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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

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COMMISSIONER

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EXECUTIVE DIRECTOR

PERMIT

AMENDMENT B TO DEVELOPMENT PERMIT DP 4798

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Norman Daigle for Amendment B to Development Permit DP 4798, finds the following facts:

1. Applicant: Norman Daigle
290 Caribou Rd
Cross Lake, ME 04779
2. Agent: Ed Pelletier & Sons Company
17 Siding Rd
PO Box 475
Madawaska, ME 04756
3. Date of Completed Application: March 20, 2014
4. Location of Proposal: Cross Lake Twp. Aroostook County
Taxation Lot # 1.1 on Plan 01
5. Zoning: (M-GN) General Management Subdistrict
6. Development: Mineral Extraction (25 Acres, no more than 15 Acres Unreclaimed)
2007 Rock Crusher (275 cubic yd/hr)
1995 Rock Crusher (250 cubic yd/hr)
2 Conveyors
2 Front-end Loaders
Portable Toilet

Background Information

7. In July of 2008, Development Permit DP 4798 was issued to the applicant authorizing Ed Pelletier & Sons Company to operate two portable aggregate rock crushers, two conveyors, and two front-end loaders in a gravel pit less than 5 acres in sizes within the (M-GN) General Management Subdistrict on his property until December 1, 2008. A portable toilet was to also be installed. All activities were to be set back at least 250 feet from road and property boundary lines.
8. In Summer of 2009, Commission staff inspected the operation and discovered that the gravel pit was approximately 9.5 acres, thus requiring a permit, and that operation of the rock crushers had continued beyond December 1, 2008 in violation of the conditions of the permit [Reference: Enforcement Case EC 09-46; Resolved].
9. In January of 2010, Amendment A to Development Permit DP 4798 was issued to the applicant authorizing after-the-fact approval for a 10 acre gravel pit and amendment approval for future expansion of the pit to 25 acres and operation of the processing equipment until the end of 2011. At any given time, no more than 15 acres of the pit would be unreclaimed.

10. The gravel pit is located on the north side of Route 161 near the Cross Lake Twp. and New Canada Town Line and approximately 1,000 feet from a small stream on the applicant's lot. The pit is accessed by an existing land management road. The area surrounding the pit is primarily undeveloped farmland. Other than the applicant's residence, there are two residences within one mile of the pit, with the closest being approximately 0.5 miles.

Proposal

11. The applicant now seeks amendment approval to reopen the gravel pit, which is currently approximately 10 acres in size proposes to expand up to 25 acres in total size. At any given time, no more than 15 acres of the pit would be unreclaimed. The applicant proposes to extract approximately 60,000 cubic yards of material and operate portable processing equipment (two rock crushers). The applicant has submitted a "Temporary Soil Erosion and Water Pollution Control Plan (SEWPCP)" with includes installing silt fence at the bottom of the slope and haybales on existing roadways as needed. Conditions would be monitored and erosion control measures would be implemented in accordance with the Best Management Practices Manual. All activities would be set back at least 250 feet from road and property boundary lines.
12. Proposed hours of operation would be from 6:30 am until 7:00 pm during the 2014 and 2015 construction seasons as weather permits. Sound pressure levels are not expected to exceed 55 dB(A) at the property boundary lines due to the topography of the gravel pit, however, they would be monitored. Should sound pressure levels regularly exceed 55 dB(A), the applicant would install a berm or tree buffer to reduce the noise.
13. The applicant has submitted a Spill Prevention Control and Countermeasure Plan (SPCC) for portable mineral processing equipment dated March 12, 2014. As previously approved, refueling of the equipment would be done by a licensed fuel oil distributor using peddle trucks which carry emergency spill prevention and clean-up materials should a spill occur.
14. The two rock crushers owned and operated by Ed Pelletier and Sons Co. operate under the Maine Department of Environmental Protection (MDEP) Chapter 149, *General Permit Regulation for Nonmetallic Mineral Processing Plants*. A Notice of Intent to Comply with Chapter 149 was filed with the MDEP in February of 2012. Dust would be controlled with water, either trucked in or pumped from an unnamed tributary to Daigle Brook on the applicant's property.

