usage, ensures that the public view of the developed lots from the water will blend into the natural setting many lake visitors have come to enjoy.
6. Moosehead Wildlands, Inc., by reserving the right of managing the land held in conservation as a working forest, implies the commitment to harvest timber, which will generate employment opportunities in the local economy.
7. The public benefits in the placement of a public hand carry boat launch and the availability of hiking and skiing trails to the permanent conservation areas.
8. The development of sixty-one (61) shorefront dwellings (52 dwellings on Poplar Hill, one dwelling in Area D, one dwelling in Area E, and one dwelling associated with Area C, two

dwellings in Area F, and 4 dwellings in Area G), a sporting camp and cabins and outpost cabin, boat launch sites and road improvements will generate local employment opportunities among surveyors, real estate professionals, site design professionals, building contractors and insurance companies. Each developed lot will require residential service providers and recreational equipment maintenance providers further promoting employment opportunities in the local economy.

9. The proposed residential lots present an opportunity for those who seek to buy a residential shorefront lot. In addition, the prospective shorefront lot buyer is ensured that much of the shoreline other than the proposed development areas will be permanently protected.

II. OVERVIEW OF THE OWNERSHIP

This section of the Lake Concept Plan provides background information about Moosehead Wildlands, Inc. land holdings in T1 R2 NBKP, Tomhegan Township and the surrounding area.

A. Site Location and Description (see Map #1)

The site is located in T1 R2 NBKP, Tomhegan Township, which is located west of the Moosehead Lake region in Somerset County. The site encompasses a portion of the northern area of Brassua Lake on both the eastern and western shoreline. The site consists of 5,673 +/- acres. This encompasses two large parcels and some islands off from the main land in Brassua Lake.

Primary access to the proposed developed site is via Rockwood-Pittston Road connected to Rte. 6 & 15 northbound from Greenville, Maine.

The larger of the two parcels, located along the eastern shore of Brassua Lake encompasses 5,107 acres (+/-). Access is via a gravel roadway from the Rockwood-Pittston Road, a gravel road that connects to Rte. 6 & 15. The gravel roadway traverses through the ownership and forms a loop trail around Poplar Hill. A secondary gravel road branches off from the gravel roadway and provides access to the proposed Public Hand-Carry Boat Launch.

The smaller of the two parcels, located along the western shore of Brassua Lake encompasses 566 +/- acres. Access is via logging roads from the Demo Road, a gravel road that connects to Rte. 6 & 15.

B. Ownership History

Brassua Lake consisted of two lakes prior to 1925, Little Brassua Lake and Brassua Lake. When the Brassua Dam was constructed in 1925 the lake water level rose 30 feet, which caused one large lake to be formed into what is now called Brassua Lake. The shoreline on Poplar Hill, where the proposed development would take place, was created in 1925.

In 1912, Great Northern Paper Company acquired the property in Tomhegan Township from several different landowners. Great Northern Paper Company managed the woodlands as a working forest timberland until it was sold in 1993 to Moosehead Wildlands, Inc.

The land acquired in 1993 contained 145 land-leased lots in the township mostly on Moosehead Lake and 8 leased lots on Brassua Lake. These lots have been sold to the leaseholders over the last 8 years.

Tomhegan Township consists of 17,000 acres +/- with most of the property in forest management for forest products and primitive recreational uses consistent with traditional uses. Moosehead Wildlands, Inc. owns approximately 10,500 acres. Tomhegan Timberlands LLC owns 3,000 acres and The Greenhill Estate owns 3,000 acres.

Large landowners adjacent to the lake concept plan parcel are Tomhegan Woodlands, Inc. and Moosehead Wildlands, Inc. on the northern boundary, Moosehead Wildlands, Inc. on the eastern boundary, and Plum Creek Land Company on the southern and western boundary.

There are eight existing camp lots on the eastern shore and two camp lots on the western shore adjacent to the proposed site (See Map #2). The current owners, lot size, and type of structure are as follows:

Eastern Shore

<u>Land Owner</u>	<u>Lot No.</u>	<u>Acreage</u>	<u>Structure</u>
Romeo O. & Vivian Pelland	7.1	0.70	Single story camp
Richard Kneeland	7.2	1.00	Single story camp
Jon L. Levenseler & James Dunton	7.3	1.20	Single story camp
Mike B. Twitchell Et. Al.	7.4	1.00	Single story camp
Ernest Folco R. Et. Al.	7.5	0.50	Single story camp
Eagle Forest Group LTD.	7.6	1.09	--
Pinkham, Andrew & Jennifer	7.8	1.0	Single story camp

Western Shore

<u>Land Owner</u>	<u>Lot No.</u>	<u>Acreage</u>	<u>Structure</u>
Monique Giguere	8.1	1.05	Single story camp Under Construction

** Information provided by Maine Revenue Services Property Tax Division and Mr. John Willard

C. History of the Area

The recent history of the Tomhegan Township area has consisted of wood harvesting and outdoor recreational activities. A dam built in 1925 combined Little Brassua and Brassua Lake into one large body of water. The lake’s water level rose an additional 30 feet.

Brassua Lake is known for its brook trout, salmon, and smelt fisheries. There is one commercial sporting camp on Brassua Lake, approximately 45 camp lots, and several primitive campsites along the shoreline and on the islands.

Many side roads throughout Tomhegan Township, which were originally used for logging purposes, are currently used as egress for recreational camping, hunting, and fishing.

D. Adjacent Development

The majority of residential development on or near Brassua Lake is located on the south shore and along the section of Moose River that flows into Moosehead Lake.

Approximately 5 miles east from the proposed Lake Concept Plan property is Moosehead Lake. Moosehead Lake shorefront is well established with both seasonal and residential properties and several commercial properties. Amenities include beaches, state and town parks, and a boat marina. The surrounding developed areas include the towns of Rockwood and Greenville on Moosehead Lake, and Jackman located to the west.

Rockwood, (7 miles southeast of the proposed development), a town of about 300+ full time residents, is located on Rte 6 & 15 on the shores of Moosehead Lake. The Rockwood area has complete services available for the sportsman and vacationer. Accommodations include housekeeping cottages, lodges and campgrounds. Motorboats and canoes are available, and local tackle shops can supply fishing needs. Many of these establishments are located along Moose River and Moosehead Lake's shorefront.

Greenville, (22 miles southeast of the proposed development), a town of about 1600+ full time residents and 6000+ seasonal residents, is located on Rte 6 & 15 on the shore of Moosehead Lake, 75 miles northwest of Bangor. Greenville is located at the wilderness edge of sparsely populated Piscataquis County. Historically, Greenville has been perceived as the gateway to the north woods and to Moosehead Lake, the largest body of fresh water in the state. Greenville has complete services available for the sportsman and vacationer. Accommodations are numerous including housekeeping cottages, hotels, motels, lodges and campgrounds. Greenville constitutes the core of the region and provides a base for jobs, service industries, grocery stores, education and health service needs (a hospital), an airport, and numerous recreational activities.

Jackman, (36 miles west of the proposed development), a town of 700+ full time residents, is located on Rte. 201, near the junction of Rte 6 & 15. This community, although smaller than Greenville, still provides some level of service for people traveling from the south and west, and from Canada to the north. Accommodations include housekeeping cottages, lodges and campgrounds. Jackman provides a base for jobs, service industries, education and health services, a small airport, and numerous recreational activities.

E. The Forest Resources

The overall forest management objectives of Moosehead Wildlands, Inc. are explained in detail in the forest management plans for the Brassua Lake parcel. These reports were completed in 1994, and can be viewed at Moosehead Wildlands, Inc. office in Rockwood, Maine.

Moosehead Wildlands, Inc. intends to follow the suggested silviculture recommendations of the management plan. In summary, the plan recommends that Moosehead Wildlands, Inc. harvest existing trees in such a manner as to ultimately result in an uneven-aged stand of trees, with a wide distribution of size and height classes that are present in the forest today.

Existing gravel roads from Rockwood-Pittston Road and the Demo Road allow access for wood harvesting to both parcels of land on Brassua Lake.

F. Water Resources

Brassua Lake

Brassua Lake (which includes Little Brassua Lake) has 8,979 acres with over 45 miles of shoreline. It is approximately 8 miles long and averages 1 mile wide. Brassua Lake's primary inlet is Moose River that flows eastward from the Jackman area, through Long Pond and Brassua Lake. Other smaller streams and brooks flow into Brassua Lake as well, among them Misery stream, Black Brook, Brassua Stream and Johnson Brook. Brassua Lake's deepest depth is 65 +/- feet and a dam at the outlet on Moose River controls the water level. Moose River flows into Moosehead Lake near Rockwood. Brassua Lake is rated as a statewide significant lake (Resource Class 1B) in LURC's Wildlands Assessment. It is rated significant for its fisheries and outstanding for its cultural resource. Brassua Lake is a Management Class 3 lake under LURC's lake classification scheme and labeled as "potentially suitable for development".

Baker Pond

Baker Pond has 79 acres with approximately 1.6 miles of shoreline. It is approximately 0.6 miles long and averages over 1,000 feet in width. Baker Pond's deepest depth is 6 +/- feet. Baker Pond's flush rate is 4.1 times per year and its outlet flows into Moosehead Lake. Baker Pond is rated as a lake of local significance (Resource Class 3) in LURC's Wildland Assessment. Baker Pond is a Management Class 7 lake under LURC's lake classification scheme.

Brassua Lake Water Levels

Prior to 1925 the normal high water mark around Poplar Hill was approx 1043 ft. The present normal high water mark available from Geological Survey maps is approximately 1073 ft. The historical water level draw downs as recorded by the Kennebec Water Power Company are as follows:

January – March	13 ft. to 24 ft. draw down (March is the lowest)
April – May	increases to 0 ft. (full capacity)
June	0 ft. draw down
July	2 ft. draw down
August – October	2 ft. to 10 ft. draw down (October is 10 ft.)
November-December	10 ft draw down (steady level)

Brassua Lake Water Chemistry Overview

Chemistry Explanation

Secchi Disk Transparency

Secchi disk transparency is a measure of the water clarity, or transparency, of the lake. Factors that reduce clarity are algae, zooplankton, water color and silt. Transparency values in Maine vary from 0.4m (1.5ft) to 20.0m (67 ft), with the average being 4.9m (16.2 ft).

Color

The amount of "color" in a lake refers to the concentration of natural dissolved organic acids such as tannins and lignins, which give the water a tea color. Color is measured by comparing a sample of the lake water to Standard Platinum Units (SPU). Color varies from 0 to 250, with the average in Maine being 28 SPU.

pH

The pH of a lake reflects how acidic or basic the water is and helps determine which plant and animal species are present. The measure of the acidity is on a scale of 1-14, with 7 being neutral. pH varies in Maine from 4.45 to 9.35, the average is 6.7.

Alkalinity

Alkalinity is a measure of the capacity of water to neutralize acids and is also known as the buffering capacity. Alkalinity in Maine varies from 0.3 milligram per liter (mg/l) to 150.3 mg/l, with the average being 12.2 mg/l.

Conductivity

Conductivity is a measure of the ability of water to carry an electrical current and is directly related to the dissolved ions (charged particles) present in water. The values for most of Maine lakes and ponds are generally low (30 to 40 uS/cm). Fishery biologists use conductivity values to calculate fish yield estimates. Conductivity will increase if there is an increase of pollutants entering the lake or pond.

Total Phosphorus (ppb)

Total Phosphorus (TP) is one of the major nutrients needed for plant growth. It is generally present in small amounts and limits the plant growth in lakes. It is measured in parts per billion (ppb). As phosphorus increases, the amount of algae also increases. TP varies from 1 ppb to 110 ppb with the average being 14 ppb.

Chlorophyll A

Chlorophyll A (Chl a) is a measurement of the green pigment found in all plants including microscopic plants such as algae. It is used as an estimate of algal biomass, the higher the number, the higher the amount of algae in the lake. Chlorophyll A varies from 0.3 ppb to 60.9 ppb, with the average 4.6 ppb.

Historical Data

(Historical Data from Station #1 – 65 ft depth location west of Poplar Hill-as provided by Public Educational Access Environmental Information in Maine (PEARL) Website.)

Available Pond Water Chemistry		
	1984	1996
Secchi Disk Transparency		
Minimum (meters)	2.8	4.4
Maximum (meters)	2.8	4.4
Color	48	50
pH	6.8	-
Alkalinity	7	27
Conductivity	-	27
Total Phosphorus Means (ppb)	36	20
Chlorophyll A (ppb)	3.7	1.8
**www.pearl.spatial.maine.edu		

G. Fish and Wildlife Resources

The concept plan includes a P-FW subdistrict #080452 that includes a portion of Baker Pond and Baker Brook. Wildlife biologist reports this area is a deer wintering yard.

Fisheries resources

Brassua Lake

Brassua Lake and its outlet Moose River have been historically noted for the excellent trout fisheries. Water quality conditions are satisfactory for brook trout and salmon. Although large numbers of cusk, suckers, and chubs are present, the brook trout population seems to thrive. The existing sporting camps on the southern shore attest to this fact. Brassua Lake is a cold-water fishery and the fisheries are rated as significant in LURC's Wildland Lakes Assessment. Brassua Lake is actively managed year round for wild brook trout, land locked salmon, smelts and cusk by Maine's Inland Fisheries and Wildlife. Spring stocking includes land lock salmon.

Fish species in Brassua Lake include land lock salmon, brook trout, smelt, white sucker, longnose sucker, minnows (blacknose dace, common shiner, creek chub, fallfish, golden shiner, lake chub, pearl dace, redbelly dace) cusk, threespine stickleback, freshwater sculpin, and yellow perch.

As both white perch and smallmouth bass are established in the drainage downstream from Brassua Dam, and neither species are desirable upstream, there are no provisions for fish passage upstream through Brassua Dam.

The fisheries at the inlet and outlet of Brassua Lake can best be described as follows: (information from State Planning Office report titled "Kennebec River Resource Management Plan: Balancing Hydropower Generation and Other Uses")

Long Pond to Brassua Lake: A principal fishery for wild salmon and wild brook trout. Most of the fishing opportunity is from shore or by wading, except in upper sections where some fishing from canoes occurs. Total use by fishermen is unknown.

Brassua Lake to Moosehead Lake: This section of the Moose River provides an attractive and very popular fishery for both salmon and brook trout. Lake trout are also caught occasionally. All brook trout and lake trout are wild fish. The salmon fishery is comprised of wild fish, as well as hatchery fish stocked in both Moosehead Lake and Brassua Lake. Most (85%) of the fishing in the upper mile of this section is either from shore or by wading; the remainder from canoes. Nearly all of the fishing in the lower two miles is from either boats or canoes. From 1988-91, total estimated use on the upper mile of river has ranged between 2,000 and 2,500 days of fishing. Specific fishery management goals for this section of the Moose River include maintaining or improving water quality and the quality of the habitat, maintaining or increasing the production of wild salmon, maintaining or improving fishing quality, and maintaining traditional fishing access opportunities.

Fishery management goals for the Moose River include maintaining water quality, maintaining habitat quality, maintaining the production of all wild fish populations, and maintaining both fishing quality and traditional fishing opportunities. The Department of Fish and Wildlife plans to continue the stocking program for Brassua Lake.

Baker Pond

Fishery resources in Baker Pond and Baker Brook include brook trout, creek chub, yellow perch and common sucker. In 2002, 350 10-12 inch brook trout were stocked in Baker Pond. Baker Pond fisheries are regulated under the general open water fishing regulations with the daily bag limit of 2 brook trout. (2003 DIF&W Open Water Fishing Regulations). Baker Pond is closed to ice fishing.

Wildlife Resources

Brassua Lake and Baker Pond are located in Wildlife Management District (WMD) 8.

There is an abundance of wildlife in this area, the dominant species being moose, deer and black bear. Other mammals include snowshoe hare, beaver, red squirrel, porcupine, bobcat, and coyote, along with others. Bird species are numerous and would include most species that inhabit northern Maine, among them waterfowl (loons and ducks), eagles, and grouse.

One of the many tools wildlife biologist use in determining the amount of wildlife resources are the results of hunter observation and harvest. The following section describes some wildlife species within the Brassua Lake area and includes recent harvest results.

Deer

Maine's deer population has been increasing in recent years to a level approaching 300,000. The majority of the increase has been in Southern and Central Maine, and less so in Northern Maine. A recent decline in deer population in 2001 has been attributed to the mortality rate suffered during the severe winter of 2000-2001.

DIF&W statistics for the year 2000 show 889 deer harvested in WMD 8, 56% by residents. The Townships surrounding Brassua Lake recorded a deer harvest of 82 in 2000. In 2001, the deer harvest was 30 for these same townships. Winter mortality, weather conditions, fewer hunters, and the fact no any-deer permits were issued in WMD 8 in 2001, may have contributed to the decline in the deer harvest.

Moose

Maine's moose population is estimated at 29,000. Moose sightings are very common to the Brassua Lake area.

The DIF&W moose harvest goals are based upon each WMD being placed into one of three broad categories. These categories are a Recreation Management Area, a Road Safety

Management Area and a Compromise Management Area. In the Recreation Management Area, hunting and usually viewing are the most important goals. In the Road Safety Management Area, reducing the number of moose/vehicle collisions is the only goal. In the Compromise Management Area, the goal is to balance recreation and safety concerns. In the Recreation Management Areas and some of the Compromise Management Areas, it is also considered important to maintain large bulls in the population.

WMD 8 is in a Recreational Management Area. Where recreation (hunting and viewing) is most important, the DIF&W's goal is to have many moose, but not so many that the forest is damaged or animal health is compromised. In this case, the objective population size is expressed relative to the capacity of the land to produce food for moose.

Maine's moose hunting season is presently scheduled for 2 weeks each fall. For the 2001 season, the success rate for hunters was 84.8 percent. DIF&W statistics for the year 2001 show 420 moose harvested in WMD 8. The townships surrounding Brassua Lake recorded a moose harvest of 89 in 2000. In 2001, the moose harvest was 76 for these same townships.

Black Bear

Black Bear are common to the Brassua Lake area, although sightings are not as common as deer or moose.

Maine's bear population is estimated at 23,000, slightly above the DIF&W objective level of 21,000 bears. Since bear populations were slightly higher than desired, the record bear harvests experienced during 2000 and 2001 did not pose a problem for bear population management. Maine's reputation for producing high-quality bear hunting is reflected in the harvest distribution by hunter residency. Visitors to Maine harvested 2,888 (73%) of the 3,951 bears tagged during 2000. Of the total number of bear harvested, 65% of the hunters employed registered Maine guides.

DIF&W statistics for the year 2001 shows 585 bear harvested in Somerset County. The townships surrounding Brassua Lake recorded a bear harvest of 53 in 2000. In 2001, the bear harvest was 46 for these same townships.

Grouse

Ruffed grouse populations are a product of the forest. The amount and quality of Maine's forest is constantly changing, and the impact of these changes as they relate to statewide grouse numbers is difficult to predict. Fortunately, however, the future for ruffed grouse appears bright. Although maturation of some forest stands likely represents a decline in the quality of grouse habitat, timber harvesting can revitalize grouse habitat. Harvest practices, such as clear cutting in small blocks or strips that create an uneven-aged forest composed of even-aged stands of aspen, birch, and mixed wood, will improve or sustain habitat for ruffed grouse and other wildlife species that use early successional hardwood forests.

The last statewide grouse harvest estimate was reported for the 1988 hunting season. That year, an estimated 579,100 grouse were taken in Maine. Although no data exist on recent harvests,

successful bird hunters reported grouse in excellent (1995), fair (1996-97), and good (1998-2000) numbers in recent years.

The DIF&W has recently conducted sight and harvest surveys during the annual fall moose hunt (1983-2000). The numbers reported during this hunt support the general state wide yearly ratings listed above.

Eagles

Eagle sightings have been reported around the Brassua Lake area. Inland Fisheries and Wildlife Biologist have no record of eagle nesting sites within the proposed development area or conservation areas, however a nesting site has been reported on land near Moose River.

Loons

Loon sightings and vocalizations are a frequent reminder of the wilderness experience to visitors and residents of Brassua Lake.

Because too few people live in the northern half of the state to provide sufficient coverage for the annual count, the Maine Department of Inland Fisheries and Wildlife has done two aerial surveys to estimate the region's loon population. DIF&W noted 4 loons in 1990 and 12 loons in 1996 on Brassua Lake. From the last survey in 1996, DIF&W estimated 1,800 adult loons in the northern Maine population.

The Audubon Society of Maine estimates the total population of loons to be 4300 in Maine, the largest population of loons in any New England state.

H. Scenic Resources

The Brassua Lake Region is very scenic, yet this lake's scenic beauty is not unique. It is very typical for lakes in this section of Maine. The scenic views can be enjoyed from both lakeside cottages and from boaters on the lake. The interior forest management roads provide access to higher elevation for viewing as well. There are also many streams, brooks, and bogs set in moderately mountainous terrain and accessed by forest management roads which provide for a serene woodland setting.

In order to better describe these scenic assets, Refer to Map #9 and the associated photographs located in Maps and Photographs section.

The photos show the typical views of the following areas:

1. Shoreline Views
2. Views from the Proposed Development Area
3. Woodland Views

I. Recreational Resources

The most common recreational activities in the Tomhegan Township are fishing and hunting. Brassua Lake is connected to several bodies of water via the Moose River. These bodies of water include Long Pond and Moosehead Lake both rated significant and outstanding respectively for fisheries by LURC's Wildland Lakes Assessment.

The first month after "ice out" is the peak time for fishing activity with a moderate amount of fishing until the end of September.

Hunting activity begins with the late August bear hunt, followed by the annual moose hunt in September and October, and continues into the fall with deer, grouse, rabbits, and other species.

Other recreational activities include camping, which is usually done with an accompanying activity, such as fishing, hunting, canoeing, hiking, and ATVing. Winter activities include snowmobiling, ice fishing, and skiing.

A variety of facilities support recreational use in the area. There is a public boat launch with trailer access on Brassua Lake owned by Kennebec Water Power Company. There are several primitive campsites on the shores and islands of Brassua Lake, including one campsite on the southern shore, one on the northern shore and two at the inlet of Moose River into Little Brassua Lake.

There is one sporting camp on Brassua Lake and others in the nearby communities of Rockwood and Greenville. There are seven camps in the existing Lake Concept Plan area and about 45 lots on the lake most of which are located along Rte. 15.

There are other recreational resources in the general area including day trips to Baxter State Park (72 miles), Mt. Kineo (7 miles), Greenville (29 miles), Katahdin Iron Works (56 miles), and Quebec City (160 miles).

Big Squaw Mountain (25 miles) offers downhill skiing, snowboarding, and panoramic views of the surrounding ponds and lakes.

The Snowmobile Interconnected Trail System #86 (ITS 86) provides service along Brassua Lake, connecting the proposed site to a major trail system via Greenville, Maine. Greenville serves as a major hub of the Maine Snowmobile Interconnected Trail System joining three major trails - ITS 85, ITS 86, and ITS 87.

During the spring and summer months white water rafting is available on the Kennebec and Penobscot Rivers.

Fall provides a spectacular time for nature walks and photography opportunities in the surrounding natural beauty of the lake region.

J. Historical, Cultural and Archaeological Resources

LURC's Lake Management Program rates Brassua Lake outstanding for its cultural resources. In order to maintain the cultural resources of the area, an inquiry was sent to the Maine Historic Preservation Commission, requesting impact in the area of the proposed development. Earle G. Shettleworth, Jr., State Historic Preservation Officer, stated in a letter, that the development area would have no effect on historical and archaeological resources.

In addition, a State Planning Office Report, The Kennebec River Resource Management Plan, states that several years ago Brassua Lake was drained down and it was determined the higher lake water levels have ruined any archaeological sites that may have existed.

K. Soils and Slopes

Soils

The proposed Poplar Hill site has had a Class B – High Intensity Soil Survey performed by Stephen Howell, S.W. Cole Engineering, Inc. This survey was submitted as part of the Public Hearing record on October 7, 2003. Poplar Hill lots that have suitable soils conditions will be developed; others will be placed in common open green space.

It is the intention of the Moosehead Wildlands, Inc. to procure the services of a soil scientist to perform on site soil analysis at each site. Since the proposed lots vary in size greater than an acre, it is not uncommon to find suitable soil on a lot for a subsurface septic system within an area that initially shows low potential.

Slopes

The slopes within Moosehead Wildlands, Inc, holdings in Tomhegan Township vary throughout the property. There are small mountains, rolling foothills, gentle slopes and flat areas. Map #3 shows the slopes in this concept plan area.

L. Rare or Significant Plants, Wildlife and Geological Features

There are no known rare or significant plants or geological areas within the Brassua Lake parcel.

M. Existing Zoning (See Map #5)

The Maine Land Use Regulation Commission currently governs the zoning of the Moosehead Wildlands, Inc. property. The zones within Moosehead Wildlands, Inc. ownership include the following:

M-GN: General Management Subdistrict

This subdistrict is the dominant zone of ownership. Its purpose is to allow forestry activities to occur with minimal interference from unrelated development in areas where special protection is not necessary.

P-GP: Great Pond Protection Subdistrict

This subdistrict extends 250 feet horizontal distance back from the normal high water mark of all great ponds (over 10 Acres in size) within the ownership. The purpose of this zone is to regulate residential and recreational development on great ponds in order to prevent the degradation of water quality, recreational potential, fishery habitat, or scenic character. Single-family detached dwelling units are allowed by permit. Timber harvesting is permitted following specific standards.

P-SL: Shoreland Protection Subdistrict

This subdistrict is divided into two categories: P-SL1 and P-SL2. P-SL1 extends 250 feet from the point where such waters drain 50 square miles or more. P-SL2 extends 75 feet from streams upstream from the point where they drain 50 square miles or more, wetlands zoned P-WL and certain standing bodies of water less than 10 acres in size.

P-WL: Wetland Zone Subdistricts

These subdistricts encompass all submerged lands and other areas meeting wetland criteria. P-WL1 designates Wetlands of Special Significance, P-WL2 designates Scrub Shrub Wetlands, and P-WL3 designates Forest Wetlands.

P-FW: Fish and Wildlife Subdistrict

The purpose of this subdistrict is to conserve important fish and wildlife habitats essential to the citizens of Maine because of their economic, recreational, aesthetic, educational or scientific value.

N. Existing Services

The proposed site is located 7 miles north of Rockwood, Maine in a largely undeveloped area. The services available at this time are very limited. The following services are available in the adjacent community or provided by state and county agencies.

Police

Somerset County Sheriff Office is responsible for police matters.

Fire Protection

The Maine Forest Service is responsible for forest fire prevention, forest fire suppression, and issuing burning and campfire permits.

Utilities

No utilities are present at the proposed development site. The closest community is Rockwood and it has the following utility providers:

Oil and Propane: Local Dealers
Electrical Power: Central Maine Power
Communication: Verizon
Cable: Moosehead Enterprises, Inc.

Hospital and Ambulance

The nearest hospital is in Greenville, Maine, approx. 29 miles south of the proposed development. Rockwood has a Fire Department/EMS unit and is 7 miles away.

Schools

The proposed site is located in an unorganized territory and as such it falls under the jurisdiction of the Education in Unorganized Townships (EUT). EUT has a school for K-4 grade level in Rockwood. Grade 5 through high school pupils traditionally attend school in Greenville. The nearest University is in Orono, Maine, (70 miles south), however the University of Maine System offers college courses that may be accessed at Greenville High School.

Funding for all services provided by the Division of State Schools – EUT is obtained through a direct tax levy on real property located within the unorganized territory. Thus, the Unorganized Territory Education and Services Fund is the source of all operating and capital monies. The EUT system receives no “state subsidies” of any kind, but participates in a number of federal programs.

III. THE LAKE CONCEPT PLAN

A. Duration of Plan

The provisions of this Lake Concept Plan shall apply for 20 years from the date of approval by the Land Use Regulation Commission, with exception that the conservation easements shall apply in perpetuity and will be implemented as described in Section IV, Part B.

Prior to expiration, the concept plan may be renewed and extended in accordance with Land Use Districts and Standards, Chapter 10, Section 10.16, F 9 (Appendix 15) by the Land Use Regulation Commission and the landowner(s). The landowner(s) must provide the Commission with written notice of whether they intend to extend or renew the concept plan one year prior to the expiration of the concept plan. If the concept plan is proposed for renewal, the renewed concept plan must be submitted to the Commission six months prior to the current concept plan's expiration date. If the landowner(s) or the Commission do not wish to renew the concept plan, or cannot agree upon the terms of a renewal, the Commission will, in conformity with its Comprehensive Land Use Plan statutes and standards, designate appropriate zoning subdistricts for those areas encompassed by this concept plan to become effective upon expiration of the concept plan.

B. Limitation

It is understood and agreed upon that by entering into this Lake Concept Plan any modifications or variations from the rules or standards that otherwise would have applied or development occurring as a result of this Lake Concept Plan may not be used to justify or support a subsequent rezoning, to meet adjacency requirements, or to otherwise change the zoning on property either within or outside the area subject to the concept plan either during or upon expiration of the concept plan.

In the event that this Lake Concept Plan is terminated following the 20 year period, all transactions initiated as a component of the concept plan, including without limitations, the granting of conservation easements or restrictive covenants on subdivided land will continue to apply to the extent that the transactions are covered by legal contract, deed, or deed covenants, permit or other legal requirements. Approval of any development for which corresponding easements have not been conveyed under the terms of this Lake Concept Plan shall lapse upon expiration of this concept plan.

C. Parties

The parties to the Lake Concept Plan:

1. Moosehead Wildlands, Inc., a Maine corporation with offices in Rockwood, Maine;
2. Western Mountains Foundation;
3. Land Use Regulations Commission; and

4. Maine Department of Conservation – Bureau of Parks and Lands

The Lake Concept Plan, including without limitation, conservation easements, restrictions and limitations resulting there from, shall be binding upon Moosehead Wildlands, Inc., its successors and assigns and upon the Maine Land Use Regulation Commission.

D. Area Included (See Map #6)

The area included in the Lake Concept Plan includes Moosehead Wildlands, Inc.'s land holdings in Tomhegan Township (T1 R2 NBKP) on Brassua Lake's east and west shoreline and Baker Pond's shoreline. This Lake Concept Plan and the associated P-RP subdistrict does not include the outlots illustrated on Map 6. The Lake Concept Plan total acreage is 5,673 +/- acres.

E. Proposed Development

Summary

Moosehead Wildlands, Inc. is proposing to develop seven areas within the Lake Concept Plan.

Area A – Residential Area - 213 +/- Acres (40 acres as Common Open Space)

Area A's proposed development will consist of 52 lots that range in size from 1.5 to 7.5 acres each with 200 + feet of frontage; the lots will be accessible by an existing loop road, which will be upgraded in accordance with LURC guidelines. Each lot will be restricted to one residential dwelling. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions. Access to most of the lots will be by a shared drive.

Groups of lots will be divided between "commonly owned open spaces". The "open spaces" will equal a combined three thousand feet of shorefront and encompass approximately 40 acres. The "open spaces" are to remain in a natural state in perpetuity; docks (permanent or temporary), structures, and lighting are prohibited.

Each lot owner will belong to the Poplar Hill Lot Owners Association.

The purpose of the Poplar Hill Lot Owners Association is to govern the uses specified in the lot owners' association rules and bylaws that include the ability to enforce any and all covenants, to fix assessments or common charges for maintenance and normal repair of the loop, spur and access road, to maintain and pay taxes of the "common open green areas", and to pay for the removal of refuse from the transfer site at "Area B".

Area A's development will be scheduled in phases.

Phase I and Phase II will include 10-15 lots each. The remaining phases will incorporate the remaining available lots. The upgrade of the existing loop road will provide access to the saleable lots.

Area B – 11 +/- Acres - Limited Commercial Development Area with Private Trailered Boat Ramp

Area B's proposed limited commercial development area consist of two lots. The proposed shorefront lot (4 +/- acres) will consist of a private trailered boat ramp, a drive and parking area (approx. 100'x 40') to allow movement and parking of trailered vehicles, and an attendant's cabin. The attendant's cabin is not to be conveyed as a separated residence.

The proposed interior lot (7 +/- acres) will consist of storage buildings for recreational equipment (such as motorboats, canoes, kayaks, skis and bikes), a rental office, guest parking, and a waste transfer area (concrete pad and dumpsters). Area B's intent is to support Residential Area A and promote outdoor recreational use within the Lake Concept Plan area. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions.

Area C – 265 +/- Acres – Limited Development Commercial Area for Recreational Use

Area C's limited commercial development area will consist of an area that is limited to commercial recreational development. The owner's intention is to reserve the right to build one (1) lakefront dwelling for a recreational area attendant/manager, one (1) sporting lodge with ten (10) associated rental cabins, an outpost cabin and private boat launch. The sporting lodge area will occupy not more than 40 acres and will include three islands, with an outpost cabin proposed for one island, and approximately 3,300 feet of shorefront. Access to the lot will be by an existing road and new road traversing through the conservation area. Once the sporting camp and manager's residence site are selected and Area E (see below), the balance of the acreage will be divided so that approximately 193 acres will be managed as part of the Conservation Area, and the remaining 3,100 feet of shorefront, 500 feet deep, and approximately 32 acres will be added to the Permanent Conservation Easement Area. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions.

Area D – 7.5 +/- Acres – Residential Area for Owners Use

Area D's proposed development area will consist of an area that is limited to residential development. The lot is associated with The Birches and shall not be conveyed separately from The Birches. The lot will be restricted to one residential dwelling. The lot size will be 2 +/- acres and have 200 feet of shorefront. Once the site is selected the remaining acreage will become part of the permanent easement area. Access to the lot will be by a new road traversing through the permanent conservation area and conservation area. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions.

Area E – 2.0 +/- Acres – Residential Area for One Dwelling

Area E's proposed development area will consist of a single lot. The location of the lot will be within Area C. The lot will be restricted to one residential dwelling. The lot size will be 2 +/- acres and have 200 feet of shorefront. Access to the lot will be by existing and a new road

traversing through the conservation area. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions.

Area F – 54 +/- Acres – Residential Area for Owner's Use

Area F's proposed development will consist of a single lot. The lot will be restricted to two residential dwellings. The owner will retain the lot for family member use. Access will be by a new road through the Permanent Conservation Easement Area. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions.

Area G – 49 +/- Acres – Residential Area for Four Dwellings

Area G's proposed development will consist of five lots. Four lots will be restricted to one residential dwelling each. The applicant will retain the remaining lot in an undeveloped state for the term of the Concept Plan. Restrictions on building setbacks and size are part of the concept plan and are described further in Appendix 1, Development Restrictions.

Islands

All the islands except for four (4) are placed in the Permanent Conservation Easement Area. The conservation easement area islands are proposed as primitive recreational areas, as has been the tradition in the past. No development is proposed for these islands except for development associated with primitive campsites.

Three islands are associated with Area C (See Map #6). These islands are proposed as primitive recreational areas. No development is proposed for these islands except for one outpost cabin.

One island designated Area H (See Map #6) is included as part of the 20-year conservation area.

Recreational Use Trail and Cabin System

It is the owner's intention of providing a trail and cabin system throughout the Permanent Conservation Easement Area on both sides of Brassua Lake. The trail system is a continuation of the present trail system located on the property. The trail system will consist of a 14' wide corridor (to allow trail groomers room to maneuver) with low vegetation. A trail (walking path) will be located within the 14' corridor.

The use of the trail system will be free to the public except during the cross-country ski season.

The use of the trail system during cross-country ski season will be fee based to cover construction cost, grooming, and upkeep of the trails.

The trail system allows 9 primitive cabins with up to 6 primitive cabins located within the Permanent Conservation Easement Area. The primitive cabins on Poplar Hill (2) and the western peninsula (1) shall be at least 500 feet from the shoreline and screened from view. There will be a fee for use of the cabins to cover normal maintenance and repair.

The trail system may be located throughout the Permanent Conservation Easement Area and The Conservation Area on each side of Brassua Lake (See Map #6 for approximate location of existing trails and proposed trails). Restrictions on size of primitive cabins and clearings are part of the Lake Concept Plan and are described further in Appendix 1, Development Restrictions.

The public will have access to both the Permanent Conservation Easement Area and the Conservation Area for non-motorized traditional recreational use. Existing snowmobile access will be continued in the Conservation Area and crossings will be provided across the Permanent Conservation Easement Area to provide snowmobile access to Brassua Lake.

Public Hand Carry Boat Launch

A Public Hand Carry Boat Launch Site is proposed in the conservation area. Its location is shown on Map #6. The access to the Public Hand Carry Boat Launch is from the Rockwood-Pittston Road. The construction of the boat launch is the responsibility of the applicant. The boat launch construction shall be completed within 2 years of the acceptance of the Lake Concept Plan. A parking area/turnout area will be constructed adjacent to the access road, near but outside of the permanent conservation area.

Gravel Removal Area

Moosehead Wildlands, Inc. reserves the right to remove gravel (mineral deposits) from a designated area within the conservation area. Mineral Extraction will be in accordance with Appendix 4.

Roads

The Lake Concept Plan contains over 8 miles of gravel forest management roads. Most roads are in good condition and provide access near to the proposed developed sites.

- East Side of Brassua Lake

There is one major access road and two spur roads. The major access road leads to a loop road around Poplar Hill and provides access to the concept plan. Minimal upgrade is required for the major access road. Significant upgrade is required for the loop road, which services Area A and B. The road upgrade is proposed in phases to match those of the development phases.

Area D's access road will traverse through the permanent conservation area.

- West Side of Brassua Lake

Roads shall be constructed in accordance with Appendix 5 of the Lake Concept Plan. Area F's road will traverse through the permanent conservation area.

- Public Hand-Carry Boat Launch Road

An existing road leading west then north from the major access road will provide access to a "Hand Carry" Public Boat Launch (See Map #6). The road will require

minimum upgrade for public use. A new section of the road (within the 20-year conservation area) will be built leading to the permanent conservation area boundary. A new parking area will be built outside the permanent conservation area. A walking path will be constructed through the permanent conservation area to allow the public to hand carry boats to Brassua Lake.

Reserved Right

Moosehead Wildlands, Inc. reserves the right to build a new road from the Rockwood-Pittston Road to the Public Hand-Carry Boat Launch site in the corridor shown on Map #6.

- Road Maintenance

Main Access Road, Loop Road and Spur Road

Maintenance and repair is the responsibility of the Poplar Hill Lot Owners Association.

Public-Hand-Carry Boat Launch Road

Maintenance and repair is the responsibility of the landowner.

Area D, E, C, F, and G

Maintenance and repair of these access roads is the responsibility of the lot owner(s).

Snow removal of all roads by Moosehead Wildlands, Inc. is optional.

- New Road or Upgraded Road Construction

New and upgraded roads shall be built in accordance with Appendix 5 of the Lake Concept Plan and the following guidelines.

The road width will be 14 feet wide and have 2:1 H/V slopes or flatter. Cross slope grade shall be a uniform 3-5% slope to allow drainage to the down hill side. The road shall be constructed in a layer system that includes layering geo-textile fabric directly on the old road, followed by a layer of 12 inch MDOT Class B (4" minus) aggregate, and then a final layer of 6 inch MDOT Class A (2" minus) aggregate. In wet areas and wetland areas an additional layer of geo textile fabric shall be used between the 12 inch and 6 inch layer. Ditches shall be minimized and existing ditches may require stone or geo-textile fabric to reduce erosion and promote vegetation growth. Existing drainage structures will need to be evaluated for size and condition. Stoned lined ditch turnouts will be placed so that water will run through a buffer area prior to entering the lake. Turnouts will be used to allow circulation of traffic.

Utilities

- **Septic**
Each site will have its own septic disposal bed or privy. The septic disposal bed will be designed by a licensed state site evaluator and be constructed in accordance with Maine's Plumbing Code. Gray water shall be discharged into a disposal bed.
- **Water**
Water will be provided by individual lot wells or from Brassua Lake. Brassua Lake water will only be procured by hand carry or by hand pump. Wells will be constructed in accordance with Maine's Plumbing Code.
- **Electrical/Telecommunication Lines**

Area A, B, C, D, E, F and G

Generators or solar power systems or equivalent alternative systems may supply electrical power. Generator use must meet noise requirements. There is no provision for telecommunication infrastructure. Overhead utility lines are allowed from structure to structure on the same lot.

Reserved Rights

Moosehead Wildlands, Inc. reserves the right to supply power and telecommunications to Areas A and B from an underwater (submarine) cable that would originate at the Brassua Lake Dam, provided all permits are obtained before construction begins. A suitable location for exit at the site (Area A) needs to be determined. The cable would access and exit the water through underground conduits. The conduit installation would take into consideration the fluctuating water levels of Brassua Lake. Permitting will be coordinated between the responsible government agencies, FERC, and Brassua Water Power Company.

Moosehead Wildlands, Inc. reserves the right to provide underground power to all proposed developed areas utilizing existing and proposed roadway corridors when "practicable". (See Definition)

- **Generators**

Generators may be used on each site provided the Development Restrictions in Appendix 1 on noise and location are met.

The lake frontage and acreage is summarized in the following table:

Table 1 – Summary of Brassua Lake Frontage in **Tomhegan Township excluding islands**

Existing Condition	Feet	% of Total
Brassua Lake in Tomhegan Township ⁽¹⁾	90,397 +/-	100.0
Moosehead Wildlands, Inc. Ownership	78,689 +/-	87.0
Other Ownership non Moosehead Wildlands, Inc.	11,708 +/-	13.0

⁽¹⁾ Information from GIS map, State of Maine

Table 2 – Summary of Moosehead Wildlands, Inc.’s **Brassua Lake Frontage excluding islands**

Proposed Conditions	Feet	% of Total
Moosehead Wildlands, Inc. Ownership	78,689 +/-	100.0
Permanent Conservation (includes 3,330 ft. from Area C)	49,425 +/-	63.0
Area A – Proposed Residential Development	14,735 +/-	18.8
Area A – Green Space	3,000 +/-	3.8
Area B – Proposed Limited Commercial Development	240 +/-	0.3
Area C – Proposed Limited Commercial Development	3,300 +/-	4.2
Area E – Proposed Residential Development	200 +/-	0.3
Area F – Proposed Residential Development	6,263 +/-	8.0
Area G – Proposed Residential Development	1,306 +/-	1.6

Table 3 – Summary of Moosehead Wildlands, Inc.’s **Baker Pond Frontage**

Proposed Conditions	Feet	% of Total
Moosehead Wildlands, Inc. Ownership	8,405 +/-	100.0
Permanent Conservation	8,205 +/-	97.6
Area D – Proposed Residential Development	200 +/-	2.4

Table 4 – Summary of Moosehead Wildlands, Inc.’s **Land Holdings within the Lake Concept Plan excluding islands**

Proposed Conditions	Acres	% of Total
Moosehead Wildlands, Inc. Ownership	5,673 +/-	100.0
Permanent Conservation Acres	1,150 +/- (1,185 +/-)⁽²⁾	20.3
Conservation Area	3,924 +/- (4,117 +/-) ⁽²⁾	69.2
Area A – Green Space (not to be developed)	40 +/-	0.7
Total Conservation Acres	5,112 +/-	90.1
Area A – Proposed Residential Development	173 +/-	3.1
Area B – Proposed Limited Development	11 +/-	0.2
Area C – Proposed Limited Development	265 +/- (40) ⁽¹⁾	4.7
Area D – Proposed Residential Development	7.5 +/- (2) ⁽¹⁾	0.1
Area E – Proposed Residential Development	2 +/-	0.0
Area F – Proposed Residential Development	54 +/-	0.9
Area G – Proposed Residential Development	49 +/-	0.9
Total Development Acres	561 +/-⁽¹⁾	9.9⁽¹⁾

(1) Total Development Acres will be adjusted to 331 +/- acres and 6% after sites in Area C and Area D are selected.

