



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

PAUL R. LEPAGE
GOVERNOR

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COMMISSIONER

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EXECUTIVE DIRECTOR

Review and Approval MFSRA 5

COMMISSION DETERMINATION IN THE MATTER OF

Maine Forest Service
regarding:
The Nature Conservancy, c/o LandVest, Inc.
Review and Approval for Bridge Permit
over Northwest Branch Saint John River in T11 R17 WELS, Aroostook County

Findings of Fact and Determination

The Maine Land Use Planning Commission, after reviewing the bridge permit application submitted by The Nature Conservancy c/o LandVest, Inc. to the Maine Forest Service on August 5th, 2014, pursuant to the Commission's Land Use Standards, finds the following facts:

1. *Person Requesting Bridge Permit:* The Nature Conservancy c/o LandVest, Inc.
PO Box 459
Jackman, ME 04945
2. *Accepted as Complete for Processing:* August 6, 2014
3. *Location of Proposal:* T11 R17 WELS, Aroostook County
4. *Current Zoning:* (P-SL) Shoreland Protection Subdistrict
(P-WL) Wetland Protection Subdistrict
(P-RR) Recreation Protection Subdistrict
5. *Permanent project area.* 200 ft. by 16 ft. bridge over Northwest Branch Saint John River

INTRODUCTION

6. Public Law 2011, Chapter 599 (enacting LD 1739) shifted the regulatory authority for water crossings on/for land management roads in protection and management subdistricts located in the unorganized areas from the Maine Land Use Planning Commission (the Commission or the LUPC) to the Maine Forest Service (MFS), effective March 3, 2013. When the Maine Forest Service issues a permit for water crossings on/for a land management road in a P-RR subdistrict, the LUPC must review and approve that the project meets the Commission's Land Use Standards applicable to the Project as specified in 12 M.R.S.A. § 8867-E, subsection 2-B, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineation on land use maps adopted under section 685-A, subsection 7-A.

The following Findings and Conclusions constitute the Commission's review and approval that The Nature Conservancy Bridge Construction project, as proposed, meets the Commission's applicable Land Use Standards.

PROPOSAL

7. On August 5th, 2014, The Nature Conservancy c/o LandVest, Inc. submitted to the Maine Forest Service a bridge construction application. On August 6, 2013, the MFS sent a copy to the Maine Land Use Planning Commission requesting review.
 - A. The proposed project is to make repairs and modifications to the existing bridge across Northwest Branch Saint John River. The existing bridge was originally constructed in 1958 and the deck was replaced in 1984 by former owner International Paper [Reference: Advisory Ruling AR 24125]. In Spring of 2014, one of the three center piers was broken off at the construction joint by an ice jam on the river. The upper 10 feet of the pier, which was still attached to the bridge superstructure, was relocated 95 feet downstream. The applicant proposes to replace the center pier, raise the steel bridge structure by two feet, and install a new wooden timber deck. The height increase should help prevent future ice damage. No site preparation will be needed as there is existing access from both sides of the bridge site. Approximately 600 square feet of vegetation (grass/shrubs) would be impacted on the east shoreline during the removal of the damaged pier. All exposed soil will be seeded and mulched. Silt fence would be installed as needed. The bridge serves as an important access for land management, fire protection, homeland security, recreation and 3 private camps.
 - B. The proposed Project will be located within the following subdistricts: Shoreland Protection Subdistrict (P-SL), Wetland Protection Subdistrict (P-WL), and Recreation Protection Subdistrict (P-RR).

REVIEW AND APPROVAL BY THE COMMISSION

8. On August 6, 2014, the MFS requested that the Commission review The Nature Conservancy's application materials and provide comments to the MFS. As specified in law, the Commission's review and approval is limited to an evaluation of Land Use Standards applicable to this Project, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineated on land use maps adopted under 12 M.R.S.A. § 685-A, subsection 7-A (the P-RR district in the case of this Project).
9. The Commission's Land Use Standards that are relevant to reviewing and approving the proposed Project are evaluated in Findings #10 and #11.

10. *No undue adverse effect on existing uses.*

- A. *Review Criteria.* Land Use Standard §10.24, C specifies that adequate provision must be 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.
- B. *Effect on existing uses.* The purpose of the P-RR subdistrict (the subdistrict in which the project is proposed) is to protect those areas that currently support, or have opportunities for, unusually significant primitive recreation activities. The Nature Conservancy has provided information that the proposed activity will not have any effect on these existing uses for two reasons: 1) the bridge is already existing in the P-RR subdistrict and 2) the proposed work to the bridge is needed to allow access continued for the existing uses in the area.
- C. *Conclusions.* Based on the materials supplied by The Nature Conservancy, the bridge project will not have an adverse effect on existing uses in the P-RR Subdistrict.

11. *No undue adverse effect on scenic character.*

- A. *Review Criteria.* Land Use Standard §10.24, C specifies that adequate provision must be 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.
- B. *Effect on scenic character.* The Nature Conservancy has provided information that the improved bridge will be located in the same location as the existing bridge and will be roughly of similar size to the existing bridge, with the exception that it would be two feet higher to prevent future damage.
- C. *Conclusions.* Based on the materials supplied by The Nature Conservancy, the bridge project will not have an adverse effect on scenic character in the P-RR Subdistrict as it is repairing an existing bridge in the same location.

FINAL CONCLUSION

Based on the findings set forth above, and in addition to the conclusions set forth above, the Commission concludes that, with respect to the Orion Timberlands bridge construction proposal, The Nature Conservancy has met its burden of demonstrating that the Project conforms with the applicable regulatory and statutory requirements and plans adopted pursuant to 12 M.R.S.A., Chapter 206-A and meets the Commission's Land Use Standards applicable to the Project as specified in 12 M.R.S.A. §8867-E, subsection 2-B, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineated on land use maps adopted under section 12 M.R.S.A. § 685-A, subsection 7-A.

Therefore, the Commission APPROVES that the project proposal submitted by The Nature Conservancy for the bridge project over Northwest Branch Saint John River, as proposed, complies with the relevant provisions of the Commission's Land Use Standards, subject to the findings of fact and conclusions contained herein.

This review and approval is based upon the proposal as set forth in the application and supporting documents and remains valid only if the project proceeds as proposed. Any material variation from the application is

subject to prior Commission review and approval. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

This approval, issued to the Maine Forest Service, is not final agency action. Pursuant to 5 M.R.S.A. §§ 11001 *et seq.*, a person aggrieved by a MFS permit decision containing this review and approval determination may appeal the MFS's final agency action to Superior Court. As part of such an appeal, a person aggrieved may seek judicial review of the components of the MFS's final agency action, including the Commission's review and approval determination that is incorporated into the MFS's permitting decision.

DONE AND DATED AT AUGUSTA, MAINE THIS 11th DAY OF AUGUST, 2014.

By: 
Nicholas D. Livesay, Executive Director