Review Criteria

15. Under provisions of Section 10.22,A, 3, c (10)(b) of the Commission's Land Use Districts and Standards, mineral extraction operations affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres are an allowed activity within a (M-GN) General Management Subdistrict upon issuance of a permit by the Commission pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.
16. Under provisions of Section 10.22,A, 3, c (12) of the Commission's Land Use Districts and Standards, portable mineral processing equipment are an allowed activity within a (M-GN) General Management Subdistrict upon issuance of a permit by the Commission pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.
17. The facts are otherwise as represented in Development Permit Application DP 4798, amendment request A, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed mineral extraction operation would be allowed with a permit within the (M-GN) General Management Subdistrict in accordance with Section 10.22,A, 3, c (10)(b) of the Commission's Land Use Districts and Standards in that the proposal would comply with Sub-Chapter III.
2. The proposed portable rock crushers would be allowed with a permit within the (M-GN) General Management Subdistrict in accordance with Section 10.22,A, 3, c (12) of the Commission's Land Use Districts and Standards in that the proposal would comply with Sub-Chapter III.

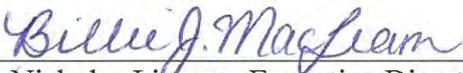
3. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B (4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the amendment request of Norman Daigle for mineral extraction activities and the seasonal placement and operation of a portable aggregate crushing plant as proposed with the following conditions:

1. The permitted period of operations of trucks and equipment at the pit shall be 6:30 a.m. to 7:00 p.m., Monday through Saturday. All extraction activities and processing operations must be substantially started within 2 years of the effective date of this permit and completed within 5 years of the effective date of this permit. If all activities are not started or completed within this time limitation, this permit shall lapse and no extraction or processing activities shall occur unless or until a new permit is issued by the Commission.
2. All wastes including petroleum-contaminated soils and water must be managed off-site in accordance with applicable state and federal laws.
3. The Mineral Exploration and Extraction Standards, a copy of which is attached.
4. The permitted operation shall operate in accordance with the "Spill Prevention, Control and Countermeasure Plan and the Temporary Soil Erosion and Water Pollution Control Plan for Ed Pelletier & Son's Co. submitted by the applicant and dated March 12, 2014. In addition, the equipment must be refueled by a licensed fuel oil distributor using peddle trucks.
5. Should any fluid spills occur during facility operations, the permittee shall take immediate action to correct the situation and mitigate potential impacts, and shall contact the Commission and the Maine Department of Environmental Protection, immediately notifying each agency of the problem and describing all proposed corrective measures.
6. The permittee shall comply with all applicable state and federal environmental laws, including Maine Department of Environmental Protection's Chapter 149, *General Permit Regulations for Nonmetallic Mineral Processing Plants*.
7. The water flow in the unnamed tributary to Daigle Brook from which water will be withdrawn to control dust should not be dewatered or flow noticeably reduced in the process of controlling dust in the gravel pit.
8. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound as measured at all property boundary lines, at a height of at least 4 feet above the ground surface, must not exceed 55 db(A) from 7:00 AM to 7:00 PM and 45 db(A) from 7:00 PM to 7:00 AM.
9. All conditions of Development Permit DP 4798 and Amendment A shall remain in effect except as modified by this amendment.

This permit is approved only upon the proposal set forth in the application and supporting documents except as modified in the above stated conditions and remains valid only if the permittee complies with all of these conditions. Any variation from the application or conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation in Land Use Planning law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT ASHLAND, THIS 25TH DAY OF MARCH, 2014.

By: 
for Nicholas Livesay, Executive Director

C. MINERAL EXPLORATION AND EXTRACTION

Mineral exploration and extraction activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

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

1. **Mineral Exploration.** The following requirements shall apply to mineral exploration activities:
 - a. 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.
 - b. 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 water, body of standing water, tidal 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

Table 10.27,C-1. Unscarified filter strip width requirements for exposed mineral soil created by mineral exploration activities or associated access ways.

The provisions of Section 10.27,C,1,b 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 Section 10.27,C,1,b do not apply where access ways cross such waters.

- c. Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by P-SL2 subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.27,D,2 and 5, 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.
- d. 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.

- e. 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.
2. **Mineral Extraction.** The following requirements shall apply to mineral extraction activities in all subdistricts:
- a. A vegetative buffer strip shall be retained between the ground area disturbed by the extraction activity and:
 - (1) 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, any flowing water draining less than 50 square miles, tidal water, or wetland identified as a P-WL1 subdistrict; and
 - (2) 100 feet of the normal high water mark of any body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
 - b. 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 property.
 - c. 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 Section 10.27,C,2,a, above;
 - d. 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
 - e. 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.