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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
106 HOGAN ROAD, SUITE 8
BANGOR, MAINE 04401

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COMMISSIONER

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EXECUTIVE DIRECTOR

PERMIT

DEVELOPMENT PERMIT DP 4995

The Maine Land Use Planning Commission (the “LUPC” or “Commission”), through its staff, after reviewing the application and supporting documents submitted by Ursa Major, LLC (the “Applicant” or “Permittee”) for Development Permit DP 4995, finds the following facts:

1. Applicant: Ursa Major, LLC
c/o American Forest Management, Colin A. Beeson
40 Champion Lane
Milford, Maine 04461
2. Date of Completed Application: May 26, 2016
3. Location of Proposal: Osborn, Hancock County, Maine
Map 001, Lot 006
Hancock County Registry of Deeds: Book 5571, Page 1
4. Zoning: General Management Subdistrict (M-GN)
Shoreland Protection Subdistrict (P-SL2)
Wetland Protection Subdistrict (P-WL1)
Wetland Protection Subdistrict (P-WL2)
Wetland Protection Subdistrict (P-WL3)
5. Development: Gravel Pit – 12.13 Acres
6. Affected Waterbody: Josh Lake Stream

Proposal

7. The Applicant proposes to expand an existing 3.91 acre gravel pit to approximately 12.13 acres. The pit would be expanded in two additional phases; the northern portion as Phase II and the southern portion as Phase III. The proposed gravel pit is located near junction of the 73-00-0 Road, 73-18-0 Road, and 73-22-0 Road, four miles south of State Route 9 on the 73-00-0 Road (a private road).
8. The Applicant submitted an Erosion and Sedimentation Control Plan for temporary and permanent erosion control. Additionally, the soils for the site are Colton-Adams Complex, 5 to 20 percent slope, excessively drained soils which are not vulnerable to erosion.

9. On April 15, 2016, a review within the boundary of the project area was completed by a qualified wetland professional in reference to the presence of wetlands. The wetland professional stated that no wetlands exist within the boundary of the proposed gravel pit.

Summary of Agency Comments

10. The Maine Department of Environmental Protection (MDEP) reviewed the location and use of the proposed pit in reference to wind power projects in the area and declined permitting responsibility over this pit's expansion.
11. The MDEP's Bureau of Land Resources reviewed the application and indicated no issues with the proposed expanded gravel pit.
12. The Maine Inland Fisheries and Wildlife Department (the Department) reviewed the application and indicated that the gravel pit area intersects with a moderate value Inland Waterfowl and Wading bird Habitat (IWWH). On May 13, 2016, the Department met onsite with LUPC staff and the landowner's agent to discuss and agree upon a setback line for mapped uplands which would be retained for the protection of the IWWH. Subsequently, the north-eastern border of the proposed gravel pit has been modified to follow the inside line (pink line) drawn on the May 23, 2016 map that is attached to this permit and incorporated herein by reference. The proposed gravel pit was reduced to 12.13 acres in size.
13. The Maine Natural Areas Program reviewed the application and searched the Natural Areas Program's Biological and Conservation Data System files for rare or unique botanical features in the vicinity of the proposed site and indicated that according to their current information there are no rare botanical features that would be disturbed within the project sites.
14. The Maine Historic Preservation Commission reviewed the application and indicated that the agency has no archaeological or architectural concerns regarding this project.
15. The facts are otherwise as represented in the application for Development Permit DP 4995 as modified and supporting documents.

Commission Review Criteria

16. Pursuant to Statute, a gravel extraction less than 5 acres in size within an M-GN subdistrict is not regulated by the Commission rather is a use regulated by the Maine Forest Service. (Section 10.22,A,3,e,(1) of the Commission's *Land Use Districts and Standards* (Standards or *Ch.*))
17. Mineral extraction operations affecting an area between 5 and 30 acres, provided the unreclaimed area is less than 15 acres, may be allowed within an M-GN subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III. (*Ch. 10.22,A,3,c,(10),(b)*)
18. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use subdistrict. [Within an M-GN subdistrict: 7:00 AM to 7:00 PM - 55 dB(A); 7:00 PM to 7:00 AM - 45 dB(A)] Sound pressure levels shall

be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day. (*Ch. 10.25,F,1,a*)