(2) Conservation Acres will increase from adjustments to Area C and Area D.

F. Proposed Conservation (see Map #6)

Moosehead Wildlands, Inc. is proposing to conserve in perpetuity certain areas within the Brassua Lake parcel. These areas 1,185 +/- acres are shown on Map #6 and consist of the area within 500 feet of the shorelines of Brassua Lake and Baker Pond, the peninsula on the western side of Brassua Lake, and the interior woodland section of Poplar Hill. These areas are designated as “Permanent Conservation”. The amount of shoreline placed in permanent conservation exceeds 10.9 miles.

A summary of acreage and shoreline is shown in the chart below.

Table 5 – Summary of Permanent Conservation Areas

Proposed Conditions	Location	Shoreline Length (ft.)	Setback	Acreage
Brassua Lake East side	Shoreline	17,385 +/-	500 +/- feet from shoreline	198 +/-
Poplar Hill	Interior Land			330 +/-
Brassua Lake West side	Shoreline & Interior Land	28,910 +/-		512 +/-
Baker Pond	Shoreline	7,740 +/-	500 +/- feet from shoreline	108 +/-
SubTotal		53,835 +/-		1,148 +/-
Area D (balanced not used)	Shoreline	465 +/-	500 +/- feet from shoreline	5 +/-
Area C (Balanced not used)	Shoreline	3,130 +/-	500 +/- feet from shoreline	32 +/-
Total		57,630 +/-		1,185 +/-

The remaining land, 3,924 +/- acres, not designated for any residential dwellings or permanent conservation is to be placed in a Conservation Area. Timber harvesting and mineral extraction shall be allowed within the boundaries of this area.

A large lot land division comprised of 10 lots exists on 416 acres within the interior ownership of Moosehead Wildlands, Inc. As part of this Concept Plan, 8 of the 10 lots (334 +/- acres) will be eliminated and included into the 20-year conservation easement area. The remaining 2 lots (82 acres +/-) are not part of this concept plan and will not be rezoned. These lots are illustrated as outlots on Map 6. Allowed uses on the remaining 2 lots will be in accordance with LURC’s Districts and Standards effective at the time of conveyance of the lots.

Following approval of this concept plan and in accordance with the Phasing of Development and Conservation section of this plan (Section IV, Part B) Moosehead Wildlands, Inc. will grant a conservation easement to the easement holder. Further details as to the allowed uses of the easement area are explained in Section IV, Part D, Land Use Standards and Section VI, Concept Plan Conservation Easement.

Other conservation measures include Moosehead Wildlands, Inc. restriction on lot usage, lot coverage, and shoreline development in the limited development areas.

G. Access

The Conservation Areas will be open to the public for traditional, non-motorized and non-destructive recreational use as well as the continuation of snowmobiling, except that access to and use of the Permanent Conservation Area located on the Poplar Hill Peninsula is by landowner permission only. A snowmobile trail will cross the Permanent Conservation Easement Area to provide access to Brassua Lake. Moosehead Wildlands, Inc. reserves the right to establish reasonable rules and regulations for use consistent with the intent to protect the natural values of the area while providing full public access.

H. Amendments

Upon mutual agreements of Moosehead Wildlands, Inc. and the Commission, this Lake Concept Plan may be amended from time to time due to unforeseen circumstances. It is expected, however, that this concept plan will provide for the long-term protection and management of the plan area. Should unforeseen circumstances arise, amendments may be proposed which the Commission determines are warranted and are in keeping with the purposes and intent of this Lake Concept Plan. Amendments may be proposed by those parties authorized to do so by law, including Moosehead Wildlands, Inc. Proposed amendments shall be made in writing to the Commission and shall be subject to the Commission review and approval in accordance with the Commission's concept plan provisions in its Comprehensive Plan and Land Use Districts and Standards. Amendments to this Lake Concept Plan shall be promptly filed in the Somerset County Registry of Deeds. Notice to abutters and the general public is required if amendments are proposed that would change the extent of development or the extent and placement of conservation measures. The conservation easements and any amendments to the easements within the concept plan area shall also require Commission approval.

I. Proposed Easement Holder

Western Mountains Foundation of Carrabassett Valley, Maine, is the proposed holder of the Conservation Easement within this concept plan. The Western Mountains Foundation, a state certified non-profit organization, has agreed to accept the Conservation Easements with the limitations, terms, and conditions. Any changes in the holder of these easements shall require the approval of the Commission.

Department of Conservation – Bureau of Parks and Lands is the proposed third party of the Conservation Easement.

J. Severability

The provisions of this plan are not severable. If a section of this Lake Concept Plan is adjudged by a court of competent jurisdiction to be invalid and such decision is no longer subject to appeal, such decision shall invalidate the remaining sections of this plan; provided that any

conservation easements, similar recorded restrictions on use, or approved developments shall be permanent in accordance with their terms.

K. Effective Date of Concept Plan

This Lake Concept Plan shall take effect following approval by the Maine Land Use Regulation Commission. Within thirty (30) days of the effective date of this Lake Concept Plan, the landowner or his representative will file a copy of the approved Lake Concept Plan at the Somerset County Registry of Deeds. Upon the conveyance of a lot that is included within the Lake Concept Plan, the landowner shall reference the existence of this Lake Concept Plan and any amendments thereto in the deed conveying the lot.

IV. CONCEPT PLAN IMPLEMENTATION

A. Zoning

The present Commission's land use management subdistrict (M-GN) and protection subdistricts (P-GP, P-SL, P-WL and P-FW) for the Lake Concept Plan area will be modified to Resource Plan Protection Subdistrict (P-RP). The extent of these areas and the zones that the P-RP designation replaces are shown on Map #5.

1. Purpose

The purpose of the Brassua Lake Resource Plan Protection Subdistrict is to provide for the efficient and effective management of the subdistrict and to provide for the protection of those resources in the subdistrict in need of protection.

2. Description of Resource Plan Protection (P-RP) Subdistrict

This subdistrict covers 5,673 +/- acres of land that borders both the East and West shoreline on the northern part of Brassua Lake and lands surrounding Baker Pond. The subdistrict lies entirely within Tomhegan Township, T1 R2 NBKP, lying 2.5 miles to the west of Moosehead Lake and 25 miles north of Greenville, Maine. This subdistrict includes 10 miles of shoreline and is depicted on the Lake Concept Plan Map #5. The subdistrict does not include the existing ten (10) outlots adjacent to the Lake Concept Plan, which shall remain as presently zoned.

3. Duration

The duration of this subdistrict shall be twenty (20) years from the effective date hereof.

4. Extension

Prior to its expiration, the Lake Concept Plan may be renewed and extended upon approval of the Commission and the applicant. The applicant must provide the Commission with written notice of whether it intends to extend or renew the Lake Concept Plan one (1) year prior to the expiration of this Lake Concept Plan. If the Lake Concept Plan is proposed for renewal, the renewed Lake Concept Plan must be substantially complete and submitted to the Commission six (6) months prior to the current Lake Concept Plan's expiration date. If the applicant or the Commission do not wish to renew the Lake Concept Plan, or cannot agree upon the terms of a renewal, the Commission will, in conformity with its Comprehensive Land Use Plan, statutes, and standards, designate appropriate zoning subdistricts for those areas encompassed by this Lake Concept Plan to become effective upon expiration of this Plan.

5. Effective Date

The effective date of this Subdistrict shall be the date of approval of the Lake Concept Plan by the Land Use Regulation Commission.

B. Phasing of Development and Conservation

The phasing in of the conservation and development measures proposed in this Lake Concept Plan shall occur as follows:

1. Following approval of this Lake Concept Plan by the Land Use Regulation Commission, Moosehead Wildlands, Inc. will grant the Permanent Conservation Easement Area, in perpetuity, to Western Mountains Foundation as holder and to Maine Department of Conservation – Bureau of Parks and Lands as third party. This area is in Tomhegan Township as shown on Map #6.
2. When an application is filed for the development in Area C, the remaining 3,330 +/- feet of shorefront, to a depth of 500 feet, approximately 32 +/- acres will be added to the Permanent Conservation Easement Area and the remaining 193 +/- acres of Area C will be added to the Conservation Area.
3. When an application is filed for the development in Area D, the remaining 365 +/- feet of shorefront, to a depth of 500 feet, approximately 5 +/- acres will be added to the Permanent Conservation Easement Area.

C. Land Use Standards Applicability

Any allowed uses within the concept plan area shall be governed by the following:

1. **Existing Outlots, as illustrated on Map 6:**
The existing Land Use Districts and Standards in place at the time an allowed use or permit application is submitted to LURC.
2. **New Lots:**
 - a. Protection Subdistricts and Land Use Standards as part of this Concept Plan;
 - b. Appendix 1 – Development Restrictions as part of this Concept Plan; and
 - c. Appendix 2 through 15 Land Use Standards as part of this Concept Plan.
3. **Prohibited Uses:**
All uses not expressly allowed, with or without a permit, shall be prohibited.

If none of the standards within this concept plan provide guidance, then LURC's Land Use Rules and Standards effective at the time of a ruling may be used as guidance in determining whether a proposal is permitted.

In cases where two or more provisions of this document apply to a particular structure, use or lot, the more restrictive provision shall control.

D. Land Use Standards Applicable to the Concept Plan Resource Plan Protection (P-RP) Subdistrict

1. The following land use standards apply to all areas within the P-RP subdistrict except those areas designated Wetland Protection (P-WL), Shoreland Protection (P-SL), and Fish and Wildlife Protection Subdistrict (P-FW) on Map 5 of the Concept Plan or as described in sections D.2, D.3, and D.4, below:

a. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses are allowed without a permit from the Commission:

- (1) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (2) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (3) Wildlife and fishery management practices;
- (4) Service drops and buildings and structures necessary for the furnishing of public utility services placed greater 250 feet from the normal high water mark, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water. Wire and pipeline extensions, which do not meet the definition of service drops, shall require a permit
- (5) Level A mineral exploration activities, including associated access ways, in accordance with Appendix 4, herein;
- (6) Surveying and other resource analysis;
- (7) Signs in accordance with Appendix 12, herein, except that:
 - (a) Signs for individual lots are limited to “for sale” or “for lease” signs and signs identifying residential or dwelling owners, provided such signs are in accordance with any applicable development restrictions and Appendix 12, herein, and
 - (b) Signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (8) Non-permanent docking structures;
- (9) Forest management activities, provided that such activities are in compliance with Appendix 6, herein;

- (10) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations.
- (11) Level A road projects;
- (12) Land management roads, and water crossings of minor flowing waters, in accordance with Appendix 5, herein;
- (13) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (14) Filling and grading in accordance with Appendix 7, herein;
- (15) Public hand-carry launches in accordance with Appendix 10, herein;
- (16) Driveways associated with residential uses in accordance with Appendix 8, herein;
- (17) Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with Appendix 4 b, (1), herein, except that no ponds are allowed in Area A; and
- (18) Mineral extraction operations less than 5 acres in size, located within designated areas on Map 6.

b. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed within this subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B, and in accordance with this concept plan:

- (1) Timber harvesting which is not in conformance with the standards for such activity in Appendix 6;
- (2) Land management roads and water crossings of minor flowing waters which are not in conformance with the standards for such activities in Appendix 5; water crossings of standing waters and of major flowing waters;
- (3) Level B and C road projects, except for water crossings of minor flowing waters as provided for in D,1,a, (12);
- (4) Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards for such activities in Appendix 4;
- (5) Mineral extraction for road purposes no greater than 5 acres in size;
- (6) Shoreland alterations, excluding marinas, permanent docking facilities, water-access ways, trailered ramps, hand-carry launches and water crossings of minor flowing waters;
- (7) Hand-carry launches addressed in D,1,a,(15) which are not in conformance with the standards for such activities in Appendix 10, herein, and private trailered launches located within Area B or C and private hand-carry launches;

- (8) Filling and grading, except as provided in D,1,a,(14), and draining, dredging and alteration of the water table or water level for other than mineral extraction;
- (9) Campsites and campgrounds;
- (10) Utility facilities other than service drops serving uses authorized under these standards or under this Concept Plan;
- (11) Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (12) Single family detached dwelling units;
- (13) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with Appendix 8, herein;
- (14) Normal maintenance and repair of roads and structures;
- (15) Mineral extraction operations located within designated areas on Map 6 and
 - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards for such activities established in Appendix 4, herein;
 - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
 - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (16) Commercial sporting camps of up to 8,000 square feet in floor area for all principal buildings concerned;
- (17) Other structures, uses or services that are essential for uses listed in Section D,1,a or b, provided such activity is in accordance with this concept plan; and
- (18) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan and this concept plan and are not detrimental to the resources or uses which they protect.

c. Special Exceptions:

The following uses may be allowed within this subdistrict as special exceptions upon issuance of a permit from the Commission pursuant to 12 MRSA Section 685-A(10), and subject to the applicable requirements set forth in this concept plan, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Private trailered ramps.

d. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-RP Protection Subdistricts.

2. The following land use standards apply to all areas within the P-RP subdistrict designated Wetland Protection (P-WL) on Map 5 of the Concept Plan, or those areas identified as wetlands when on-site delineation is required. Surface water bodies and areas meeting the description of wetlands, below, shall also be regulated by the land use standards of this subsection.

a. Description of Wetlands:

- (1) P-WL1: Wetlands of special significance:
 - (a) Areas enclosed by the normal high water mark of flowing waters, stream channels, and standing waters, except for constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
 - (b) Freshwater wetlands, as follows:
 - (i) Within 250' of the normal high water mark of any body of standing water greater than 10 acres;
 - (ii) Containing at least 20,000 square feet in total of the following: Aquatic vegetation, emergent marsh vegetation, or open water, unless the wetlands are the result of constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
 - (iii) That are inundated with floodwater during a 100-year flood event;
 - (iv) Containing significant wildlife habitat;
 - (v) Consisting of, or containing, peatlands, except that the Commission may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance; or
 - (vi) Within 25' of a stream channel.
- (2) P-WL2: Scrub shrub wetlands, as follows:
 - (a) Scrub shrub and other nonforested freshwater wetlands, excluding those covered under P-WL1; and
 - (b) Constructed ponds less than 10 acres in size, which are not fed or drained by flowing waters.
- (3) P-WL3: Forested freshwater wetlands, excluding those covered under P-WL1 and P-WL2.

Areas meriting protection as P-WL1, P-WL2, or P-WL3 will be identified by the Commission after consideration of relevant data including, without limitation, identification of freshwater and coastal wetlands 15,000 sq. ft. or larger by the National Wetlands Inventory and, when on-site delineation is required, identification of freshwater and coastal wetlands of any size by methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).

Wetlands identified on Map 5 of this Concept Plan may contain inclusions of upland areas or other wetland types smaller than 15,000 square feet that do not conform to the description of wetlands, above. Such inclusions will be regulated in accordance with Section D.2 of this Concept Plan.

b. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed within this subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (2) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (3) Wildlife and fishery management practices;
- (4) Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring and digging and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;
- (5) Level A road projects;
- (6) Surveying and other resource analysis;
- (7) Signs in accordance with Appendix 12, herein, except that:
 - (a) Signs for individual lots are limited to “for sale” or “for lease” signs and signs identifying residential or dwelling owners, provided such signs are in accordance with any applicable development restrictions and Appendix 12, herein, and
 - (b) Signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (8) Non-permanent docking structures;
- (9) Forest management activities in compliance with Appendix 6, herein;
- (10) Land management roads in P-WL3 wetlands, other than water crossings, and land management roads in P-WL1 or P-WL2 wetlands, other than water crossings, that alter less than 43,560 square feet of such subdistricts.
- (11) Water crossings of minor flowing waters in accordance with Appendix 5, herein;
- (12) Boating;
- (13) Use of sea or ski planes;
- (14) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;

- (15) Fish weirs and traps;
- (16) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (17) Service drops for telephone or electrical service, including associated vegetative clearing, provided:
 - (a) the line extension does not cross or run beneath a coastal wetland, river, stream, or brook;
 - (b) the placement of wires or installation of utility poles is located entirely upon the premises of the customer requesting service, upon an established utility line easement, upon a roadway right-of-way or, in the case of telephone service, on existing utility poles; and
 - (c) the total length of the extension is less than 2,000 feet;
- (18) Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size within a P-WL2 or P-WL3 Subdistrict which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with Appendix 4 b, (1);
- (19) Filling, grading, draining, dredging or otherwise altering less than 4,300 square feet of a P-WL2 or P-WL3 wetlands;
- (20) Public hand-carry launches within a P-WL2 or P-WL3 wetland or within the normal high water mark of flowing waters, stream channels, or standing waters;
- (21) Driveways associated with residential uses within P-WL 2 and P-WL3 wetlands, in accordance with Appendix 8, herein.

c. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed within this subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Land management roads which are not in conformance with the standards for such uses in Appendix 5, or which will alter 43,560 sq. ft. or more of a P-WL1 or P-WL2 wetland;
- (2) Level B road projects, other than crossings of minor flowing waters as provided for in Section D,2,b, (11);
- (3) Water crossings of minor flowing waters which are not in conformance with the standards for such uses in Appendix 5, herein and water crossings of tidal waters, standing waters, and of major flowing waters;
- (4) Shoreland alterations, excluding marinas, permanent docking facilities, water access ways, trailered ramps, hand-carry launches, water crossings of minor flowing waters, and motorized recreational gold prospecting;
- (5) Hand-carry launches addressed in D,2,b, (20) which are not in conformance with the standards for such activities in Appendix 10, herein, private

trailed launches located within Area B or C and private hand-carry launches;

- (6) Filling, grading, and dredging, other than for riprap associated with water crossings and except as provided for in Appendix 7, herein;
- (7) Creation, alteration or maintenance of constructed ponds, which are not fed or drained by flowing waters
 - (a) of less than 4,300 square feet in size within a P-WL2 or P-WL3 Subdistrict which exceed the standards of Appendix 4, b, (1);
 - (b) 4,300 square feet in size or greater within a P-WL2 or P-WL3 Subdistrict; and
 - (c) within P-WL1 subdistrict;
- (8) Driveways associated with non-residential uses within P-WL2 and P-WL3 wetlands; driveways associated with residential uses within P-WL2 and P-WL3 wetlands which are not in conformance with Appendix 8, herein;
- (9) Other structures, uses or services that are essential to the uses listed in Section D,3,2b and 2c provided such activity is in accordance with this concept plan; and
- (10) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan and this concept plan and are not detrimental to the resources or uses which they protect.

d. Special Exceptions:

Except as provided for in 2,b,(19), the following uses may be allowed within P-WL Protection Subdistricts as special exceptions upon issuance of a permit from the Commission according to 12 MRSA §685-A (10) and subject to the applicable requirements set forth in this concept plan provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses or resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Level C road projects.

e. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-WL Subdistricts.

3. The following land use standards apply for all those areas within the P-RP subdistrict designated Shoreland Protection (P-SL) on Map 5 of the Concept Plan, and those areas meeting the description, below.

a. Description:

P-SL1: Areas within 250 feet of the normal high water mark, measured as horizontal distance landward of such high water mark, of flowing waters downstream from the point where such waters drain 50 square miles or more.

P-SL2: Areas within 75 feet, measured as a horizontal distance landward, of

- (a) the normal high water mark of stream channels upstream from the point where such channels drain 50 square miles;
- (b) the upland edge of those wetlands identified in section IV.D.2.a as P-WL2 or P-WL3;
- (c) the upland edge of those wetlands identified in section D,2.a(1)(b) as P-WL1 freshwater wetlands; and the normal high water mark of standing bodies of water less than 10 acres in size, but excluding standing bodies of water which are less than three acres in size and which are not fed or drained by a flowing water.

b. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses are allowed without a permit from the Commission:

- (1) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (2) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (3) Wildlife and fishery management practices;
- (4) Service drops;
- (5) Level A mineral exploration activities, including associated access ways;
- (6) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (7) Surveying and other resource analysis;
- (8) Signs, in accordance with Appendix 12, herein, except that:
 - (a) Signs for individual lots are limited to “for sale” or “for lease” signs and signs identifying residential or dwelling owners, provided such signs are in accordance with any applicable development restrictions and Appendix 12, herein, and

- (b) Signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (9) Forest management activities in compliance with Appendix 6, herein;
- (10) Land management roads, and water crossings of minor flowing waters in compliance with Appendix 5, herein;
- (11) Level A road projects;
- (12) Mineral extraction, affecting an area less than 2 acres, for road purposes;
- (13) Non-permanent docking;
- (14) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (15) Filling and grading in accordance with Appendix 7, herein;
- (16) Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size, which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with Appendix 4,b, and (1);
- (17) Public and commercial hand-carry launches; and
- (18) Driveways associated with residential uses in compliance with Appendix 8, herein.

c. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Forest activities which are not in conformance with Appendix 6, herein;
- (2) Land management roads, and water crossings of minor flowing waters which are not in conformance with Appendix 5, herein; standing waters, and of major flowing waters;
- (3) Level A mineral exploration activities, including associated access ways, which are not in conformance Appendix 4, herein;
- (4) Mineral extraction for road purposes affecting an area of 2 to 5 acres in size and such activities affecting an area of less than 2 acres which are not in conformance with Appendix 4, herein;
- (5) Level B and C road projects, other than crossings of minor flowing waters as provided for in Section D,3,b,(10);
- (6) Filling and grading, except as provided in Appendix 7, herein;
- (7) Non-commercial structures for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (8) Campgrounds and campsites;

- (9) Shoreland alterations, excluding marinas, permanent docking facilities, water-access ways, trailered ramps, hand-carry launches and water crossings of minor flowing waters;
- (10) Hand-carry launches addressed in D,3,b,(17) which are not in conformance with the standards for such activities in Appendix 10; private hand-carry launches and commercial trailerable ramps;
- (11) Single family detached dwelling units;
- (12) Utility facilities, excluding service drops;
- (13) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with Appendix 8, herein;
- (14) Other structures, uses or services that are essential for uses listed in Section 3.b and 3.c, above, provided such activities are in accordance with this concept plan; and
- (15) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan, and this concept plan and are not detrimental to the resources or uses which they protect.

d. Special Exceptions:

None.

e. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-SL Subdistricts.

4. The following land use standards apply for all those areas within the P-RP subdistrict designated Fish and Wildlife Protection (P-FW) on Map 5 of the Concept Plan.

a. Description:

This subdistrict shall include wildlife and fishery habitat the Commission determines are in need of special protection pursuant to the following standards:

- (1) Significant fish spawning nursery and feeding areas, critical habitat of endangered and threatened fish and wildlife species ascertained by state or federal agencies, and habitat of fish or wildlife species needing special protection by other means, including by a state fish or wildlife conservation plan.
- (2) The shelter portions of deer wintering areas when the following conditions are met:
 - (a) The following must be shown for all shelter portions of deer wintering areas proposed for a P-FW subdistrict:
 - (i) Documentation of use as a deer wintering area during a minimum of two years over the most recent 10 year period at the time of designation; for at least one of such years, such documentations shall be based upon ground observation by a wildlife biologist of the Department of Inland Fisheries and Wildlife during or following a period of winter conditions, but no later than May 1 in any year, showing extent of deer use for winter shelter as evidenced by deer tracks, current and past deer browsing, deer pellet depositions, and/or bedding sites, such that a population of at least 20 deer per square mile in the shelter area may be estimated. A P-FW Subdistrict may be established for an area with an estimated population of fewer than 20 deer per square mile if, in the Commission's judgement, it is necessary to meet the purpose of the P-FW Subdistrict. In this regard, the Commission may be guided by "Planning for Maine's Inland Fish and Wildlife Resources, 1986-1991", of the Maine Department of Inland Fisheries and Wildlife, and associated documents, including the white-tailed deer assessment and strategic plan, as they may be amended from time to time; and
 - (ii) Occurrence of forest stands that are composed of over 50 percent conifer stems and contain a conifer crown closure of over 50 percent with predominant tree heights of over 35 feet; and

- (b) The Maine Department of Inland Fisheries and Wildlife (MDIFW) has submitted to the Commission a status report containing the following information:
 - (i) Deer population and deer habitat goals for the state and the applicable Wildlife Management District (WMD) 8;
 - (ii) Estimated current population of deer in the state and the applicable WMD;
 - (iii) Amount of land designated as P-FW Subdistricts in the applicable WMD;
 - (iv) Existing information on the amount of deer wintering habitat in organized towns within the applicable WMD;
 - (v) Amount and location of land designated as P-FW Subdistricts in the subject township and all townships abutting the subject township;
 - (vi) A qualitative and, if available, quantitative assessment, based on existing information, of the importance of the area proposed as a P-FW Subdistrict to other wildlife species of particular significance, including those identified by state or federal agencies as Endangered, Threatened, Special Concern, Indeterminate Status, or Watch List; and

- (c) The combined area of the shelter portions of deer wintering areas designated as P-FW or P-4 Subdistricts within the applicable WMD must not exceed 3.5% of the area of that WMD; and

- (d) The Department of Inland Fisheries and Wildlife has consulted with the landowner in one of the following ways:
 - (i) The Department of Inland Fisheries and Wildlife has offered, in writing, to the landowner whose land is under consideration for designation as a P-FW Subdistrict the opportunity to accompany the Department and observe its ground survey of the area proposed for designation, and has met with the landowner following such survey for the purpose of reaching agreement as to the area to be designated as a P-FW Subdistrict. In making its offer, the Department may require prior agreement by the landowner to reasonably limit activities that would affect designation of the area while it remains under consideration:
 - (a) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW Subdistrict;
 - (b) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported in writing to the Commission by the Department and the landowner; or
 - (ii) The Department of Inland Fisheries and Wildlife has not offered, in writing, to the landowner whose land is under consideration for designation as a P-FW Subdistrict the opportunity to accompany the

Department and observe its ground survey of the area proposed for designation, but has met with the landowner following its ground survey for the purpose of reaching agreement as to the area to be designated as a P-FW Subdistrict:

- (a) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW Subdistrict;
 - (b) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported to the Commission by the Department and the landowner. Notwithstanding that disagreement, if the Commission finds that the area meets the criteria for designation as a P-FW Subdistrict and applies the P-FW designation to the area, within two years of the date of that subdistrict designation, the landowner may request reconsideration of the designation if the landowner has obtained new information indicating the area did not meet the criteria set forth in D,4,a.,2,a,(i) at the time of designation. The Commission will give the Department at least 90 days notice of its receipt of a request for reconsideration prior to deciding that request.
- (3) Upon request or agreement by the landowner, the configuration of a P-FW Protection Subdistrict may be modified in order to provide the subdistrict with boundaries of reasonably regular shape.
- (4) The provisions of Section D,4,a,2 as amended on June 20, 1991, shall apply only to proposals to rezone areas to the P-FW Subdistrict that are submitted to the Commission after June 20, 1991.
- (5) The Commission may change a P-FW Subdistrict by reducing its size or by changing it to another Subdistrict designation if it finds by substantial evidence that:
- (a) The area designated as a P-FW Subdistrict is no longer substantially used as a wintering area by deer and has not been so used for a period of ten years; and
 - (b) The change is consistent with the Comprehensive Land Use Plan; and
 - (c) The change is more appropriate for the protection and management of the resource within the affected area.

Alternatively, the Commission may approve such a subdistrict change if the owner of the affected land designated as P-FW and the Commissioner of the Department of Inland Fisheries and Wildlife agree that such change is appropriate or the area is not needed to meet the deer management objectives established by the Department.

Notwithstanding the above, where a P-4 or P-FW Protection Subdistrict has been established for the purposes of protecting a deer wintering area, that subdistrict shall not be reduced in size as a result of timber harvesting activities which would cause such subdistrict to no longer satisfy the requirements of Section 4,a.2,a,(ii).

b. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and current Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses are allowed without a permit from the Commission:

- (1) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (2) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Signs in accordance with Appendix 12, herein, except that signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (5) Wildlife and fishery management practices;
- (6) Level A road projects;
- (7) Surveying and other resource analysis;
- (8) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (9) Forest management activities and land management roads in accordance with Appendix 6, herein, and, provided that timber harvesting and land management road construction are carried out in conformance with the following:
 - (a) Applicant shall confer with the appropriate Biologist of the Department of Inland Fisheries and Wildlife as to how the proposed activity is to occur within the P-FW Protection Subdistrict; at the landowner's option, the applicant may also confer with a Forester of the Bureau of Forestry;
 - (b) If a plan acceptable to the parties cannot be reached stating how the proposed activity should occur, the applicant shall be required to obtain a permit from the Commission;
 - (c) If a plan acceptable to the parties can be reached, the applicant shall notify the Commission in writing with a copy of the field investigation report by the Biologist (and the Forester where he also has been

- consulted) which states how and over what time period the activity is to occur -- the notification letter shall be signed by the person responsible for the proposed activity and the field investigation report shall be signed by the Biologist (and the Forester, where applicable);
- (d) Applicant may proceed with activity in conformity with the plan 14 days after notification to the Commission unless within such time period the Commission disapproves the plan;
 - (e) Applicant shall notify the Commission of completion of activity so that a follow-up field investigation may be carried out by the Commission or its designee.
- (10) Water crossings of minor flowing waters in accordance with Appendix 5, herein;
- (11) Mineral extraction for road purposes involving less than one (1) acre of land, provided that such activity is carried out in conformance with the following:
- (a) Applicant shall confer with the appropriate biologist of the Department of Inland Fisheries and Wildlife for the purpose of developing a plan as to how the proposed activity is to occur within the P-FW Protection Subdistrict and within what time period;
 - (b) If a plan acceptable to the parties cannot be reached stating how the proposed activity should occur, the applicant shall be required to obtain a permit from the Commission;
 - (c) If a plan acceptable to the parties can be reached, the applicant shall submit a copy of the agreed-upon plan, signed by both parties, to the Commission;
 - (d) Applicant may proceed with activity in conformity with the plan 14 days following receipt of the plan by the Commission unless, within such time period, the Commission disapproves the plan;
 - (e) Applicant shall notify the Commission of completion of the activity so that a follow-up field investigation may be carried out by the Commission or its designee.

c. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Timber harvesting and land management roads for which agreement cannot be reached pursuant to D,4,b, above;
- (2) Water crossings of minor flowing waters which are not in conformance with the standards for such activities in Appendix 5, herein;
- (3) Campsites;
- (4) Level B road projects;

- (5) Shoreland alterations but excluding marinas, permanent docking facilities, water-access ways, trailered ramps and hand-carry launches;
- (6) Signs other than those listed as exempt in Appendix 12, herein;
- (7) Filling and grading in accordance with Appendix 7, herein;
- (8) Other structures, uses or services that are essential for uses listed in Section 4.b and 4.c, above, provided such activities are in accordance with this concept plan; and
- (9) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan, and this concept plan and are not detrimental to the resources or uses which they protect.

c. Special Exceptions:

The following uses may be allowed within P-FW Protection Subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A., Section 685-A (10), and subject to the applicable requirements set forth in Section 10.17 of this chapter, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Mineral extraction for road purposes involving one (1) to 5 acres of land; and
- (2) Hand-carry launches.

d. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-FW Protection Subdistricts.

V. REVIEW CRITERIA FOR LAKE CONCEPT PLANS

The following criteria are considered when justifying the rezoning to a P-RP subdistrict to implement a Lake Concept Plan. Provisions listed after each criterion identify how this plan meets or exceeds the criterion.

A. Statutory Rezoning Criteria

Under provisions of the Commission’s statute, 12 MRSA §685-A (8-A), no change in a district boundary may be approved unless there is substantial evidence that:

- A. The proposed land use district is consistent with the standards for district boundaries in effect at the time; the Comprehensive Land Use Plan; and the purpose, intent, and provisions of Chapter 206-A (the Land Use Regulation Law); and
- B. The proposed land use district satisfies a demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

Provisions

This Lake Concept Plan contains the Land Use Standards for the districts that it replaces in Section IV and Appendices 2-13. In addition, Deeded Covenants (Appendix 1) for the development areas restrict building size, height, type, lot clearing, noise and light levels.

The following provides assurance that the area proposed for development reflects the guidelines of the Comprehensive Land Use Plan:

1. Placed in permanent conservation - 10 miles of shore frontage encompassing 1,185 +/- acres on both Brassua Lake and Baker Pond available for primitive recreational use.
2. Placed in 20-year conservation – 3,924 +/- acres available for primitive recreation use and timber harvesting.
3. A plan for development that places a majority of the development in one location thereby eliminating haphazard development of Brassua Lake’s shorefront.
4. A Public Hand-Carry Boat Launch site.
5. A trail and hut system available for seasonal public use.
6. Allowances that traditional uses of the land remain available (such as snowmobiling and forest management).

The need for quality shorefront lots is evident by:

1. The number of request received by local real estate professionals in the Greenville and outlying areas.

2. The increase in seasonal population in the Greenville area, in which the Greenville area seasonal population nearly triples the year-round resident population presenting a need for quality housing.
3. The opportunity to increase business of consumer services providers, including building contractors, surveyors, recreational vehicle service providers, grocery stores, and sporting supply stores.
4. The support of the Somerset County Commissioners who view the proposed development as a favorable impact to northern Somerset County, by bringing more tourist to the region thus increasing economic growth and increasing the tax revenues.

In order to ensure that no undue adverse impacts on existing uses or resources, the proposed plan provides the following:

1. The development, although not directly adjacent to a residential subdistrict, is located with 5 miles of similar development on Moosehead Lake and at Rockwood, the closest residential district.
2. The proposed development is accessed by an established road system that can be accessed by two-wheel drive vehicles.
3. Deed Restrictions (Appendix 1) and Land Use Standards (Appendix 2-13) are part of this Lake Concept Plan, enabling the applicant, the Land Use Regulation Commission, and other agencies to review and if necessary enforce the land uses to prevent undue adverse impacts.
4. The Somerset County Commissioners feel the impact to services provided by the Sheriff's Department, and contracted services with Rockwood Fire/Rescue Services and Rockwood Transfer Station will be minimal.

A new district designation is more appropriate for the following reasons:

1. This designation is a means for the landowner to place more restrictive measures (a reduction in allowed uses), thereby providing more protection of natural resources of a substantial land area.
 - a. The area proposed for Resource Plan Protection, P-RP, establishes that over 10 miles of shorefront along Brassua Lake and Baker Pond will be placed in perpetuity conservation vs. the present zoning of P-GP and M-GN that could allow for the potential development (dwellings) of these shorefronts in the future, either through rezoning to development subdistricts for subdivisions or through incremental development of two lots every five years without any regulatory oversight.
 - b. The owner has proposed a more restrictive zoning than the existing protection subdistricts in place and applied these land use standards to the entire Lake Concept Plan. The P-RP zoning also provides additional restrictions within areas presently zoned P-WL, P-FW and P-SL subdistricts.
2. Because the area is a fringe township (< 30 miles to Greenville) and seasonally accessible by 2-wheel drive vehicle, the area has the potential to have many visitors. It is important to establish this area as a P-RP area, so that others (visitors, abutters, and planners) are aware of the important conservation values that exist in the area.

Protecting the shoreline along Brassua Lake and Baker Pond through the implementation of this Concept Plan is an important conservation tool with benefits not only in Tomhegan Township, but also for the State of Maine.

3. The permanent conservation of potentially developable shoreline coupled with placing a large land area in a 20-year conservation will reduce the need for repetitious permit applications to the Commission.
4. The new designation allows the Commission (and the people of Maine) to have more predictability on how Brassua Lake and the lands within the Lake Concept Plan should be developed.
5. The plan offers a reasonable balance between development while providing for long-term conservation of lake resources (greater than 10 miles of shorefront and 1,185 +/- acres placed in perpetuity conservation and over 3,924 +/- acres of land placed in a 20-year conservation area).

B. Consistency with the Commission’s Comprehensive Land Use Plan (Version 1997):

Goals and Policies for Development (p. 140-142)

- A. Location of Development – Encourages orderly growth proximate to existing, compatibly developed areas (p 141). Encourages residential development near existing towns and communities where it can be efficiently served by existing services, facilities, and utilities (p 140).
- B. Economic Development – Encourage resource-based enterprises that further the tradition of multiple uses w/o diminishing the jurisdiction’s principal values (p 141).
- C. Site Review – Harmonious fit. Require use of buffers, building setbacks to maintain scenic quality. Adequate parking & traffic circulation, limit number and size of signs, prevent cumulative impacts from incremental development, discourage unnecessarily large lot sizes and encourage clustering & open space (141-142).
- D. Infrastructure – well planned, no adverse impact. Utilities located within existing Right-of-Way of new roads to plan for future growth and public access (142).
- E. Development Rate, Density and Type (142).

Provisions

Location of Development:

The location of the proposed development is within 5 miles of existing seasonal and year round development. The proposed dwellings are near to the Rockwood and Greenville areas, both of which can provide services.

Economic Development:

The traditional uses of this area have been primitive recreational use and wood harvesting. Residential dwellings along the shorefront, a sporting camp and cabins, a trail and hut system, and maintaining a large woodland area promotes the values of blending outdoor recreation use and forest management. The development will require services from real estate professionals, surveyors, building contractors, and propane suppliers, along with support services of convenience stores, recreational supply stores, and grocery stores providing economic development to the adjacent communities.

Site Review:

Each lot has a 100' building setback from the normal high water mark, 15' setback from property lines, and 50' setback from the access road. Deeded Covenants are included to restrict building size, height, color, lot clearing, noise, signage, and lighting so that the development blends into the existing character of the ponds.

The lots sizes provide for adequate soils for subsurface septic systems, provide for adequate privacy between dwellings, and ensure that the 10,000 sq. ft. clearings are separated to provide undeveloped portions of shorefront between residences. The lots sizes are small enough to enable the use of shared drives.

Existing roads provide access to the proposed developed areas. The loop road will be upgraded in accordance with Land Use Standards and with the coordination of State Soil Scientist, David Rocque.

Traffic circulation is not an anticipated problem, however turnouts may be needed on the loop road.

Infrastructure:

The proposed site does not have electrical power. Several options are feasible to bring electrical power to the proposed development, including a submarine cable from Brassua Dam or overhead or underground power lines.

Either option will require permitting. Land utilities will be placed along the right-of-way of access roads as much as possible to minimize the impact to forested areas.

Wells and subsurface septic systems are allowed on each lot and are to be built in accordance with Maine Plumbing Codes.

Development Rate, Density and Type:

The proposed development rate includes 60 shorefront units, a sporting camp with 10 cabins in a 20-year period on 5,673 +/- acres of land. This shorefront build out rate for Brassua Lake equates to 3 units per year (60 units divided by 20 years).

In comparison, the amount of shoreline available on Brassua Lake within the Lake Concept Plan could theoretically have 175 dwellings (at the rate of one dwelling per 400 ft.) without degrading the water quality. The applicant could develop the land at the rate of 2 dwellings in a five-year period (based on single ownership in one contiguous lot) without any regulatory oversight by LURC. The location of dwellings could be placed haphazardly around the lake. The applicant has acted prudently to reduce the number of potential lots on Brassua Lake and chose to group the lots and limit the number of lots, enabling much of the shoreline to be preserved.

The development of Poplar Hill is proposed in phases of 10-15 lots per phase.

The majority of density (52 of the 60 shorefront units) of the proposed development is located on Poplar Hill. Commonly owned open green spaces between the proposed lots will assure that 3000 feet and 40 acres of space are maintained as green space among the dwellings.

The types of dwellings proposed are single-family residential dwellings with up to 2 accessory structures. Deed restrictions limit size, height and color and number of accessory structures.

The proposed development cannot be used as a justification of the Commission's "adjacency criterion" for future development in the surrounding area.

C. Standards for P-RP Subdistrict Boundaries

Under provisions of 10.16, F, 6 of the Commission's Land Use Districts and Standards, the Commission may approve a Concept Plan and any associated redistricting to the Resource Plan Protection (P-RP) Subdistrict if the following criteria are satisfied:

- A. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts that it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criterion cited in the Commission's *Comprehensive Land Use Plan* is matched by comparable conservation measures;
- B. The plan includes in its purpose the protection of those resources in need of protection;
- C. Conservation measures apply in perpetuity, except where it is demonstrated that other alternative conservation measures fully provide for long-term protection or conservation; and
- D. The plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources.

Provisions:

By limiting growth within 5,673 +/- acres for the next 20 years and placing 1,185 +/- acres of land in permanent conservation and 3,924 +/- acres of land in a 20-year conservation easement, Moosehead Wildlands, Inc. establishes a commitment to continue the traditional forest management and primitive recreational use of the land as has been enjoyed in the past.

This Lake Concept Plan, taken as a whole, places ninety (90) percent of the lands within its boundaries into some form of conservation, the least of which is a 20-year conservation area.

This Lake Concept Plan places over 10 miles (9.3 miles on Brassua Lake and 1.5 miles on Baker Pond) of shorefront in permanent conservation.

The plan includes Deeded Covenants and Land Use Standards to assure that the protection of the P-RP area is at least protective as presently zoned.

D. Review Criteria for Residential Development within the Concept Plan

The Commission shall review all subdivision and development applications associated with this Lake Concept Plan in accordance with the criteria for approval of permit application as listed in Appendix 2, Section 10.13-B. In addition, the review standards for structures adjacent to lakes (Appendix 2, Section 10.13-B.2 of the Commission’s Land Use Districts and Standards), as further elaborated below, must be met for all subdivisions and development proposed on land adjacent to Brassua Lake and Baker Pond.

All lots, on which structural development is proposed, including all proposed subdivisions, must comply with the dimensional requirements of Appendix 9 and the Land Use Standards of Section IV and Appendices 2 through 15.

