STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE
04732

PAUL RICHARD LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

DEVELOPMENT PERMIT DP 4963

The staff of the Maine Land Use Planning Commission (the Commission), after reviewing the application and supporting documents submitted by Maine Bureau of Parks and Lands, Allagash Wilderness Waterway for Development Permit DP 4963, finds the following facts:

1. Applicant: Bureau of Parks and Lands, AWW
   Attn: Kevin Brown
   45 Radar Road
   Ashland, ME 04732

2. Date of Completed Application: January 7, 2015

3. Location of Proposal: Township 15 Range 11 WELS, Aroostook County
   Taxation Plan 01, Lots 1.2 and 2.2

4. Zoning: (P-RR) Recreation Protection Subdistrict
   (P-SL1) Shoreland Protection Subdistrict
   (P-UA) Unusual Areas Protection Subdistrict

5. Lot Size: 1992 Acres (Owned)

6. Proposed Development: Stone Steps at Big Brook South Campsite (approx. 3 ft. by 22 ft.)
   Stone Steps at McKeen Brook Campsite (approx. 3 ft. by 14 ft.)

7. Sewage Disposal: Pit Privy

8. Affected Waterbody: Allagash River (This section of river is designated as a Class AA flowing water.)

Background

9. The applicant lot in T15 R 11 WELS is developed with a Park Ranger Station, known as Michaud Farm [Reference: Development Permit DP 4421], a set of historic structures, known as the Taylor Camps and Moir Farm [Reference: Development Permit DP 4647], and seven (7) campsites located along the Allagash Wilderness Waterway.

Proposal

10. The applicant proposes to construct a set of stone steps at two campsites: Big Brook South and McKeen Brook. The steps at Big Brook South would be approximately 3 feet wide and 21 feet long starting at or slightly above the normal high water mark of Allagash River and extending up to the top of the bank to the campsite, which is water access only. The steps at McKeen Brook would be approximately 3 feet wide and 14 feet long starting at or slightly above the normal high water mark of Allagash River and extending up to the top of the bank to the campsite, which again, is water access only. The applicants state that the river bank is currently eroding

along the footpath from the river to the campsite and installing stone steps over geotextile filter fabric will stabilize the site and prevent further erosion and sedimentation of the waterbody. The applicant does not propose to alter any wetlands or fill below the normal high water mark of the Allagash River.

Review Criteria

11. Under provisions of Section 10.23,I,3,c(1) and 10.23,L,3,c(2) of the Commission's Land Use Districts and Standards, Campsites are allowed uses with a permit within a (P-RR) Recreation Protection Subdistrict and (P-SL) Shoreland Protection Subdistrict.

12. Under provisions of Section 10.23,M,3,c(2) of the Commission's Land Use Districts and Standards, Campsites owned or operated by Federal or State agencies are allowed uses without a permit within a (P-UA) Unusual Areas Protection Subdistrict.

13. Under provisions of Section 10.06,C of the Commission's Land Use Districts and Standards, where two or more protection subdistricts apply to a single land area, the combination of the more protective standards for each subdistrict shall apply.

14. Under provisions of Section 10.26,D,4 of the Commission's Land Use Districts and Standards, a campsite, including cleared or graded areas, must be set back a minimum of 75 feet from the normal high water mark of a flowing body of water draining 50 square miles or more, at least 50 feet from the traveled portion of all roadways and at least 25 feet from side and rear property lines.

15. Under provisions of Section 10.27,G,5 of the Commission's Land Use Districts and Standards, 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.

Review Comments

16. The Army Corps of Engineers has reviewed the proposal and has determined that a Department of the Army permit is not required since the work involves construction of stairs above the ordinary high water line of the Allagash River.

17. The United States National Park Service (NPS) has reviewed the proposal and made the following comments specific to their review of the High Bank Campsite in T 9 R12 [Reference: Great Ponds Permit GP 3411), which requires a permit from the Army Corps of Engineers. NPS states that these comments apply more generally to the sites that have been determined to not require a permit from the Department of the Army such as McKeen Brook and Big Brook South.