19. 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." U.S. Army Corps of Engineers. (1987) and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region." U.S. Army Corps of Engineers. (Version 2.0, January 2012). (*Ch. 10.25,P,2,a,(1),(a)*)
20. Mineral 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. (*Ch. 10.27,C*)
21. A 75 foot vegetative buffer strip shall be retained between the ground area disturbed by the extraction activity and any flowing water draining less than 50 square miles or wetland identified as a P-WL1 subdistrict. (*Ch. 10.27,C,2,a,(1)*)
22. 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,(1) above. (*Ch. 10.27,C,2,c*)

Based upon the above FINDINGS, the staff CONCLUDES that if carried out in compliance with the CONDITIONS below, the proposal will meet the applicable requirements set forth in the Commission's Standards and the Criteria for Approval, § 685-B (4) of the Commission's Statutes, 12 M.R.S.

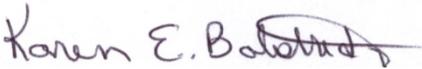
Therefore, the staff APPROVES the request of Ursa Major, LLC with the following CONDITIONS:

1. Except as allowed by this permit, the authorized mineral extraction must comply with the Commission's standards for mineral exploration and extraction, Section 10.27,C,2 of the Commission's Standards, version December 07, 2015, a copy of which is attached.
2. The Permittee shall follow the submitted Erosion and Sedimentation Control Plan (Exhibit 12A, as properly modified to the new north-eastern gravel pit border) for temporary and permanent erosion control. All major erosion and sedimentation control structures must be installed prior to soil disturbance. All erosion control devices such as berms, check dams and silt fences shall be installed where needed. Once implemented or put in place, erosion control devices and measures shall be maintained to ensure proper functioning. Mineral extraction must proceed in a manner such that runoff drains internally to the pit floor.