Review Criteria for Structures Adjacent to the Ponds

1. Natural and Cultural Resource Value

Brassua Lake has received a “significant” rating for fisheries and an “outstanding” rating for cultural resources. The Lake Concept Plan in preserving these values has limited development to 26,054 +/- feet along Brassua Lake, most of which occurs around Poplar Hill peninsula (16,491 +/- feet). Moosehead Wildlands commits to placing 49,425 +/- feet in permanent conservation, which represents 63% of its shorefront land holdings on Brassua Lake. Moosehead Wildlands, Inc. commits to placing 8,205 +/- feet in permanent conservation, which represents 97.6% of its shorefront land holdings on Baker Pond.

2. Water Quality

The water quality within the proposed development areas is very important to Moosehead Wildlands, Inc. The lake’s water quality is directly reflected in its “significance” fisheries. Moosehead Wildlands, Inc. has completed the following actions to ensure this water quality is maintained:

- a. A Preliminary Phosphorus Impact Analysis for the new development has been performed. Buffer areas along roadways have been identified to reduce phosphorus

impact, and these buffer areas will be included as deed restrictions in the subdivision phase of permitting.

- b. Requirements that Septic systems be located at least 100' from the shoreline and meet Maine Plumbing Code.
- c. Moosehead Wildlands, Inc. commits to erosion control measures to be used in accordance with the guidelines for vegetative stabilization and best management practices or other equally effective methods, and these guidelines will be part of the subdivision phase of permitting as an Erosion and Sedimentation Control Plan.

3. Traditional Uses

The lands included within the Lake Concept Plan area have historically been in private ownership.

In the past, the traditional uses associated with this area have been allowed with landowner permission.

Brassua Lake, Baker Pond, and the interior woodlands within this Lake Concept Plan have traditionally been used for seasonal lakeshore camps, recreational activities such as hunting, camping, fishing, and forest management purposes. In order to ensure that these traditional uses are preserved, a significant percentage of the shorefront is placed in permanent conservation easement and a major tract of interior land is placed in a 20-year conservation easement. The Lake Concept Plan does allow the traditional uses of the land in the conservation area, however the landowner reserves the right to restrict access around operational forest management areas, sensitive wildlife habitat and to those who do not respect the conservation values of the land and water. Specific provisions are made for timber harvesting within the conservation easement area.

4. Regional Diversity

The area in which the proposed development lies is in close proximity to Moosehead Lake and Rockwood, and is accessible by an access route between Rockwood and Pittston Farm. The Moosehead Lake Region has seen greatly expanded growth in residential dwellings providing waterfront or waterfront access in the past 20 years. This growth is due in part to the demand of shorefront property and the easy access of state and private roads.

Moosehead Wildlands, Inc. has recognized the growth pattern in the Moosehead Lake Region, but is also concerned with maintaining their continuous land holdings as large tracts of land devoted to forest management and recreational use. By limiting the size and physical location of the proposed development, Moosehead Wildlands, Inc. is proposing to seek a balance between planned development that fits with the growth pattern in the Moosehead Lake Region and providing a means to pay property taxes to keep the land in a largely undeveloped and undivided tract and providing opportunities for other to enjoy primitive recreational use and to manage the land as a working forest.

5. Natural Character

The Lake Concept Plan includes Deeded Covenants (Appendix 1) on building size, type, color, and height, as well as noise and clearing limits, in order to ensure that the dwellings blend with the natural character of traditional lakeside dwellings. The Lake Concept Plan addresses current Land Use Standards in the Appendices (Appendix 2-13) and Section IV.

6. Lake Management Goals

By giving up development equity rights and protecting the majority of the northern shorefront of Brassua Lake and almost the entire shorefront of Baker Pond, Moosehead Wildlands, Inc. has greatly aided in the Lake Management Goals of the State of Maine.

7. Landowner Equity

Moosehead Wildlands, Inc. owns the entire shorefront of the Baker Pond, so landowner equity is not an issue. Moosehead Wildlands, Inc. owns  percent of the shorefront of Brassua Lake. (For the purpose of this calculation the southern boundary line of Rockwood Strip T2 R1 was used as a dividing line between Brassua Lake and Little Brassua Lake. The approximate shorefront on Brassua Lake is 193,900 feet.) On its ownership, therefore, Moosehead Wildlands, Inc. has the potential for approximately 196 units at the rate of the Commission's guidelines of one development unit per 400 feet of shoreline. They are, therefore, not using up their share of the development potential for this lake and are not impinging on the development potential of other landowners on this lake.

Because development is restricted, other landowner's rights increase. These rights are:

- a. Fewer developed lots will ensure that the water quality is preserved.
- b. As a large undeveloped shorefront preserves the natural character of the lake, it establishes the character of the lake other landowners have come to expect.
- c. By limiting development of the available shorefront, the monetary value of other shorefront lots will continue to increase (Historically shorefront lot prices have increased, especially if surrounded by undeveloped areas).

Provisions for Section 10.17,B, 1 and 10.13,B, 1A of the Land Use Districts and Standards

The concept plan lots will comply with the State's environmental laws, site location, protection of natural resources, and provisions for solid waste and sewage disposal, and maintaining a healthy water supply.

Lot Dimensions

The lots are greater than 1 acre in size and have a minimum of 200 feet of shorefront. The minimum setbacks include 100 feet from the normal high water mark, 50 feet from access road and 15 feet from side property lines.

E. Criteria for Management of Lakes (Ponds) within the Concept Plan

The Wildlands Lakes Assessment, initiated in 1996 by LURC, established a systematic base of natural resources and land use information on all lakes within the Commission's jurisdiction. The assessment classifies each lake based on management classes and resource class. The ponds within the lake concept plan are classified as follows:

- **Brassua Lake** is classified as a **Management Class 3, Resource Class 1B** Lake.
- **Baker Pond** is classified as a **Management Class 7, Resource Class 3** pond.

Management Class 3

Consist of "lakes potentially suitable for development". The commission through a consideration of existing water quality, potential water quality impacts, location, access, conflicting uses, available shoreline, water level fluctuation, regional considerations, and special planning needs has found these lakes to be a potentially suitable location for shore land development.

Management Class 7

Consist of all lakes not otherwise classified. Many of these lakes have multiple outstanding or significant resources values identified in the Wildlands Lakes Assessment. The Commission will manage these lakes for multiple uses, including resource conservation, recreation, and timber production, giving specific consideration to identified resource values when evaluating the merits of lake-related rezoning and permit applications.

Resource Class

- 1A = Lakes with statewide significance with two or more outstanding values
- 1B = Lakes with statewide significance with one outstanding value
- 2 = Lake of regional significance (with no outstanding values but at least one significant resource value)
- 3 = Lake of local or unknown significance (either had no significant or outstanding natural value or information was inadequate to make a determination)

Brassua Lake is classified as Management Class 3 Lake designated by the Commission as potentially suitable for development, based on such factor as water quality, access, no conflicting area, shore land availability, water level fluctuations, locations, regional considerations, and special planning needs. LURC's Comprehensive Plan states that the Commission "supports additional responsible development around Class 3 lakes" and waives the adjacency criterion so long as there are no water quality problems and there are suitable soils.

In designating Brassua Lake as a Class 3 Lake, the commission has already found that Brassua Lake meets the following criteria:

- a) The water quality can sustain development of the remaining undeveloped shoreline at the rate of one dwelling per 400 feet of frontage or a total of a theoretical 484 units (193,900 ft. ÷ 400 ft.). The proposed concept plan shore frontage can support a total of a theoretical 196 units (78,689 ÷ 400 ft). The plan is well below this theoretical figure at 60 proposed shorefront dwellings on Brassua Lake. The shorefront to dwelling unit frontage ratio will be 1,310 ft. per dwelling (78,689 ÷ 60);
- b) It is located within two townships of the organized portion of the State of Maine or within existing settlements with Public Services;
- c) It is accessible by 2 wheel drive motor vehicle in the summer to within one-quarter (1/4) mile of the normal high water mark;
- d) There is no conflicting use, such as major or unavoidable conflict with critical species or habitats, or with recreational activities requiring undeveloped setting;
- e) The undeveloped shore area is adequate for 10 or more dwelling units and has greater than 10 acres of surface area per existing dwelling unit (the proposed Lake Concept Plan exceeds the minimum standard—the 60 units combined yield 33 acres of lake surface area per unit, the Lake Concept Plan contains approximately 2000 acres of lake surface area - this conservative figure was calculated by extending a line from the lake concept plan shoreline to the middle of the lake in areas where the opposite shore was not owned by Moosehead Wildlands, Inc. and by including the entire lake surface area if opposite shorelines were owned by Moosehead Wildlands, Inc.);
- f) There is no extreme water level fluctuations which makes the shoreline unsuitable for development (the majority of draw down of lake water level occurs after August 30th); and
- g) As compared to other large water bodies, it is least sensitive to water quality degradation; closest to paved, all-season roads, closest to existing development centers; and has the least conflict between development and its resource significance.

CONSERVATION EASEMENT

Moosehead Wildlands, Inc., a Maine corporation with offices in Rockwood, Maine, 04478, (hereafter referred to as the “Grantor”, which word is intended to include unless the context clearly indicates otherwise, the above-named Grantor(s), and any future owners and successors in interest to the Protected Property, its successors and assigns,)

GRANTS to the Western Mountains Foundation, a Maine certified non profit conservation organization, organized and existing under the laws of the State of Maine, with mailing address of Village West #20, Carrabassett Valley, Maine 04947 (hereinafter referred to as the “HOLDER”, which word shall, unless the context clearly indicates otherwise, include the holder’s successors and assigns),

And grants to STATE OF MAINE (hereinafter referred to as “THIRD PARTY”, which shall, unless the context clearly indicates otherwise, include the Third Party’s successors and assigns), acting by and through its Department of Conservation, Bureau of Parks and Lands, with a mailing address of 22 State House Station, Augusta, Maine, 04333-0022,

With QUITCLAIM COVENANT, in perpetuity, the following described Conservation Easement on land located in Tomhegan Township (T1 R2 NBKP), Somerset County, Maine, hereinafter referred to as the PROTECTED PROPERTY, and described on Exhibits A, attached hereto, and on a plot plan attached hereto at Exhibit B, both Exhibits made a part hereof by reference;

PURPOSE

It is the purpose of this Conservation Easement to preserve and protect in perpetuity the scenic and natural features of the Protected Property in a forever wild condition, subject only to changes appropriate to provide opportunities for low impact outdoor recreation and nature observation and study; to preserve the health of the forest, wetland and shoreline ecosystems; to develop a trail, a public hand-carry boat launch, and six huts for primitive outdoor recreation such as hiking and cross-country skiing; to allow sustainable and environmentally sound growth and harvesting of forest products; and to assure availability to the general public for low impact outdoor recreation use.

The following recitals more particularly describe the conservation values of the Protected Property and significance of this grant.

WHEREAS, the Protected Property consists of approximately 1,185 acres and approximately 57,630 feet of undeveloped shoreline within 500 feet of the normal high water mark of Brassua Lake and Baker Pond, and the inland area on the west side of Brassua Lake and inland area on Poplar Hill as depicted in Exhibit B; and

WHEREAS, the Protected Property remains in a significantly undeveloped/undisturbed natural wooded state which provides habitat to a variety species; and

WHEREAS, the Protected Property represents shoreland having significant natural and aesthetic values in its present state which contribute to the enjoyment and welfare of the People of the State of Maine; and

WHEREAS, the Protected Property is in active use for the production and harvesting of forest products and development or utilization of the Protected Property in excess of that allowed hereunder would potentially remove the land from production; and

WHEREAS, the Conservation Easement makes portions of the Protected Property available for primitive outdoor recreation by the general public in a manner that is consistent with the preservation of its natural features with Grantor’s reserved rights;

NOW THEREFORE the Grantor and Holder have established a Conservation Easement affecting the Protected Property consisting of the following terms, covenants, restrictions and affirmative rights, which shall run with and bind the Protected Property in perpetuity:

TERMS, COVENANTS AND RESTRICTIONS

1. SUBDIVISION AND LAND USE

The Protected Property may not be divided, subdivided, partitioned, or otherwise separated into more than four lots or parcels, each subject to the terms of this Easement, except that the Protected Property or any part thereof may be sold or leased for its conservation purposes to any entity to which the conservation Easement may be transferred under paragraph 12E.

Structural development, commercial, residential, industrial, energy generation, quarrying, mining, landfill, and waste disposal activities are prohibited on the Protected Property unless expressly stated to the contrary herein.

2. STRUCTURES

As of the date of this grant, there are no structures on the Protected Property except for boundary markers. The Protected Property does contain modest trails, land management road improvements (a description of which is provided in the Baseline Documentation), and primitive campsites, none of which involve structures. No additional structures, temporary or permanent, are allowed on the Protected Property except that Grantor reserves the right to locate, use, remove from or construct, install, repair, maintain and replace on the Protected Property the following as provided in the Lake Concept Plan.

- 1) a fourteen (14) foot wide trail system with a six (6) foot wide path;
- 2) three (3) single story wooden structures whose footprint is 400 square feet or less, whose location is greater than 250 feet from the normal high water mark of Brassua Lake and meeting the developmental standards described in Appendix 1 of the Lake Concept Plan and whose sole purpose is for primitive recreational use may be built within the protected property along with privy facilities for each structure;
- 3) two (2) single story wooden structures located on the Poplar Hill Peninsula and one (1) single story wooden structure located on the Western Peninsula and whose footprint is 400 square feet or less, whose location is greater than 500 feet from the normal high water mark of Brassua Lake and meeting the developmental standards described in Appendix 1 of the Lake Concept Plan and whose sole purpose is primitive recreational use, may be built within the Protected Property along with privy facilities for each structure.
- 4) fences to protect natural and wildlife resources;
- 5) boundary markers;

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- 6) benches, walkways, bridges, primitive campsites, nature observation blinds, and small interpretive and directional signs;
- 7) temporary structures set back 500 feet from the normal high water mark of Brassua Lake and reasonably necessary to accomplish allowed forestry measures that are not inconsistent with the purposes of this grant;
- 8) temporary tents for non-commercial and non-institutional camping, or scientific study; and
- 9) a public hand-carry boat launch;
- 10) a trail or access road to the public hand-carry boat launch;
- 11) an access road perpendicularly across the Protected Property to a development site on the east shore of Brassua Lake; and
- 12) two snowmobile trails perpendicularly across the Protected Property on the eastern side of Brassua Lake to provide access to Brassua Lake; and
- 13) an access road on the western Peninsula to the area retained by the Grantor

3. SURFACE ALTERATIONS

As of the date of this grant, there are no surface alterations on the Protected Property except trails (including two snowmobile trails), land management roads, and primitive campsites. No additional filling, drilling, excavation or alteration of the surface of the earth, no removal of soil or minerals, and no changes in the topography, surface or sub surface water are allowed on the Protected Property, except that Grantor reserves the right to the following as provided in the Lake Concept Plan:

- 1) construct, install, repair, replace and maintain a combination trail and cabin system that would provide a fourteen (14) foot wide trail whose primary use is intended for cross-country skiing in the winter and to provide a six (6) foot wide walking path;
- 2) construct, install, repair, replace and maintain six (6) small cabins and associated privy facilities;
- 3) establish and maintain footpaths and trails, in a manner and location that minimizes disturbance to wetlands and siltation of adjacent water bodies;
- 4) construct and maintain land management roads in accordance with applicable laws and regulations;
- 5) excavate small select portions of the Protected Property for ecological studies or archaeological purposes, subject to the prior written approval of Holder which may be granted only if such activities will be conducted according to generally accepted professional practices and standards and in a manner consistent with the conservation purposes of this grant;
- 6) construct, install, repair, replace and maintain a public hand-carry boat launch and a trail or access road; and
- 7) construct access roads perpendicularly across the Protected Property to a development site on the east shore of Brassua Lake and to a development site on the Western Peninsula; and
- 8) two snowmobile trails perpendicularly across the Protected Property to provide access to Brassua Lake.

4. VEGETATION MANAGEMENT

No standing timber may be cut or removed from the Protected Property except as provided by Grantor's reserved rights contained herein and is either (i) necessary in the accomplishment of the conservation, habitat management, or non-commercial outdoor recreational uses of the Protected Property or (ii) commercial timber harvesting activities and forest management pursuant to a forest management plan, prepared by a registered professional Maine Forester and designed to preserve the scenic and wildlife habitat quality of the Protected Property and to provide a sustainable yield of forest products in accordance with applicable laws and regulations. Timber management and road building must be accomplished by methods that will maintain the health of the forest, preserve its wildlife habitat qualities, preserve wetlands and minimize sedimentation into surface waters. Prior to commencing timber-harvesting operations in any area Grantor must provide Holder and Third Party with information on harvesting plans and methods by which the foregoing requirements will be met. All harvesting will comply with the Lake Concept Plan and other applicable requirements. No clear cuts will be allowed. No commercial harvesting or construction of land management roads or winter haul roads will be allowed within 100 feet of the normal high water mark of Brassua Lake and Baker Pond.

5. WILDLIFE AND WATER QUALITY PROTECTION

In order to assure the preservation of the high quality scenic, natural and ecological character of the Protected Property, the following specific restrictions, subject to any more restrictive local, state, and federal laws and regulations, are imposed on the Protected Property:

- A. Overboard discharge or direct discharge of treated or untreated black or gray water waste into fresh surface water on or about the Protected Property is strictly prohibited.
- B. It is forbidden to dispose of or store rubbish, garbage, debris, abandoned vehicles or equipment, parts thereof, or other unsightly, offensive, hazardous or toxic waste material on the Protected Property, except that organic compost, blowdowns, and by-products of on-site forest management may be used or disposed of on the Protected Property in a manner consistent with the conservation purposes of this Easement, and other waste generated by allowed uses on the Protected Property may be stored temporarily in appropriate containment for removal at reasonable intervals, subject to all applicable local, state and federal laws and regulations. Recreational users of the Protected Property must be instructed to carry out their trash.
- C. The use of herbicides, insecticides, fungicides, fertilizers or other potentially harmful substance must be controlled and limited so as not to have an adverse effect on the wetland and wildlife habitat associated with the Protected Property and associated wetlands, streams, and ponds, and must be used in accordance with all applicable laws and regulations.

6. RECREATIONAL EASEMENT

Grantor agrees to take no action to prohibit or discourage daytime non-motorized and non-destructive public use of the Protected Property except that access to and use of the Protected Property located on the Poplar Hill Peninsula is by Grantor's permission only. Grantor has the right to make reasonable rules and regulations for different types of public use, and to control, limit or prohibit, by posting and any other means, activities which would be inconsistent with the purposes of this easement, including but not limited to the following: night use, camping, loud activities, open fires, use of motorized vehicles and equipment, access by domesticated animals or pets, use of bicycles, and hunting or trapping.

Grantor agrees to provide permanent public access to the Protected Property over the existing gravel road off Rockwood-Pittston Road either by vehicle or pedestrian travel. Grantor agrees to provide permanent public access to a new road or trail connecting the existing road with the hand-carry boat launch. However, Grantor reserves the right to substitute an alternate permanent access to the Protected Property that is consistent with the conservation and forest management purposes of this easement.

Grantor agrees to retain the two existing snowmobile crossings on the east side of Brassua Lake which provide access to the Lake, unless an alternative location for each crossing is agreed upon by the Grantor, the Holder and the Third Party.

In addition to the foregoing, Grantor and Holder may jointly agree in writing to restrict other uses or access to the Protected Property or parts thereof, if that use unreasonably interferes with the exercise of Grantor's reserved rights or with other users of the Protected Property as allowed under this easement, or is harmful to the conservation values of the Protected Property but only to the extent and for the duration necessary to assure safety, or to preserve important ecological, habitat and conservation values of the Protected Property.

Grantor and Holder claim all of the rights and immunities against liability for injury to the public to the fullest extent of the law under Title 14 M.R.S.A. Section 159-A, et seq. as amended and successor provision thereof (Maine Recreational Use Statute), and under any other applicable provision of law and equity.

7. DEFINITIONS

A. tprint: The term "footprint" means the surface area of the earth occupied or covered by such structure, calculated on the basis of the exterior dimensions of the perimetric walls or bounds of such structure, and includes, in addition, the surface area of the earth occupied or covered by any attached porches, or decks whether enclosed or open-air, but does not include the ground area affected by subsurface waste disposal systems, roadways, or completely underground facilities.

B. Normal High Water Mark: The term "normal high water mark" means that line which is evident from visible markings, changes in the character of soils due to the prolonged action of

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the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In places where the shore or bank is of such character that the high water mark cannot be easily determined (rock slides, ledges, rapidly eroding or slumping banks), the normal high water mark will be estimated from places where it can be determined by the above method. Setbacks from the normal high water mark will be determined by horizontal measurement to the nearest point of the structure or activity.

8. NOTICES

Any notices or requests for the consent of the Holder or Third Party, required or contemplated hereunder, must include at a minimum, sufficient information to enable Holder or Third Party to determine whether proposed plans are consistent with the terms of this Conservation Easement and the conservation purposes hereof. Notices to any party must be in writing and will be sufficient if served personally or sent by certified mail, return receipt requested, addressed as follows:

To Grantor:

Moosehead Wildlands, Inc.
P.O. Box 81
Rockwood, Maine 04478

To Holder:

Western Mountains Foundation
Village West #20
Carrabassett Valley, Maine 04947

With a copy to Third Party:

Director
Maine Bureau of Parks and Lands
Department of Conservation
22 State House Station
Augusta, Maine 04333-0022

or to such other authorized person as any party may from time to time designate by written notice to the others.

9. COSTS AND TAXES, RESPONSIBILITY

Grantor is responsible to pay and discharge when due all property taxes and assessments lawfully imposed and to avoid the imposition of any liens that may affect Holder's rights hereunder.

Grantor acknowledges that Holder has no possessory rights in the Protected Property, nor any responsibility to control, maintain, or keep up the Protected Property. Grantor is responsible for all costs and responsibility of ownership, control, operation, maintenance, and upkeep of the Protected Property, and will hold harmless the Holder and Third Party from any claims for damages that arise there from, except for harm proximately caused by their negligent act or misconduct, or as may arise out of their workers' compensation obligations.

10. RESERVED RIGHTS

Grantor reserves to itself, and to its personal representatives, successors, and assigns, all rights accruing from ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, all uses of the Protected Property that are not expressly prohibited herein and are consistent with the purpose of this Conservation Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- A. The right of the Grantor, its guests, employees and invitees, to use the Protected Property for primitive recreational purposes which may include hiking, skiing, snowshoeing, picnicking, bird watching, camping, tenting, hunting, fishing, and trapping;
- B. The right to advertise the Protected Property for sale and to convey the Property, always subject to the terms of the Conservation Easement; and
- C. The right to manage timber and conduct commercial timber harvesting operations pursuant to a forest management plan prepared by a registered professional Maine forester and designed to preserve the scenic and wildlife habitat quality of the Protected Property and to provide a sustainable yield of forest products in accordance with applicable laws and regulations.

11. HOLDERS AFFIRMATIVE RIGHTS

- A. Holder has the right to enforce this Conservation Easement by proceedings at law and in equity, including the right to prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of any area or feature damaged by such inconsistent activity to a condition in compliance herewith. Holder shall provide Grantor with prior notice of and reasonable opportunity to cure any breach, except where emergency circumstances require enforcement action without delay. Holder may not bring an enforcement action against Grantor for injury to or change in the Protected Property resulting from changes beyond the control or responsibility of the Grantor, such as fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such

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causes. If a Court (or other decision maker chosen by mutual consent of the parties) determines that this Conservation Easement has been breached, Grantor will reimburse Holder for any reasonable costs of enforcement, including court costs, reasonable attorney's fees, out-of-pocket costs and any other payments ordered by the Court or decision maker.

- B. Holder has the right to enter the Protected Property for inspection and enforcement purposes, at a reasonable time and in a reasonable manner that is consistent with the conservation purposes hereof.
- C. Holder has the right to require that Grantor's reserved rights be exercised in a manner that avoids unnecessary harm to the conservation values to be protected by this grant.
- D. Holder has the right to conduct a professional boundary survey of the Protected Property or any part thereof, which survey will be at Grantor's cost only if it is required to determine if there is a violation of this Conservation Easement.
- E. Holder shall provide to the Grantor a copy of any written report generated as a result of inspections performed by Holder or its agent within seven (7) days of completion of such report.
- F. Holder has the right to maintain the trail, cabins, privies and/or boat launch after reasonable notice to Grantor, if Grantor has not maintained said trail, cabins, privies, and boat launch.
- G. Holder has the right to manage the recreational use of the Protected Property by the public in a manner that is consistent with the purpose of this Conservation Easement, in the absence of the Grantor so managing said use.

12. THIRD PARTY RIGHTS

The Grantor grants to the Third Party the same entry, inspection, approval and enforcement rights as are granted to the Holder under this Conservation Easement. However, the Parties hereto intend that the Holder shall be primarily responsible for the enforcement of the Conservation Easement, and that the Third Party intends to assume such responsibility only if the Holder fails to properly enforce. However, the Third Party may at any time exercise, in its own name and for its own account, all the rights of enforcement granted the Holder under this Easement. Third Party shall also have reasonable access to the Protected Property in the same manner as the Holder and to any and all records of the Holder relevant to the Protected Property.

Notwithstanding that Third Party has executed this Conservation Easement, nothing herein may be construed as approval or as a substitute for approval or regulation of any activities under the regulatory jurisdiction of the Maine Land Use Regulation Commission or other State regulatory body. Nothing in this Conservation Easement may be construed to permit an activity otherwise prohibited or restricted by local, state, or federal laws or regulations.

13. CONSERVATION EASEMENT REQUIREMENTS UNDER MAINE LAW AND U.S. TREASURY REGULATIONS

- A. This conservation Easement is created pursuant to the Uniform Conservation Easement Act at Title 33, Maine Revised Statutes, 1989, Sections 476 through 479-B, inclusive, as amended, and shall be construed in accordance with the laws of the State of Maine.
- B. This Conservation Easement established exclusively for the conservation purposes pursuant to the Internal Revenue Code of 1986 as amended (hereafter called the “Code”) at Title 26, U.S.C.A., Section 170(h) (1)-(6) and Sections 2055 and 2522, and under Treasury Regulations at Title 26 C.F.R. § 1.170A-14 *et seq.*, as amended.
- C. The Holder is qualified to hold conservation easements pursuant to Title 33, Maine Revised Statutes Annotated, 1988, Section 476(2)(b), as amended, and is a Qualified Organization under Section 170 (h)3, to wit: a publicly funded, non-profit 501(C)(3) organization having a commitment and the resources to protect the conservation purposes of the donation and enforce the restrictions hereof.
- D. The Third Party is qualified to hold third party rights of enforcement on conservation easements pursuant to Title 33, Maine Revised Statutes Annotated, 1988, Section 476(2)(b), as amended.
- E. This Conservation Easement is assignable, but only after notice to and review by Third Party, and only to an entity that satisfies the requirements of Section 476(2) of Title 33 of the Maine Revised Statutes Annotated (1989), as amended (or successor provision thereof), and to an entity that satisfies the requirements of Section 170(h)(3) of the Internal Revenue Code of 1986, (or successor provisions thereof), and that agrees, as a condition of transfer, to uphold the conservation purposes of this grant.
- F. Grantor agrees to notify Holder prior to undertaking any activity or exercising any reserved right that may have a material adverse effect on the conservation purposes of this grant.
- G. In order to establish the present condition of the Protected Property and its natural and scenic resources so as to be able to monitor properly future uses of the Property and assure compliance with the terms hereof, Holder and Grantor have agreed to prepare an inventory of the Property’s relevant features and conditions (the Baseline Data”) within 60 days of this agreement and will certified the same as an accurate representation of the condition of the Protected Property as of the date of this grant. A copy of the Baseline Data shall be submitted to and shall be subject to the approval of the Third Party.
- H. The Protected Property may be used to secure the repayment of debt, provided that the right of the Holder and Third Party to enforce the terms, restrictions and covenants created under this easement shall not be extinguished by foreclosure of any mortgages or any publicly or privately placed lien. The restrictions of this Conservation easement, and Holder’s right to enforce them shall be superior to any mortgage or lien.

- I. This Conservation Easement constitutes a property right owned by the Holder. Notwithstanding that this Conservation Easement is an obligation, and not a financial asset, should it be extinguished, which may be accomplished only by court order, Holder is entitled to a share of the proceeds of any sale, exchange or involuntary conversion of the unrestricted property, according to Holder's proportional interest as determined by Treasury Regulations 1.170A-14(g)(6)(ii). Holder's proportional interest is determined as of the date of this grant and will not include value attributable to improvements to the Protected Property made after this date of this grant. Holder will use such proceeds for its conservation purposes.

14. GENERAL PROVISIONS

- A. Enforcement of the terms of this Conservation Easement shall be at the sole discretion of the Holder and/or the Third Party. The failure or delay of the Holder or Third Party, for any reason whatsoever, to enforce this Conservation Easement shall not constitute a waiver of rights and Grantor hereby waives any defense of laches, prescription or estoppel.
- B. Grantor agrees to notify Holder and Third Party within a reasonable time of any transfer of its interest in the Protected Property. A party's rights and obligations under this Conservation Easement shall terminate when such person or entity ceases to have any interest in the Protected Property or the Easement, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- C. Grantor and Holder have the right to amend this Conservation Easement to the extent that changes are not inconsistent with the purpose of this grant, by written and recorded agreement of the Grantor, Holder and Third Party.
- D. If any provision of this Conservation Easement or the application of any provision to a particular person or circumstances is found to be invalid, the remainder of this Conservation Easement and the application of such provision to any person or in any other circumstances, shall remain valid.
- E. Interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Maine. Should uncertainty arise in its meaning, this Conservation Easement should be interpreted in favor of conserving the Protected Property for the purposes stated herein.

DRAFT

IN WITNESS WHEREOF, Moosehead Wildlands, Inc., Grantor has caused this Conservation Easement to be signed in its corporate name, and its corporate seal to be hereto affixed, by _____, its _____, hereto duly authorized, this day of _____, 200_ .

Signed, sealed and delivered in the presence of:

State of Maine
County of _____, ss. _____, 200_

Personally appeared _____, the President and authorized representative of the above-named Grantor, _____, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me, _____

Notary Public

(Please type or print name of notary)

HOLDER ACCEPTANCE

The above and foregoing Conservation Easement was authorized to be accepted by _____, Holder as aforesaid, and the said holder does hereby accept the foregoing Conservation Easement, by and through _____, its President, hereunto duly authorized, this ___ day of _____, 200_ .

HOLDER

by:
its

State of Maine
County of _____,ss.

Personally appeared _____, the President and authorized representative of the above-named Holder, _____, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me, _____

Notary Public

(Please type or print name of notary)

THIRD PARTY APPROVAL

The foregoing Conservation Easement has been approved by the Bureau of Parks and Lands which accepts Third Party rights as aforesaid by and through _____, in his capacity as Director of the Bureau of Parks and Lands, hereunto duly authorized this ____ day of _____, 200_.

STATE OF MAINE

By: David Soucy
Director
Bureau of Parks and Lands
Maine Department of Conservation

State of Maine
County of Kennebec, ss.

Personally appeared _____, hereunto duly authorized, and acknowledged the foregoing instrument to be her free act and deed in her said capacity as Director of the Maine Land Use Regulation Commission.

Before me, _____
Notary Public

(Please type or print name of notary)

ATTACHMENTS

- EXHIBIT A -** A Metes and Bounds Description of the Protected Property

- EXHIBIT B -** A Plot Plan depicting the property and showing approximate locations of features identified in the text of the Easement.

- EXHIBIT C -** Title Opinion

- Not Attached:** Baseline Data Certification (Compilation of maps and inventories to describe existing conditions of property, must be certified as accurate by both Holder and Grantor.)

NOTE: IF THERE ARE ANY DEEDED RIGHTS OF WAY, MORTGAGES OR OTHER OUTSTANDING DEEDED INTERESTS IN THE PROTECTED PROPERTY, STATE LAW REQUIRES THE OWNERS OF THESE INTERESTS TO CONSENT TO THIS EASEMENT OR BE UNAFFECTED BY IT. IRS TAX LAW FOR DEDUCTIBLE EASEMENTS LIKEWISE REQUIRES THE SUBORDINATION OF MORTGAGES TO THE RIGHT OF THE HOLDER TO ENFORCE THE RESTRICTIONS OF THE EASEMENT.

EXHIBIT A

DESCRIPTION OF THE PROTECTED PROPERTY

The PROTECTED PROPERTY is part of certain real property situated in T1 R2 NBKP, Tomhegan Township, Maine as recorded in Somerset County Registry of deeds, Map File No. , Page , and being a portion of the same premises described in a deed to the Grantor, recorded in Volume , Page , in the Somerset County Registry of Deeds.

The PROTECTED PROPERTY comprises all lands within 500 feet of the normal high water mark of Brassua lake and Baker Pond, except those lands proposed for development as shown in Exhibit B.

Note: If the area proposed for development have been surveyed, metes and bounds description of the protected property should be used.

VII. Appendices

Appendix 1 – Development Restrictions

DEVELOPMENT RESTRICTIONS FOR AREAS A - G

The following restrictions shall apply to all structures and uses on lots within land proposed for development (Areas A-G), as illustrated on Map 6.

All references to the Commission's Rules and Standards herein shall mean those rules and standards in effect as of the date of approval of the Concept Plan, copies of which are attached hereto as Appendices 2 - 15.

A. Restrictions for All Development Areas

1. No building or other construction may be undertaken on any lot without first obtaining an approved permit from the Maine Land Use Regulation Commission.
2. All structures and uses must meet the land use standards outlined in Appendices 2-15, including the dimensional and setback requirements outlined in Appendix 9, herein, and the clearing of vegetation requirements outlined in Appendix 3, herein.
3. All work that disturbs the natural soil conditions shall use current erosion control measures in accordance with LURC's Guidelines for Vegetative Stabilization (Appendix 15) and Maine's Erosion and Sediment Control Handbook for Construction: Best Management Practices (Department of Environmental Protection, March 1991).
4. Building height within 500 feet of Brassua Lake or Baker Pond shall be no higher than the screening vegetation or 25 feet, whichever is greater. Notwithstanding the dimensional requirements of Appendix 9, building height greater than 500 feet from Brassua Lake or Baker Pond shall be no higher than 40 feet.
5. Exterior lighting on the lakeside of the structure shall be limited to 100 watts in aggregate, screened from lake view and directed towards the ground and/or the structure.
6. Buried utilities are allowed on the lot to provide service. Overhead utilities are allowed between structures on the lot.
7. Subsurface wastewater disposal systems are permitted, pursuant to approved septic design and soil suitability in accordance with the State of Maine Plumbing Code. If an outhouse (privy) is utilized, it must be located behind the camp, at least 100 feet away from the normal high water mark of the shoreline, and screened from view from the shoreline.

8. Wells are permitted, in accordance with the State of Maine Plumbing Code. However, Brassua Lake water shall only be procured by hand carry or by hand pump.
9. If generators are used, some form of noise protection must be employed, including but not limited, to enclosure of the generator in a shed. All generators must be equipped with spark arrestor units. The noise levels produced by generator use shall be no more than 60 dba (decibels) measured 50 feet away from the source.
10. The property lines shall be kept free and open. No fences, hedges, or walls shall be allowed thereon.

B. Additional Restrictions for Area A

1. Lots within Area A may only be used for single-family residential dwellings. Only one residential dwelling is allowed per lot. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The lots cannot be further subdivided.
2. The total building footprint for the principal structure on each lot is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed per lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.
4. Area A shall have 3000 feet of shorefront encompassing approximately 40 acres in “Common Open Green Space”. The “Common Open Green Spaces” are to remain in a natural undeveloped state in perpetuity; docks (permanent or temporary), structures, and lighting are prohibited.
5. No trailered ramps are to be constructed on individual lots within Area A.
6. Each lot owner within Area A shall belong to the Poplar Hill Lot Owners Association. The purpose of the Poplar Hill Lot Owners Association is to govern the uses specified in the lot owners’ association rules and bylaws that include the ability to enforce any and all covenants, to fix assessments or common charges for maintenance and normal repair of the loop, spur and access road, to maintain and pay taxes of the “common open green areas”, and to pay for the removal of refuse from the transfer site at Area B.
7. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
8. Driveways shall be constructed, when site conditions allow, so that two adjacent lots share a common entry (egress) point from (to) the access road.
9. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

C. Additional Restrictions for Area B

1. Allowed uses on Shorefront Lot:

- a. Allowed uses are limited to one attendant's cabin, a boat ramp, and parking area. The attendant's cabin and lot shall not be conveyed as a private residence. The lot may not be further subdivided. The Area B shorefront lot may not be conveyed separately from the Area B interior lot.
- b. Notwithstanding the requirements set forth in Appendix 2, buildings shall be set back at least 150 feet from the normal high water mark, 20 feet from side lot line, and 100 feet from the access road.
- c. The total building footprint for the attendant's cabin is limited to no more than 1,200 square feet.
- d. Two (2) accessory structures are allowed limited to a maximum of 600 square feet of footprint in aggregate.
- e. A private boat ramp shall be constructed in accordance with Appendix 10.
- f. Boat ramp lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
- g. Signs permitted on the lot include "recreational" signs and signs identifying an attendant's dwelling. No sign shall exceed 24" x 24" (4 sq. ft.) in size. Recreational signs shall be those typically located at boat ramp facilities, such as boat ramp sign, parking signs, no swimming sign, limitation of use sign, hours of operation sign, and seasons of operation sign. No commercial signs are allowed on the lot.
- h. Notwithstanding the clearing standards of Appendix 3, cleared openings for the entire lot shall not exceed 20,000 square feet.

2. Allowed uses on Interior Lot:

- a. "Area B" above the access road may only be used to support activities of Area A. An equipment rental office, 4 equipment storage buildings, and a rubbish transfer station are allowed. No residential development is allowed in "Area B". The rental activities allowed include the management of the properties within Area A and the rental of canoes, kayaks, bicycles, and cross-country skis. The transfer station is for use by residents of Area A. The lot may not be further subdivided. The Area B interior lot may not be conveyed separately from the Area B shorefront lot.

- b. Notwithstanding the requirements set forth in Appendix 2, buildings shall be set back at least 500 feet from the normal high water mark, 25 feet from side lot line, and 75 feet from the access road.
- c. The total building footprint for the rental office is limited to no more than 1,200 square feet.
- d. The total building footprint for the storage buildings is limited to 8,000 square feet in aggregate. A total of four (4) storage buildings are allowed.
- e. The transfer station shall consist of a concrete pad and dumpsters, and shall be screened from access road view.
- f. Signs permitted on the lot include “recreational” signs and signs identifying a rental office. No sign shall exceed 24” x 24” (4 sq. ft.) in size. Recreational signs shall be those typically located at rental offices, such as parking signs, hours of operation sign, informational signs about the Lake Concept Plan Area, and seasons of operation sign. One 100 watt illuminated commercial informational sign, 24” x 24”(4 sq. ft.), will be allowed at the entrance of the rental office access road.
- g. Notwithstanding the clearing standards of Appendix 3, cleared openings of vegetation shall not exceed 40,000 square feet in aggregate.

D. Additional Restrictions for Area C

- 1. Area C may be used for one (1) manager’s cabin, and one (1) sporting lodge with ten (10) rental cabins and private boat launch. One outpost cabin may be placed on one of the three islands associated with Area C. No additional development is allowed on the islands, except that structures associated with primitive recreation are permitted. The lot may not be further subdivided. The manager’s cabin, sporting lodge, outpost cabin or any rental cabins may not be conveyed separately.
- 2. Notwithstanding the requirements set forth in Appendix 2, the manager’s cabin shall be set back at least 150 feet from the normal high water mark, 15 feet from side lot line, and 50 feet from the access road. The sporting lodge, outpost cabin and rental cabins shall be set back at least 150 feet from the normal high water mark, 25 feet from side lot line, and 75 feet from the access road.
- 3. The total building footprint for the manager’s cabin is limited to 2,000 square feet. The total building footprint for the sporting lodge, outpost camp and rental cabins is limited to 8,000 square feet in aggregate.
- 4. Two (2) accessory structures associated with the manager’s cabin are allowed, limited to a maximum of 800 square feet of footprint in aggregate. Two (2) accessory structures associated with the sporting lodge are allowed limited to a maximum of 800 square feet of footprint in aggregate.
- 5. Rental Cabin footprints are limited to 800 square feet each.

6. Notwithstanding the building height requirements set forth in Appendix 2, the rental cabin building height is limited to 25 feet.
7. Signs permitted on the lot include “recreational” signs and “informational” signs. No sign shall exceed 24” x 24” (4 sq. ft.) in size. Recreational signs shall be those typically located at recreational facilities, such as parking signs, hours of operation sign, seasons of operation, cabin names, directional signs, informational signs about the sporting lodge and about the Lake Concept Plan Area. One 100 watt illuminated commercial informational sign, 24” x 24” (4 sq. ft.), will be allowed at the entrance of the access road.
8. Clearing of vegetation associated with the sporting lodge shall be in accordance with Appendix 3 and not exceed 10,000 square feet in aggregate within 250’ of the normal high water mark. Clearing of vegetation associated with each sporting lodge cabin shall be in accordance with Appendix 3 and not exceed 5,000 square feet in aggregate within 250’ of the normal high water mark.

E. Additional Restrictions for Area D

1. Area D is associated with The Birches and shall not be conveyed separately. Only one residential dwelling is allowed.
2. The total building footprint for the principal structure on the lot is limited to no more than 1,200 square feet.
3. Two (2) accessory structures are allowed on the lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.
4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
5. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

F. Additional Restrictions for Area E

1. Area E may only be used for a single-family residential dwelling. Only one residential dwelling is allowed. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The lot cannot be further subdivided.
2. The total building footprint for the principal structure on the lot is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed on the lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.

4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
5. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

G. Additional Restrictions for Area F

1. The lot may only be used for single-family residential dwellings. Two residential dwellings are allowed. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The lot cannot be further subdivided.
2. The total building footprint for each principal structure is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed per dwelling. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate for each dwelling.
4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed for each dwelling. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
5. Driveways shall be constructed, when site conditions allow, so that two adjacent lots share a common entry (egress) point from (to) the access road.
6. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

H. Additional Restrictions for Area G

1. The lot can be subdivided into five parcels. Four parcels may only be used for single-family residential dwellings. The remaining lot is to be retained by the applicant. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The four parcels cannot be further subdivided.
2. The total building footprint for the principal structure on each lot is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed per lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.
4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.