    A. The goal of the restoration projects should, as confirmed by the Department at the December Advisory Council meeting, be to restore natural streambank conditions. To achieve this, any rock that is to be left exposed should match in size, color, and shape the natural stone found along the Allagash shoreline. The importation of traditional, angular rip-rap not matching natural stone should be avoided or such stone should be incorporated into re-vegetation plans such that it will not be visible upon project completion.

    B. Native plantings should be used, and should be incorporated into any stabilization activities occurring above the ordinary high water line. The High Bank plans indicate only that "appropriate plantings" will be used. For these sites to be successful restoration projects in the long-term, these plantings will need to include a range of native tree and shrub/understory species. The larger tree species are important for bank stability, as well as natural shoreline appearances. It is possible (and

perhaps likely) that such trees have previously, over the history of the Waterway, been removed from these campsite areas to open up views of the water.

C. The Department will likely need to develop a plan for educating campsite users (as well as Waterway staff) as to the purposes of the restoration program and the desirability of a natural streambank with filtered water views (as opposed to wide open water views from campsites). Given that all of these sites are associated with human use impacts (removal of vegetation for views, scrambling up/down streambanks, etc.), this component of the restoration plan for the campsites is critical for long-term success.

D. For badly damaged sites, such as High Bank, the Department may wish to consider temporary campsite closure for one or two growing seasons while vegetation becomes established. In the event that current restoration efforts fail again (High Bank and other sites having been previously worked on), it may be necessary to consider permanent closure of some sites.

18. The Maine Natural Areas Program has reviewed the proposal and finds that according to their current information, there are no rare botanical features that will be disturbed within the project site.

19. The Maine Historic Preservation Commission has reviewed the proposal and concludes that there will be no historic properties affected by the proposal, as defined by Section 106 of the National Historic Preservation Act.

20. The applicant has stated that they intent to follow the recommendations made from the National Park Service as they apply to these sites.

21. The facts are otherwise as represented in the application Development Permit DP 4963 and supporting documents.

Based upon the above Findings, the Commission, through its staff, concludes:

1. Under provisions of Section 10.23,I,3,c(1) and 10.23,L,3,c(2) of the Commission's Land Use Districts and Standards, the proposed stone steps at Big Brook South and McKeen Brook campsites requires a permit within a (P-RR) Recreation Protection Subdistrict and (P-SL) Shoreland Protection Subdistrict.

2. The proposed stone steps at Big Brook South and McKeen Brook campsites would not be in compliance with the Section 10.26,D,4 of the Commission's Land Use Districts and Standards, in that they would not be set back at least 75 feet from the normal high water mark of the Allagash River.

3. The proposed stone steps at Big Brook South and McKeen Brook Campsites would meet the criteria for an exception under Section 10.27,G,5 of the Commission's Land Use Districts and Standards, in that the steps are necessary to prevent erosion of the shoreline and provide access over the steep bank from the river to the water-access only campsites.

4. 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 Commission, through its staff, approves the application of Bureau of Parks and Lands, Allagash Wilderness Waterway with the following conditions:

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such

construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.

2. The permitted rock steps must be set back a minimum of 0 feet from the normal high water mark of Allagash River at both Big Brook South and McKeen Brook campsites.

3. Any excavation or construction must be done when the water level is lower than the work area and staked hay bales or silt fence shall be placed between the project area and above or at the water line.

4. Any debris or fill material must be stored away from the waterbody and stockpiled above the normal high water mark. Tarps and silt fence must be used to prevent sedimentation from stockpiled materials, where necessary.

5. All areas of disturbed mineral soil must be promptly reseeded and stabilized with mulch, and maintained in a vegetated state to prevent soil erosion. In areas where revegetation is not initially successful, additional measures to control erosion and sedimentation must be undertaken as often as necessary to be effective.

6. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

7. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.

This permit is approved upon the proposal as 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 the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission 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, MAINE, THIS 10th DAY OF FEBRUARY, 2015.

Billie J. MacLean

for Nicholas D. Livesay, Executive Director