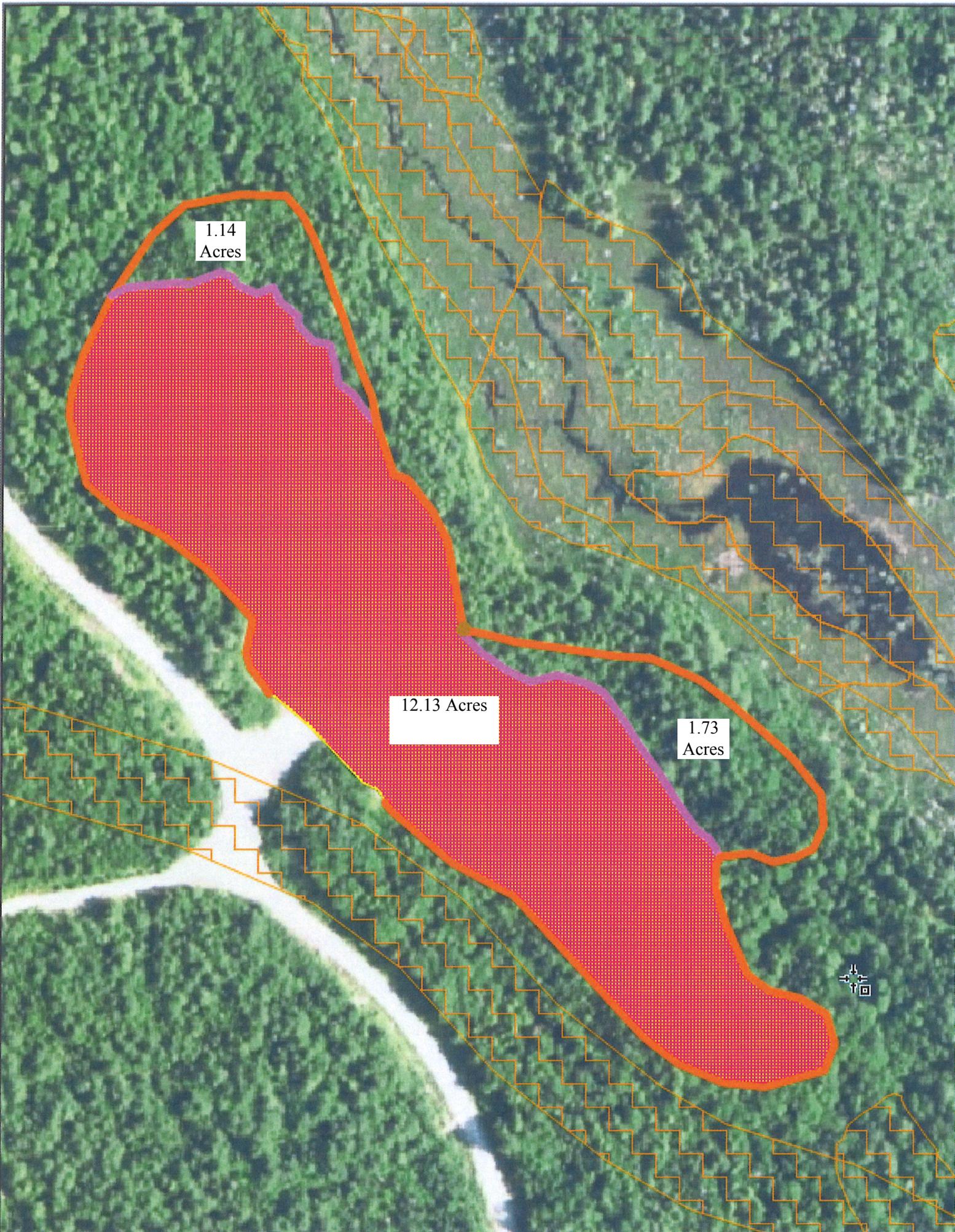
3. Mineral extraction activities may not occur within 5 vertical feet of the seasonal high groundwater level; this can be verified by installing monitoring wells or digging a test pit.
4. Topsoil stockpiles shall be mulched and seeded to prevent erosion.
5. The agreed upon mapped uplands retained for the protection of the IWWH shall be maintained in their undisturbed vegetated state, including any stems and root systems.
6. Authorized hours of operation are Monday through Sunday, 6:00 am to 6:00 pm. Power crushing equipment hours of operation are Monday through Friday, 6:00 am to 6:00 pm.
7. All pit operations shall be in compliance with the *Noise Standards* of Section 10.25,F,1 of the Commission's *Land Use Districts and Standards*, version December 07, 2015, a copy of which is attached. Between 7:00 AM and 7:00 PM, the maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by the mineral extraction shall be 55 dB(A). Between 7:00 PM and 7:00 AM, the maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by the mineral extraction shall be 45 dB(A). The Commission may require the permittee to measure and report noise levels during permitted activities if the Commission believes that its noise standards may be or are being exceeded. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.
8. The Permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies.
9. The Permittee shall reclaim all extracted areas. In areas where revegetation is not initially successful, additional measure to control erosion and sedimentation and to permanently revegetate the site shall be undertaken as often as necessary to be effective and to attain a minimum ground cover of 90 percent.
10. 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.
11. This permit is dependent upon and limited to the proposal as set forth in the application, as amended, and supporting documents, except as modified by the Commission in granting this permit. Any variation therefrom is subject to the prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.

This permit is APPROVED only upon the above stated CONDITIONS and remains valid only if the Permittee complies with all of these CONDITIONS. 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 BANGOR, MAINE, THIS 8TH DAY OF JUNE, 2016.

By: 

for Nicholas D. Livesay, Executive Director



1.14
Acres

12.13 Acres

1.73
Acres



- 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, coastal wetland, 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.

F. NOISE AND LIGHTING

1. Noise.

- a. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use subdistrict listed below. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

Subdistrict	7:00 AM to 7:00 PM	7:00 PM to 7:00 AM
D-CI, D-MT, and D-ES	70 dB(A)	65 dB(A)
D-GN, and D-GN2	65 dB(A)	55 dB(A)
D-PD	As determined by the Commission.	
All Other Subdistricts	55 dB(A)	45 dB(A)

Table 10.25,F-1. Sound pressure level limits.

- b. The following activities are exempt from the requirements of Section 10.25,F,1,a:
 - (1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
 - (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and
 - (3) Sounds emanating from traffic on roadways or other transportation facilities;
- c. Control of noise for a wind energy development as defined in Title 35-A, Section 3451, subsection 11, with a generating capacity greater than 100 kilowatts is not governed by this section and instead is governed solely by the provisions of 12 M.R.S.A. §685-B(4-B)(A).

2. Lighting standards for exterior light levels, glare reduction, and energy conservation.

- a. All residential, commercial and industrial building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary’s lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).