5. Driveways shall be constructed, when site conditions allow, so that two adjacent lots share a common entry (egress) point from (to) the access road.
6. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

RESTRICTION FOR THE TRAIL AND CABIN SYSTEM, PROTECTED ISLANDS, UTILITIES, AND ROADS

The following restrictions shall apply to structures and uses on lots outside of land proposed for development, as illustrated on Map 6.

All references to the Commission's Rules and Standards herein shall mean those rules and standards in effect as of the date of approval of the Concept Plan, copies of which are attached hereto as Appendices 2 - 15.

I. Restrictions for the Trail and Cabin System

1. All work that disturbs the natural soil conditions shall use current erosion control measures in accordance with LURC’s Guidelines for Vegetative Stabilization (Appendix 15) and Maine’s Erosion and Sediment Control Handbook for Construction: Best Management Practices (Department of Environmental Protection, March 1991).
2. The trail system width shall be limited to a 14-foot wide corridor with low vegetation.
3. A trail (walking path) shall be allowed within the 14-foot corridor.
4. Vehicle traffic on the trail system within the permanent conservation area is limited to and for direct support of trail maintenance, and may include the following equipment: trail grooming machinery (12 feet wide), forest management equipment, and emergency vehicles.
5. A total of nine (9) structures are allowed along the trail system. Six (6) structures are allowed in the permanent conservation area. Two (2) structures are allowed on Poplar Hill.
6. Notwithstanding the requirements of Appendix 9, herein, all structures shall be set back at least 250 feet from the normal high water mark, except that structures on Poplar Hill and Brassua Lake’s western peninsula shall be set back at least 500 feet from the normal high water mark and screened from view.
7. Notwithstanding the clearing standards of Appendix 3, clearing of vegetation associated with each cabin shall not exceed 4,000 square feet in aggregate.

8. The total building footprint is limited to 400 square feet for each cabin.
9. Notwithstanding the dimensional requirements of Appendix 9, building height is limited to 25 feet.

J. Restrictions for Development on the Protected Islands

1. No development is allowed on any islands placed in permanent conservation, except that structures associated with primitive campsites are permitted in accordance with the terms of the conservation easement.
2. No development is allowed on any islands placed in the 20-year conservation area during the term of this Lake Concept Plan, except that structures associated with primitive campsites are permitted.

K. Restrictions for Road Projects

1. Access Road and Public Hand Carry Boat Launch Road
 - a. The landowner is responsible for upgrading the road in accordance with the road construction standards of Appendix 5. The maintenance and normal repair of the Access Road is the responsibility of the Poplar Hill Lot Owner's Association. The maintenance and normal repair of the Public Boat Launch Road is the responsibility of the landowner.
2. Loop Road and Spur Road
 - a. The landowner is responsible for upgrading the road to provide access to the lots in Area A. The maintenance and normal repair of the Loop Road and Spur Road is the responsibility of Poplar Hill Lot Owner's Association.
 - b. The loop road shall be upgraded in accordance with the road construction standards of Appendix 5 and the State Soil Scientist recommendations, below:

The road width shall be 14 feet wide and have 2:1 H/V slopes of flatter. Cross slope grade shall be a uniform 3-5% slope to allow drainage to the down hill side. The road shall be constructed in a layer system that includes laying geotextile fabric directly on the old road, followed by a layer of 12 inch MDOT Class B (4" minus) aggregate, and then a final layer of 6 inch MDOT Class A (2" minus) aggregate. In wet areas and wetland areas an additional layer of geotextile fabric shall be used between the 12 inch and 6 inch layer. Ditches shall be minimized and existing ditches may require stone or geotextile fabric to reduce erosion and promote vegetation growth. Existing drainage structures will need to be evaluated for size and condition. Stoned lined ditch turnouts will be placed so that water will run through a buffer area prior to entering the lake.
 - c. The loop road may be developed in phases to match the development phases of Area A.

- d. Traffic movement around the loop road will be at a posted speed limit. Traffic turnouts will be placed on the uphill side of the loop road. The location of the turnouts will be spaced such as the use of the clearings produced from previous logging operations might be used.

3. Individual Lot Roads

- a. Road maintenance and normal repair of individual lot roads (within Areas D, E, F, and G) shall be the responsibility of the lot owner(s).

L. Restrictions for Utility Lines

1. Underground utility lines shall be allowed to all areas proposed for development, utilizing existing and proposed roadway corridors where practicable. When possible utility lines shall be placed along the shared drives to each residential dwelling.
2. Overhead utility lines are allowed only to connect a structure to another structure on the same lot.

DEED COVENANTS

The development restrictions outlined in Appendix 1, above, shall be included as deed covenants for lots within land proposed for development (Areas A-G), as appropriate. In addition, the following deed covenants shall apply to all lots within land proposed for development and all cabins within the trail and cabin system:

M. Deed Covenants

1. The exterior of the main building or an accessory structure are to be finished within one year from start of construction.
2. All buildings and lots shall be maintained in a neat and attractive manner, and in good repair.
3. All chimneys must be of brick, stone, tile construction, or stovepipe installed and maintained under the applicable building fire codes.
4. All exterior roofing material must be made of non-combustible material and be a dark, natural looking color: Dark Green, black, brown, and charcoal gray are preferred.
5. All exterior materials, including window frames, trims, chimneys and screen doors are to be unobtrusive in color and texture, shall be a dark color, and shall be non-reflective.
6. All buildings must have traditional exteriors. Appearances should blend with the surroundings, i.e. wood siding (shingles, log siding, logs), and if painted only “earth tones”.

7. No mobile homes are allowed.
8. Trash, garbage, or other waste shall be kept in sanitary containers, and the site shall not be used as a dumping ground for waste disposal. All trash, garbage, or other waste shall be removed at the end of each period of use or more often, if necessary, and transported to Area B's transfer station. Area C, Area D, and Area E shall transport waste to Rockwood Transfer Station. The following are not permitted: Outside storage or placement of machines or equipment, which are not in useable condition; and metal, vinyl or plastic siding for structures.

B. Land Use Standards

Appendix 2

§10.13-B CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS

1. Approval Criteria: In approving applications submitted to it pursuant to 12 M.R.S.A. § 685-A(10) and § 685-B, the commission may impose such reasonable terms and conditions as the commission may deem appropriate in order to satisfy the criteria of approval and purpose set forth in these statutes, rules and the Comprehensive Land Use Plan.

“The commission shall approve no application, unless:

- A. Adequate technical and financial provision has been made for complying with the requirements of the State’s air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 490, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies; and
- B. Adequate provision has been made for loading, parking and circulation of and, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods, and
- C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal, and
- D. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site; and
- E. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto.
- F. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public’s health, safety and general welfare will be adequately protected. The commission shall permit the applicant to provide evidence on the economic

benefits of the proposal as well as the impact of the proposal on energy resources.” 12 M.R.S.A. § 685-A(4).

In addition, the applicant must demonstrate “evidence of sufficient right, title or interest in all of the property that is proposed for development or use.” 12 M.R.S.A., §685-B(2)(D)

2. **Review Standards for Structures Adjacent to Lakes:** The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential structures and uses proposed on land adjacent to lakes in order for the proposal to satisfy the criterion set forth in Section 10.13-B,1,C above:

- a. **Natural and cultural resource values:** The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
- b. **Water quality:** The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
- c. **Traditional uses:** The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
- d. **Regional diversity:** The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;
- e. **Natural character:** Adequate provision has been made to maintain the natural character of shoreland;
- f. **Lake management goals:** The proposal is consistent with the management intent of the affected lake’s classification; and
- g. **Landowner equity:** Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

In applying these criteria, the Commission shall consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

Appendix 3

§10.17.A.2 CLEARING

The following shall apply to vegetation clearing for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, public trailered ramps or hand-carry launches:

- a. A vegetative buffer strip shall be retained within:

50 feet of the right-of-way or similar boundary of any public roadway,

75 feet of the normal high water mark of any standing body of water less than 10 acres in size, or any tidal water or flowing waters draining less than 50 square miles, and

100 feet of the normal high water mark of a standing body of water 10 acres or greater in size or flowing water draining 50 square miles or more.

- b. Within this buffer strip, vegetation shall be maintained as follows:

- (1) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
- (2) Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees and other vegetation” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 12 or more in a 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees and other vegetation” shall be defined as maintaining a rating score of 8 or more per 25-foot square (625 square feet) area as determined by the following rating system.

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2 - 4 in.	1
> 4 - 12 in.	2
> 12 in.	4

NOTE: As an example, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points (21 - 12 = 9) may be removed from the plot provided that no cleared openings are created and all other requirements of this rule and other laws are followed.

The following shall govern in applying this rating system:

- (a) The 25-foot x 25-foot plots shall be established where the landowner or lessee proposes clearing within the required buffer;
 - (b) Each successive plot shall be adjacent to but not overlap a previous plot;
 - (c) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
 - (d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules.
- (3) In addition to subsection (2) above, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level, may be removed in any ten (10) year period.
 - (4) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover shall not be removed and the soil shall not be disturbed, except to provide for a footpath or other permitted use.
 - (5) Pruning of tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
 - (6) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 sq. ft., these openings shall be established with native tree species.
- c. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a standing body of water greater than 10 acres, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all standing bodies of water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
 - d. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing or standing body of water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

Appendix 4

§10.17.A.3 MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all subdistricts except as otherwise hereinafter provided:

- a. Mineral Exploration: The following requirements shall apply to mineral exploration activities:
 - (1) All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;
 - (2) Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of a flowing, standing, tidal body of water, or wetland identified as a P-WL1 Subdistrict:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

The provisions of this subsection (2) apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of this subsection do not apply where access ways cross such waters;

- (3) Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by P-SL2 Protection Subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.17, A, 4, b and e, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged;

- (4) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream;
 - (5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all area of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.
- b. Mineral Extraction: The following requirements shall apply to mineral extraction activities in all subdistricts:
- (1) A vegetative buffer strip shall be retained between the ground area disturbed by the extraction activity and:
 - (a) 75 feet of the normal high water mark of any standing body of water less than 10 acres in size, any flowing water draining less than 50 square miles, tidal body of water, or wetland identified as a P-WL1 Subdistrict, and
 - (b) 100 feet of the normal high water mark of any standing body of water 10 acres or greater in size or flowing water draining 50 square miles or more.
 - (2) No portion of any ground area disturbed by the extraction activity shall be closer than 250 feet from any public roadway, or 250 feet from any property line in the absence of the prior written agreement of the owner of such adjoining property;
 - (3) Within 250 feet of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.

Any such control device shall be deemed part of the extraction area for the purposes of Subsection (1), above;
 - (4) A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
 - (5) If any mineral extraction operation located within 250 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.

Appendix 5

§10.17.A.4 ROADS AND WATER CROSSINGS

The following road and water crossing requirements shall apply to such activities in P-WL1, P-WL2, P-SL, P-FP, P-GP Protection and all Development Subdistricts:

- a. The following requirements shall apply to construction and maintenance of roads:
 - (1) All cut or fill banks and areas of exposed mineral soil outside the roadbed within 75 feet of a flowing, standing or tidal body of water or a wetland shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies or wetlands;
 - (2) Road banks shall have a slope no steeper than 2 horizontal to 1 vertical;
 - (3) Drainage ditches shall be provided so as to effectively control water entering and leaving the road area. Such drainage ditches will be properly stabilized so that the potential for unreasonable erosion does not exist;
 - (4) In order to prevent road surface drainage from directly entering water bodies or wetlands, roads and their associated drainage ditches shall be located, constructed, and maintained so as to provide an unscarified filter strip, of at least the width indicated below, between the exposed mineral soil of the road and the normal high water mark of a surface water body or upland edge of a wetland:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

This requirement shall not apply to road approaches to water crossings or wetlands.

- (5) Drainage ditches for roads approaching a water crossing or wetland shall be designed, constructed, and maintained to empty into an unscarified filter strip, of at least the width indicated in the table set forth in subsection (4) above, between the outflow point of the ditch and the normal high water mark of the water or the upland edge of a wetland. Where such filter strip is impracticable, appropriate techniques shall be used

to reasonably avoid sedimentation of the water body or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed so as to reasonably avoid sedimentation of the water body or wetland;

- (6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts will be installed in a manner effective in getting drainage onto unscarified filter strips before the flow in the road or its drainage ditches gains sufficient volume or head to erode the road or ditch.
 - (a) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less;
 - (b) On roads having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a 30 degree angle downslope from a line perpendicular to the center line of the road;
 - (c) Ditch relief culverts, drainage dips and water turnouts shall direct drainage onto unscarified filter strips as required in paragraph (4) and (5) above;
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials; and
 - (e) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<u>Road Grade Percent</u>	<u>Spacing Feet</u>
0-2	500-300
3-5	250-180
6-10	167-140
11-15	136-127
16-20	125-120
21+	100

- b. The following requirements shall apply to water crossings when surface waters are unfrozen:

- (1) Bridges and culverts shall be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the stream channel.

(2) Culvert and bridge sizes may be smaller than provided in paragraph (1) if techniques are employed such that in the event of culvert or bridge failure, the natural course of water flow is reasonably maintained and sedimentation of the water body is reasonably avoided; such techniques may include, but are not limited to, the effective use of any or all of the following:

(a) removing culverts prior to the onset of frozen ground conditions;

(b) using water bars in conjunction with culverts; or

(c) using road dips in conjunction with culverts.

(3) Culverts utilized in water crossings shall:

(a) be installed at or below stream bed elevation;

(b) be seated on firm ground;

(c) have soil compacted at least halfway up the side of the culvert;

(d) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and

(e) have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

- c. The design and construction of land management road systems through wetlands, other than those areas below the normal high water mark of standing or flowing waters, must avoid wetlands unless there are no reasonable alternatives, and must maintain the existing hydrology of wetlands.

To maintain the existing hydrology of wetlands, road drainage designs shall provide cross drainage of the water on the surface and in the top 12 inches of soil in wetlands during both flooded and low water conditions so as to neither create permanent changes in wetland water levels nor alter wetland drainage patterns. This shall be accomplished through the incorporation of culverts or porous layers at appropriate levels in the road fill to pass water at its normal level through the road corridor. Where culverts or other cross-drainage structures are not used, all fills shall consist of free draining granular material.

To accomplish the above, the following requirements apply:

- (1) Road construction on mineral soils or those with surface organic layers up to 4 feet in thickness:

- (a) Fill may be placed directly on the organic surface compressing or displacing the organic material until equilibrium is reached. With this method, culverts or other cross-drainage structures are used instead of porous layers to move surface and subsurface flows through the road fill material.
 - (i) For road construction on mineral soils or those with surface organic layers less than 16 inches in thickness, culverts or other cross-drainage structures shall be appropriately sized and placed at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures shall be placed at maximum intervals of 300 feet;
 - (ii) For road construction on surface organic layers in excess of 16 inches but less than 4 feet in thickness, cross drainage must be provided by placing culverts at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures shall be placed at maximum 300-foot intervals. Culverts shall be a minimum of 24 inches in diameter, or the functional equivalent, and buried halfway below the soil surface.
 - (iii) Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the road centerline shall be constructed along the toe of the fill to collect surface and subsurface water, carry it through the culvert(s) and redistribute it on the other side. Unditched breaks shall be left midway between culverts to prevent channelization.
 - (b) Alternatively, a porous layer may be created to move surface and subsurface flows through the road fill materials. If a porous layer is used, geotextile fabric must be placed above and below fill material to increase the bearing strength of the road and to preserve the bearing strength of fill material by preventing contamination with fine soil particles.
- (2) Road construction on soils with organic layers in excess of 4 feet in thickness:
- (a) Such construction shall only take place under frozen ground conditions.
 - (b) Geotextile fabric shall be placed directly on the soil surface. Road fill or log corduroy shall then be placed on the geotextile fabric.
 - (c) Cross drainage shall be provided by either a continuous porous layer or appropriate placement of culverts or other cross-drainage structures and ditching as specified below:
 - (i) A continuous porous layer or layers shall be constructed by placement of one or more layers of wood corduroy and/or large stone or chunkwood separated from

adjacent fill layers by geotextile fabric placed above and below the porous layer(s) such that continuous cross drainage is provided in the top 12 inches of the organic layer; or

- (ii) Cross drainage culverts or other cross-drainage structures shall be placed at points where they will receive the greatest support. Culverts or other cross-drainage structures shall be a minimum of 24 inches in diameter, or the functional equivalent, and buried halfway below the soil surface. Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the roadbed on both sides shall be used to collect surface and subsurface water, carry it through the culvert(s) and redistribute it on the other side. Such ditches shall be located three times the depth of the organic layer from the edge of the road fill. Unditched breaks shall be left midway between culverts to prevent channelization.

d. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

e. Maintenance of the above required water control installations shall continue until the road is discontinued and put to bed by taking the following actions:

(1) Water bars shall

(a) be constructed and maintained across the road at intervals established below:

Road Grade Percent	Distance Between Water Bars Feet
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

(b) be constructed at approximately 30 degrees downslope from the line perpendicular to the center line of the road;

(c) be constructed so as to reasonably avoid surface water flowing over or under the water bar; and

(d) extend sufficient distance beyond the traveled way so that water does not reenter the road surface.

(2) Any bridge or water crossing culvert in such road shall satisfy one of the following requirements:

- (a) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - (b) it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the stream channel; or
 - (c) it shall be dismantled and removed in a fashion so as to reasonably avoid sedimentation of the water body.
- f. Provided they are properly applied and used for circumstances for which they are designed, methods including but not limited to the following are acceptable to the Commission as means of calculating the 10 and 25 year frequency water flows and thereby determining crossing sizes as required in paragraphs b and e of this Section:
- a. The USDA Soil Conservation Service (SCS) Methods; specifically: "Urban Hydrology for Small Watersheds," June 1986 Soil Conservation Service Technical Release #55
 - b. The United States Geological Survey (USGS) Methods; specifically: U.S. Geological Survey. 1975. "A Technique for Estimating the Magnitude and Frequency of Floods in Maine." Open- file Report 75-292.
- g. Extension, enlargement or resumption of use of presently existing roads, which are not in conformity with the provisions of this Section, are subject to the provisions of Section 10.11 of this chapter.
- h. Publicly owned roads may be constructed in a fashion that is not in strict conformity with the provisions of this section, provided that other measures are applied that are effective in reasonably avoiding sedimentation of surface waters.
- i. Except that subsection j below always applies, trail crossings of minor flowing waters shall be exempt from the standards of this section, provided such crossings are constructed in a manner that causes no disturbance to the stream bed, and no substantial disturbance to the banks or shoreland areas in the vicinity of the crossing, and provided such crossings do not impede the flow of water or the passage of fish. If properly undertaken, acceptable methods may include but not be limited to the laying of logs from bank to bank, or placement of bed logs and stringers with decking. This exemption shall not extend to the construction of abutments or piers.

Trail crossings not so exempted shall be subject to the water crossing standards of this section, including specifically subsections 10.17, A, 4, b, d, e, f, j and k.

- j. In addition to the foregoing minimum requirements, provision shall otherwise be made in the construction and maintenance of roads and water crossings in order to reasonably avoid sedimentation of surface waters.
- k. Written notice of all road and water crossing construction activities, except level A road projects and exempt trail crossings as provided in subsection (i) above, shall be given to the Commission prior to the commencement of such activities. Such notice shall conform to the requirements of Section 10.20 of this chapter and shall state the manner in which the water crossing size requirements of this section will be satisfied.

Appendix 6

§10.17.A.5 TIMBER HARVESTING

The following requirements apply to timber harvesting within all Development and Protection Subdistricts except as otherwise hereinafter provided:

- a. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by a P-SL1 Protection Subdistrict except to cross such channels with a culvert or bridge according to the water crossing requirements of Section 10.17, A, 4, b and e;
- b. Timber harvesting operations in P-SL1 and P-GP Protection Subdistricts shall be conducted in the following manner:
 - (1) Within 50 feet of the normal high water mark, no clearcutting shall be allowed and harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained so as to maintain the aesthetic and recreational value and water quality of the area and to reasonably avoid sedimentation of surface waters.
 - (2) At distances greater than 50 feet from the normal high water mark, harvesting activities may not create single openings greater than 14,000 square feet in the forest canopy. In such areas single canopy openings of over 10,000 square feet shall be no closer than 100 feet apart.
 - (3) Harvesting shall not remove, in any ten year period, more than 40 percent of the volume on each acre involved of trees 6 inches in diameter and larger measured at 4 1/2 feet above ground level. Removal of trees less than 6 inches in diameter, measured as above is permitted if otherwise in conformance with these regulations. For the purpose of these standards, volume may be determined as being equivalent to basal area.
 - (4) No accumulation of slash shall be left within 50 ft. of the normal high water mark of surface water protected by the P-SL1 and P-GP Protection Subdistricts. In such subdistricts, at distances greater than 50 ft. from the normal high water mark of such waters, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 ft. above the ground.

- c. Except as provided in subsection g of this section, skid trails and other sites, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

The provisions of this subsection c apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of this subsection c do not apply where skid roads cross such waters;

- d. Timber harvesting operations shall be conducted in such a manner that slash is not left below the normal high water mark of standing or tidal waters, or below the normal high water mark of stream channels downstream from the point where such channels drain 300 acres or more;
- e. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by P-SL2 Protection Subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.17, A, 4, b and e, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged. The requirements of this subsection e may be modified according to the provisions of subsection g of this section;
- f. Except as provided in subsection g of this section, skid trail and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream;
- g. Timber harvesting operations in P-SL2 Protection Subdistricts along stream channels upstream from the point where they drain 300 acres or less, and in P-WL Protection Subdistricts adjacent to such P-SL2 Protection Subdistricts, may be conducted in a manner not in conformity with the requirements of the foregoing subsections c, e, and f provided that such operations are conducted so as to avoid the occurrence of sedimentation of water in excess of 25 Jackson Turbidity Units as measurable at the point where such stream channel drains 1 square mile or more. Jackson Turbidity Units

are a standard measurement of the relative amount of light that will pass through a sample of water compared with the amount of light that will pass through a reference suspension; the Jackson Turbidity Unit measurement for water without turbidity is 0;

- h. Harvesting operations in P-SL2 Protection Subdistricts along stream channels downstream from the point where they drain 300 acres or more and along standing bodies of water shall be conducted in such a manner that sufficient vegetation is retained to maintain shading of the surface waters;
- i. Written notice of all timber harvesting operations shall be given to the Commission prior to the commencement of such activity. Such notice shall conform to the requirements of Section 10.20 of this chapter and shall state whether or not such operations will be conducted according to the provisions of subsection g of this section; and
- j. In addition to the foregoing minimum requirements, except as provided for in subsection g, provision shall otherwise be made in conducting timber harvesting operations in order to reasonably avoid sedimentation of surface waters.

Appendix 7

§10.17.A.6 FILLING AND GRADING

The following requirements for filling and grading shall apply in all subdistricts except as otherwise provided herein. The purpose of this section is to allow minor filling and/or grading of land without a permit, provided the performance standards set forth below are met. If the standards are not met, a permit is required.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

- a. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
- b. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN General Management Subdistricts which are greater than 250 feet from water bodies and wetlands. In such General Management Subdistrict areas, the provisions of subsections d and f of this section shall apply; and
- c. Clearing of areas to be filled or graded is subject to the Clearing Standards of Section 10.17, A, 2; and
- d. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and
- e. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of flowing, standing, tidal bodies of water, or upland edge of wetlands identified as P-WL1 Subdistrict than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

- f. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

Appendix 8

§10.17.A.8 DRIVEWAYS ASSOCIATED WITH RESIDENTIAL STRUCTURES AND USES

- a. Applicability: The following requirements apply to the construction of driveways for single family and two family dwelling units in all subdistricts where driveways associated with residential uses are allowed without a permit. These standards may be used as guidance in processing an application for driveways to be located in those subdistricts where driveways require a permit from the Commission.
 - (1) Other Permits: If a permit has been issued for the development of the lot to be served by the driveway or if the lot is part of a subdivision for which a permit has been issued, conditions of the building permit or subdivision permit regarding construction of driveways supersede provisions of this subsection.
 - (2) Length: If the length of a proposed driveway is greater than 1000 feet, it is regulated as a road and requires a permit from the Commission unless it qualifies as a land management road.
- b. Waterbody Setback:
 - (1) Minimum Setback: The minimum water body setback for a driveway which accesses an undeveloped lot or a lot having residential structures is:
 - (a) 100 feet from the nearest shoreline of a flowing water draining 50 square miles, and a body of standing water greater than 10 acres in size;
 - (b) 75 feet from the nearest shoreline of a tidal water; and
 - (c) 50 feet from the upland edge of minor flowing waters and mapped P-WL1 wetlands.
 - (2) Exceptions to Waterbody and Wetland Setback Requirements:
 - (a) The water body and wetland setback requirements do not apply to approaches to waterbody or wetland crossings.
 - (b) A lesser setback may be allowed with a permit in the following instances provided no other reasonable alternative exists and appropriate techniques are used as needed to prevent sedimentation of the waterbody:
 - (i) In the case of legally existing nonconforming structures located in the shoreland area, the driveway may extend to the portion of the principal structure farthest from the normal high water mark of the waterbody, but in no case closer than 50 feet from the normal high water mark of the waterbody; or
 - (ii) To allow access to permitted facilities located nearer to the shoreline due to an operational necessity as described in Section 10.17,B,1,g,(5).

- c. Property Line Setback:
 - (1) Minimum Setback: The minimum property line setback for a driveway is 15 feet.
 - (2) Exceptions to Property Line Setback:
 - (a) A shared driveway need not meet the minimum setback.
 - (b) The minimum setback standard does not apply to authorized approaches to and crossings of property lines or to crossings along easements or rights of way established in deed or lease.
 - (c) A lesser setback may be allowed with a permit upon written permission of the abutting landowner.
- d. Road Frontage: The lot to be served by the driveway must have a minimum of 100 feet of road frontage.
- e. Entry onto Roadways, including State Highways: The entry must not be located on a curve and must be placed so as to allow adequate line of sight for safe entry onto the roadway. If a driveway is to enter directly onto a state or state-aid highway, the person wishing to construct the driveway must first obtain written permission from the Maine Department of Transportation.
- f. Crossings of Flowing Waters: If a driveway will cross a flowing water, the crossing must be accomplished in accordance with the standards for installation of water crossings set forth in Section 10.17,A,4,b.
- g. Wetlands Alteration: The driveway must not alter any portion of a mapped P-WL1 Wetland Protection Subdistrict or more than 4,300 square feet of a mapped P-WL2 or P-WL3 Wetland Protection Subdistrict without a permit.
- h. Maximum Slope: The driveway must not have a sustained slope of more than 8%.
- i. Erosion and Sedimentation Control:
 - (1) The driveway must be located, designed and constructed so that:
 - (a) It will not erode or create any undue restriction or disruption of existing surface water drainage ways;
 - (b) It will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland, or roadway.
 - (2) Except for the travel surface of the driveway, all areas of disturbed soil must be promptly reseeded and mulched to prevent soil erosion.
- j. Fill Material: Fill material used in the construction of a driveway must not contain demolition debris, trash, rubbish, or hazardous or toxic materials.

Appendix 9

§10.17.B.1 DIMENSIONAL REQUIREMENTS

The following dimensional requirements apply to all lots on which structural development is proposed unless otherwise provided by subsection g:

a. Minimum Lot Size

(1) Residential Uses

The minimum lot size for residential uses is 40,000 square feet per dwelling unit except where each dwelling unit is to use a common or community sewer and not on-site subsurface waste water disposal, the minimum lot size shall be 20,000 square feet per dwelling unit.

(2) Commercial, industrial, and other nonresidential uses

The minimum lot size for commercial, industrial, and other nonresidential uses involving one or more buildings is 40,000 square feet.

b. Minimum Shoreline Frontage

(1) For lots fronting on a flowing water draining more than 2 square miles but less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, the minimum shoreline frontage shall be:

(a) 150 feet per dwelling unit for residential uses, and

(b) 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;

(2) For lots fronting on a body of flowing water draining 50 square miles or more or a body of standing water 10 acres or greater in size, the minimum shoreline frontage shall be:

(a) 200 feet per dwelling unit for residential uses, and

(b) 300 feet for commercial, industrial, and other non-residential uses involving one or more buildings.

(3) In the case of a lot which borders more than one water body, the shoreline frontage requirement must be met on each water body bordered by the lot.

(4) Frontage shall be measured in a straight line between the points of intersection of side lot lines with the normal high water mark of the shoreline.

(5) The shoreline frontage may be waived to no less than 200 feet for public boat launches where the applicant demonstrates there will be no undue adverse impact to surrounding uses.

c. Minimum Road Frontage

- (1) The minimum road frontage shall be:
 - (a) 100 feet per dwelling unit for residential uses, and
 - (b) 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;
- (2) These requirements apply to any privately or publicly owned road that is used for public access, including roads used by the public for which a toll is paid.
- (3) Where the lot is located at the end of a road or on a circular turnaround with an outside diameter of less than 25 feet, the road frontage requirements shall not apply.
- (4) Frontage shall be measured along the traveled portion of the road between the points of intersection of side lot lines with the traveled portion of the road.
- (5) In the case of a lot which borders more than one road, the road frontage requirement must be met on at least one road bordered by the lot.

d. Minimum Setbacks

- (1) The minimum setbacks for structures, other than those described in Subsection 10.17,B,1,d,(2) and except as provided in Subsection 10.17,B,1,g are:
 - (a) 75 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, and from the upland edge of wetlands designated as P-WL1 Protection Subdistricts;
 - (b) 100 feet from the nearest shoreline of a flowing water draining 50 square miles or more and of a body of standing water 10 acres or greater in size;
 - (c) 50 feet from the traveled portion of all roadways except as provided for in subsection (d) and (e) or subsection (5) below;
 - (d) 75 feet from the traveled portion of the following roadways: Routes 1, 2, 2A, 4, 9, 27, 163, 201, 161 from Caribou to Fort Kent, 157 in TA R7 (Penobscot County), and 6 in Orneville Township (Piscataquis County), except as provided for in subsection (5); and
 - (e) 20 feet from the traveled portion of all roadways on coastal islands; and
 - (f) 15 feet from side and rear property lines.

These setbacks also apply to parking areas for trailered ramps or hand-carry launches and those structures within a sporting camp complex constructed solely for the housing of guests.

- (2) The minimum setbacks for multi-family dwellings and commercial, industrial, and other nonresidential principal and accessory structures are:

- (a) 100 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, and from the upland edge of wetlands designated as P-WL1 Protection Subdistricts;
- (b) 150 feet from the nearest shoreline of a flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;
- (c) 75 feet from the traveled portion of the nearest roadway except as provided for in (d) below;
- (d) 20 feet from the traveled portion of all roadways on coastal islands; and
- (e) 25 feet from the side and rear property lines.

Except as provided for in subsection d.(1) above, these setbacks also apply to all other structures within a sporting camp complex, including, but not limited to, a main lodge, dining area, workshop and parking area.

- (3) These requirements apply to any privately or publicly owned road that is used for public access, including roads used by the public for which a toll is paid.
- (4) Campsites shall be set back such that the area designed for camping, including cleared or graded areas, fire rings, tables, and related construction, is at least 75 feet from shoreline, 50 feet from roads, and 25 feet from property lines. Remote campsites shall be set back at least 50 feet from roads, 25 feet from property lines, and 25 feet from shorelines, except that the Commission may require a greater setback from shorelines for remote campsites where necessary due to site conditions in order to avoid accelerated soil erosion or sedimentation of surface waters.

e. Maximum Lot Coverage

- (1) The maximum lot coverage shall be 30% for all uses involving one or more buildings.
- (2) "Coverage" shall be calculated by determining the percentage of lot area covered by all structures including paved driveways, sidewalks, parking lots and other impervious surfaces.

f. Maximum Building Height

- (1) Except as provided for in (2) below, the maximum building height shall be:
 - (a) **40 feet** for residential uses; and
 - (b) **40 feet** for commercial, industrial, and other non-residential uses involving one or more buildings.
- (2) **Structures within 500 feet of the normal high water mark of a standing body of water 10 acres or greater shall be no higher than the screening vegetation or 25 feet, whichever is greater.** The Commission may apply this provision at greater distances from the normal high water mark of standing bodies of water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Standing bodies of water having such scenic values are shown in Appendix C.
- (2) Features of buildings which contain no floor area such as chimneys, towers, ventilators and spires may exceed these maximum heights with the Commission's approval.

g. Exceptions to Dimensional Requirements

- (1) The Commission may reduce dimensional requirements for individual buildings in a cluster development, provided that, in the aggregate, dimensional requirements are met within the development. The Commission may approve a cluster development on land that could be developed under normal applicable standards provided that the cluster development provides for the efficient use of land and the protection of a significant amount of open space, in accordance with the following:
 - (a) Cluster development within the shoreland area shall provide for the protection of developable shorefront as open space through the creation of individual lots with reduced shore frontage or through clusters of dwellings on commonly-owned land. To the extent practicable, open space provided shall be in a contiguous block and shall be located adjacent to other areas protected by conservation measures or protective zoning.
 - (b) Open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such lot shall be shown on the subdivision plat with a notation on the face thereof to indicate that no further subdivision or conversion of use is allowed.

- (c) If any or all of the common open space is to be reserved for ownership by the residents of the subdivision, the by-laws of the proposed homeowner's association shall specify maintenance responsibilities. Such by-laws shall be submitted to the Commission as part of the subdivision application.
 - (d) To avoid unsafe conditions resulting from direct access to public roads, no individual lot or dwelling unit for which road frontage has been reduced as provided above shall have vehicular access directly onto a public road existing at the time of development.
 - (e) Notwithstanding Section 10.17,B,1,g,(1) above, the Commission may waive the provision that dimensional requirements for individual dwellings in a cluster development be met, in the aggregate, where the following conditions are satisfied:
 - i) dimensional requirements, in the aggregate, are not waived by more than 50%;
 - ii) site conditions are suitable for increased density;
 - iii) increased density would not adversely affect resources; and
 - iv) the specific benefits afforded by the cluster approach will prevent the loss of important natural features.
- (2) The dimensional requirements applicable to D-PD Development Subdistricts shall be established by the Commission pursuant to the provisions of Section 10.14, C, provided that the shoreline setback requirements hereof shall not be reduced.
- (3) Notwithstanding other provisions of these rules, in a proposed subdivision or area that has or is likely to have relatively dense development, the Commission may increase the minimum lot size when the Commission determines that:
- (a) A larger lot size is required to provide sufficient area of suitable soil to accommodate the principal building and accessory structures, and subsurface waste water disposal, including a replacement system; and
 - (b) The density of development in the vicinity of the proposed site is likely to cause nitrate or other contaminant levels in ground water to exceed public drinking water standards at any public or private well or at the property boundary. The Commission may require a nitrate study to estimate likely nitrogen levels in ground water as part of a subdivision application.
- (4) Where development would otherwise have an undue adverse impact on existing uses, scenic character or natural and historic resources in the area likely to be affected by the proposal, the Commission may impose additional or more protective standards with respect to clearing, frontage and setback requirements, waste water disposal, and other aspects of the development to reasonably assure that undue adverse impact is avoided.

- (5) An exception may be made to the shoreline, road, and or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use. Structures which must be located near to the shoreline include structures which require direct access to the water as an operational necessity, such as piers, docks, retaining walls, and structures necessary for commercial fishing activities or water dependent uses within a D-MT Maritime Development Subdistrict. This provision shall not apply to boat houses or float plane hangars not included within a D-MT Maritime Development Subdistrict.
- (6) An exception may be made to the minimum extent necessary to the shoreline frontage and lot size requirement on tidal waters for structures necessary for commercial fishing activities or water dependent uses within a D-MT Maritime Development Subdistrict where such reduction would better serve the purpose of this subdistrict.
- (7) Where development is proposed in the vicinity of a water quality limiting lake, the Commission may vary the applicable dimensional requirements in accordance with Section 10.16, D, 3, e.
- (8) To the extent consistent with 12 MRSA, Section 685-B, 4, the Commission may reduce the minimum lot size required for a structure whose sole purpose is to house a public utility facility or to function as a public utility, provided that:
 - (a) the size, height, and bulk of the facility is of a scale that permits such a reduction without adverse effect on surrounding properties; and
 - (b) the facility is sited and buffered to fit harmoniously into the surrounding environment.
- (9) The Commission may apply the dimensional requirements for residential uses to single outpost camps operated by commercial sporting camps, except in cases where such a camp is likely to have a greater impact than a residential use.
- (10) Notwithstanding the provisions of Section 10.11 of this chapter, structures necessary for disabled persons to gain access to buildings may be located less than the standard setback distance from a shoreline, road and property line to the minimum extent necessary when the following criteria are met:
 - (a) A person with a disability as defined in 5 M.R.S.A. § 4553 resides in or regularly uses the dwelling or facility;
 - (b) The encroachment into the standard setback distance applies only to the installation of equipment or construction of structures necessary for access to or egress from the dwelling or facility by the person with the disability;
 - (c) The access structure is necessary to create an accessible route;
 - (d) The access structure cannot reasonably or feasibly be created without encroachment into the standard setback distance; and
 - (e) The design of the access structure minimizes the need for encroachment into the standard setback distance.

**SUMMARY OF SHORELINE
FRONTAGE, SETBACK AND CLEARING REQUIREMENTS
FOR SINGLE FAMILY DWELLINGS**

	Tidal, Flowing water <50 sq mi Lakes <10 ac	Lake Mgmt Class 2	Flowing water >50 sq mi Other lakes >10 ac
FRONTAGE	150'	200' ^a	200'
SETBACK	75'	100' ^a	100'
CLEARING FOR DEVELOPMENT	75' (30%)	100' (30%) 400' (40%)	100' (30%) 150' (40%)

^a Density limitation of an average of 1 dwelling unit per shore mile on Management Class 2 lakes.

Note: This summary of shoreline dimensional requirements is provided only as a guide to the frontage, setback, and clearing standards of Section 10.17 for single family dwellings. See text of Section 10.17 for complete requirements.

Appendix 10

§10.17.B.6 TRAILERED RAMPS, HAND-CARRY LAUNCHES WATER-ACCESS WAYS AND PERMANENT DOCKING FACILITIES

Except as provided for in section d, trailered ramps, hand-carry launches, water-access ways and permanent docking facilities require a permit from the Commission. Where a permit is required, the proposal must meet the general Criteria for Approval, section 10.13-B, and the Criteria for Wetland Alterations, section 10.17, B, 7, in addition to any applicable requirements set forth in these rules.

a. Private Trailered Ramps, Hand-carry Launches, and Water-access Ways:

Private trailered ramps are allowed by special exception in the following subdistricts: General (D-GN) and Residential (D-RS) Development Subdistricts and Aquifer (P-AR), Floodplain (P-FP), Fish and Wildlife (P-FW), Great Pond (P-GP), Shoreland (P-SL), Unusual Area (P-UA), Wetland (P-WL) and Accessible Lake (P-AL) Protection Subdistricts.

Private hand-carry launches are allowed by special exception in the following subdistricts: Fish and Wildlife (P-FW), Recreation (P-RR), Significant Wetlands (P-WL1), River Transition (P-RT), and Accessible Lake (P-AL) Protection Subdistricts.

Private water-access ways are allowed by special exception in the following subdistricts: General (D-GN) and Residential (D-RS) Development Subdistricts and Aquifer (P-AR), Floodplain (P-FP), Fish and Wildlife (P-FW), Great Pond (P-GP), Recreation (P-RR), Shoreland (P-SL), Unusual Area (P-UA), Wetland (P-WL), River Transition (P-RT), and Accessible Lake (P-AL) Protection Subdistricts.

Wherever private trailered ramps, or hand-carry launches, or water access ways are allowed by special exception, the following apply:

For a proposed private trailered ramp, hand-carry launch or set of water-access ways, the following constitutes “an alternative site reasonably available” to the applicant:

- (1) an existing public or commercial trailered ramp or set of water-access ways if it has two or more associated parking spaces for motor vehicles with trailers and is located within 15 road miles or 5 miles by water of the applicant’s proposed development,
- (2) a proposed public or commercial trailered ramp or set of water-access ways located within 15 road miles or 5 miles by water of the applicant’s proposed development, provided such a facility is proposed for construction within 2 years of the date of the application.

b. Facilities Associated with Shorefront Subdivisions

Shorefront subdivisions may be permitted no more than one trailered ramp, hand-carry launch or set of water-access ways, and one permanent dock. Any such facility must comply with section 10.17,B, 6,e, and must be accessible to all lots in the subdivision. The location of the facility must be identified on the subdivision plat and right of access must be covenanted in the deeds of all lots in the subdivision.

c. Maintenance of Trailered Ramps and Hand-carry Launches

Maintenance: Every application for a permit, or permit by special exception for a new or replacement trailered ramp or hand-carry launch, or expansion thereof, must contain a description of the procedures the applicant will follow to maintain the facility on an ongoing basis in compliance with the standards of section 10.17,B, 6,e, to minimize erosion, sedimentation, and transport of phosphorus into the waterbody.

d. Notification for Trailered Ramps and Hand-carry Launches

Public trailered ramps and public hand-carry launches are allowed without a permit within the shoreland zone of all waterbodies except those identified as Management Class 1, 2, and 6 Lakes.

The following notification provision applies to construction of new or replacement trailered ramps and hand-carry launches where such projects are allowed without a permit. If a proposed project fails to meet any notification requirement or other applicable rule, the project requires a permit.

(1) Every notification must be on a form provided by the Commission and must include:

- (a) a project design plan indicating all dimensions (width, height, length) relative to the normal high water mark including any associated structures that may be seasonal in nature;
 - (b) photographs of the area in which this activity is proposed, with a site map showing the location of the proposed project and the perspectives of the photographs submitted;
 - (c) documentation that application for a lease or easement to submerged lands has been filed with the Bureau of Parks and Lands and, if applicable, that the owner of the flowage rights has been contacted for permission; work on the project may not begin until a lease or easement is obtained or the Bureau of Parks and Lands has provided notification that one is not necessary, and, if applicable, that written permission has been obtained from the owner of the flowage rights;
 - (d) certification from the Department of Environmental Protection that all reasonably available measures have been taken to minimize phosphorus transport to the water body; and
 - (e) a statement that the project will be accomplished in conformance with the standards of section 10.17,B, 6; that the project shall be maintained so as to minimize erosion, sedimentation, and transport of phosphorus into the waterbody; and that the appropriate fishery biologist at either the Department of Inland Fisheries and Wildlife or the Department of Marine Resources has been contacted to determine the best timing of construction to minimize any potential impacts to fisheries;
- (2) At least 30 days before filing the notification with the Commission, the applicant shall inform the Commission of the intent to file, mail notice to the local board of selectmen/assessors, if applicable, and to all landowners/leasees within 1000 feet of the proposed project according to the records of Maine Revenue Services or the applicable plantation/municipality. At the time of notice, a draft notification form must be available for inspection. The notice must state how to obtain a copy of the draft notification, the anticipated date for filing of the notification with the Commission, and a statement that public comments on the notification may be submitted to the Commission. Unless this deadline is extended by the Commission,

any such comments must be submitted to the Commission by the anticipated date of the filing of the notification with the Commission.

(3) The applicant may proceed with the proposed project 14 days after filing the notification with the Commission unless within this time period the Commission staff informs the applicant in writing that issues have been identified by Commission staff or other persons regarding the adequacy with which section d and e are met or that there may be an undue adverse impact on existing uses or resources in the project area. If these issues cannot be resolved, the Commission will determine if there is sufficient public interest in the project to warrant consideration of a public hearing on the notification. If a hearing is held, the Commission may consider compliance with the applicable requirements of sections d and e and impacts on existing uses or resources in the project area. Within 60 days after the close of any public hearing, the Commission shall inform the applicant in writing of its determination. If the Commission determines that the requirements of sections d and e are met and that the project will not have an undue adverse impact on existing uses or resources in the project area, the notification will be accepted. If the notification is not accepted, the project will require a permit to proceed.

(4) Expiration: A notification expires 2 years from the date of acceptance by the Commission.

e. Design and Construction Standards for Trailered Ramps and Hand-carry Launches

Unless otherwise indicated, the following standards apply to trailered ramps and hand-carry launches that are subject to the notification provisions in section 10.17,B, 6,d, and to all commercial or private trailered ramps and hand-carry launches.

- (1) Erosion Prevention and Control During Construction: Eroded soil or fill material from disturbed areas must be prevented from entering a waterbody. Properly installed erosion control measures, such as staked hay bales and silt fence, must be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized. Erosion and sedimentation control measures must comply with “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices,” Cumberland County Soil and Water Conservation District and Maine Department of Environmental Protection, March 1991.
- (2) Avoidance of Waterbodies: No portion of a ramp or related facilities may be located in, on, or over wetlands, other than the waterbody being accessed, identified as P-WL1 on the Commission’s zoning map for the project area. Parking areas, access roads, and paths must not be located in a stream, wetland designated as P-WL1, or other waterbody, except that an access roadway may cross a stream if requirements of Section 10.17,A, 4, pertaining to water crossings, are met.
- (3) Maintenance of Vegetated Buffer: Trailered ramps, hand-carry launches, and associated facilities must be designed to minimize disturbance to the waterbody’s vegetated buffer. A vegetated buffer zone at least 25 feet wide for public facilities (100 feet for private facilities) must be maintained or established between any parking area and the waterbody. In the case of private trailered ramps, if the lot does not have a well established vegetated buffer consisting of trees, shrubs and woody or herbaceous ground cover within 100 feet of the normal high water mark of the waterbody, the applicant must propose to enhance the existing shoreland buffer to compensate for the loss of vegetated buffer due to construction of the ramp.

- (4) **Runoff Diversion:** Parking areas, access roads, and paths must divert runoff away from the ramp or launch to an area where it will infiltrate into the ground or pass through a sedimentation basin before reaching the waterbody. For private facilities, the total land area above the normal high water mark that drains directly into the waterbody along the approach or from cut slopes must be no greater than 200% of the area of the ramp or launch lane above the normal high water mark.
- (5) **Trailer Ramps**
- (a) A public trailer ramp having a slope in excess of 8% must be hard-surfaced except where the agency responsible for maintaining the facility anticipates a level of use that does not justify the expense of a hard surface facility. Should the level of use increase such that erosion problems become evident, the responsible agency shall insure that appropriate measures are taken to repair such erosion and avoid any further erosion.
 - (b) Private trailer ramps shall not be hard surfaced. Private sites shall be limited to those areas where the portion of the ramp below the normal high water mark is composed of natural sand, gravel or cobble bottoms.
 - (c) The portion of the ramp used by the towing vehicle may not have a slope that exceeds 15% within 100 feet of the normal high water mark. The portion of the ramp used by the trailer only may not have a slope that exceeds 20%;
 - (d) The width of the ramp lane must not exceed 20 feet for public or commercial trailer ramps, or 10 feet for private trailer ramps;
 - (e) The uppermost 6 inches of the base must consist of crushed rock or screened gravel having 5% or less material passing a 200 mesh sieve;
 - (f) Cut or filled slopes at or below the normal high water mark must be protected with riprap; cut or filled slopes above the normal high water mark must be protected by vegetation or riprap so they do not erode; and
 - (g) The total area disturbed in the construction of private facilities shall not exceed 1000 square feet within 50 feet of the normal high water mark.
- (6) **Associated Docking Systems:** For a public or commercial trailer ramp, an additional area up to 8 feet wide may be constructed using bituminous pavement, pre-cast concrete planks, panels or slabs to support docking systems.
- (7) **Hand-carry Launch:** A hand-carry launch must meet the following specifications:
- (a) The hand-carry launch area and access pathway must not be hard surfaced and must be constructed of gravel, rock, vegetation, or other natural erosion resistant materials;
 - (b) The sloped portion of the launch above the normal high water mark must have a slope no greater than 18%;
 - (c) The access path must have a maximum width of 6 feet and must have at least one bend to divert channelized runoff; and
 - (d) A landing area that is cleared of obstructions must be no wider than 20 feet and must extend no more than 20 horizontal feet below normal high water mark.

- (e) Filled or cut slopes at or below the normal high water mark must be protected with riprap.

Within those subdistricts where hand-carry launches are allowed without a permit, the standards for hand-carry launches may be exceeded upon issuance of a permit.

- (8) Geoweb: Geoweb cellular confinement system must not be used below or within two vertical feet above the normal high water mark of the waterbody.
- (9) Concrete: Uncured concrete must not be placed directly into the water. Concrete must be pre-cast and cured at least three weeks before placing it in the water or, where necessary, must be placed in forms and must cure at least one week before the forms are removed.
- (10) Washing: No washing of tools, forms, or similar material may occur in or adjacent to the waterbody or wetland.
- (11) Lumber: The use of untreated lumber is preferred. Wood treated with creosote or pentachlorophenol must not be used below the normal high water mark. Lumber pressure-treated with chromated copper arsenate (CCA) may be used, provided it is cured on dry land in such a manner as to expose all surfaces to the air for a period of at least 21 days prior to construction.
- (12) Machinery in Water: Machinery may enter the water traveling or operating only on newly placed material or temporary mats and only when necessary to excavate or place material below the water level.
- (13) Debris: Any debris generated during the work must be prevented from washing into the water and must be removed from the wetland or waterbody. Disposal of debris must be in conformance with the Solid Waste Law, 38 M.R.S.A. § 1301 et seq.

Dimensional requirements: The shoreline frontage requirement for public boat launches may be waived to no less than 200 feet provided the applicant demonstrates there will be no undue adverse impact to existing uses in the project area.

Appendix 11

§10.17.B.7 WETLAND ALTERATIONS

The following requirements apply to wetland alterations for Uses Requiring a Permit and Special Exceptions in Section 10.16, K, 3.

a. Procedural Requirements

(1) Transition

Wetland Protection (P-WL) Subdistricts identified on the Commission's Land Use Guidance Maps that were adopted prior to the adoption of this section will be regulated according to standards applying to wetlands of special significance (P-WL1 Subdistrict), as defined herein, until the Commission adopts amended Land Use Guidance Maps pursuant to this section, unless the applicant demonstrates, through delineation or other means acceptable to the Commission, that the P-WL is not a wetland of special significance.

(2) Area of Project Alteration

- (a) If a proposed activity requires a permit and will alter 15,000 or more square feet of wetland area, or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).
- (b) If a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1 wetland or 20,000 or more square feet of a P-WL2 or P-WL3 wetland, the Commission may require, as a condition of approval, mitigation, including compensation, as provided in the Commission's General Land Use Standards in Section 10.17, B, 7, b.
- (c) In determining the area of wetland alteration or overall land alteration, all components of a proposed activity, including all phases of a multiphased project, are treated together as constituting one single and complete project.

(3) Level of Permit Review

The level of permit review required depends upon the size of the proposed wetland alteration and the wetland subdistrict involved. If any part of the overall project requires a higher level of review, then the whole overall project will be reviewed under that higher tier, unless otherwise authorized by the Commission:

- (a) Tier 1 reviews are for projects altering 4,300 up to 15,000 sq. ft. of P-WL2 or P-WL3 wetlands.
- (b) Tier 2 reviews are for projects altering 15,000 up to 43,560 sq. ft. of P-WL2 or P-WL3 wetlands not containing critically imperiled (S1) or imperiled (S2) natural communities.
- (c) Tier 3 reviews are for projects altering any area of P-WL1 wetlands, 15,000 up to 43,560 square feet of P-WL2 or P-WL3 wetlands

containing critically imperiled (S1) or imperiled (S2) natural communities, or 43,560 sq. ft. or more of P-WL2 or P-WL3 wetlands.

Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

- (d) When wetland delineation is required, the level of permit review required will be determined by the type of wetland indicated through delineation.

b. General Land Use Standards

(1) Avoidance

- (a) Projects requiring Tier 1 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project.
- (b) Projects requiring Tier 2 or Tier 3 review must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment. Each Tier 2 and Tier 3 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

(2) Minimal Alteration

Projects requiring Tier 1, Tier 2 or Tier 3 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.

(3) Water Quality

Projects requiring Tier 1, Tier 2 or Tier 3 review must comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters. Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. 465.

(4) Erosion Control

Projects requiring Tier 1 or Tier 2 review must use erosion control measures to prevent sedimentation of surface waters. A 25-foot buffer strip must be maintained between the activity and any surface waters.

(5) Compensation

Compensation is the off-setting of a lost wetland function with a function of equal or greater value. The goal of compensation is to achieve no net loss of wetland functions and values.

- (a) For projects requiring Tier 2 or Tier 3 review, the Commission may require compensation when it determines that a wetland alteration will cause a wetland function or functions to be lost or degraded as identified by an assessment of wetland functions and values in accordance with application requirements or by the Commission's evaluation of the project.
- (b) The Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

(6) No Unreasonable Impact

The following standards apply only to applications requiring Tier 3 review:

- (a) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. A project will be determined to have an "unreasonable impact" if the Commission makes one or more of the following findings:

- (i) Existing uses

- The activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

- (ii) Soil erosion

- The activity will cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

- (iii) Harm to habitats; fisheries

- The activity will unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater or marine fisheries or other aquatic life.

- In determining whether there is unreasonable harm to significant wildlife habitat, the Commission may consider proposed mitigation if that mitigation does not diminish the overall value of significant wildlife habitat and species utilization of the habitat in the vicinity of the proposed activity and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity.

(iv) Interference with natural water flow

The activity will unreasonably interfere with the natural flow of any surface or subsurface water.

(v) Flooding

The activity will unreasonably cause or increase the flooding of the alteration area or adjacent properties.

(vi) Sand supply

If the activity is on or adjacent to a sand dune, it will unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

(vii) Outstanding river segments

If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.16, G, the applicant cannot demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.

(viii) Dredging

If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant cannot demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.

(ix) In determining if an activity will have an unreasonable impact, the Commission shall consider:

[a] The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;

[b] The functions and values provided by the wetland;

[c] Any proposed compensation and the level of uncertainty regarding it; and

[d] Cumulative effects of frequent minor alterations on the wetland.

(b) Activities may not occur in, on or over any wetland of special significance containing threatened or endangered species unless the applicant demonstrates that:

(i) The wetland alteration will not disturb the threatened or endangered species; and

- (ii) The overall project will not affect the continued use or habitation of the site by the species.
- (c) When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal)

Appendix 12

§10.17.B.3 SIGNS

a. On-Premise Signs

Subject to the provisions of this chapter, owners or occupants of real property may erect and maintain on-premise signs advertising the sale or lease thereof or activities being conducted thereon. Such signs, except roof signs, shall be subject to the regulations set forth below:

- (1) On-premise signs shall not exceed in size the area limitations set forth below:

<u>Subdistricts</u>	<u>Maximum Size for Each Individual Sign (sq. ft.)</u>	<u>Maximum Aggregate Area of all Signs for Facility Being Advertised (sq. ft.)</u>
D-CI, D-GN, M-GN, M-HP	32	64
D-RS, M-NC & All Protection Subdistricts	8	16

- (2) On-premise signs shall not be located more than 1,000 ft. from the building or other particular site at which the activity advertised is conducted;
- (3) Signs advertising the sale or lease of real estate by the owner or his agent shall not have an area of more than 6 sq. ft., except signs advertising a subdivision which shall be limited in size as provided by Subsection (1);
- (4) On-premise signs, other than wall or projecting signs, shall not extend more than 15 ft. above ground level, and shall not have a supporting structure which extends more than two feet above such sign;
- (5) Projecting signs must be at least 9 feet above pedestrian level and may project no more than 2 feet from the building; and
- (6) Signs attached to a wall shall not extend above the top of the wall.

On-premise signs, including all roof signs, which are not in conformance with the preceding requirements may be allowed only under the provisions of a permit from the Commission.

b. Criteria for Sign Approval

In approving, conditionally approving, or denying any application for a sign permit, the Commission shall require that the applicant demonstrate that the proposed sign complies with those criteria set forth in 12 M.R.S.A., Section 685-B(4) as well as the following:

- (1) that the sign is compatible with the overall design of the building height, color, bulk, materials and other design and occupancy elements;
- (2) that the color, configuration, height, size, and other design elements of the sign will fit harmoniously into the surrounding natural and man-made environment;
- (3) that the sign will not constitute a hazard to the flow of traffic; and
- (4) that the applicant sufficiently demonstrates the need for any non-conformity with the size, height, and other limitations set forth in Section 10.17, B, 3, a.

c. Exempt Signs

The following signs are exempt from the requirements of this chapter, except as indicated in Section 10.17, B, 3, d of this chapter:

- (1) Signs identifying stops or fare zone limits of common carriers;
- (2) Signs erected and maintained outside the highway right-of-way, by a governmental body, showing places of interest (other than commercial establishments), the place and time of services or meetings of churches and civic organizations. Not more than two such signs may be erected and maintained which are readable by traffic proceeding in any one direction on any one highway in any one township;
- (3) Residential directional signs, each of which does not exceed 4 sq. ft. in area, along roadways other than limited access highways;
- (4) Traffic control signs or devices;
- (5) Signs displayed for the direction, instruction or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas, property boundaries, trails, fire precautions, campsites, or the like, with a total surface area not exceeding 12 sq. ft. This exemption shall not apply to signs visible from any public roadway promoting or advertising commercial enterprises;
- (6) Signs to be maintained for not more than six weeks announcing an auction, public supper, lawn sale, campaign drive or other like event of a public, civic, philanthropic or religious organization;
- (7) Memorial signs or tablets;
- (8) Signs erected by county fairs and expositions for a period not to exceed six weeks;

- (9) Directional signs visible from a public roadway with a total surface area not to exceed 4 sq. ft. providing directions to places of business offering for sale agricultural products harvested or produced on the premises where the sale is taking place;
- (10) Signs displayed in building windows, provided that the aggregate area of such signs does not exceed 25% of the area of the window; and
- (11) Official business directional signs as defined and authorized by 23 M.R.S.A., Chapter 21.

The preceding dimensional and/or time limitations may be exceeded only under the provisions of a permit from the Commission.

d. Regulations Applying to All Signs

Notwithstanding any other provisions of this chapter, no sign may be erected or maintained visible from a public roadway which:

- (1) Interferes with, imitates or resembles any official traffic control sign, signal or device, or attempts or appears to attempt, to direct the movement of traffic;
- (2) Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic;
- (3) Contains, includes, or is illuminated by any flashing, intermittent or moving light, moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign;
- (4) Has any lighting, unless such lighting is shielded so as to effectively prevent beams or rays of light from being directed at any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;
- (5) Is in violation of, or at variance with, any federal law or regulation, including, but not limited to, one containing or providing for conditions to, or affecting the allocation of federal highway or other funds to, or for the benefit of, the State or any political subdivision thereof;
- (6) Is in violation of, or at variance with, any other applicable State law or regulation;
- (7) Advertises activities which are illegal under any state or federal law applicable at the location of the sign or of the activities;
- (8) Is not clean or in good repair; or
- (9) Is not securely affixed to a substantial structure.

Any sign which is a combination of exempt and/or non-exempt signs shall be regulated by the most protective standards applicable.

Appendix 13

§10.20 NOTIFICATION FORMAT

Where a written notification is required by this chapter, such notification must be submitted in advance of the date on which the activity, which is the subject of the notification, is commenced. Except as provided in Section 10.17,B,6, such notification must state the:

- A. Location of the proposed project by use of an official Commission Land Use Guidance Map of the area;
- B. Nature of the proposed project; and
- C. Time period of the proposed project;

Such notification must also state that the activity or project will be accomplished in conformance with the applicable minimum standards of Section 10.17 of this chapter and must be signed by a duly authorized person who shall be responsible for the execution of the activity.

Appendix 14

§10.16 F. RESOURCE PLAN PROTECTION SUBDISTRICT (P-RP)

1. Purpose

The purpose of this subdistrict is to provide for the more efficient and effective management of single or multiple Protection Subdistricts (and in some cases adjoining Management Subdistricts) than can be realized through the use of other Protection Subdistricts and their related standards. Resource Plans for such areas that are consistent with the requirements of paragraphs 2 through 9 below may be submitted to the Commission for review, and upon approval, such areas shall be designated as P-RP Protection Subdistricts.

“Concept plans,” as outlined in the Comprehensive Land Use Plan, are included under the purpose of this subdistrict.

2. Description

P-RP Protection Subdistricts shall be designated in areas where the Commission has approved a Resource Plan that:

- a. Incorporates standards, which, taken as a whole, are at least as protective of the natural environment as those standards which would otherwise be applicable; and
- b. Establishes procedures that reduce the need for repetitious permit applications to the Commission; and
- c. Complies with the criteria established below for their review; and
- d. Has as its primary purpose the protection of those resources in need of protection or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection.

3. Permitted Uses

Unless the Commission otherwise provides in approving the Resource Plan, those uses that are specified in the approved Resource Plan shall be allowed without a permit. The Commission may approve the creation of a subdivision within the context of a Resource Plan approved by the Commission without the need for rezoning to a Development Subdistrict provided such subdivision is consistent with the purpose and intent of this subdistrict.

4. Ownership

Before the Commission shall consider an application, the applicant shall submit proof that he owns or leases the area for which the Resource Plan is proposed.

5. Application Procedures

All P-RP Protection Subdistrict applications shall include at least the following information:

- a. A statement of how the proposed Resource Plan conforms with the purpose of this subdistrict and what objectives will be achieved by the proposed redistricting;
- b. A copy of an existing district map on which the area of the proposed P-RP Protection Subdistrict is clearly shown;
- c. A description of the management procedures, conservation easements, covenants, agreements or other formalized procedures that the applicant proposes to use to replace the restrictions and regulations that currently apply. The description shall specify how the Resource Plan achieves equal or better protection of resources in the area than the subdistrict(s) which would otherwise apply;
- d. A copy of all those formal procedures and agreements that will ensure the continued protection of the resources; and
- e. A statement that specifies the expiration date (if any) of the proposed Resource Plan, and of the procedures the applicant may wish to use to extend the provisions thereof.

When the Resource Plan application involves structural development, it shall include, in addition to (a) through (e) above:

- f. Forms, plans, and exhibits as are required by the Commission;
- g. Evidence that the proposal will conform with 12 M.R.S.A., Section 685-B; and
- h. A covenant stating that no subdivision of the designated area will take place, except as approved by the Commission as part of an approved concept plan.

6. Criteria for Review

The Commission may approve a Resource Plan and any associated redistricting only if it finds that all of the following criteria are satisfied:

- a. The plan conforms with redistricting criteria;
- b. The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
- c. The plan conforms with the Commission's Comprehensive Land Use Plan;
- d. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure;
- e. The plan has as its primary purpose the protection of those resources in need of protection, or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection;
- f. In the case of concept plans, the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and

- g. In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

7. Approval or Denial of Resource Plan

The Commission, after staff review and recommendation, shall approve or deny the redistricting application. If the Resource Plan proposal contemplates structural development, except as provided in Section 10.16, F, 3, the Commission may simultaneously with its approval of the P-RP Protection Subdistrict, grant, grant with conditions, or deny, applications for such permits as are required for structural development.

Upon approval of the Resource Plan, a P-RP Protection Subdistrict shall be designated on the official District Map and recorded in accordance with the provisions of Section 10.04 of this chapter.

8. Duration of Plan

The provisions of an approved and recorded Resource Plan shall apply for the duration of the approved time period, except that any conservation measures taken to strike a reasonable and publicly beneficial balance in a lake concept plan shall continue to apply to the extent that they are covered by legal contract, deeded covenants, permit requirements, or other legal instruments. The Resource Plan shall be for a minimum of 10 years and may be extended upon approval of the Commission and the applicant. The Resource Plan shall become invalidated if the provisions therein are not complied with.

At the termination of a plan, the Commission will, in conformity with its comprehensive plan, statutes, and standards, designate appropriate zoning which is reasonably consistent with zoning of equivalent areas. Any variation from existing regulations or development occurring as a result of a resource plan cannot be used to justify a subsequent re-zoning, to meet adjacency requirements, or to otherwise change the zoning on property either within or outside the resource plan area upon its expiration.

In the event that a plan is terminated, all transactions initiated as a component of the plan, including without limitation, the granting of conservation easements or restrictive covenants on subdivided lands will continue to apply to the extent that they are covered by legal contract, deeded covenants, permit or other legal requirements.

9. Amendments

Proposed amendments to the Resource Plan shall be made in writing to the Commission. An amendment shall be granted provided it meets the criteria for review listed in Section 10.16,F,6 above. An increase in the size of a P-RP Protection Subdistrict may be allowed by amendment, upon approval of the Commission, provided that the Resource Plan is amended to include such expanded area.

Appendix 15

C. DEFINITIONS

The following definitions apply to the following terms as they appear in this Lake Concept Plan.

Accessory Use or Accessory Structure:

A use or structure subordinate to a permitted or conditional use or structure and customarily incidental to the permitted or conditional use of the structure." 12 M.R.S.A., § 682.

Aggregate Floor Area: *See* Combined Floor Area.

Aggregate Footprint: *See* Combined Footprint.

Alteration:

Dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; filling; or any construction, repair or alteration of any permanent structure.

On a case-by-case basis and as determined by the Commission, the term "alteration" may not include:

- a. An activity disturbing very little soil such as installing a fence post or planting shrubs by hand;
- b. The addition of a minor feature to an existing structure such as a bench or hand rail; and
- c. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

Aquatic Vegetation:

Plants that usually grow on or below the surface of the water for most of the growing season in most years.

Boat ramp: *See* commercial trailered ramp, private trailered ramp, or trailered ramp.

Body of Standing Water:

A body of surface water that has no perceptible flow and is substantially permanent in nature. Such bodies of water are commonly referred to as man-made or natural lakes or ponds.

Building:

“Any structure having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or objects regardless of the materials of which it is constructed.” 12 M.R.S.A. § 682. The Commission finds that a temporary camping tent constructed of fabric or similar materials is not considered a building.

Building Height: *See* Structure Height.

Bulk Sampling of Mineral Deposits:

The removal of samples of mineral deposits for the purpose of testing to determine the feasibility, method or manner of extraction and/or processing of minerals. Such testing may include metallurgical analyses, milling or grinding tests and/or pilot plant and processing tests. Methods of bulk sampling may include, but not be limited to drilling and boring, the digging of shafts and tunnels, or the digging of pits and trenches.

Campground:

Any area, other than a camp site, designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.

Campsite:

“A camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. “Campsite” does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner’s recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission’s comprehensive land use plan.” 12 M.R.S.A § 682(15).

Capacity Expansions of Utility Facilities:

The addition of new telephone or electric wires or similar equipment to existing electric or telephone transmission and distribution poles for the purpose of increasing the capacity thereof.

Cluster Development:

A compact form of development that results in buildings being located in a group such that significant amount of open space is preserved.

Combined Floor Area:

The total floor area of all principal and accessory structures on a lot.

Combined Footprint:

The total footprint of all principal and accessory structures on a lot.

Combined Septic System:

A disposal system designed to dispose of waste and waste water on or under the surface of the earth that includes but is not limited to: septic tanks; disposal fields; or any other fixture, mechanism, or apparatus used for this purpose.

Commercial Fishing Activities:

Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

Common Area:

Areas established within Area A of the Lake Concept Plan that have been set aside as open areas of wooded or green space owned in common with all lot owners in Area A.

Commercial Mineral Extraction:

Mineral extraction other than Mineral Extraction for Road Purposes.

Commercial Sporting Camp:

A “building or group of buildings devoted primarily to the offering of lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling.” 12 M.R.S.A. § 682(14). In addition, for the purposes of the application of the Commission’s rules, the term “commercial sporting camp” shall be construed according to the following: A facility which functions primarily as a destination for the above activities rather than a transient lodging facility or a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and may typically consist of, but not necessarily include, all of the following: a number of cabins for the housing of guests including housekeeping cabins; a main lodge for serving of meals and socializing for the guests; outbuildings for housing of the owners, guides, and other workers; workshop, woodsheds, laundry, equipment storage, and other utility buildings as needed. Outpost cabins are considered a part of the commercial sporting camp. A resident, on-site attendant must be available on a full-time basis to meet the needs of guests. Such a facility shall have a total aggregate footprint no greater than 8,000 square feet for all principal buildings and rental cabins associated with the facility.

Commercial trailered ramp, hand-carry launch, or dock:

A trailered ramp, hand-carry launch, or dock, including an associated parking area and access road, that is privately owned and operated, and open to all members of the public, with or without a fee, but not meeting the definition of a public trailered ramp, hand-carry launch, or dock.

Commercial Use:

The use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods and/or services. Commercial use does not include a home occupation or the rental of a single dwelling unit on a single lot or forest management activities where such activities are otherwise exempt from review.

Commission:

The Maine Land Use Regulation Commission.

Compatible Use:

A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources.

Compensation:

Replacement of a lost or degraded wetland function with a function of equal or greater value.

Creation:

An activity bringing a wetland into existence at a site where it did not formerly occur.

Critically Imperiled Natural Community (S1):

An assemblage of plants, animals and their common environment that is extremely rare in Maine or vulnerable to extirpation from the state due to some aspect of its biology. An example of an S1 community that occurs in freshwater wetlands is the Outwash Plain Pondshore community.

Cross-Sectional Area:

The cross-sectional area of a stream channel shall be determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight-line distance from the normal high water mark of one side of the channel to such mark on the opposite side of the channel. The average stream channel depth shall be the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.

Deer Wintering Areas:

Areas used by deer during winter for protection from deep snows, cold winds, and low temperatures.

Development:

Any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, excluding, however, such specific uses or classes and categories of uses which by the terms of this chapter do not require a permit.

Development Unit:

A single-family dwelling unit or nonresidential use containing a total of no more than 2,000 square feet of gross floor space for all principal buildings concerned. Multiple family dwelling units and larger nonresidential uses shall be counted as an equivalent multiple number of development units.

Direct Watershed:

That portion of the land area which drains surface water directly to a body of standing water without such water first passing through an upstream body of standing water.

Docking Structure:

A structure placed in or near water primarily for the purpose of securing and/or loading or unloading boats and float planes, including but not limited to docks, wharfs, piers, and associated anchoring devices, but excluding boathouses and floatplane hangars. When associated with this phrase, the term “permanent” shall mean a structure in place for longer than 7 months in any calendar year or which is so large or otherwise designed as to make it impracticable to be removed on an annual basis without alteration of the shoreline.

Driveways:

A vehicular access-way, other than a land management road, less than 1000 feet in length serving two or fewer lots.

Dwelling Unit:

A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters, including any home occupations, for one family. Accessory structures intended for human habitation that have plumbing are considered separate dwelling units. Dwelling units do not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp or other similar facility which is rented or leased on a relatively short term basis; provided, however, the term shall include a tourist home that qualifies as a home occupation.

Earth Tones:

Non-reflective colors associated with tones of soil and forest that blend with the natural background including, but not limited to, green (as in Spruce or Pine), brown, slate, gray or rust (as in driftwood, soils, or beach rocks). "Earth Tones" do not include the colors red, yellow, orange, blue, purple, pink, or white.

Enhancement:

An activity increasing the net value of a wetland.

Expansion of a Structure:

The increase in the floor area of a structure, including attached decks and porches, or the increase in the height of a structure.

Family:

One or more persons occupying a premise as a single housekeeping unit.

Fishery Management Practice:

Activities engaged in for the exclusive purpose of management of freshwater and anadromous fish populations by manipulation of their environment for the benefit of one or more species. Such practices may include but not be limited to the construction of traps and weirs, barrier dams, stream improvement devices, fishways, and pond or stream reclamation, provided that any such activities are specifically controlled and designed for the purpose of managing such species and are conducted or authorized by appropriate state or federal fishery management agencies in compliance with the water quality standards contained in 38 M.R.S.A. §465.

Floodplain Wetland:

Wetlands that are inundated with flood water during a 100-year event based on site specific information including, but not limited to, flooding history, landform, and presence of hydric, alluvial soils, and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

Floor Area:

The sum of the horizontal areas of the floor(s) of a structure, excluding basements, measured by their exterior dimensions. Floor area shall include, but not be limited to, all stories and lofts, decks, garages, porches and greenhouses.

Flowing Water:

A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

Footprint:

The sum of the surface area of the earth occupied by a structure, calculated on the basis of the exterior dimensions of the perimeter walls or bounds of such structure, and including the exterior dimensions of the perimeter walls or bounds of any attached porches, decks or other attached accessory structures. "Footprint" does not include the surface area occupied by subsurface waste disposal systems, driveways, or underground utilities.

Forest:

A plant community predominantly of trees and other woody vegetation growing more or less closely together.

Forest Management Activities:

Forest management activities include timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar or associated activities, but not the construction, creation, or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

Forest Product:

Any raw material yielded by a forest.

Forested Wetland:

Freshwater wetlands dominated by woody vegetation that is 6 meters tall, or taller.

Freshwater Wetland:

Freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and not part of a great pond, coastal wetland, river, stream or brook.

Gatehouse:

See checkpoint building.

Green Area:

See Common Area

Hand-carry; Hand-pump:

To use a device, such as a bucket, or a human hand-powered mechanical device to transport water.

Hand-carry Launch:

A shoreland alteration, including, but not limited to, a landing area (that portion of the launch at or below the normal high water mark), a launch area (that portion of the launch immediately adjacent to and above the normal high water mark), any associated parking area, access pathway and/or road, and other similar related facilities to allow an item, including but not limited to a boat, personal watercraft, or dock float, to be moved by hand, to or from the surface of a waterbody. Unless otherwise specified by permit condition, boat trailers or dollies designed to be moved by hand may be used at such facilities provided no special site design is required to accommodate such devices.

Home Occupation:

Any business, occupation or profession which is carried on in a dwelling unit or structure accessory to a dwelling unit by a member of the family residing in the dwelling unit. The conduct of such business, occupation or profession must be clearly incidental and secondary to the use of the dwelling unit for residential purposes, and must occupy no more than 25 percent of all floor area of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure in which the occupation is carried out.

Imperiled Natural Community (S2):

An assemblage of plants, animals and their common environment that is rare in Maine or vulnerable to further decline. Examples of S2 communities that occur in freshwater wetlands are Atlantic White Cedar Swamp, Alpine Bog-Meadow, Circumneutral Fen, Maritime Slope Bog, and Coastal Plain Pocket Swamp.

Land Management Road:

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and used primarily for agricultural or forest management activities, including associated log yards but not including skid trails, skid roads, and winter haul roads.

Land Use Subdistrict:

The area located within the boundaries of air, land or water delineated vertically or horizontally by the Commission to provide for distinct categories of uses or resources.

Lean-to:

A three-sided, roofed structure used for transient occupancy and commonly constructed for campsites.

Level A Mineral Exploration Activities:

Mineral exploration activities engaged in for purposes of determining the location, extent and composition of mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance to soil and vegetative cover. Level A mineral exploration activities shall not include bulk sampling of mineral deposits.

Access ways for Level A mineral exploration activities shall include only access ways the creation of which involves little or no recontouring of the land or ditching, and does not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.

Level B Mineral Exploration Activities:

Mineral exploration activities involving the bulk sampling of mineral deposits, or any mineral exploration activities which exceed those defined as Level A mineral exploration activities and which are not defined as Level C metallic mineral exploration activities.

Level C Mineral Exploration Activities:

Metallic mineral exploration activities involving the disturbance of a site, by excavation, of more than two (2) acres of surface area or the excavation or removal of more than ten thousand (10,000) cubic yards of soil, overburden, ore or other earthen materials from the site of exploration.

Level A Road Projects:

Reconstruction within existing rights-of-way of public or private roads, other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair. When there is no existing layout of right-of-way, the right-of-way should be assumed to extend 33 feet on either side of the existing centerline.

Level B Road Projects:

Minor relocations, and reconstructions, involving limited work outside of the existing right-of-way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right-of-way of such roads; "Minor relocations" as used herein may not exceed 300 feet in horizontal displacement of centerline. "Reconstruction" as used herein may involve widening of existing rights-of-way not to exceed 50 feet on either side.

Level C Road Projects:

Construction of new roads, and relocations or reconstruction of existing roads, other than that involved in level A or level B road projects; such roads shall include both public and private roadways excluding land management roads.

Lot Coverage:

The total footprint area of all structures, which includes, but is not limited to, buildings, parking lots, and driveways.

Maintenance:

Activities required assuring continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including, but not limited to, water level manipulations and control of non-native plant species.

Major Flowing Water:

A flowing water downstream from the point where such water drains 50 square miles or more.

Management Class 3 Lake:

Lake, also referred to as "Potentially Suitable for Development" which through a consideration of existing water quality, potential water quality impacts, location, access, conflicting uses, available shoreline, water level fluctuation, regional considerations, and special planning needs is found by the Commission to be a potentially suitable location for shoreland development. Such lakes are more specifically defined in the Commission's Comprehensive Land Use Plan.

Such lakes are designated as MC3 on the Commission's Land Use Guidance Maps encompassing such lakes.

Management Class 7 Lake:

All lakes that are not otherwise classified in one of the other six lake management classes.

Metallic Mineral Mining Activity:

"Metallic mineral mining activity" means any activity or process that is for the purpose of extraction or removal of metallic minerals, and includes processes used in the separation or extraction of metallic minerals from other material including, but not limited to: crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization; or precipitation; mine waste handling and disposal; and processes substantially equivalent, necessary, or incidental to any of the foregoing. Metallic mineral mining or metallic mineral mining activity does not include Level A, B or C exploration activities, or thermal or electric smelting.

Mineral Deposit:

Any deposit of peat, sand, gravel, rock, topsoil, limestone, slate, granite, coal, gems, metallic or non-metallic ores or other minerals.

Mineral Extraction:

Any extraction of a mineral deposit, other than peat extraction, metallic mineral mining activities or Level A, B or C exploration activities.

Mineral Extraction for Road Purposes:

Mineral extraction where at least 75% by volume of the minerals extracted over any three year period are used for the purposes of construction or maintenance of land management or other roads.

Mineral Processing Equipment:

Equipment used to process minerals following extraction including, but not limited to, rock crushers and batch plants. The term does not include equipment used to remove, sort or transport minerals, such as front-end loaders, screens or trucks.

Mineral Soil:

Soil material in which inorganic (mineral) constituents predominate.

Minor Flowing Water:

A flowing water upstream from the point where such water drains less than 50 square miles.

Mitigation:

Actions taken to offset potential adverse environmental impact. Such actions include the following:

- a. Avoiding an impact altogether by not taking a certain action or parts of an action;
- b. Minimizing an impact by limiting the magnitude or duration of an activity, or by controlling the timing of an activity;
- c. Rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and
- e. Compensating for an impact by replacing affected resources or environments.

Mitigation Banking:

Wetland restoration, enhancement, preservation or creation for the purpose of providing compensation credits in advance of future authorized impacts to similar resources.

Mooring:

A structure for securing a vessel or aircraft that consists of a line and buoy attached to a weight that rests on the bottom of a waterbody.

Multi-family Dwelling:

A building containing three or more dwelling units.

Nonconforming Lot:

A preexisting lot which upon the effective date of adoption or amendment of these rules, does not meet the area, frontage or other dimensional requirements for a legally existing or proposed use.

Nonconforming Structure:

"A structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations." 12 M.R.S.A., § 682. More specifically, a nonconforming structure is legally existing, but does not meet one of the following dimensional requirements: setback, lot coverage, or height requirements.

Nonconforming Use:

"A use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulations or subsequent amendments made thereto, that does not conform to the district regulations." 12 M.R.S.A., § 682. More specifically, a nonconforming use is a legally existing use of buildings, structures, premises, lands, or parts thereof, which would not be allowed to be established under current regulations in the subdistrict in which it is situated.

Non-Permanent Docking Structure:

Docking structures which are in place for less than seven (7) months during any calendar year upon or over submerged lands and which are of such a size or design that they can be removed on an annual basis without requiring alteration of the shoreline.

Normal High Water Mark:

That line on the shores and banks of non-tidal waters that is discernible because of the different character of the soil or the vegetation due to the influence of surface water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (aquatic vegetation includes but is not limited to the following plants and plant groups - water lily, pond lily, pickerel-weed, cat tail, wild rice, sedges, rushes, marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups - upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms, spruces, birches, beeches, larches, and maples.) In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rock slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Normal Maintenance and Repair:

Unless otherwise provided, any work necessary to maintain an improvement or structure in its original or previously improved state or condition. This includes general upkeep, such as painting, fixing portions of the structure that are in disrepair, or the replacement of sill logs, roofing materials, siding, or windows, as long as there is no expansion of the nonconforming structure and less than 50 percent of the building is replaced. In-kind and in-place replacement of decking or exterior stairs is considered as normal maintenance and repair. Normal maintenance and repair shall not include reconstruction, or change in design, change in structure, change in use, change in location, change in size or capacity.

On Premise Sign:

A sign that is located upon the same lot or parcel of real property where the business, facility, or point of interest being advertised is located.

Peatland:

Freshwater wetlands, typically called bogs or fens, consisting of organic soils at least 16" deep, predominantly vegetated by ericaceous shrubs (heath family), sedges, and sphagnum moss and usually having a saturated water regime.

Permanent Foundation:

A supporting substructure that either extends below the frost line or is designed to permanently withstand freeze-thaw conditions. Permanent foundations include full foundations, basements, slabs and frost walls. For the purposes of this definition "sonotubes" or posts installed with augers are not considered permanent foundations.

Person:

"An individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity." 12 M.R.S.A., § 682.

Personal Watercraft:

"Any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. 'Personal watercraft' includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. 'Personal watercraft' also includes motorized watercraft whose operation is controlled by a water skier." 12 M.R.S.A. §7791, sub-§11-A.

Pesticide:

A chemical agent or substance employed to kill or suppress pests (such as insects, weeds, fungi, rodents, nematodes or other organisms) or intended for use as a plant regulator, defoliant or desiccant.

Piped Water:

Water supplied to a building by means other than hand pump or hand carry.

Portable Mineral Processing Equipment:

Mineral processing equipment that is not fixed to a location on the ground but rather is designed to be readily moved from one mineral extraction operation to another. **Practicable:** Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

Practicable:

Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

Preservation:

The maintenance of a wetland area or associated upland areas that contribute to the wetland's functions so that it remains in a natural or undeveloped condition. Preservation measures include, but are not limited to, conservation easements.

Primitive Campsite:

"A camping location containing tents or similar devices used for camping. "Campsite" does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner's recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission's comprehensive land use plan." 12 M.R.S.A § 682(15).

Primitive Recreation:

Those types of recreational activities associated with non-motorized travel, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing.

Primitive Septic System:

A septic system that uses an alternative toilet, such as a pit privy, compost, chemical, recirculating, incinerating, and vacuum types and a minimal disposal field designed to treat gray waste water that originates from a non-pressurized water supply.

Principal Building:

A building that provides shelter for the primary use of a parcel. On a single parcel, all buildings related to forest or agricultural management activities, including dwellings of the owner or lessee and employees, are considered one principal building.

Principal use:

A use other than one that is wholly incidental or accessory to another use on the same premises.

Private trailered ramp, hand-carry launch, or dock:

A trailered ramp, hand-carry launch, or dock that is privately owned and operated, and not open to all members of the public.

Projecting Sign:

A sign, which is attached to a wall of a building and extends more than 15 inches from any part of the wall.

Property Line:

Any boundary between parcels of land owned or leased by different persons or groups of persons.

Public Road or Roadway:

Any roadway that is owned, leased, or otherwise operated by a governmental body or public entity.

Public trailered ramp, hand-carry launch, or dock:

A trailered ramp, hand-carry launch, or dock, including associated facilities, that is owned, leased, or operated by a public entity and made available with or without a fee. Such entities include owners of federally licensed hydropower projects within the resource affected by the hydropower project for use by all members of the public.

Rapidly Permeable Outwash Soils:

Such soils shall include Colton, Hinckley, Adams, Windsor, Merrimac, Agawam, Stetson, Allagash, Duane, Crogham, Deerfield, Sudbury, Ninigret, Machias, Madawaska, Skowhegan and such other soils as may be included in this category by the National Cooperative Soil Survey in Maine.

Reclamation:

The rehabilitation of the area of land affected by mineral extraction, including but not limited to, the stabilization of slopes and the creation of safety benches, the planting of vegetation including grasses, crops, shrubs, and/or trees, and the enhancement of wildlife and aquatic habitat and aquatic resources.

Reconstruction:

The addition of a permanent foundation or the rebuilding of a structure after more than 50 percent by area of its structural components, including walls, roof, or foundation, has been destroyed, damaged, demolished or removed. Leaving one or two walls or the floor of a structure in place, while rebuilding the remaining structure, is considered reconstruction, not normal maintenance and repair or renovation.

Rental cabin:

A building associated with a commercial sporting camp that is used for the housing of guests, including housekeeping cabins and outpost cabins. A rental cabin cannot be greater than 25 feet in height, cannot have a permanent foundation, and is limited to a footprint no greater than 800 square feet.

Renovation:

Restoring or remodeling a structure. Renovation includes interior modifications, and the installation of new windows, floors, heating systems, or other features, as long as there is no expansion of the nonconforming structure and less than 50 percent of the building's structural components are replaced. The introduction of plumbing to a structure may constitute a change in use that requires a permit.

Residential:

Pertaining to a dwelling unit.

Residential Dwelling:

See Dwelling Unit.

Residential Directional Sign:

An off-premise sign erected and maintained by an individual or family to indicate the location of his or its residence.

Residual:

“Residual means solid wastes generated from municipal, commercial or industrial facilities that is suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials; sludges; dewatered septage; and ash from wood or sludge fired boilers.” DEP Rules, Chapter 400, § 1.

Restoration:

An activity returning a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater acreage or function.

Roadway:

A public or private road including any land management road.

Roof Sign:

A sign, which is attached flat to, painted on, or pinned away from the roof of a building.

Seasonal, Seasonal Use:

Pertains to use of a dwelling unit based on natural occurrences of time. A dwelling may be used intermittently during these seasonal occurrences but is not meant for permanent year round occupancy or to justify residency requirements.

Septage:

”Septage means waste, refuse, effluent, sludge, and any other materials from septic tanks, cesspools, or any other similar facilities.” 38 M.R.S.A. § 1303-C “Septage is defined as a mixture of liquids and solids derived from residential sanitary wastewater, and includes sanitary wastewater from tanks connected to commercial and institutional establishments which have inputs similar to residential wastewater. Septage also includes wastes derived from portable toilets.” DEP Rules, Chapter 420, § 1

Service Drop:

Any utility line extension that does not cross or run beneath any portion of a body of standing water provided that:

- a. In the case of electric service
 1. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 2. the total length of the extension within any 5 year period is less than 2,000 feet.

- b. In the case of telephone service
 1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
 2. the total length of the extension within any 5 year period, requiring the installation of new utility poles or placed underground, is less than 2,000 feet.

Setback:

The minimum **horizontal** distance from the lot line, shoreline, upland edge of a wetland, or road to the nearest part of the structure or other regulated area such as a driveway or parking area.

Shallow Soils Over Fractured Bedrock:

Such soils shall include Thorndike, Mapleton, Linneus, Bensen and such other soils as may be included in this category by the National Cooperative Soil Survey in Maine.

Shoreland Alteration:

Any land use activity, which alters the shoreland area, either at, adjacent to or below the normal high water mark, of any surface water body, including but not limited to:

- a. dredging or removing materials from below the normal high water;
- b. construction or repairing any permanent structure below the normal high water mark.

For purposes of this subsection, permanent structure shall mean any structure, including but not limited to, causeways, wharfs, piers, docks, concrete or similar slabs, bridges, hand-carry launches, trailered ramps, water-access ways, piles, marinas, retaining walls, riprap, buried or submarine utility cables and lines, permanent docking structures, mooring structures, and water lines. A structure which is not fixed in or over the water or below the normal high water mark for more than 7 months in a calendar year shall not be a permanent structure;

- c. depositing any dredged spoil or fill below the high water mark; and
- d. depositing dredged spoil or fill, or bulldozing, scraping or grading, on land adjacent to a water body in such a manner that the material or soil may fall or be washed into the water body, except that filling and grading or water crossings which do not require a permit as specified in Section 10.17, A, or other provisions of these rules shall not constitute shoreland alteration.

Activities which cause additional intrusion of an existing structure into or over the water body, are also considered shoreland alterations.

Shoreline:

The normal high water mark of tidal water, a standing body of water, flowing water, or stream channel.

Sign:

Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any roadway or other right-of-way. It does not include the flag, pennant, or insignia of any nation, state or town.

Visible shall mean capable of being seen without visual aid by a person of normal visual acuity.

The size of a ground, roof, or projecting sign shall be the area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy, insignia, background and borders; the structural supports of a sign are to be excluded in determining the sign area; where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured; only one face of a double-faced sign is included as the area of such sign. The area of a wall or window sign shall be the area of a regular geometric form enclosing a single display surface or display device containing elements organized, related, and composed to form a unit; where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Significant Wildlife Habitat:

The following areas to the extent that they have been identified by the Department of Inland Fisheries and Wildlife: habitat, as determined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; deer wintering areas and travel corridors as determined by the Department of Inland Fisheries and Wildlife; high and moderate value water fowl and wading bird habitats, including nesting and feeding areas as determined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as determined by the Atlantic Sea Run Salmon Commission; shorebird nesting, feeding and staging areas and seabird nesting islands as determined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified in specific locations by the Department of Inland Fisheries and Wildlife.

Spaghetti-lot:

“A parcel of land with a lot depth to shore-frontage ratio greater than 5 to 1. Shore frontage means land abutting a river, stream, brook, coastal wetland, or great pond as these features are defined in 38 MRSA, § 480-B.” 12 M.R.S.A. § 682(13)

Sporting camp: See commercial sporting camp.

Stream Channel:

A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil parent material or bedrock.

Structure:

“[A]nything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, retaining walls, billboards, signs, piers and floats.” 12 M.R.S.A. § 682.

Structure Height:

The vertical distance between the original grade at the downhill side of the structure and the highest point of the structure.

Subdivision:

Except as provided in [12 M.R.S.A] section 682-B, “subdivision” means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land or by leasing. The term “subdivision” also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period. (12 MRSA § 682 (2-A))

Refer to Section 10.17, B, 9, “Subdivision and Lot Creation” for additional criteria on types of lots that are included or are exempt from this definition.

Subsurface Waste Water Disposal System:

“Subsurface waste water disposal system means:

- A. Any system for the disposal of waste or wastewater on or beneath the surface of the earth including, but not limited to:
 - (1) Septic tanks;
 - (2) Drainage fields;
 - (3) Grandfathered cesspools;
 - (4) Holding tanks; or
 - (5) Any other fixture, mechanism or apparatus used for these purposes; but

- B. Does not include:
 - (1) Any discharge system licensed under Title 38, section 414;
 - (2) Any surface waste water disposal system; or
 - (3) Any municipal or quasi-municipal sewer or waste water treatment system.” 30-A M.R.S.A. §4201(5).

Subsurface Waste Water Disposal Rules:

The Maine Subsurface Waste Water Disposal Rules, 144A CMR 241, administered by the Department of Human Services.

Timber Harvesting:

The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads, but not the construction or creation of land management roads.

Traffic Control Sign or Device:

A route marker, guide sign, warning sign, sign directing traffic to or from a bridge, ferry or airport, or sign regulating traffic, which is not used for commercial or advertising purposes.

Trail:

A route or path other than a roadway, and related facilities, developed and used primarily for recreational activities including but not limited to hiking, backpacking, cross-country skiing and snowmobiling, which passes through or occurs in a natural environment. Related facilities may include but not be limited to subsidiary paths, springs, viewpoints, and unusual or exemplary natural features in the immediate proximity of the trail that are commonly used or enjoyed by the users of the trail.

Trailer Ramp:

A shoreland alteration, including, but not limited to, an associated parking area, access road, and other similar related facilities to allow a trailer to be backed below the normal high water level of a waterbody in order to load or unload an item, including but not limited to a boat, personal watercraft, float plane, or dock float.

Transient Occupancy:

“Occupancy that does not exceed 90 consecutive days” 12 M.R.S.A. § 682(18). For the purposes of the application of the Commission’s rules regarding campsites, the Commission considers occupancy to mean the length of time the tent, trailer, camper, recreational vehicle, or similar device used for camping is located on the site.

Unorganized and Deorganized Areas:

“Unorganized and deorganized areas includes all unorganized and deorganized townships, plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls, municipalities that have organized since 1971 but have not received commission approval under section 685-A, subsection 4 to implement their own land use controls and all other areas of the State that are not part of an organized municipality except Indian reservations.” 12 M.R.S.A., § 682.

Utility Facilities:

Structures normally associated with public utilities, including without limitation: radar, radio, television, or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipe lines or above ground storage tanks.

Wall Sign:

A sign, which is attached flat to, painted on or pinned away from the wall of a building and does not project more than 15 inches from such wall.

Water Bar:

An obstruction placed across a roadway which effectively diverts surface water from and off the road.

Water-access Ways:

A structure consisting of a pair of parallel rails, tracks, or beams extending from above the normal high water mark to below the normal high water mark of a waterbody, and designed as the conveying surface from which an item, including but not limited to a boat, personal watercraft, float plane, or dock float, with or without a support cradle, is launched into or removed from the waterbody.

Water Crossing:

A roadway or trail crossing of any body of standing or flowing water (including in its frozen state) by means of a bridge, culvert, or other means.

Water-Dependent Uses:

Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water-borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

Wetland Functions:

The roles wetlands serve which are of value to society or the environment including, but not limited to, flood water storage, flood water conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

Wetland Value:

The importance of a wetland with respect to the individual or collective functions it provides.

Wildlife:

All vertebrate species, except fish.

Wildlife Management District (WMD):

A geographic area identified by the Maine Department of Inland Fisheries and Wildlife to facilitate the management of wildlife. For purposes of these regulations, the boundaries of Wildlife Management Districts are as shown on Map 10.16-1 and the area of a Wildlife Management District is based on land and water acreage within LURC jurisdiction.

Wildlife Management Practices:

Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species. This term does not include impounding water.

Winter Haul Road:

A route or travel way that is utilized for forest management activities conducted exclusively during frozen ground conditions. Winter haul roads must have the following characteristics:

- a. they are constructed with no significant soil disturbance;
- b. they do not make use of fill or surfacing material; and
- c. they are substantially revegetated by the end of the following growing season and are maintained in a vegetated condition.

Appendix 16

GUIDELINES FOR VEGETATIVE STABILIZATION

Areas of disturbed soil, including but not limited to areas that are filled, graded or otherwise disturbed during construction projects, should be stabilized according to the following guidelines. These guidelines do not apply to forest management activities and are not strict regulations, and therefore alternative methods of stabilizing soil may be used. However, whenever soil stabilization or stabilization of disturbed areas is required by regulation or by the terms of individual permits, individuals must assure that either these guidelines, or measures equally effective in stabilizing disturbed areas of soil are employed.

The goals to be achieved by proper stabilization are the avoidance of accelerated soil erosion and the avoidance of sedimentation or pollution of water bodies. All stabilization measures must be maintained so that grass or other vegetation remains intact and healthy, otherwise these measures will be ineffective.

In General:

1. Sterile soils such as sands and gravels should be covered with 2 to 4 inches of soil medium that will support vegetative growth.
2. Disturbed soil areas should be graded such that runoff water is either minimized or eliminated from running over the site.
3. Disturbed areas which can be seeded between May 1 and September 15 should be prepared and seeded during that period.
4. Disturbed areas which cannot be seeded between May 1 and September 15 should be mulched with hay, straw or some other suitable material to keep them as stable as possible over the winter, and particularly during spring runoff the following year. For over-wintering, mulch must be tacked down, as it is easily blown around on frozen ground, leaving areas of soil exposed. Mulch hay should be applied at a depth of 4 inches, or between 150 to 200 lbs. per 1000 square feet, over the disturbed site. Mulched over-wintered areas should be prepared and seeded the following spring as soon as conditions allow.

It is not recommended that disturbed areas be seeded after September 15th (“dormant seeding”) for a number of reasons. Among the reasons, seeding rates are doubled, which is more expensive; timing is critical to ensure that germination does not occur before the following spring; there is an increased risk of sedimentation because sites are generally wetter in the fall; the thicker mulch must be removed in the spring in order to allow the germinating seed

to survive; and the application of fertilizer during this time increases the risk of leaching or runoff loss of nutrients into water bodies.

5. Seeding preparation, in addition to providing a soil medium that will support vegetative growth if the site is sterile, includes the application of lime and fertilizer, which should be lightly raked prior to seeding. After the area is seeded, it should be lightly watered and then mulched with 70 to 90 lbs. (2 standard bales) per 1,000 square feet of weed free hay or straw to protect the seed. Keep the site stable and moist, and allow the seed to germinate and grow.
6. For accurate liming as well as fertilization, it is recommended that you have the soil analyzed to determine the specific nutrient requirements of your site.

Lime should be applied at a rate of approximately 140 pounds to 1000 square feet of area. This rate may vary depending on the natural conditions of the soil on the site. 10-5-20 fertilizer should be applied at a rate of 18.5 lbs. per 1000 square feet of area. Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

7. In shoreland areas in particular, fertilizers should be of the "quick release" low phosphorus type, such as 12-4-8 mixtures applied at a rate of 8 pounds per 1000 square feet of area. If you are near water bodies, it is important not to apply more than approximately this amount of fertilizer, as excess may be washed into streams or lakes and contribute to lowering water quality and such things as algae blooms in lakes.

Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

Fertilizers should never be applied right before thunder storms or before spring runoff, because the great amounts of water running over the land will wash the fertilizer, particularly phosphorus, into water bodies. However, a light watering after the fertilizer is applied will help bind the phosphorus to the soil.

8. There are many combinations of grasses that can be used. One combination particularly good for providing soil stability, generally referred to as the Soil Conservation Mixture, consists of: (Proportions, by weight)

Creeping Red Fescue	35%
Kentucky Bluegrass	25%
Annual Rye Grass	15%
Perennial Rye Grass	10%

Red Top	10%
White Dutch Clover	5%
*Oats - See Below	

This seed would be applied at a rate of 1 pound per 1000 square feet. These particular grasses do best if mowed no closer than 2-1/2 to 3 inches from the ground. Of course, other seed mixtures are available.

It is important, in choosing a mixture, to choose one suitable for the site being stabilized. There are many different types of seeding mixtures designed for particular site conditions such as shade, sun, and drainage. Any mix should contain some seed which germinates rapidly to provide the quickest stabilization possible while awaiting the germination of the remaining types.

(*) For quick germination, oats are very good. They germinate in 7 to 10 days. They should be planted at a rate of approximately 1 to 1-1/2 bushels per acre, in addition to the basic grass mixture. Oats should be mowed when they reach knee height to allow the germinating grasses to receive sunlight.

Alternatives:

As indicated above, other stabilization programs may be used, provided they are equivalently effective in stabilizing disturbed areas and preventing accelerated soil erosion and sedimentation of water bodies. Further assistance may be obtained, including in some cases site-specific recommendations, as follows:

Local Soil and Water Conservation Districts
The USDA Natural Resource Conservation Service
Maine Department of Environmental Protection, Lakes Program
Landscaping Professionals
Reputable Lawn and Garden Supply Dealers

The following documents may provide valuable assistance to those developing a soil stabilization plan:

Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (Cumberland County Soil & Water Conservation District and Maine Department of Environmental Protection, 1991)

Strategy for Managing Nonpoint Source Pollution From Agricultural Sources and Best Management Guidelines (NPS Agricultural Task Force, 1991)

Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations, Best Management Practices (Maine Forest Service, 1991)

Appendix 17

E. RESOURCES

Previously submitted Lake Concept Plans:

- A Concept Plan for Lands of Lowell & Co. Timber Associates in Attean Township and Dennistown, approved in July 1, 1993.
- A Concept Plan for the Lands of Gardner Land Company T7 R11 Wels, 1996, by The Ames Corporation.
- A Concept Plan for First Roach Pond, Plum Creek Land Company, Dec. 2001, by Kent Associates, Planning & Design Consultants.

Water Resources

- Wes Hallowell, Kennebec Water Power Company
- Public Educational Access to Environmental Information in Maine, pearl website
<http://pearl.spatial.maine.edu/>

Wildlife and Fishery Resources

- DIF&W Biologists, Douglas Kane and Paul Johnson, Greenville Office
- DIF&W Biologist, Tom Hodgman, Bangor Office
- DIF&W Reports, Wildlife Division, website
<http://www.state.me.us/ifw/wildlife/01report/wildlifepanning.htm>
- State Planning Office Report, Chapter 1, Kennebec River Resource Management Plan: Balancing Hydropower Generation and Other Uses, website
<http://knox.link75.org/mmb/Cybrary/kennriver/>
- Maine Audubon Society, Volunteers to Count Maine's Loon Population, July 18, 2001, website
http://www.maineaudubon.org/whatsnew/in_the_news/010718.html

Soils

- S.W. Cole Engineering, Inc., Stephen Howell, Soil Scientist

Phosphorus

- Maine Department of Environmental Protection, Jeff Dennis, Division of Watershed Management

Land Use Standards

- Land Use Regulation Commission Planning and Administration - Fred Todd, Division Manager Agnieszka Pinette, Senior Planner, and Kristina Henderson, Regional Permitting and Compliance Officer
- Chapter 10 Land Use Districts and Standards
- Comprehensive Land Use Plan
- Model Easement

VII. Appendices

Appendix 1 – Development Restrictions

DEVELOPMENT RESTRICTIONS FOR AREAS A - G

The following restrictions shall apply to all structures and uses on lots within land proposed for development (Areas A-G), as illustrated on Map 6.

All references to the Commission's Rules and Standards herein shall mean those rules and standards in effect as of the date of approval of the Concept Plan, copies of which are attached hereto as Appendices 2 - 15.

A. Restrictions for All Development Areas

1. No building or other construction may be undertaken on any lot without first obtaining an approved permit from the Maine Land Use Regulation Commission.
2. All structures and uses must meet the land use standards outlined in Appendices 2-15, including the dimensional and setback requirements outlined in Appendix 9, herein, and the clearing of vegetation requirements outlined in Appendix 3, herein.
3. All work that disturbs the natural soil conditions shall use current erosion control measures in accordance with LURC's Guidelines for Vegetative Stabilization (Appendix 15) and Maine's Erosion and Sediment Control Handbook for Construction: Best Management Practices (Department of Environmental Protection, March 1991).
4. Building height within 500 feet of Brassua Lake or Baker Pond shall be no higher than the screening vegetation or 25 feet, whichever is greater. Notwithstanding the dimensional requirements of Appendix 9, building height greater than 500 feet from Brassua Lake or Baker Pond shall be no higher than 40 feet.
5. Exterior lighting on the lakeside of the structure shall be limited to 100 watts in aggregate, screened from lake view and directed towards the ground and/or the structure.
6. Buried utilities are allowed on the lot to provide service. Overhead utilities are allowed between structures on the lot.
7. Subsurface wastewater disposal systems are permitted, pursuant to approved septic design and soil suitability in accordance with the State of Maine Plumbing Code. If an outhouse (privy) is utilized, it must be located behind the camp, at least 100 feet away from the normal high water mark of the shoreline, and screened from view from the shoreline.

8. Wells are permitted, in accordance with the State of Maine Plumbing Code. However, Brassua Lake water shall only be procured by hand carry or by hand pump.
9. If generators are used, some form of noise protection must be employed, including but not limited, to enclosure of the generator in a shed. All generators must be equipped with spark arrestor units. The noise levels produced by generator use shall be no more than 60 dba (decibels) measured 50 feet away from the source.
10. The property lines shall be kept free and open. No fences, hedges, or walls shall be allowed thereon.

B. Additional Restrictions for Area A

1. Lots within Area A may only be used for single-family residential dwellings. Only one residential dwelling is allowed per lot. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The lots cannot be further subdivided.
2. The total building footprint for the principal structure on each lot is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed per lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.
4. Area A shall have 3000 feet of shorefront encompassing approximately 40 acres in “Common Open Green Space”. The “Common Open Green Spaces” are to remain in a natural undeveloped state in perpetuity; docks (permanent or temporary), structures, and lighting are prohibited.
5. No trailered ramps are to be constructed on individual lots within Area A.
6. Each lot owner within Area A shall belong to the Poplar Hill Lot Owners Association. The purpose of the Poplar Hill Lot Owners Association is to govern the uses specified in the lot owners’ association rules and bylaws that include the ability to enforce any and all covenants, to fix assessments or common charges for maintenance and normal repair of the loop, spur and access road, to maintain and pay taxes of the “common open green areas”, and to pay for the removal of refuse from the transfer site at Area B.
7. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
8. Driveways shall be constructed, when site conditions allow, so that two adjacent lots share a common entry (egress) point from (to) the access road.
9. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

C. Additional Restrictions for Area B

1. Allowed uses on Shorefront Lot:

- a. Allowed uses are limited to one attendant's cabin, a boat ramp, and parking area. The attendant's cabin and lot shall not be conveyed as a private residence. The lot may not be further subdivided. The Area B shorefront lot may not be conveyed separately from the Area B interior lot.
- b. Notwithstanding the requirements set forth in Appendix 2, buildings shall be set back at least 150 feet from the normal high water mark, 20 feet from side lot line, and 100 feet from the access road.
- c. The total building footprint for the attendant's cabin is limited to no more than 1,200 square feet.
- d. Two (2) accessory structures are allowed limited to a maximum of 600 square feet of footprint in aggregate.
- e. A private boat ramp shall be constructed in accordance with Appendix 10.
- f. Boat ramp lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
- g. Signs permitted on the lot include "recreational" signs and signs identifying an attendant's dwelling. No sign shall exceed 24" x 24" (4 sq. ft.) in size. Recreational signs shall be those typically located at boat ramp facilities, such as boat ramp sign, parking signs, no swimming sign, limitation of use sign, hours of operation sign, and seasons of operation sign. No commercial signs are allowed on the lot.
- h. Notwithstanding the clearing standards of Appendix 3, cleared openings for the entire lot shall not exceed 20,000 square feet.

2. Allowed uses on Interior Lot:

- a. "Area B" above the access road may only be used to support activities of Area A. An equipment rental office, 4 equipment storage buildings, and a rubbish transfer station are allowed. No residential development is allowed in "Area B". The rental activities allowed include the management of the properties within Area A and the rental of canoes, kayaks, bicycles, and cross-country skis. The transfer station is for use by residents of Area A. The lot may not be further subdivided. The Area B interior lot may not be conveyed separately from the Area B shorefront lot.

- b. Notwithstanding the requirements set forth in Appendix 2, buildings shall be set back at least 500 feet from the normal high water mark, 25 feet from side lot line, and 75 feet from the access road.
- c. The total building footprint for the rental office is limited to no more than 1,200 square feet.
- d. The total building footprint for the storage buildings is limited to 8,000 square feet in aggregate. A total of four (4) storage buildings are allowed.
- e. The transfer station shall consist of a concrete pad and dumpsters, and shall be screened from access road view.
- f. Signs permitted on the lot include “recreational” signs and signs identifying a rental office. No sign shall exceed 24” x 24” (4 sq. ft.) in size. Recreational signs shall be those typically located at rental offices, such as parking signs, hours of operation sign, informational signs about the Lake Concept Plan Area, and seasons of operation sign. One 100 watt illuminated commercial informational sign, 24” x 24”(4 sq. ft.), will be allowed at the entrance of the rental office access road.
- g. Notwithstanding the clearing standards of Appendix 3, cleared openings of vegetation shall not exceed 40,000 square feet in aggregate.

D. Additional Restrictions for Area C

- 1. Area C may be used for one (1) manager’s cabin, and one (1) sporting lodge with ten (10) rental cabins and private boat launch. One outpost cabin may be placed on one of the three islands associated with Area C. No additional development is allowed on the islands, except that structures associated with primitive recreation are permitted. The lot may not be further subdivided. The manager’s cabin, sporting lodge, outpost cabin or any rental cabins may not be conveyed separately.
- 2. Notwithstanding the requirements set forth in Appendix 2, the manager’s cabin shall be set back at least 150 feet from the normal high water mark, 15 feet from side lot line, and 50 feet from the access road. The sporting lodge, outpost cabin and rental cabins shall be set back at least 150 feet from the normal high water mark, 25 feet from side lot line, and 75 feet from the access road.
- 3. The total building footprint for the manager’s cabin is limited to 2,000 square feet. The total building footprint for the sporting lodge, outpost camp and rental cabins is limited to 8,000 square feet in aggregate.
- 4. Two (2) accessory structures associated with the manager’s cabin are allowed, limited to a maximum of 800 square feet of footprint in aggregate. Two (2) accessory structures associated with the sporting lodge are allowed limited to a maximum of 800 square feet of footprint in aggregate.
- 5. Rental Cabin footprints are limited to 800 square feet each.

6. Notwithstanding the building height requirements set forth in Appendix 2, the rental cabin building height is limited to 25 feet.
7. Signs permitted on the lot include “recreational” signs and “informational” signs. No sign shall exceed 24” x 24” (4 sq. ft.) in size. Recreational signs shall be those typically located at recreational facilities, such as parking signs, hours of operation sign, seasons of operation, cabin names, directional signs, informational signs about the sporting lodge and about the Lake Concept Plan Area. One 100 watt illuminated commercial informational sign, 24” x 24” (4 sq. ft.), will be allowed at the entrance of the access road.
8. Clearing of vegetation associated with the sporting lodge shall be in accordance with Appendix 3 and not exceed 10,000 square feet in aggregate within 250’ of the normal high water mark. Clearing of vegetation associated with each sporting lodge cabin shall be in accordance with Appendix 3 and not exceed 5,000 square feet in aggregate within 250’ of the normal high water mark.

E. Additional Restrictions for Area D

1. Area D is associated with The Birches and shall not be conveyed separately. Only one residential dwelling is allowed.
2. The total building footprint for the principal structure on the lot is limited to no more than 1,200 square feet.
3. Two (2) accessory structures are allowed on the lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.
4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
5. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

F. Additional Restrictions for Area E

1. Area E may only be used for a single-family residential dwelling. Only one residential dwelling is allowed. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The lot cannot be further subdivided.
2. The total building footprint for the principal structure on the lot is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed on the lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.

4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
5. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

G. Additional Restrictions for Area F

1. The lot may only be used for single-family residential dwellings. Two residential dwellings are allowed. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The lot cannot be further subdivided.
2. The total building footprint for each principal structure is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed per dwelling. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate for each dwelling.
4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed for each dwelling. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.
5. Driveways shall be constructed, when site conditions allow, so that two adjacent lots share a common entry (egress) point from (to) the access road.
6. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

H. Additional Restrictions for Area G

1. The lot can be subdivided into five parcels. Four parcels may only be used for single-family residential dwellings. The remaining lot is to be retained by the applicant. No commercial use will be allowed on the lot, except that rental of lot and structures thereon may be allowed. The four parcels cannot be further subdivided.
2. The total building footprint for the principal structure on each lot is limited to no more than 2,000 square feet.
3. Two (2) accessory structures are allowed per lot. Accessory structures are limited to a maximum of 800 square feet of footprint in aggregate.
4. Permanent docks are prohibited. One temporary (seasonal) dock, limited to 16 feet in length, is allowed on each lot. Dock lighting usage shall be limited to loading and unloading boats, and shall not be in continuous nightly use.

5. Driveways shall be constructed, when site conditions allow, so that two adjacent lots share a common entry (egress) point from (to) the access road.
6. Signs permitted on the lot include one “for sale” sign and signs identifying residential dwellings. Notwithstanding the sign standards of Appendix 12, no sign shall exceed 12” x 24” (2 sq. ft.) in size.

RESTRICTION FOR THE TRAIL AND CABIN SYSTEM, PROTECTED ISLANDS, UTILITIES, AND ROADS

The following restrictions shall apply to structures and uses on lots outside of land proposed for development, as illustrated on Map 6.

All references to the Commission's Rules and Standards herein shall mean those rules and standards in effect as of the date of approval of the Concept Plan, copies of which are attached hereto as Appendices 2 - 15.

I. Restrictions for the Trail and Cabin System

1. All work that disturbs the natural soil conditions shall use current erosion control measures in accordance with LURC’s Guidelines for Vegetative Stabilization (Appendix 15) and Maine’s Erosion and Sediment Control Handbook for Construction: Best Management Practices (Department of Environmental Protection, March 1991).
2. The trail system width shall be limited to a 14-foot wide corridor with low vegetation.
3. A trail (walking path) shall be allowed within the 14-foot corridor.
4. Vehicle traffic on the trail system within the permanent conservation area is limited to and for direct support of trail maintenance, and may include the following equipment: trail grooming machinery (12 feet wide), forest management equipment, and emergency vehicles.
5. A total of nine (9) structures are allowed along the trail system. Six (6) structures are allowed in the permanent conservation area. Two (2) structures are allowed on Poplar Hill.
6. Notwithstanding the requirements of Appendix 9, herein, all structures shall be set back at least 250 feet from the normal high water mark, except that structures on Poplar Hill and Brassua Lake’s western peninsula shall be set back at least 500 feet from the normal high water mark and screened from view.
7. Notwithstanding the clearing standards of Appendix 3, clearing of vegetation associated with each cabin shall not exceed 4,000 square feet in aggregate.

8. The total building footprint is limited to 400 square feet for each cabin.
9. Notwithstanding the dimensional requirements of Appendix 9, building height is limited to 25 feet.

J. Restrictions for Development on the Protected Islands

1. No development is allowed on any islands placed in permanent conservation, except that structures associated with primitive campsites are permitted in accordance with the terms of the conservation easement.
2. No development is allowed on any islands placed in the 20-year conservation area during the term of this Lake Concept Plan, except that structures associated with primitive campsites are permitted.

K. Restrictions for Road Projects

1. Access Road and Public Hand Carry Boat Launch Road
 - a. The landowner is responsible for upgrading the road in accordance with the road construction standards of Appendix 5. The maintenance and normal repair of the Access Road is the responsibility of the Poplar Hill Lot Owner's Association. The maintenance and normal repair of the Public Boat Launch Road is the responsibility of the landowner.
2. Loop Road and Spur Road
 - a. The landowner is responsible for upgrading the road to provide access to the lots in Area A. The maintenance and normal repair of the Loop Road and Spur Road is the responsibility of Poplar Hill Lot Owner's Association.
 - b. The loop road shall be upgraded in accordance with the road construction standards of Appendix 5 and the State Soil Scientist recommendations, below:

The road width shall be 14 feet wide and have 2:1 H/V slopes of flatter. Cross slope grade shall be a uniform 3-5% slope to allow drainage to the down hill side. The road shall be constructed in a layer system that includes laying geotextile fabric directly on the old road, followed by a layer of 12 inch MDOT Class B (4" minus) aggregate, and then a final layer of 6 inch MDOT Class A (2" minus) aggregate. In wet areas and wetland areas an additional layer of geotextile fabric shall be used between the 12 inch and 6 inch layer. Ditches shall be minimized and existing ditches may require stone or geotextile fabric to reduce erosion and promote vegetation growth. Existing drainage structures will need to be evaluated for size and condition. Stoned lined ditch turnouts will be placed so that water will run through a buffer area prior to entering the lake.
 - c. The loop road may be developed in phases to match the development phases of Area A.

- d. Traffic movement around the loop road will be at a posted speed limit. Traffic turnouts will be placed on the uphill side of the loop road. The location of the turnouts will be spaced such as the use of the clearings produced from previous logging operations might be used.

3. Individual Lot Roads

- a. Road maintenance and normal repair of individual lot roads (within Areas D, E, F, and G) shall be the responsibility of the lot owner(s).

L. Restrictions for Utility Lines

1. Underground utility lines shall be allowed to all areas proposed for development, utilizing existing and proposed roadway corridors where practicable. When possible utility lines shall be placed along the shared drives to each residential dwelling.
2. Overhead utility lines are allowed only to connect a structure to another structure on the same lot.

DEED COVENANTS

The development restrictions outlined in Appendix 1, above, shall be included as deed covenants for lots within land proposed for development (Areas A-G), as appropriate. In addition, the following deed covenants shall apply to all lots within land proposed for development and all cabins within the trail and cabin system:

M. Deed Covenants

1. The exterior of the main building or an accessory structure are to be finished within one year from start of construction.
2. All buildings and lots shall be maintained in a neat and attractive manner, and in good repair.
3. All chimneys must be of brick, stone, tile construction, or stovepipe installed and maintained under the applicable building fire codes.
4. All exterior roofing material must be made of non-combustible material and be a dark, natural looking color: Dark Green, black, brown, and charcoal gray are preferred.
5. All exterior materials, including window frames, trims, chimneys and screen doors are to be unobtrusive in color and texture, shall be a dark color, and shall be non-reflective.
6. All buildings must have traditional exteriors. Appearances should blend with the surroundings, i.e. wood siding (shingles, log siding, logs), and if painted only “earth tones”.

7. No mobile homes are allowed.
8. Trash, garbage, or other waste shall be kept in sanitary containers, and the site shall not be used as a dumping ground for waste disposal. All trash, garbage, or other waste shall be removed at the end of each period of use or more often, if necessary, and transported to Area B's transfer station. Area C, Area D, and Area E shall transport waste to Rockwood Transfer Station. The following are not permitted: Outside storage or placement of machines or equipment, which are not in useable condition; and metal, vinyl or plastic siding for structures.

B. Land Use Standards

Appendix 2

§10.13-B CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS

1. Approval Criteria: In approving applications submitted to it pursuant to 12 M.R.S.A. § 685-A(10) and § 685-B, the commission may impose such reasonable terms and conditions as the commission may deem appropriate in order to satisfy the criteria of approval and purpose set forth in these statutes, rules and the Comprehensive Land Use Plan.

“The commission shall approve no application, unless:

- A. Adequate technical and financial provision has been made for complying with the requirements of the State’s air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 490, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies; and
- B. Adequate provision has been made for loading, parking and circulation of and, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods, and
- C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal, and
- D. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site; and
- E. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto.
- F. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public’s health, safety and general welfare will be adequately protected. The commission shall permit the applicant to provide evidence on the economic

benefits of the proposal as well as the impact of the proposal on energy resources.” 12 M.R.S.A. § 685-A(4).

In addition, the applicant must demonstrate “evidence of sufficient right, title or interest in all of the property that is proposed for development or use.” 12 M.R.S.A., §685-B(2)(D)

2. **Review Standards for Structures Adjacent to Lakes:** The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential structures and uses proposed on land adjacent to lakes in order for the proposal to satisfy the criterion set forth in Section 10.13-B,1,C above:

- a. **Natural and cultural resource values:** The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
- b. **Water quality:** The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
- c. **Traditional uses:** The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
- d. **Regional diversity:** The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;
- e. **Natural character:** Adequate provision has been made to maintain the natural character of shoreland;
- f. **Lake management goals:** The proposal is consistent with the management intent of the affected lake’s classification; and
- g. **Landowner equity:** Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

In applying these criteria, the Commission shall consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

Appendix 3

§10.17.A.2 CLEARING

The following shall apply to vegetation clearing for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, public trailered ramps or hand-carry launches:

- a. A vegetative buffer strip shall be retained within:

50 feet of the right-of-way or similar boundary of any public roadway,

75 feet of the normal high water mark of any standing body of water less than 10 acres in size, or any tidal water or flowing waters draining less than 50 square miles, and

100 feet of the normal high water mark of a standing body of water 10 acres or greater in size or flowing water draining 50 square miles or more.

- b. Within this buffer strip, vegetation shall be maintained as follows:

- (1) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
- (2) Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees and other vegetation” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 12 or more in a 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees and other vegetation” shall be defined as maintaining a rating score of 8 or more per 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	<u>Points</u>
2 - 4 in.	1
> 4 - 12 in.	2
> 12 in.	4

NOTE: As an example, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points (21 - 12 = 9) may be removed from the plot provided that no cleared openings are created and all other requirements of this rule and other laws are followed.

The following shall govern in applying this rating system:

- (a) The 25-foot x 25-foot plots shall be established where the landowner or lessee proposes clearing within the required buffer;
 - (b) Each successive plot shall be adjacent to but not overlap a previous plot;
 - (c) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
 - (d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules.
- (3) In addition to subsection (2) above, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level, may be removed in any ten (10) year period.
 - (4) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover shall not be removed and the soil shall not be disturbed, except to provide for a footpath or other permitted use.
 - (5) Pruning of tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
 - (6) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 sq. ft., these openings shall be established with native tree species.
- c. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a standing body of water greater than 10 acres, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all standing bodies of water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
 - d. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing or standing body of water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

Appendix 4

§10.17.A.3 MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all subdistricts except as otherwise hereinafter provided:

- a. Mineral Exploration: The following requirements shall apply to mineral exploration activities:
- (1) All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;
 - (2) Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of a flowing, standing, tidal body of water, or wetland identified as a P-WL1 Subdistrict:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

The provisions of this subsection (2) apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of this subsection do not apply where access ways cross such waters;

- (3) Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by P-SL2 Protection Subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.17, A, 4, b and e, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged;

- (4) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream;
 - (5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all area of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.
- b. Mineral Extraction: The following requirements shall apply to mineral extraction activities in all subdistricts:
- (1) A vegetative buffer strip shall be retained between the ground area disturbed by the extraction activity and:
 - (a) 75 feet of the normal high water mark of any standing body of water less than 10 acres in size, any flowing water draining less than 50 square miles, tidal body of water, or wetland identified as a P-WL1 Subdistrict, and
 - (b) 100 feet of the normal high water mark of any standing body of water 10 acres or greater in size or flowing water draining 50 square miles or more.
 - (2) No portion of any ground area disturbed by the extraction activity shall be closer than 250 feet from any public roadway, or 250 feet from any property line in the absence of the prior written agreement of the owner of such adjoining property;
 - (3) Within 250 feet of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.

Any such control device shall be deemed part of the extraction area for the purposes of Subsection (1), above;
 - (4) A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
 - (5) If any mineral extraction operation located within 250 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.

Appendix 5

§10.17.A.4 ROADS AND WATER CROSSINGS

The following road and water crossing requirements shall apply to such activities in P-WL1, P-WL2, P-SL, P-FP, P-GP Protection and all Development Subdistricts:

- a. The following requirements shall apply to construction and maintenance of roads:
 - (1) All cut or fill banks and areas of exposed mineral soil outside the roadbed within 75 feet of a flowing, standing or tidal body of water or a wetland shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies or wetlands;
 - (2) Road banks shall have a slope no steeper than 2 horizontal to 1 vertical;
 - (3) Drainage ditches shall be provided so as to effectively control water entering and leaving the road area. Such drainage ditches will be properly stabilized so that the potential for unreasonable erosion does not exist;
 - (4) In order to prevent road surface drainage from directly entering water bodies or wetlands, roads and their associated drainage ditches shall be located, constructed, and maintained so as to provide an unscarified filter strip, of at least the width indicated below, between the exposed mineral soil of the road and the normal high water mark of a surface water body or upland edge of a wetland:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

This requirement shall not apply to road approaches to water crossings or wetlands.

- (5) Drainage ditches for roads approaching a water crossing or wetland shall be designed, constructed, and maintained to empty into an unscarified filter strip, of at least the width indicated in the table set forth in subsection (4) above, between the outflow point of the ditch and the normal high water mark of the water or the upland edge of a wetland. Where such filter strip is impracticable, appropriate techniques shall be used

to reasonably avoid sedimentation of the water body or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed so as to reasonably avoid sedimentation of the water body or wetland;

- (6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts will be installed in a manner effective in getting drainage onto unscarified filter strips before the flow in the road or its drainage ditches gains sufficient volume or head to erode the road or ditch.
 - (a) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less;
 - (b) On roads having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a 30 degree angle downslope from a line perpendicular to the center line of the road;
 - (c) Ditch relief culverts, drainage dips and water turnouts shall direct drainage onto unscarified filter strips as required in paragraph (4) and (5) above;
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials; and
 - (e) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<u>Road Grade Percent</u>	<u>Spacing Feet</u>
0-2	500-300
3-5	250-180
6-10	167-140
11-15	136-127
16-20	125-120
21+	100

- b. The following requirements shall apply to water crossings when surface waters are unfrozen:
 - (1) Bridges and culverts shall be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the stream channel.

(2) Culvert and bridge sizes may be smaller than provided in paragraph (1) if techniques are employed such that in the event of culvert or bridge failure, the natural course of water flow is reasonably maintained and sedimentation of the water body is reasonably avoided; such techniques may include, but are not limited to, the effective use of any or all of the following:

(a) removing culverts prior to the onset of frozen ground conditions;

(b) using water bars in conjunction with culverts; or

(c) using road dips in conjunction with culverts.

(3) Culverts utilized in water crossings shall:

(a) be installed at or below stream bed elevation;

(b) be seated on firm ground;

(c) have soil compacted at least halfway up the side of the culvert;

(d) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and

(e) have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

- c. The design and construction of land management road systems through wetlands, other than those areas below the normal high water mark of standing or flowing waters, must avoid wetlands unless there are no reasonable alternatives, and must maintain the existing hydrology of wetlands.

To maintain the existing hydrology of wetlands, road drainage designs shall provide cross drainage of the water on the surface and in the top 12 inches of soil in wetlands during both flooded and low water conditions so as to neither create permanent changes in wetland water levels nor alter wetland drainage patterns. This shall be accomplished through the incorporation of culverts or porous layers at appropriate levels in the road fill to pass water at its normal level through the road corridor. Where culverts or other cross-drainage structures are not used, all fills shall consist of free draining granular material.

To accomplish the above, the following requirements apply:

- (1) Road construction on mineral soils or those with surface organic layers up to 4 feet in thickness:

- (a) Fill may be placed directly on the organic surface compressing or displacing the organic material until equilibrium is reached. With this method, culverts or other cross-drainage structures are used instead of porous layers to move surface and subsurface flows through the road fill material.
 - (i) For road construction on mineral soils or those with surface organic layers less than 16 inches in thickness, culverts or other cross-drainage structures shall be appropriately sized and placed at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures shall be placed at maximum intervals of 300 feet;
 - (ii) For road construction on surface organic layers in excess of 16 inches but less than 4 feet in thickness, cross drainage must be provided by placing culverts at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures shall be placed at maximum 300-foot intervals. Culverts shall be a minimum of 24 inches in diameter, or the functional equivalent, and buried halfway below the soil surface.
 - (iii) Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the road centerline shall be constructed along the toe of the fill to collect surface and subsurface water, carry it through the culvert(s) and redistribute it on the other side. Unditched breaks shall be left midway between culverts to prevent channelization.
 - (b) Alternatively, a porous layer may be created to move surface and subsurface flows through the road fill materials. If a porous layer is used, geotextile fabric must be placed above and below fill material to increase the bearing strength of the road and to preserve the bearing strength of fill material by preventing contamination with fine soil particles.
- (2) Road construction on soils with organic layers in excess of 4 feet in thickness:
- (a) Such construction shall only take place under frozen ground conditions.
 - (b) Geotextile fabric shall be placed directly on the soil surface. Road fill or log corduroy shall then be placed on the geotextile fabric.
 - (c) Cross drainage shall be provided by either a continuous porous layer or appropriate placement of culverts or other cross-drainage structures and ditching as specified below:
 - (i) A continuous porous layer or layers shall be constructed by placement of one or more layers of wood corduroy and/or large stone or chunkwood separated from

adjacent fill layers by geotextile fabric placed above and below the porous layer(s) such that continuous cross drainage is provided in the top 12 inches of the organic layer; or

- (ii) Cross drainage culverts or other cross-drainage structures shall be placed at points where they will receive the greatest support. Culverts or other cross-drainage structures shall be a minimum of 24 inches in diameter, or the functional equivalent, and buried halfway below the soil surface. Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the roadbed on both sides shall be used to collect surface and subsurface water, carry it through the culvert(s) and redistribute it on the other side. Such ditches shall be located three times the depth of the organic layer from the edge of the road fill. Unditched breaks shall be left midway between culverts to prevent channelization.

d. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

e. Maintenance of the above required water control installations shall continue until the road is discontinued and put to bed by taking the following actions:

(1) Water bars shall

(a) be constructed and maintained across the road at intervals established below:

Road Grade Percent	Distance Between Water Bars Feet
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

(b) be constructed at approximately 30 degrees downslope from the line perpendicular to the center line of the road;

(c) be constructed so as to reasonably avoid surface water flowing over or under the water bar; and

(d) extend sufficient distance beyond the traveled way so that water does not reenter the road surface.

(2) Any bridge or water crossing culvert in such road shall satisfy one of the following requirements:

- (a) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - (b) it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the stream channel; or
 - (c) it shall be dismantled and removed in a fashion so as to reasonably avoid sedimentation of the water body.
- f. Provided they are properly applied and used for circumstances for which they are designed, methods including but not limited to the following are acceptable to the Commission as means of calculating the 10 and 25 year frequency water flows and thereby determining crossing sizes as required in paragraphs b and e of this Section:
- a. The USDA Soil Conservation Service (SCS) Methods; specifically: "Urban Hydrology for Small Watersheds," June 1986 Soil Conservation Service Technical Release #55
 - b. The United States Geological Survey (USGS) Methods; specifically: U.S. Geological Survey. 1975. "A Technique for Estimating the Magnitude and Frequency of Floods in Maine." Open- file Report 75-292.
- g. Extension, enlargement or resumption of use of presently existing roads, which are not in conformity with the provisions of this Section, are subject to the provisions of Section 10.11 of this chapter.
- h. Publicly owned roads may be constructed in a fashion that is not in strict conformity with the provisions of this section, provided that other measures are applied that are effective in reasonably avoiding sedimentation of surface waters.
- i. Except that subsection j below always applies, trail crossings of minor flowing waters shall be exempt from the standards of this section, provided such crossings are constructed in a manner that causes no disturbance to the stream bed, and no substantial disturbance to the banks or shoreland areas in the vicinity of the crossing, and provided such crossings do not impede the flow of water or the passage of fish. If properly undertaken, acceptable methods may include but not be limited to the laying of logs from bank to bank, or placement of bed logs and stringers with decking. This exemption shall not extend to the construction of abutments or piers.

Trail crossings not so exempted shall be subject to the water crossing standards of this section, including specifically subsections 10.17, A, 4, b, d, e, f, j and k.

- j. In addition to the foregoing minimum requirements, provision shall otherwise be made in the construction and maintenance of roads and water crossings in order to reasonably avoid sedimentation of surface waters.

- k. Written notice of all road and water crossing construction activities, except level A road projects and exempt trail crossings as provided in subsection (i) above, shall be given to the Commission prior to the commencement of such activities. Such notice shall conform to the requirements of Section 10.20 of this chapter and shall state the manner in which the water crossing size requirements of this section will be satisfied.

Appendix 6

§10.17.A.5 TIMBER HARVESTING

The following requirements apply to timber harvesting within all Development and Protection Subdistricts except as otherwise hereinafter provided:

- a. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by a P-SL1 Protection Subdistrict except to cross such channels with a culvert or bridge according to the water crossing requirements of Section 10.17, A, 4, b and e;
- b. Timber harvesting operations in P-SL1 and P-GP Protection Subdistricts shall be conducted in the following manner:
 - (1) Within 50 feet of the normal high water mark, no clearcutting shall be allowed and harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained so as to maintain the aesthetic and recreational value and water quality of the area and to reasonably avoid sedimentation of surface waters.
 - (2) At distances greater than 50 feet from the normal high water mark, harvesting activities may not create single openings greater than 14,000 square feet in the forest canopy. In such areas single canopy openings of over 10,000 square feet shall be no closer than 100 feet apart.
 - (3) Harvesting shall not remove, in any ten year period, more than 40 percent of the volume on each acre involved of trees 6 inches in diameter and larger measured at 4 1/2 feet above ground level. Removal of trees less than 6 inches in diameter, measured as above is permitted if otherwise in conformance with these regulations. For the purpose of these standards, volume may be determined as being equivalent to basal area.
 - (4) No accumulation of slash shall be left within 50 ft. of the normal high water mark of surface water protected by the P-SL1 and P-GP Protection Subdistricts. In such subdistricts, at distances greater than 50 ft. from the normal high water mark of such waters, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 ft. above the ground.

- c. Except as provided in subsection g of this section, skid trails and other sites, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

The provisions of this subsection c apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of this subsection c do not apply where skid roads cross such waters;

- d. Timber harvesting operations shall be conducted in such a manner that slash is not left below the normal high water mark of standing or tidal waters, or below the normal high water mark of stream channels downstream from the point where such channels drain 300 acres or more;
- e. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by P-SL2 Protection Subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.17, A, 4, b and e, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged. The requirements of this subsection e may be modified according to the provisions of subsection g of this section;
- f. Except as provided in subsection g of this section, skid trail and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream;
- g. Timber harvesting operations in P-SL2 Protection Subdistricts along stream channels upstream from the point where they drain 300 acres or less, and in P-WL Protection Subdistricts adjacent to such P-SL2 Protection Subdistricts, may be conducted in a manner not in conformity with the requirements of the foregoing subsections c, e, and f provided that such operations are conducted so as to avoid the occurrence of sedimentation of water in excess of 25 Jackson Turbidity Units as measurable at the point where such stream channel drains 1 square mile or more. Jackson Turbidity Units

are a standard measurement of the relative amount of light that will pass through a sample of water compared with the amount of light that will pass through a reference suspension; the Jackson Turbidity Unit measurement for water without turbidity is 0;

- h. Harvesting operations in P-SL2 Protection Subdistricts along stream channels downstream from the point where they drain 300 acres or more and along standing bodies of water shall be conducted in such a manner that sufficient vegetation is retained to maintain shading of the surface waters;
- i. Written notice of all timber harvesting operations shall be given to the Commission prior to the commencement of such activity. Such notice shall conform to the requirements of Section 10.20 of this chapter and shall state whether or not such operations will be conducted according to the provisions of subsection g of this section; and
- j. In addition to the foregoing minimum requirements, except as provided for in subsection g, provision shall otherwise be made in conducting timber harvesting operations in order to reasonably avoid sedimentation of surface waters.

Appendix 7

§10.17.A.6 FILLING AND GRADING

The following requirements for filling and grading shall apply in all subdistricts except as otherwise provided herein. The purpose of this section is to allow minor filling and/or grading of land without a permit, provided the performance standards set forth below are met. If the standards are not met, a permit is required.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

- a. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
- b. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN General Management Subdistricts which are greater than 250 feet from water bodies and wetlands. In such General Management Subdistrict areas, the provisions of subsections d and f of this section shall apply; and
- c. Clearing of areas to be filled or graded is subject to the Clearing Standards of Section 10.17, A, 2; and
- d. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and
- e. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of flowing, standing, tidal bodies of water, or upland edge of wetlands identified as P-WL1 Subdistrict than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

- f. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

Appendix 8

§10.17.A.8 DRIVEWAYS ASSOCIATED WITH RESIDENTIAL STRUCTURES AND USES

- a. Applicability: The following requirements apply to the construction of driveways for single family and two family dwelling units in all subdistricts where driveways associated with residential uses are allowed without a permit. These standards may be used as guidance in processing an application for driveways to be located in those subdistricts where driveways require a permit from the Commission.
 - (1) Other Permits: If a permit has been issued for the development of the lot to be served by the driveway or if the lot is part of a subdivision for which a permit has been issued, conditions of the building permit or subdivision permit regarding construction of driveways supersede provisions of this subsection.
 - (2) Length: If the length of a proposed driveway is greater than 1000 feet, it is regulated as a road and requires a permit from the Commission unless it qualifies as a land management road.
- b. Waterbody Setback:
 - (1) Minimum Setback: The minimum water body setback for a driveway which accesses an undeveloped lot or a lot having residential structures is:
 - (a) 100 feet from the nearest shoreline of a flowing water draining 50 square miles, and a body of standing water greater than 10 acres in size;
 - (b) 75 feet from the nearest shoreline of a tidal water; and
 - (c) 50 feet from the upland edge of minor flowing waters and mapped P-WL1 wetlands.
 - (2) Exceptions to Waterbody and Wetland Setback Requirements:
 - (a) The water body and wetland setback requirements do not apply to approaches to waterbody or wetland crossings.
 - (b) A lesser setback may be allowed with a permit in the following instances provided no other reasonable alternative exists and appropriate techniques are used as needed to prevent sedimentation of the waterbody:
 - (i) In the case of legally existing nonconforming structures located in the shoreland area, the driveway may extend to the portion of the principal structure farthest from the normal high water mark of the waterbody, but in no case closer than 50 feet from the normal high water mark of the waterbody; or
 - (ii) To allow access to permitted facilities located nearer to the shoreline due to an operational necessity as described in Section 10.17,B,1,g,(5).

- c. Property Line Setback:
 - (1) Minimum Setback: The minimum property line setback for a driveway is 15 feet.
 - (2) Exceptions to Property Line Setback:
 - (a) A shared driveway need not meet the minimum setback.
 - (b) The minimum setback standard does not apply to authorized approaches to and crossings of property lines or to crossings along easements or rights of way established in deed or lease.
 - (c) A lesser setback may be allowed with a permit upon written permission of the abutting landowner.
- d. Road Frontage: The lot to be served by the driveway must have a minimum of 100 feet of road frontage.
- e. Entry onto Roadways, including State Highways: The entry must not be located on a curve and must be placed so as to allow adequate line of sight for safe entry onto the roadway. If a driveway is to enter directly onto a state or state-aid highway, the person wishing to construct the driveway must first obtain written permission from the Maine Department of Transportation.
- f. Crossings of Flowing Waters: If a driveway will cross a flowing water, the crossing must be accomplished in accordance with the standards for installation of water crossings set forth in Section 10.17,A,4,b.
- g. Wetlands Alteration: The driveway must not alter any portion of a mapped P-WL1 Wetland Protection Subdistrict or more than 4,300 square feet of a mapped P-WL2 or P-WL3 Wetland Protection Subdistrict without a permit.
- h. Maximum Slope: The driveway must not have a sustained slope of more than 8%.
- i. Erosion and Sedimentation Control:
 - (1) The driveway must be located, designed and constructed so that:
 - (a) It will not erode or create any undue restriction or disruption of existing surface water drainage ways;
 - (b) It will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland, or roadway.
 - (2) Except for the travel surface of the driveway, all areas of disturbed soil must be promptly reseeded and mulched to prevent soil erosion.
- j. Fill Material: Fill material used in the construction of a driveway must not contain demolition debris, trash, rubbish, or hazardous or toxic materials.

Appendix 9

§10.17.B.1 DIMENSIONAL REQUIREMENTS

The following dimensional requirements apply to all lots on which structural development is proposed unless otherwise provided by subsection g:

a. Minimum Lot Size

(1) Residential Uses

The minimum lot size for residential uses is 40,000 square feet per dwelling unit except where each dwelling unit is to use a common or community sewer and not on-site subsurface waste water disposal, the minimum lot size shall be 20,000 square feet per dwelling unit.

(2) Commercial, industrial, and other nonresidential uses

The minimum lot size for commercial, industrial, and other nonresidential uses involving one or more buildings is 40,000 square feet.

b. Minimum Shoreline Frontage

(1) For lots fronting on a flowing water draining more than 2 square miles but less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, the minimum shoreline frontage shall be:

(a) 150 feet per dwelling unit for residential uses, and

(b) 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;

(2) For lots fronting on a body of flowing water draining 50 square miles or more or a body of standing water 10 acres or greater in size, the minimum shoreline frontage shall be:

(a) 200 feet per dwelling unit for residential uses, and

(b) 300 feet for commercial, industrial, and other non-residential uses involving one or more buildings.

(3) In the case of a lot which borders more than one water body, the shoreline frontage requirement must be met on each water body bordered by the lot.

(4) Frontage shall be measured in a straight line between the points of intersection of side lot lines with the normal high water mark of the shoreline.

(5) The shoreline frontage may be waived to no less than 200 feet for public boat launches where the applicant demonstrates there will be no undue adverse impact to surrounding uses.

c. Minimum Road Frontage

- (1) The minimum road frontage shall be:
 - (a) 100 feet per dwelling unit for residential uses, and
 - (b) 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;
- (2) These requirements apply to any privately or publicly owned road that is used for public access, including roads used by the public for which a toll is paid.
- (3) Where the lot is located at the end of a road or on a circular turnaround with an outside diameter of less than 25 feet, the road frontage requirements shall not apply.
- (4) Frontage shall be measured along the traveled portion of the road between the points of intersection of side lot lines with the traveled portion of the road.
- (5) In the case of a lot which borders more than one road, the road frontage requirement must be met on at least one road bordered by the lot.

d. Minimum Setbacks

- (1) The minimum setbacks for structures, other than those described in Subsection 10.17,B,1,d,(2) and except as provided in Subsection 10.17,B,1,g are:
 - (a) 75 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, and from the upland edge of wetlands designated as P-WL1 Protection Subdistricts;
 - (b) 100 feet from the nearest shoreline of a flowing water draining 50 square miles or more and of a body of standing water 10 acres or greater in size;
 - (c) 50 feet from the traveled portion of all roadways except as provided for in subsection (d) and (e) or subsection (5) below;
 - (d) 75 feet from the traveled portion of the following roadways: Routes 1, 2, 2A, 4, 9, 27, 163, 201, 161 from Caribou to Fort Kent, 157 in TA R7 (Penobscot County), and 6 in Orneville Township (Piscataquis County), except as provided for in subsection (5); and
 - (e) 20 feet from the traveled portion of all roadways on coastal islands; and
 - (f) 15 feet from side and rear property lines.

These setbacks also apply to parking areas for trailered ramps or hand-carry launches and those structures within a sporting camp complex constructed solely for the housing of guests.

- (2) The minimum setbacks for multi-family dwellings and commercial, industrial, and other nonresidential principal and accessory structures are:

- (a) 100 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, and from the upland edge of wetlands designated as P-WL1 Protection Subdistricts;
- (b) 150 feet from the nearest shoreline of a flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;
- (c) 75 feet from the traveled portion of the nearest roadway except as provided for in (d) below;
- (d) 20 feet from the traveled portion of all roadways on coastal islands; and
- (e) 25 feet from the side and rear property lines.

Except as provided for in subsection d.(1) above, these setbacks also apply to all other structures within a sporting camp complex, including, but not limited to, a main lodge, dining area, workshop and parking area.

- (3) These requirements apply to any privately or publicly owned road that is used for public access, including roads used by the public for which a toll is paid.
- (4) Campsites shall be set back such that the area designed for camping, including cleared or graded areas, fire rings, tables, and related construction, is at least 75 feet from shoreline, 50 feet from roads, and 25 feet from property lines. Remote campsites shall be set back at least 50 feet from roads, 25 feet from property lines, and 25 feet from shorelines, except that the Commission may require a greater setback from shorelines for remote campsites where necessary due to site conditions in order to avoid accelerated soil erosion or sedimentation of surface waters.

e. Maximum Lot Coverage

- (1) The maximum lot coverage shall be 30% for all uses involving one or more buildings.
- (2) "Coverage" shall be calculated by determining the percentage of lot area covered by all structures including paved driveways, sidewalks, parking lots and other impervious surfaces.

f. Maximum Building Height

- (1) Except as provided for in (2) below, the maximum building height shall be:
 - (a) **40 feet** for residential uses; and
 - (b) **40 feet** for commercial, industrial, and other non-residential uses involving one or more buildings.
- (2) **Structures within 500 feet of the normal high water mark of a standing body of water 10 acres or greater shall be no higher than the screening vegetation or 25 feet, whichever is greater.** The Commission may apply this provision at greater distances from the normal high water mark of standing bodies of water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Standing bodies of water having such scenic values are shown in Appendix C.
- (2) Features of buildings which contain no floor area such as chimneys, towers, ventilators and spires may exceed these maximum heights with the Commission's approval.

g. Exceptions to Dimensional Requirements

- (1) The Commission may reduce dimensional requirements for individual buildings in a cluster development, provided that, in the aggregate, dimensional requirements are met within the development. The Commission may approve a cluster development on land that could be developed under normal applicable standards provided that the cluster development provides for the efficient use of land and the protection of a significant amount of open space, in accordance with the following:
 - (a) Cluster development within the shoreland area shall provide for the protection of developable shorefront as open space through the creation of individual lots with reduced shore frontage or through clusters of dwellings on commonly-owned land. To the extent practicable, open space provided shall be in a contiguous block and shall be located adjacent to other areas protected by conservation measures or protective zoning.
 - (b) Open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such lot shall be shown on the subdivision plat with a notation on the face thereof to indicate that no further subdivision or conversion of use is allowed.

- (c) If any or all of the common open space is to be reserved for ownership by the residents of the subdivision, the by-laws of the proposed homeowner's association shall specify maintenance responsibilities. Such by-laws shall be submitted to the Commission as part of the subdivision application.
 - (d) To avoid unsafe conditions resulting from direct access to public roads, no individual lot or dwelling unit for which road frontage has been reduced as provided above shall have vehicular access directly onto a public road existing at the time of development.
 - (e) Notwithstanding Section 10.17,B,1,g,(1) above, the Commission may waive the provision that dimensional requirements for individual dwellings in a cluster development be met, in the aggregate, where the following conditions are satisfied:
 - i) dimensional requirements, in the aggregate, are not waived by more than 50%;
 - ii) site conditions are suitable for increased density;
 - iii) increased density would not adversely affect resources; and
 - iv) the specific benefits afforded by the cluster approach will prevent the loss of important natural features.
- (2) The dimensional requirements applicable to D-PD Development Subdistricts shall be established by the Commission pursuant to the provisions of Section 10.14, C, provided that the shoreline setback requirements hereof shall not be reduced.
- (3) Notwithstanding other provisions of these rules, in a proposed subdivision or area that has or is likely to have relatively dense development, the Commission may increase the minimum lot size when the Commission determines that:
- (a) A larger lot size is required to provide sufficient area of suitable soil to accommodate the principal building and accessory structures, and subsurface waste water disposal, including a replacement system; and
 - (b) The density of development in the vicinity of the proposed site is likely to cause nitrate or other contaminant levels in ground water to exceed public drinking water standards at any public or private well or at the property boundary. The Commission may require a nitrate study to estimate likely nitrogen levels in ground water as part of a subdivision application.
- (4) Where development would otherwise have an undue adverse impact on existing uses, scenic character or natural and historic resources in the area likely to be affected by the proposal, the Commission may impose additional or more protective standards with respect to clearing, frontage and setback requirements, waste water disposal, and other aspects of the development to reasonably assure that undue adverse impact is avoided.

- (5) An exception may be made to the shoreline, road, and or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use. Structures which must be located near to the shoreline include structures which require direct access to the water as an operational necessity, such as piers, docks, retaining walls, and structures necessary for commercial fishing activities or water dependent uses within a D-MT Maritime Development Subdistrict. This provision shall not apply to boat houses or float plane hangars not included within a D-MT Maritime Development Subdistrict.
- (6) An exception may be made to the minimum extent necessary to the shoreline frontage and lot size requirement on tidal waters for structures necessary for commercial fishing activities or water dependent uses within a D-MT Maritime Development Subdistrict where such reduction would better serve the purpose of this subdistrict.
- (7) Where development is proposed in the vicinity of a water quality limiting lake, the Commission may vary the applicable dimensional requirements in accordance with Section 10.16, D, 3, e.
- (8) To the extent consistent with 12 MRSA, Section 685-B, 4, the Commission may reduce the minimum lot size required for a structure whose sole purpose is to house a public utility facility or to function as a public utility, provided that:
 - (a) the size, height, and bulk of the facility is of a scale that permits such a reduction without adverse effect on surrounding properties; and
 - (b) the facility is sited and buffered to fit harmoniously into the surrounding environment.
- (9) The Commission may apply the dimensional requirements for residential uses to single outpost camps operated by commercial sporting camps, except in cases where such a camp is likely to have a greater impact than a residential use.
- (10) Notwithstanding the provisions of Section 10.11 of this chapter, structures necessary for disabled persons to gain access to buildings may be located less than the standard setback distance from a shoreline, road and property line to the minimum extent necessary when the following criteria are met:
 - (a) A person with a disability as defined in 5 M.R.S.A. § 4553 resides in or regularly uses the dwelling or facility;
 - (b) The encroachment into the standard setback distance applies only to the installation of equipment or construction of structures necessary for access to or egress from the dwelling or facility by the person with the disability;
 - (c) The access structure is necessary to create an accessible route;
 - (d) The access structure cannot reasonably or feasibly be created without encroachment into the standard setback distance; and
 - (e) The design of the access structure minimizes the need for encroachment into the standard setback distance.

SUMMARY OF SHORELINE
FRONTAGE, SETBACK AND CLEARING REQUIREMENTS
FOR SINGLE FAMILY DWELLINGS

	Tidal, Flowing water <50 sq mi Lakes <10 ac	Lake Mgmt Class 2	Flowing water >50 sq mi Other lakes >10 ac
FRONTAGE	150'	200' ^a	200'
SETBACK	75'	100' ^a	100'
CLEARING FOR DEVELOPMENT	75' (30%)	100' (30%) 400' (40%)	100' (30%) 150' (40%)

^a Density limitation of an average of 1 dwelling unit per shore mile on Management Class 2 lakes.

Note: This summary of shoreline dimensional requirements is provided only as a guide to the frontage, setback, and clearing standards of Section 10.17 for single family dwellings. See text of Section 10.17 for complete requirements.

Appendix 10

§10.17.B.6 TRAILORED RAMPS, HAND-CARRY LAUNCHES WATER-ACCESS WAYS AND PERMANENT DOCKING FACILITIES

Except as provided for in section d, trailered ramps, hand-carry launches, water-access ways and permanent docking facilities require a permit from the Commission. Where a permit is required, the proposal must meet the general Criteria for Approval, section 10.13-B, and the Criteria for Wetland Alterations, section 10.17, B, 7, in addition to any applicable requirements set forth in these rules.

a. Private Trailered Ramps, Hand-carry Launches, and Water-access Ways:

Private trailered ramps are allowed by special exception in the following subdistricts: General (D-GN) and Residential (D-RS) Development Subdistricts and Aquifer (P-AR), Floodplain (P-FP), Fish and Wildlife (P-FW), Great Pond (P-GP), Shoreland (P-SL), Unusual Area (P-UA), Wetland (P-WL) and Accessible Lake (P-AL) Protection Subdistricts.

Private hand-carry launches are allowed by special exception in the following subdistricts: Fish and Wildlife (P-FW), Recreation (P-RR), Significant Wetlands (P-WL1), River Transition (P-RT), and Accessible Lake (P-AL) Protection Subdistricts.

Private water-access ways are allowed by special exception in the following subdistricts: General (D-GN) and Residential (D-RS) Development Subdistricts and Aquifer (P-AR), Floodplain (P-FP), Fish and Wildlife (P-FW), Great Pond (P-GP), Recreation (P-RR), Shoreland (P-SL), Unusual Area (P-UA), Wetland (P-WL), River Transition (P-RT), and Accessible Lake (P-AL) Protection Subdistricts.

Wherever private trailered ramps, or hand-carry launches, or water access ways are allowed by special exception, the following apply:

For a proposed private trailered ramp, hand-carry launch or set of water-access ways, the following constitutes “an alternative site reasonably available” to the applicant:

- (1) an existing public or commercial trailered ramp or set of water-access ways if it has two or more associated parking spaces for motor vehicles with trailers and is located within 15 road miles or 5 miles by water of the applicant’s proposed development,
- (2) a proposed public or commercial trailered ramp or set of water-access ways located within 15 road miles or 5 miles by water of the applicant’s proposed development, provided such a facility is proposed for construction within 2 years of the date of the application.

b. Facilities Associated with Shorefront Subdivisions

Shorefront subdivisions may be permitted no more than one trailered ramp, hand-carry launch or set of water-access ways, and one permanent dock. Any such facility must comply with section 10.17,B, 6,e, and must be accessible to all lots in the subdivision. The location of the facility must be identified on the subdivision plat and right of access must be covenanted in the deeds of all lots in the subdivision.

c. Maintenance of Trailered Ramps and Hand-carry Launches

Maintenance: Every application for a permit, or permit by special exception for a new or replacement trailered ramp or hand-carry launch, or expansion thereof, must contain a description of the procedures the applicant will follow to maintain the facility on an ongoing basis in compliance with the standards of section 10.17,B, 6,e, to minimize erosion, sedimentation, and transport of phosphorus into the waterbody.

d. Notification for Trailered Ramps and Hand-carry Launches

Public trailered ramps and public hand-carry launches are allowed without a permit within the shoreland zone of all waterbodies except those identified as Management Class 1, 2, and 6 Lakes.

The following notification provision applies to construction of new or replacement trailered ramps and hand-carry launches where such projects are allowed without a permit. If a proposed project fails to meet any notification requirement or other applicable rule, the project requires a permit.

(1) Every notification must be on a form provided by the Commission and must include:

- (a) a project design plan indicating all dimensions (width, height, length) relative to the normal high water mark including any associated structures that may be seasonal in nature;
 - (b) photographs of the area in which this activity is proposed, with a site map showing the location of the proposed project and the perspectives of the photographs submitted;
 - (c) documentation that application for a lease or easement to submerged lands has been filed with the Bureau of Parks and Lands and, if applicable, that the owner of the flowage rights has been contacted for permission; work on the project may not begin until a lease or easement is obtained or the Bureau of Parks and Lands has provided notification that one is not necessary, and, if applicable, that written permission has been obtained from the owner of the flowage rights;
 - (d) certification from the Department of Environmental Protection that all reasonably available measures have been taken to minimize phosphorus transport to the water body; and
 - (e) a statement that the project will be accomplished in conformance with the standards of section 10.17,B, 6; that the project shall be maintained so as to minimize erosion, sedimentation, and transport of phosphorus into the waterbody; and that the appropriate fishery biologist at either the Department of Inland Fisheries and Wildlife or the Department of Marine Resources has been contacted to determine the best timing of construction to minimize any potential impacts to fisheries;
- (2) At least 30 days before filing the notification with the Commission, the applicant shall inform the Commission of the intent to file, mail notice to the local board of selectmen/assessors, if applicable, and to all landowners/leasees within 1000 feet of the proposed project according to the records of Maine Revenue Services or the applicable plantation/municipality. At the time of notice, a draft notification form must be available for inspection. The notice must state how to obtain a copy of the draft notification, the anticipated date for filing of the notification with the Commission, and a statement that public comments on the notification may be submitted to the Commission. Unless this deadline is extended by the Commission,

any such comments must be submitted to the Commission by the anticipated date of the filing of the notification with the Commission.

- (3) The applicant may proceed with the proposed project 14 days after filing the notification with the Commission unless within this time period the Commission staff informs the applicant in writing that issues have been identified by Commission staff or other persons regarding the adequacy with which section d and e are met or that there may be an undue adverse impact on existing uses or resources in the project area. If these issues cannot be resolved, the Commission will determine if there is sufficient public interest in the project to warrant consideration of a public hearing on the notification. If a hearing is held, the Commission may consider compliance with the applicable requirements of sections d and e and impacts on existing uses or resources in the project area. Within 60 days after the close of any public hearing, the Commission shall inform the applicant in writing of its determination. If the Commission determines that the requirements of sections d and e are met and that the project will not have an undue adverse impact on existing uses or resources in the project area, the notification will be accepted. If the notification is not accepted, the project will require a permit to proceed.

- (4) Expiration: A notification expires 2 years from the date of acceptance by the Commission.

e. Design and Construction Standards for Trailered Ramps and Hand-carry Launches

Unless otherwise indicated, the following standards apply to trailered ramps and hand-carry launches that are subject to the notification provisions in section 10.17,B, 6,d, and to all commercial or private trailered ramps and hand-carry launches.

- (1) Erosion Prevention and Control During Construction: Eroded soil or fill material from disturbed areas must be prevented from entering a waterbody. Properly installed erosion control measures, such as staked hay bales and silt fence, must be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized. Erosion and sedimentation control measures must comply with “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices,” Cumberland County Soil and Water Conservation District and Maine Department of Environmental Protection, March 1991.
- (2) Avoidance of Waterbodies: No portion of a ramp or related facilities may be located in, on, or over wetlands, other than the waterbody being accessed, identified as P-WL1 on the Commission’s zoning map for the project area. Parking areas, access roads, and paths must not be located in a stream, wetland designated as P-WL1, or other waterbody, except that an access roadway may cross a stream if requirements of Section 10.17,A, 4, pertaining to water crossings, are met.
- (3) Maintenance of Vegetated Buffer: Trailered ramps, hand-carry launches, and associated facilities must be designed to minimize disturbance to the waterbody’s vegetated buffer. A vegetated buffer zone at least 25 feet wide for public facilities (100 feet for private facilities) must be maintained or established between any parking area and the waterbody. In the case of private trailered ramps, if the lot does not have a well established vegetated buffer consisting of trees, shrubs and woody or herbaceous ground cover within 100 feet of the normal high water mark of the waterbody, the applicant must propose to enhance the existing shoreland buffer to compensate for the loss of vegetated buffer due to construction of the ramp.

- (4) **Runoff Diversion:** Parking areas, access roads, and paths must divert runoff away from the ramp or launch to an area where it will infiltrate into the ground or pass through a sedimentation basin before reaching the waterbody. For private facilities, the total land area above the normal high water mark that drains directly into the waterbody along the approach or from cut slopes must be no greater than 200% of the area of the ramp or launch lane above the normal high water mark.
- (5) **Trailer Ramps**
- (a) A public trailer ramp having a slope in excess of 8% must be hard-surfaced except where the agency responsible for maintaining the facility anticipates a level of use that does not justify the expense of a hard surface facility. Should the level of use increase such that erosion problems become evident, the responsible agency shall insure that appropriate measures are taken to repair such erosion and avoid any further erosion.
 - (b) Private trailer ramps shall not be hard surfaced. Private sites shall be limited to those areas where the portion of the ramp below the normal high water mark is composed of natural sand, gravel or cobble bottoms.
 - (c) The portion of the ramp used by the towing vehicle may not have a slope that exceeds 15% within 100 feet of the normal high water mark. The portion of the ramp used by the trailer only may not have a slope that exceeds 20%;
 - (d) The width of the ramp lane must not exceed 20 feet for public or commercial trailer ramps, or 10 feet for private trailer ramps;
 - (e) The uppermost 6 inches of the base must consist of crushed rock or screened gravel having 5% or less material passing a 200 mesh sieve;
 - (f) Cut or filled slopes at or below the normal high water mark must be protected with riprap; cut or filled slopes above the normal high water mark must be protected by vegetation or riprap so they do not erode; and
 - (g) The total area disturbed in the construction of private facilities shall not exceed 1000 square feet within 50 feet of the normal high water mark.
- (6) **Associated Docking Systems:** For a public or commercial trailer ramp, an additional area up to 8 feet wide may be constructed using bituminous pavement, pre-cast concrete planks, panels or slabs to support docking systems.
- (7) **Hand-carry Launch:** A hand-carry launch must meet the following specifications:
- (a) The hand-carry launch area and access pathway must not be hard surfaced and must be constructed of gravel, rock, vegetation, or other natural erosion resistant materials;
 - (b) The sloped portion of the launch above the normal high water mark must have a slope no greater than 18%;
 - (c) The access path must have a maximum width of 6 feet and must have at least one bend to divert channelized runoff; and
 - (d) A landing area that is cleared of obstructions must be no wider than 20 feet and must extend no more than 20 horizontal feet below normal high water mark.

- (e) Filled or cut slopes at or below the normal high water mark must be protected with riprap.

Within those subdistricts where hand-carry launches are allowed without a permit, the standards for hand-carry launches may be exceeded upon issuance of a permit.

- (8) Geoweb: Geoweb cellular confinement system must not be used below or within two vertical feet above the normal high water mark of the waterbody.
- (9) Concrete: Uncured concrete must not be placed directly into the water. Concrete must be pre-cast and cured at least three weeks before placing it in the water or, where necessary, must be placed in forms and must cure at least one week before the forms are removed.
- (10) Washing: No washing of tools, forms, or similar material may occur in or adjacent to the waterbody or wetland.
- (11) Lumber: The use of untreated lumber is preferred. Wood treated with creosote or pentachlorophenol must not be used below the normal high water mark. Lumber pressure-treated with chromated copper arsenate (CCA) may be used, provided it is cured on dry land in such a manner as to expose all surfaces to the air for a period of at least 21 days prior to construction.
- (12) Machinery in Water: Machinery may enter the water traveling or operating only on newly placed material or temporary mats and only when necessary to excavate or place material below the water level.
- (13) Debris: Any debris generated during the work must be prevented from washing into the water and must be removed from the wetland or waterbody. Disposal of debris must be in conformance with the Solid Waste Law, 38 M.R.S.A. § 1301 et seq.

Dimensional requirements: The shoreline frontage requirement for public boat launches may be waived to no less than 200 feet provided the applicant demonstrates there will be no undue adverse impact to existing uses in the project area.

Appendix 11

§10.17.B.7 WETLAND ALTERATIONS

The following requirements apply to wetland alterations for Uses Requiring a Permit and Special Exceptions in Section 10.16, K, 3.

a. Procedural Requirements

(1) Transition

Wetland Protection (P-WL) Subdistricts identified on the Commission's Land Use Guidance Maps that were adopted prior to the adoption of this section will be regulated according to standards applying to wetlands of special significance (P-WL1 Subdistrict), as defined herein, until the Commission adopts amended Land Use Guidance Maps pursuant to this section, unless the applicant demonstrates, through delineation or other means acceptable to the Commission, that the P-WL is not a wetland of special significance.

(2) Area of Project Alteration

- (a) If a proposed activity requires a permit and will alter 15,000 or more square feet of wetland area, or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).
- (b) If a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1 wetland or 20,000 or more square feet of a P-WL2 or P-WL3 wetland, the Commission may require, as a condition of approval, mitigation, including compensation, as provided in the Commission's General Land Use Standards in Section 10.17, B, 7, b.
- (c) In determining the area of wetland alteration or overall land alteration, all components of a proposed activity, including all phases of a multiphased project, are treated together as constituting one single and complete project.

(3) Level of Permit Review

The level of permit review required depends upon the size of the proposed wetland alteration and the wetland subdistrict involved. If any part of the overall project requires a higher level of review, then the whole overall project will be reviewed under that higher tier, unless otherwise authorized by the Commission:

- (a) Tier 1 reviews are for projects altering 4,300 up to 15,000 sq. ft. of P-WL2 or P-WL3 wetlands.
- (b) Tier 2 reviews are for projects altering 15,000 up to 43,560 sq. ft. of P-WL2 or P-WL3 wetlands not containing critically imperiled (S1) or imperiled (S2) natural communities.
- (c) Tier 3 reviews are for projects altering any area of P-WL1 wetlands, 15,000 up to 43,560 square feet of P-WL2 or P-WL3 wetlands

containing critically imperiled (S1) or imperiled (S2) natural communities, or 43,560 sq. ft. or more of P-WL2 or P-WL3 wetlands.

Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

- (d) When wetland delineation is required, the level of permit review required will be determined by the type of wetland indicated through delineation.

b. General Land Use Standards

(1) Avoidance

- (a) Projects requiring Tier 1 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project.
- (b) Projects requiring Tier 2 or Tier 3 review must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment. Each Tier 2 and Tier 3 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

(2) Minimal Alteration

Projects requiring Tier 1, Tier 2 or Tier 3 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.

(3) Water Quality

Projects requiring Tier 1, Tier 2 or Tier 3 review must comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters. Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. 465.

(4) Erosion Control

Projects requiring Tier 1 or Tier 2 review must use erosion control measures to prevent sedimentation of surface waters. A 25-foot buffer strip must be maintained between the activity and any surface waters.

(5) Compensation

Compensation is the off-setting of a lost wetland function with a function of equal or greater value. The goal of compensation is to achieve no net loss of wetland functions and values.

- (a) For projects requiring Tier 2 or Tier 3 review, the Commission may require compensation when it determines that a wetland alteration will cause a wetland function or functions to be lost or degraded as identified by an assessment of wetland functions and values in accordance with application requirements or by the Commission's evaluation of the project.
- (b) The Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

(6) No Unreasonable Impact

The following standards apply only to applications requiring Tier 3 review:

- (a) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. A project will be determined to have an "unreasonable impact" if the Commission makes one or more of the following findings:

- (i) Existing uses

- The activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

- (ii) Soil erosion

- The activity will cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

- (iii) Harm to habitats; fisheries

- The activity will unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater or marine fisheries or other aquatic life.

- In determining whether there is unreasonable harm to significant wildlife habitat, the Commission may consider proposed mitigation if that mitigation does not diminish the overall value of significant wildlife habitat and species utilization of the habitat in the vicinity of the proposed activity and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity.

(iv) Interference with natural water flow

The activity will unreasonably interfere with the natural flow of any surface or subsurface water.

(v) Flooding

The activity will unreasonably cause or increase the flooding of the alteration area or adjacent properties.

(vi) Sand supply

If the activity is on or adjacent to a sand dune, it will unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

(vii) Outstanding river segments

If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.16, G, the applicant cannot demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.

(viii) Dredging

If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant cannot demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.

(ix) In determining if an activity will have an unreasonable impact, the Commission shall consider:

[a] The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;

[b] The functions and values provided by the wetland;

[c] Any proposed compensation and the level of uncertainty regarding it; and

[d] Cumulative effects of frequent minor alterations on the wetland.

(b) Activities may not occur in, on or over any wetland of special significance containing threatened or endangered species unless the applicant demonstrates that:

(i) The wetland alteration will not disturb the threatened or endangered species; and

- (ii) The overall project will not affect the continued use or habitation of the site by the species.
- (c) When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal)

Appendix 12

§10.17.B.3 SIGNS

a. On-Premise Signs

Subject to the provisions of this chapter, owners or occupants of real property may erect and maintain on-premise signs advertising the sale or lease thereof or activities being conducted thereon. Such signs, except roof signs, shall be subject to the regulations set forth below:

- (1) On-premise signs shall not exceed in size the area limitations set forth below:

<u>Subdistricts</u>	<u>Maximum Size for Each Individual Sign (sq. ft.)</u>	<u>Maximum Aggregate Area of all Signs for Facility Being Advertised (sq. ft.)</u>
D-CI, D-GN, M-GN, M-HP	32	64
D-RS, M-NC & All Protection Subdistricts	8	16

- (2) On-premise signs shall not be located more than 1,000 ft. from the building or other particular site at which the activity advertised is conducted;
- (3) Signs advertising the sale or lease of real estate by the owner or his agent shall not have an area of more than 6 sq. ft., except signs advertising a subdivision which shall be limited in size as provided by Subsection (1);
- (4) On-premise signs, other than wall or projecting signs, shall not extend more than 15 ft. above ground level, and shall not have a supporting structure which extends more than two feet above such sign;
- (5) Projecting signs must be at least 9 feet above pedestrian level and may project no more than 2 feet from the building; and
- (6) Signs attached to a wall shall not extend above the top of the wall.

On-premise signs, including all roof signs, which are not in conformance with the preceding requirements may be allowed only under the provisions of a permit from the Commission.

b. Criteria for Sign Approval

In approving, conditionally approving, or denying any application for a sign permit, the Commission shall require that the applicant demonstrate that the proposed sign complies with those criteria set forth in 12 M.R.S.A., Section 685-B(4) as well as the following:

- (1) that the sign is compatible with the overall design of the building height, color, bulk, materials and other design and occupancy elements;
- (2) that the color, configuration, height, size, and other design elements of the sign will fit harmoniously into the surrounding natural and man-made environment;
- (3) that the sign will not constitute a hazard to the flow of traffic; and
- (4) that the applicant sufficiently demonstrates the need for any non-conformity with the size, height, and other limitations set forth in Section 10.17, B, 3, a.

c. Exempt Signs

The following signs are exempt from the requirements of this chapter, except as indicated in Section 10.17, B, 3, d of this chapter:

- (1) Signs identifying stops or fare zone limits of common carriers;
- (2) Signs erected and maintained outside the highway right-of-way, by a governmental body, showing places of interest (other than commercial establishments), the place and time of services or meetings of churches and civic organizations. Not more than two such signs may be erected and maintained which are readable by traffic proceeding in any one direction on any one highway in any one township;
- (3) Residential directional signs, each of which does not exceed 4 sq. ft. in area, along roadways other than limited access highways;
- (4) Traffic control signs or devices;
- (5) Signs displayed for the direction, instruction or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas, property boundaries, trails, fire precautions, campsites, or the like, with a total surface area not exceeding 12 sq. ft. This exemption shall not apply to signs visible from any public roadway promoting or advertising commercial enterprises;
- (6) Signs to be maintained for not more than six weeks announcing an auction, public supper, lawn sale, campaign drive or other like event of a public, civic, philanthropic or religious organization;
- (7) Memorial signs or tablets;
- (8) Signs erected by county fairs and expositions for a period not to exceed six weeks;

- (9) Directional signs visible from a public roadway with a total surface area not to exceed 4 sq. ft. providing directions to places of business offering for sale agricultural products harvested or produced on the premises where the sale is taking place;
- (10) Signs displayed in building windows, provided that the aggregate area of such signs does not exceed 25% of the area of the window; and
- (11) Official business directional signs as defined and authorized by 23 M.R.S.A., Chapter 21.

The preceding dimensional and/or time limitations may be exceeded only under the provisions of a permit from the Commission.

d. Regulations Applying to All Signs

Notwithstanding any other provisions of this chapter, no sign may be erected or maintained visible from a public roadway which:

- (1) Interferes with, imitates or resembles any official traffic control sign, signal or device, or attempts or appears to attempt, to direct the movement of traffic;
- (2) Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic;
- (3) Contains, includes, or is illuminated by any flashing, intermittent or moving light, moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign;
- (4) Has any lighting, unless such lighting is shielded so as to effectively prevent beams or rays of light from being directed at any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;
- (5) Is in violation of, or at variance with, any federal law or regulation, including, but not limited to, one containing or providing for conditions to, or affecting the allocation of federal highway or other funds to, or for the benefit of, the State or any political subdivision thereof;
- (6) Is in violation of, or at variance with, any other applicable State law or regulation;
- (7) Advertises activities which are illegal under any state or federal law applicable at the location of the sign or of the activities;
- (8) Is not clean or in good repair; or
- (9) Is not securely affixed to a substantial structure.

Any sign which is a combination of exempt and/or non-exempt signs shall be regulated by the most protective standards applicable.

Appendix 13

§10.20 NOTIFICATION FORMAT

Where a written notification is required by this chapter, such notification must be submitted in advance of the date on which the activity, which is the subject of the notification, is commenced. Except as provided in Section 10.17,B,6, such notification must state the:

- A. Location of the proposed project by use of an official Commission Land Use Guidance Map of the area;
- B. Nature of the proposed project; and
- C. Time period of the proposed project;

Such notification must also state that the activity or project will be accomplished in conformance with the applicable minimum standards of Section 10.17 of this chapter and must be signed by a duly authorized person who shall be responsible for the execution of the activity.

Appendix 14

§10.16 F. RESOURCE PLAN PROTECTION SUBDISTRICT (P-RP)

1. Purpose

The purpose of this subdistrict is to provide for the more efficient and effective management of single or multiple Protection Subdistricts (and in some cases adjoining Management Subdistricts) than can be realized through the use of other Protection Subdistricts and their related standards. Resource Plans for such areas that are consistent with the requirements of paragraphs 2 through 9 below may be submitted to the Commission for review, and upon approval, such areas shall be designated as P-RP Protection Subdistricts.

“Concept plans,” as outlined in the Comprehensive Land Use Plan, are included under the purpose of this subdistrict.

2. Description

P-RP Protection Subdistricts shall be designated in areas where the Commission has approved a Resource Plan that:

- a. Incorporates standards, which, taken as a whole, are at least as protective of the natural environment as those standards which would otherwise be applicable; and
- b. Establishes procedures that reduce the need for repetitious permit applications to the Commission; and
- c. Complies with the criteria established below for their review; and
- d. Has as its primary purpose the protection of those resources in need of protection or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection.

3. Permitted Uses

Unless the Commission otherwise provides in approving the Resource Plan, those uses that are specified in the approved Resource Plan shall be allowed without a permit. The Commission may approve the creation of a subdivision within the context of a Resource Plan approved by the Commission without the need for rezoning to a Development Subdistrict provided such subdivision is consistent with the purpose and intent of this subdistrict.

4. Ownership

Before the Commission shall consider an application, the applicant shall submit proof that he owns or leases the area for which the Resource Plan is proposed.

5. Application Procedures

All P-RP Protection Subdistrict applications shall include at least the following information:

- a. A statement of how the proposed Resource Plan conforms with the purpose of this subdistrict and what objectives will be achieved by the proposed redistricting;
- b. A copy of an existing district map on which the area of the proposed P-RP Protection Subdistrict is clearly shown;
- c. A description of the management procedures, conservation easements, covenants, agreements or other formalized procedures that the applicant proposes to use to replace the restrictions and regulations that currently apply. The description shall specify how the Resource Plan achieves equal or better protection of resources in the area than the subdistrict(s) which would otherwise apply;
- d. A copy of all those formal procedures and agreements that will ensure the continued protection of the resources; and
- e. A statement that specifies the expiration date (if any) of the proposed Resource Plan, and of the procedures the applicant may wish to use to extend the provisions thereof.

When the Resource Plan application involves structural development, it shall include, in addition to (a) through (e) above:

- f. Forms, plans, and exhibits as are required by the Commission;
- g. Evidence that the proposal will conform with 12 M.R.S.A., Section 685-B; and
- h. A covenant stating that no subdivision of the designated area will take place, except as approved by the Commission as part of an approved concept plan.

6. Criteria for Review

The Commission may approve a Resource Plan and any associated redistricting only if it finds that all of the following criteria are satisfied:

- a. The plan conforms with redistricting criteria;
- b. The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
- c. The plan conforms with the Commission's Comprehensive Land Use Plan;
- d. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure;
- e. The plan has as its primary purpose the protection of those resources in need of protection, or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection;
- f. In the case of concept plans, the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and

- g. In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

7. Approval or Denial of Resource Plan

The Commission, after staff review and recommendation, shall approve or deny the redistricting application. If the Resource Plan proposal contemplates structural development, except as provided in Section 10.16, F, 3, the Commission may simultaneously with its approval of the P-RP Protection Subdistrict, grant, grant with conditions, or deny, applications for such permits as are required for structural development.

Upon approval of the Resource Plan, a P-RP Protection Subdistrict shall be designated on the official District Map and recorded in accordance with the provisions of Section 10.04 of this chapter.

8. Duration of Plan

The provisions of an approved and recorded Resource Plan shall apply for the duration of the approved time period, except that any conservation measures taken to strike a reasonable and publicly beneficial balance in a lake concept plan shall continue to apply to the extent that they are covered by legal contract, deeded covenants, permit requirements, or other legal instruments. The Resource Plan shall be for a minimum of 10 years and may be extended upon approval of the Commission and the applicant. The Resource Plan shall become invalidated if the provisions therein are not complied with.

At the termination of a plan, the Commission will, in conformity with its comprehensive plan, statutes, and standards, designate appropriate zoning which is reasonably consistent with zoning of equivalent areas. Any variation from existing regulations or development occurring as a result of a resource plan cannot be used to justify a subsequent re-zoning, to meet adjacency requirements, or to otherwise change the zoning on property either within or outside the resource plan area upon its expiration.

In the event that a plan is terminated, all transactions initiated as a component of the plan, including without limitation, the granting of conservation easements or restrictive covenants on subdivided lands will continue to apply to the extent that they are covered by legal contract, deeded covenants, permit or other legal requirements.

9. Amendments

Proposed amendments to the Resource Plan shall be made in writing to the Commission. An amendment shall be granted provided it meets the criteria for review listed in Section 10.16,F,6 above. An increase in the size of a P-RP Protection Subdistrict may be allowed by amendment, upon approval of the Commission, provided that the Resource Plan is amended to include such expanded area.

Appendix 15

C. DEFINITIONS

The following definitions apply to the following terms as they appear in this Lake Concept Plan.

Accessory Use or Accessory Structure:

A use or structure subordinate to a permitted or conditional use or structure and customarily incidental to the permitted or conditional use of the structure." 12 M.R.S.A., § 682.

Aggregate Floor Area: *See* Combined Floor Area.

Aggregate Footprint: *See* Combined Footprint.

Alteration:

Dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; filling; or any construction, repair or alteration of any permanent structure.

On a case-by-case basis and as determined by the Commission, the term "alteration" may not include:

- a. An activity disturbing very little soil such as installing a fence post or planting shrubs by hand;
- b. The addition of a minor feature to an existing structure such as a bench or hand rail; and
- c. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

Aquatic Vegetation:

Plants that usually grow on or below the surface of the water for most of the growing season in most years.

Boat ramp: *See* commercial trailered ramp, private trailered ramp, or trailered ramp.

Body of Standing Water:

A body of surface water that has no perceptible flow and is substantially permanent in nature. Such bodies of water are commonly referred to as man-made or natural lakes or ponds.

Building:

“Any structure having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or objects regardless of the materials of which it is constructed.” 12 M.R.S.A. § 682. The Commission finds that a temporary camping tent constructed of fabric or similar materials is not considered a building.

Building Height: *See* Structure Height.

Bulk Sampling of Mineral Deposits:

The removal of samples of mineral deposits for the purpose of testing to determine the feasibility, method or manner of extraction and/or processing of minerals. Such testing may include metallurgical analyses, milling or grinding tests and/or pilot plant and processing tests. Methods of bulk sampling may include, but not be limited to drilling and boring, the digging of shafts and tunnels, or the digging of pits and trenches.

Campground:

Any area, other than a camp site, designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.

Campsite:

“A camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. “Campsite” does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner’s recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission’s comprehensive land use plan.” 12 M.R.S.A § 682(15).

Capacity Expansions of Utility Facilities:

The addition of new telephone or electric wires or similar equipment to existing electric or telephone transmission and distribution poles for the purpose of increasing the capacity thereof.

Cluster Development:

A compact form of development that results in buildings being located in a group such that significant amount of open space is preserved.

Combined Floor Area:

The total floor area of all principal and accessory structures on a lot.

Combined Footprint:

The total footprint of all principal and accessory structures on a lot.

Combined Septic System:

A disposal system designed to dispose of waste and waste water on or under the surface of the earth that includes but is not limited to: septic tanks; disposal fields; or any other fixture, mechanism, or apparatus used for this purpose.

Commercial Fishing Activities:

Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

Common Area:

Areas established within Area A of the Lake Concept Plan that have been set aside as open areas of wooded or green space owned in common with all lot owners in Area A.

Commercial Mineral Extraction:

Mineral extraction other than Mineral Extraction for Road Purposes.

Commercial Sporting Camp:

A “building or group of buildings devoted primarily to the offering of lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling.” 12 M.R.S.A. § 682(14). In addition, for the purposes of the application of the Commission’s rules, the term “commercial sporting camp” shall be construed according to the following: A facility which functions primarily as a destination for the above activities rather than a transient lodging facility or a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and may typically consist of, but not necessarily include, all of the following: a number of cabins for the housing of guests including housekeeping cabins; a main lodge for serving of meals and socializing for the guests; outbuildings for housing of the owners, guides, and other workers; workshop, woodsheds, laundry, equipment storage, and other utility buildings as needed. Outpost cabins are considered a part of the commercial sporting camp. A resident, on-site attendant must be available on a full-time basis to meet the needs of guests. Such a facility shall have a total aggregate footprint no greater than 8,000 square feet for all principal buildings and rental cabins associated with the facility.

Commercial trailered ramp, hand-carry launch, or dock:

A trailered ramp, hand-carry launch, or dock, including an associated parking area and access road, that is privately owned and operated, and open to all members of the public, with or without a fee, but not meeting the definition of a public trailered ramp, hand-carry launch, or dock.

Commercial Use:

The use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods and/or services. Commercial use does not include a home occupation or the rental of a single dwelling unit on a single lot or forest management activities where such activities are otherwise exempt from review.

Commission:

The Maine Land Use Regulation Commission.

Compatible Use:

A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources.

Compensation:

Replacement of a lost or degraded wetland function with a function of equal or greater value.

Creation:

An activity bringing a wetland into existence at a site where it did not formerly occur.

Critically Imperiled Natural Community (S1):

An assemblage of plants, animals and their common environment that is extremely rare in Maine or vulnerable to extirpation from the state due to some aspect of its biology. An example of an S1 community that occurs in freshwater wetlands is the Outwash Plain Pondshore community.

Cross-Sectional Area:

The cross-sectional area of a stream channel shall be determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight-line distance from the normal high water mark of one side of the channel to such mark on the opposite side of the channel. The average stream channel depth shall be the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.

Deer Wintering Areas:

Areas used by deer during winter for protection from deep snows, cold winds, and low temperatures.

Development:

Any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, excluding, however, such specific uses or classes and categories of uses which by the terms of this chapter do not require a permit.

Development Unit:

A single-family dwelling unit or nonresidential use containing a total of no more than 2,000 square feet of gross floor space for all principal buildings concerned. Multiple family dwelling units and larger nonresidential uses shall be counted as an equivalent multiple number of development units.

Direct Watershed:

That portion of the land area which drains surface water directly to a body of standing water without such water first passing through an upstream body of standing water.

Docking Structure:

A structure placed in or near water primarily for the purpose of securing and/or loading or unloading boats and float planes, including but not limited to docks, wharfs, piers, and associated anchoring devices, but excluding boathouses and floatplane hangars. When associated with this phrase, the term “permanent” shall mean a structure in place for longer than 7 months in any calendar year or which is so large or otherwise designed as to make it impracticable to be removed on an annual basis without alteration of the shoreline.

Driveways:

A vehicular access-way, other than a land management road, less than 1000 feet in length serving two or fewer lots.

Dwelling Unit:

A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters, including any home occupations, for one family. Accessory structures intended for human habitation that have plumbing are considered separate dwelling units. Dwelling units do not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp or other similar facility which is rented or leased on a relatively short term basis; provided, however, the term shall include a tourist home that qualifies as a home occupation.

Earth Tones:

Non-reflective colors associated with tones of soil and forest that blend with the natural background including, but not limited to, green (as in Spruce or Pine), brown, slate, gray or rust (as in driftwood, soils, or beach rocks). "Earth Tones" do not include the colors red, yellow, orange, blue, purple, pink, or white.

Enhancement:

An activity increasing the net value of a wetland.

Expansion of a Structure:

The increase in the floor area of a structure, including attached decks and porches, or the increase in the height of a structure.

Family:

One or more persons occupying a premise as a single housekeeping unit.

Fishery Management Practice:

Activities engaged in for the exclusive purpose of management of freshwater and anadromous fish populations by manipulation of their environment for the benefit of one or more species. Such practices may include but not be limited to the construction of traps and weirs, barrier dams, stream improvement devices, fishways, and pond or stream reclamation, provided that any such activities are specifically controlled and designed for the purpose of managing such species and are conducted or authorized by appropriate state or federal fishery management agencies in compliance with the water quality standards contained in 38 M.R.S.A. §465.

Floodplain Wetland:

Wetlands that are inundated with flood water during a 100-year event based on site specific information including, but not limited to, flooding history, landform, and presence of hydric, alluvial soils, and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

Floor Area:

The sum of the horizontal areas of the floor(s) of a structure, excluding basements, measured by their exterior dimensions. Floor area shall include, but not be limited to, all stories and lofts, decks, garages, porches and greenhouses.

Flowing Water:

A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

Footprint:

The sum of the surface area of the earth occupied by a structure, calculated on the basis of the exterior dimensions of the perimeter walls or bounds of such structure, and including the exterior dimensions of the perimeter walls or bounds of any attached porches, decks or other attached accessory structures. "Footprint" does not include the surface area occupied by subsurface waste disposal systems, driveways, or underground utilities.

Forest:

A plant community predominantly of trees and other woody vegetation growing more or less closely together.

Forest Management Activities:

Forest management activities include timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar or associated activities, but not the construction, creation, or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

Forest Product:

Any raw material yielded by a forest.

Forested Wetland:

Freshwater wetlands dominated by woody vegetation that is 6 meters tall, or taller.

Freshwater Wetland:

Freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and not part of a great pond, coastal wetland, river, stream or brook.

Gatehouse:

See checkpoint building.

Green Area:

See Common Area

Hand-carry; Hand-pump:

To use a device, such as a bucket, or a human hand-powered mechanical device to transport water.

Hand-carry Launch:

A shoreland alteration, including, but not limited to, a landing area (that portion of the launch at or below the normal high water mark), a launch area (that portion of the launch immediately adjacent to and above the normal high water mark), any associated parking area, access pathway and/or road, and other similar related facilities to allow an item, including but not limited to a boat, personal watercraft, or dock float, to be moved by hand, to or from the surface of a waterbody. Unless otherwise specified by permit condition, boat trailers or dollies designed to be moved by hand may be used at such facilities provided no special site design is required to accommodate such devices.

Home Occupation:

Any business, occupation or profession which is carried on in a dwelling unit or structure accessory to a dwelling unit by a member of the family residing in the dwelling unit. The conduct of such business, occupation or profession must be clearly incidental and secondary to the use of the dwelling unit for residential purposes, and must occupy no more than 25 percent of all floor area of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure in which the occupation is carried out.

Imperiled Natural Community (S2):

An assemblage of plants, animals and their common environment that is rare in Maine or vulnerable to further decline. Examples of S2 communities that occur in freshwater wetlands are Atlantic White Cedar Swamp, Alpine Bog-Meadow, Circumneutral Fen, Maritime Slope Bog, and Coastal Plain Pocket Swamp.

Land Management Road:

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and used primarily for agricultural or forest management activities, including associated log yards but not including skid trails, skid roads, and winter haul roads.

Land Use Subdistrict:

The area located within the boundaries of air, land or water delineated vertically or horizontally by the Commission to provide for distinct categories of uses or resources.

Lean-to:

A three-sided, roofed structure used for transient occupancy and commonly constructed for campsites.

Level A Mineral Exploration Activities:

Mineral exploration activities engaged in for purposes of determining the location, extent and composition of mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance to soil and vegetative cover. Level A mineral exploration activities shall not include bulk sampling of mineral deposits.

Access ways for Level A mineral exploration activities shall include only access ways the creation of which involves little or no recontouring of the land or ditching, and does not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.

Level B Mineral Exploration Activities:

Mineral exploration activities involving the bulk sampling of mineral deposits, or any mineral exploration activities which exceed those defined as Level A mineral exploration activities and which are not defined as Level C metallic mineral exploration activities.

Level C Mineral Exploration Activities:

Metallic mineral exploration activities involving the disturbance of a site, by excavation, of more than two (2) acres of surface area or the excavation or removal of more than ten thousand (10,000) cubic yards of soil, overburden, ore or other earthen materials from the site of exploration.

Level A Road Projects:

Reconstruction within existing rights-of-way of public or private roads, other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair. When there is no existing layout of right-of-way, the right-of-way should be assumed to extend 33 feet on either side of the existing centerline.

Level B Road Projects:

Minor relocations, and reconstructions, involving limited work outside of the existing right-of-way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right-of-way of such roads; "Minor relocations" as used herein may not exceed 300 feet in horizontal displacement of centerline. "Reconstruction" as used herein may involve widening of existing rights-of-way not to exceed 50 feet on either side.

Level C Road Projects:

Construction of new roads, and relocations or reconstruction of existing roads, other than that involved in level A or level B road projects; such roads shall include both public and private roadways excluding land management roads.

Lot Coverage:

The total footprint area of all structures, which includes, but is not limited to, buildings, parking lots, and driveways.

Maintenance:

Activities required assuring continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including, but not limited to, water level manipulations and control of non-native plant species.

Major Flowing Water:

A flowing water downstream from the point where such water drains 50 square miles or more.

Management Class 3 Lake:

Lake, also referred to as "Potentially Suitable for Development" which through a consideration of existing water quality, potential water quality impacts, location, access, conflicting uses, available shoreline, water level fluctuation, regional considerations, and special planning needs is found by the Commission to be a potentially suitable location for shoreland development. Such lakes are more specifically defined in the Commission's Comprehensive Land Use Plan.

Such lakes are designated as MC3 on the Commission's Land Use Guidance Maps encompassing such lakes.

Management Class 7 Lake:

All lakes that are not otherwise classified in one of the other six lake management classes.

Metallic Mineral Mining Activity:

"Metallic mineral mining activity" means any activity or process that is for the purpose of extraction or removal of metallic minerals, and includes processes used in the separation or extraction of metallic minerals from other material including, but not limited to: crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization; or precipitation; mine waste handling and disposal; and processes substantially equivalent, necessary, or incidental to any of the foregoing. Metallic mineral mining or metallic mineral mining activity does not include Level A, B or C exploration activities, or thermal or electric smelting.

Mineral Deposit:

Any deposit of peat, sand, gravel, rock, topsoil, limestone, slate, granite, coal, gems, metallic or non-metallic ores or other minerals.

Mineral Extraction:

Any extraction of a mineral deposit, other than peat extraction, metallic mineral mining activities or Level A, B or C exploration activities.

Mineral Extraction for Road Purposes:

Mineral extraction where at least 75% by volume of the minerals extracted over any three year period are used for the purposes of construction or maintenance of land management or other roads.

Mineral Processing Equipment:

Equipment used to process minerals following extraction including, but not limited to, rock crushers and batch plants. The term does not include equipment used to remove, sort or transport minerals, such as front-end loaders, screens or trucks.

Mineral Soil:

Soil material in which inorganic (mineral) constituents predominate.

Minor Flowing Water:

A flowing water upstream from the point where such water drains less than 50 square miles.

Mitigation:

Actions taken to offset potential adverse environmental impact. Such actions include the following:

- a. Avoiding an impact altogether by not taking a certain action or parts of an action;
- b. Minimizing an impact by limiting the magnitude or duration of an activity, or by controlling the timing of an activity;
- c. Rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and
- e. Compensating for an impact by replacing affected resources or environments.

Mitigation Banking:

Wetland restoration, enhancement, preservation or creation for the purpose of providing compensation credits in advance of future authorized impacts to similar resources.

Mooring:

A structure for securing a vessel or aircraft that consists of a line and buoy attached to a weight that rests on the bottom of a waterbody.

Multi-family Dwelling:

A building containing three or more dwelling units.

Nonconforming Lot:

A preexisting lot which upon the effective date of adoption or amendment of these rules, does not meet the area, frontage or other dimensional requirements for a legally existing or proposed use.

Nonconforming Structure:

"A structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations." 12 M.R.S.A., § 682. More specifically, a nonconforming structure is legally existing, but does not meet one of the following dimensional requirements: setback, lot coverage, or height requirements.

Nonconforming Use:

"A use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulations or subsequent amendments made thereto, that does not conform to the district regulations." 12 M.R.S.A., § 682. More specifically, a nonconforming use is a legally existing use of buildings, structures, premises, lands, or parts thereof, which would not be allowed to be established under current regulations in the subdistrict in which it is situated.

Non-Permanent Docking Structure:

Docking structures which are in place for less than seven (7) months during any calendar year upon or over submerged lands and which are of such a size or design that they can be removed on an annual basis without requiring alteration of the shoreline.

Normal High Water Mark:

That line on the shores and banks of non-tidal waters that is discernible because of the different character of the soil or the vegetation due to the influence of surface water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (aquatic vegetation includes but is not limited to the following plants and plant groups - water lily, pond lily, pickerel-weed, cat tail, wild rice, sedges, rushes, marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups - upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms, spruces, birches, beeches, larches, and maples.) In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rock slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Normal Maintenance and Repair:

Unless otherwise provided, any work necessary to maintain an improvement or structure in its original or previously improved state or condition. This includes general upkeep, such as painting, fixing portions of the structure that are in disrepair, or the replacement of sill logs, roofing materials, siding, or windows, as long as there is no expansion of the nonconforming structure and less than 50 percent of the building is replaced. In-kind and in-place replacement of decking or exterior stairs is considered as normal maintenance and repair. Normal maintenance and repair shall not include reconstruction, or change in design, change in structure, change in use, change in location, change in size or capacity.

On Premise Sign:

A sign that is located upon the same lot or parcel of real property where the business, facility, or point of interest being advertised is located.

Peatland:

Freshwater wetlands, typically called bogs or fens, consisting of organic soils at least 16" deep, predominantly vegetated by ericaceous shrubs (heath family), sedges, and sphagnum moss and usually having a saturated water regime.

Permanent Foundation:

A supporting substructure that either extends below the frost line or is designed to permanently withstand freeze-thaw conditions. Permanent foundations include full foundations, basements, slabs and frost walls. For the purposes of this definition "sonotubes" or posts installed with augers are not considered permanent foundations.

Person:

"An individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity." 12 M.R.S.A., § 682.

Personal Watercraft:

"Any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. 'Personal watercraft' includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. 'Personal watercraft' also includes motorized watercraft whose operation is controlled by a water skier." 12 M.R.S.A. §7791, sub-§11-A.

Pesticide:

A chemical agent or substance employed to kill or suppress pests (such as insects, weeds, fungi, rodents, nematodes or other organisms) or intended for use as a plant regulator, defoliant or desiccant.

Piped Water:

Water supplied to a building by means other than hand pump or hand carry.

Portable Mineral Processing Equipment:

Mineral processing equipment that is not fixed to a location on the ground but rather is designed to be readily moved from one mineral extraction operation to another. **Practicable:** Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

Practicable:

Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

Preservation:

The maintenance of a wetland area or associated upland areas that contribute to the wetland's functions so that it remains in a natural or undeveloped condition. Preservation measures include, but are not limited to, conservation easements.

Primitive Campsite:

"A camping location containing tents or similar devices used for camping. "Campsite" does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner's recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission's comprehensive land use plan." 12 M.R.S.A § 682(15).

Primitive Recreation:

Those types of recreational activities associated with non-motorized travel, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing.

Primitive Septic System:

A septic system that uses an alternative toilet, such as a pit privy, compost, chemical, recirculating, incinerating, and vacuum types and a minimal disposal field designed to treat gray waste water that originates from a non-pressurized water supply.

Principal Building:

A building that provides shelter for the primary use of a parcel. On a single parcel, all buildings related to forest or agricultural management activities, including dwellings of the owner or lessee and employees, are considered one principal building.

Principal use:

A use other than one that is wholly incidental or accessory to another use on the same premises.

Private trailered ramp, hand-carry launch, or dock:

A trailered ramp, hand-carry launch, or dock that is privately owned and operated, and not open to all members of the public.

Projecting Sign:

A sign, which is attached to a wall of a building and extends more than 15 inches from any part of the wall.

Property Line:

Any boundary between parcels of land owned or leased by different persons or groups of persons.

Public Road or Roadway:

Any roadway that is owned, leased, or otherwise operated by a governmental body or public entity.

Public trailered ramp, hand-carry launch, or dock:

A trailered ramp, hand-carry launch, or dock, including associated facilities, that is owned, leased, or operated by a public entity and made available with or without a fee. Such entities include owners of federally licensed hydropower projects within the resource affected by the hydropower project for use by all members of the public.

Rapidly Permeable Outwash Soils:

Such soils shall include Colton, Hinckley, Adams, Windsor, Merrimac, Agawam, Stetson, Allagash, Duane, Crogham, Deerfield, Sudbury, Ninigret, Machias, Madawaska, Skowhegan and such other soils as may be included in this category by the National Cooperative Soil Survey in Maine.

Reclamation:

The rehabilitation of the area of land affected by mineral extraction, including but not limited to, the stabilization of slopes and the creation of safety benches, the planting of vegetation including grasses, crops, shrubs, and/or trees, and the enhancement of wildlife and aquatic habitat and aquatic resources.

Reconstruction:

The addition of a permanent foundation or the rebuilding of a structure after more than 50 percent by area of its structural components, including walls, roof, or foundation, has been destroyed, damaged, demolished or removed. Leaving one or two walls or the floor of a structure in place, while rebuilding the remaining structure, is considered reconstruction, not normal maintenance and repair or renovation.

Rental cabin:

A building associated with a commercial sporting camp that is used for the housing of guests, including housekeeping cabins and outpost cabins. A rental cabin cannot be greater than 25 feet in height, cannot have a permanent foundation, and is limited to a footprint no greater than 800 square feet.

Renovation:

Restoring or remodeling a structure. Renovation includes interior modifications, and the installation of new windows, floors, heating systems, or other features, as long as there is no expansion of the nonconforming structure and less than 50 percent of the building's structural components are replaced. The introduction of plumbing to a structure may constitute a change in use that requires a permit.

Residential:

Pertaining to a dwelling unit.

Residential Dwelling:

See Dwelling Unit.

Residential Directional Sign:

An off-premise sign erected and maintained by an individual or family to indicate the location of his or its residence.

Residual:

“Residual means solid wastes generated from municipal, commercial or industrial facilities that is suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials; sludges; dewatered septage; and ash from wood or sludge fired boilers.” DEP Rules, Chapter 400, § 1.

Restoration:

An activity returning a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater acreage or function.

Roadway:

A public or private road including any land management road.

Roof Sign:

A sign, which is attached flat to, painted on, or pinned away from the roof of a building.

Seasonal, Seasonal Use:

Pertains to use of a dwelling unit based on natural occurrences of time. A dwelling may be used intermittently during these seasonal occurrences but is not meant for permanent year round occupancy or to justify residency requirements.

Septage:

”Septage means waste, refuse, effluent, sludge, and any other materials from septic tanks, cesspools, or any other similar facilities.” 38 M.R.S.A. § 1303-C “Septage is defined as a mixture of liquids and solids derived from residential sanitary wastewater, and includes sanitary wastewater from tanks connected to commercial and institutional establishments which have inputs similar to residential wastewater. Septage also includes wastes derived from portable toilets.” DEP Rules, Chapter 420, § 1

Service Drop:

Any utility line extension that does not cross or run beneath any portion of a body of standing water provided that:

- a. In the case of electric service
 1. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 2. the total length of the extension within any 5 year period is less than 2,000 feet.
- b. In the case of telephone service
 1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
 2. the total length of the extension within any 5 year period, requiring the installation of new utility poles or placed underground, is less than 2,000 feet.

Setback:

The minimum **horizontal** distance from the lot line, shoreline, upland edge of a wetland, or road to the nearest part of the structure or other regulated area such as a driveway or parking area.

Shallow Soils Over Fractured Bedrock:

Such soils shall include Thorndike, Mapleton, Linneus, Bensen and such other soils as may be included in this category by the National Cooperative Soil Survey in Maine.

Shoreland Alteration:

Any land use activity, which alters the shoreland area, either at, adjacent to or below the normal high water mark, of any surface water body, including but not limited to:

- a. dredging or removing materials from below the normal high water;
- b. construction or repairing any permanent structure below the normal high water mark.

For purposes of this subsection, permanent structure shall mean any structure, including but not limited to, causeways, wharfs, piers, docks, concrete or similar slabs, bridges, hand-carry launches, trailered ramps, water-access ways, piles, marinas, retaining walls, riprap, buried or submarine utility cables and lines, permanent docking structures, mooring structures, and water lines. A structure which is not fixed in or over the water or below the normal high water mark for more than 7 months in a calendar year shall not be a permanent structure;

- c. depositing any dredged spoil or fill below the high water mark; and
- d. depositing dredged spoil or fill, or bulldozing, scraping or grading, on land adjacent to a water body in such a manner that the material or soil may fall or be washed into the water body, except that filling and grading or water crossings which do not require a permit as specified in Section 10.17, A, or other provisions of these rules shall not constitute shoreland alteration.

Activities which cause additional intrusion of an existing structure into or over the water body, are also considered shoreland alterations.

Shoreline:

The normal high water mark of tidal water, a standing body of water, flowing water, or stream channel.

Sign:

Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any roadway or other right-of-way. It does not include the flag, pennant, or insignia of any nation, state or town.

Visible shall mean capable of being seen without visual aid by a person of normal visual acuity.

The size of a ground, roof, or projecting sign shall be the area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy, insignia, background and borders; the structural supports of a sign are to be excluded in determining the sign area; where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured; only one face of a double-faced sign is included as the area of such sign. The area of a wall or window sign shall be the area of a regular geometric form enclosing a single display surface or display device containing elements organized, related, and composed to form a unit; where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Significant Wildlife Habitat:

The following areas to the extent that they have been identified by the Department of Inland Fisheries and Wildlife: habitat, as determined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; deer wintering areas and travel corridors as determined by the Department of Inland Fisheries and Wildlife; high and moderate value water fowl and wading bird habitats, including nesting and feeding areas as determined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as determined by the Atlantic Sea Run Salmon Commission; shorebird nesting, feeding and staging areas and seabird nesting islands as determined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified in specific locations by the Department of Inland Fisheries and Wildlife.

Spaghetti-lot:

“A parcel of land with a lot depth to shore-frontage ratio greater than 5 to 1. Shore frontage means land abutting a river, stream, brook, coastal wetland, or great pond as these features are defined in 38 MRSA, § 480-B.” 12 M.R.S.A. § 682(13)

Sporting camp: See commercial sporting camp.

Stream Channel:

A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil parent material or bedrock.

Structure:

“[A]nything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, retaining walls, billboards, signs, piers and floats.” 12 M.R.S.A. § 682.

Structure Height:

The vertical distance between the original grade at the downhill side of the structure and the highest point of the structure.

Subdivision:

Except as provided in [12 M.R.S.A] section 682-B, “subdivision” means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land or by leasing. The term “subdivision” also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period. (12 MRSA § 682 (2-A))

Refer to Section 10.17, B, 9, “Subdivision and Lot Creation” for additional criteria on types of lots that are included or are exempt from this definition.

Subsurface Waste Water Disposal System:

“Subsurface waste water disposal system means:

- A. Any system for the disposal of waste or wastewater on or beneath the surface of the earth including, but not limited to:
 - (1) Septic tanks;
 - (2) Drainage fields;
 - (3) Grandfathered cesspools;
 - (4) Holding tanks; or
 - (5) Any other fixture, mechanism or apparatus used for these purposes; but

- B. Does not include:
 - (1) Any discharge system licensed under Title 38, section 414;
 - (2) Any surface waste water disposal system; or
 - (3) Any municipal or quasi-municipal sewer or waste water treatment system.” 30-A M.R.S.A. §4201(5).

Subsurface Waste Water Disposal Rules:

The Maine Subsurface Waste Water Disposal Rules, 144A CMR 241, administered by the Department of Human Services.

Timber Harvesting:

The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads, but not the construction or creation of land management roads.

Traffic Control Sign or Device:

A route marker, guide sign, warning sign, sign directing traffic to or from a bridge, ferry or airport, or sign regulating traffic, which is not used for commercial or advertising purposes.

Trail:

A route or path other than a roadway, and related facilities, developed and used primarily for recreational activities including but not limited to hiking, backpacking, cross-country skiing and snowmobiling, which passes through or occurs in a natural environment. Related facilities may include but not be limited to subsidiary paths, springs, viewpoints, and unusual or exemplary natural features in the immediate proximity of the trail that are commonly used or enjoyed by the users of the trail.

Trailer Ramp:

A shoreland alteration, including, but not limited to, an associated parking area, access road, and other similar related facilities to allow a trailer to be backed below the normal high water level of a waterbody in order to load or unload an item, including but not limited to a boat, personal watercraft, float plane, or dock float.

Transient Occupancy:

“Occupancy that does not exceed 90 consecutive days” 12 M.R.S.A. § 682(18). For the purposes of the application of the Commission’s rules regarding campsites, the Commission considers occupancy to mean the length of time the tent, trailer, camper, recreational vehicle, or similar device used for camping is located on the site.

Unorganized and Deorganized Areas:

“Unorganized and deorganized areas includes all unorganized and deorganized townships, plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls, municipalities that have organized since 1971 but have not received commission approval under section 685-A, subsection 4 to implement their own land use controls and all other areas of the State that are not part of an organized municipality except Indian reservations.” 12 M.R.S.A., § 682.

Utility Facilities:

Structures normally associated with public utilities, including without limitation: radar, radio, television, or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipe lines or above ground storage tanks.

Wall Sign:

A sign, which is attached flat to, painted on or pinned away from the wall of a building and does not project more than 15 inches from such wall.

Water Bar:

An obstruction placed across a roadway which effectively diverts surface water from and off the road.

Water-access Ways:

A structure consisting of a pair of parallel rails, tracks, or beams extending from above the normal high water mark to below the normal high water mark of a waterbody, and designed as the conveying surface from which an item, including but not limited to a boat, personal watercraft, float plane, or dock float, with or without a support cradle, is launched into or removed from the waterbody.

Water Crossing:

A roadway or trail crossing of any body of standing or flowing water (including in its frozen state) by means of a bridge, culvert, or other means.

Water-Dependent Uses:

Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water-borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

Wetland Functions:

The roles wetlands serve which are of value to society or the environment including, but not limited to, flood water storage, flood water conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

Wetland Value:

The importance of a wetland with respect to the individual or collective functions it provides.

Wildlife:

All vertebrate species, except fish.

Wildlife Management District (WMD):

A geographic area identified by the Maine Department of Inland Fisheries and Wildlife to facilitate the management of wildlife. For purposes of these regulations, the boundaries of Wildlife Management Districts are as shown on Map 10.16-1 and the area of a Wildlife Management District is based on land and water acreage within LURC jurisdiction.

Wildlife Management Practices:

Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species. This term does not include impounding water.

Winter Haul Road:

A route or travel way that is utilized for forest management activities conducted exclusively during frozen ground conditions. Winter haul roads must have the following characteristics:

- a. they are constructed with no significant soil disturbance;
- b. they do not make use of fill or surfacing material; and
- c. they are substantially revegetated by the end of the following growing season and are maintained in a vegetated condition.

Appendix 16

GUIDELINES FOR VEGETATIVE STABILIZATION

Areas of disturbed soil, including but not limited to areas that are filled, graded or otherwise disturbed during construction projects, should be stabilized according to the following guidelines. These guidelines do not apply to forest management activities and are not strict regulations, and therefore alternative methods of stabilizing soil may be used. However, whenever soil stabilization or stabilization of disturbed areas is required by regulation or by the terms of individual permits, individuals must assure that either these guidelines, or measures equally effective in stabilizing disturbed areas of soil are employed.

The goals to be achieved by proper stabilization are the avoidance of accelerated soil erosion and the avoidance of sedimentation or pollution of water bodies. All stabilization measures must be maintained so that grass or other vegetation remains intact and healthy, otherwise these measures will be ineffective.

In General:

1. Sterile soils such as sands and gravels should be covered with 2 to 4 inches of soil medium that will support vegetative growth.
2. Disturbed soil areas should be graded such that runoff water is either minimized or eliminated from running over the site.
3. Disturbed areas which can be seeded between May 1 and September 15 should be prepared and seeded during that period.
4. Disturbed areas which cannot be seeded between May 1 and September 15 should be mulched with hay, straw or some other suitable material to keep them as stable as possible over the winter, and particularly during spring runoff the following year. For over-wintering, mulch must be tacked down, as it is easily blown around on frozen ground, leaving areas of soil exposed. Mulch hay should be applied at a depth of 4 inches, or between 150 to 200 lbs. per 1000 square feet, over the disturbed site. Mulched over-wintered areas should be prepared and seeded the following spring as soon as conditions allow.

It is not recommended that disturbed areas be seeded after September 15th (“dormant seeding”) for a number of reasons. Among the reasons, seeding rates are doubled, which is more expensive; timing is critical to ensure that germination does not occur before the following spring; there is an increased risk of sedimentation because sites are generally wetter in the fall; the thicker mulch must be removed in the spring in order to allow the germinating seed

to survive; and the application of fertilizer during this time increases the risk of leaching or runoff loss of nutrients into water bodies.

5. Seeding preparation, in addition to providing a soil medium that will support vegetative growth if the site is sterile, includes the application of lime and fertilizer, which should be lightly raked prior to seeding. After the area is seeded, it should be lightly watered and then mulched with 70 to 90 lbs. (2 standard bales) per 1,000 square feet of weed free hay or straw to protect the seed. Keep the site stable and moist, and allow the seed to germinate and grow.
6. For accurate liming as well as fertilization, it is recommended that you have the soil analyzed to determine the specific nutrient requirements of your site.

Lime should be applied at a rate of approximately 140 pounds to 1000 square feet of area. This rate may vary depending on the natural conditions of the soil on the site. 10-5-20 fertilizer should be applied at a rate of 18.5 lbs. per 1000 square feet of area. Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

7. In shoreland areas in particular, fertilizers should be of the "quick release" low phosphorus type, such as 12-4-8 mixtures applied at a rate of 8 pounds per 1000 square feet of area. If you are near water bodies, it is important not to apply more than approximately this amount of fertilizer, as excess may be washed into streams or lakes and contribute to lowering water quality and such things as algae blooms in lakes.

Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

Fertilizers should never be applied right before thunder storms or before spring runoff, because the great amounts of water running over the land will wash the fertilizer, particularly phosphorus, into water bodies. However, a light watering after the fertilizer is applied will help bind the phosphorus to the soil.

8. There are many combinations of grasses that can be used. One combination particularly good for providing soil stability, generally referred to as the Soil Conservation Mixture, consists of: (Proportions, by weight)

Creeping Red Fescue	35%
Kentucky Bluegrass	25%
Annual Rye Grass	15%
Perennial Rye Grass	10%

Red Top	10%
White Dutch Clover	5%
*Oats - See Below	

This seed would be applied at a rate of 1 pound per 1000 square feet. These particular grasses do best if mowed no closer than 2-1/2 to 3 inches from the ground. Of course, other seed mixtures are available.

It is important, in choosing a mixture, to choose one suitable for the site being stabilized. There are many different types of seeding mixtures designed for particular site conditions such as shade, sun, and drainage. Any mix should contain some seed which germinates rapidly to provide the quickest stabilization possible while awaiting the germination of the remaining types.

(*) For quick germination, oats are very good. They germinate in 7 to 10 days. They should be planted at a rate of approximately 1 to 1-1/2 bushels per acre, in addition to the basic grass mixture. Oats should be mowed when they reach knee height to allow the germinating grasses to receive sunlight.

Alternatives:

As indicated above, other stabilization programs may be used, provided they are equivalently effective in stabilizing disturbed areas and preventing accelerated soil erosion and sedimentation of water bodies. Further assistance may be obtained, including in some cases site-specific recommendations, as follows:

Local Soil and Water Conservation Districts
The USDA Natural Resource Conservation Service
Maine Department of Environmental Protection, Lakes Program
Landscaping Professionals
Reputable Lawn and Garden Supply Dealers

The following documents may provide valuable assistance to those developing a soil stabilization plan:

Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (Cumberland County Soil & Water Conservation District and Maine Department of Environmental Protection, 1991)

Strategy for Managing Nonpoint Source Pollution From Agricultural Sources and Best Management Guidelines (NPS Agricultural Task Force, 1991)

Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations, Best Management Practices (Maine Forest Service, 1991)

Appendix 17

E. RESOURCES

Previously submitted Lake Concept Plans:

- A Concept Plan for Lands of Lowell & Co. Timber Associates in Attean Township and Dennistown, approved in July 1, 1993.
- A Concept Plan for the Lands of Gardner Land Company T7 R11 Wels, 1996, by The Ames Corporation.
- A Concept Plan for First Roach Pond, Plum Creek Land Company, Dec. 2001, by Kent Associates, Planning & Design Consultants.

Water Resources

- Wes Hallowell, Kennebec Water Power Company
- Public Educational Access to Environmental Information in Maine, pearl website
<http://pearl.spatial.maine.edu/>

Wildlife and Fishery Resources

- DIF&W Biologists, Douglas Kane and Paul Johnson, Greenville Office
- DIF&W Biologist, Tom Hodgman, Bangor Office
- DIF&W Reports, Wildlife Division, website
<http://www.state.me.us/ifw/wildlife/01report/wildlifepanning.htm>
- State Planning Office Report, Chapter 1, Kennebec River Resource Management Plan: Balancing Hydropower Generation and Other Uses, website
<http://knox.link75.org/mmb/Cybrary/kennriver/>
- Maine Audubon Society, Volunteers to Count Maine's Loon Population, July 18, 2001, website
http://www.maineaudubon.org/whatsnew/in_the_news/010718.html

Soils

- S.W. Cole Engineering, Inc., Stephen Howell, Soil Scientist

Phosphorus

- Maine Department of Environmental Protection, Jeff Dennis, Division of Watershed Management

Land Use Standards

- Land Use Regulation Commission Planning and Administration - Fred Todd, Division Manager Agnieszka Pinette, Senior Planner, and Kristina Henderson, Regional Permitting and Compliance Officer
- Chapter 10 Land Use Districts and Standards
- Comprehensive Land Use Plan
- Model Easement