STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

PAUL R. LEPAGE
GOVERNOR

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EXECUTIVE DIRECTOR

Review and Approval MFSRA 6

COMMISSION DETERMINATION
IN THE MATTER OF

Maine Forest Service
regarding:
McCrillis Timberlands, LLC, c/o Prentiss & Carlisle
Review and Approval for Road Permit
near Hale Pond in T3 R3 (Alder Brook TWP), Somerset County

Findings of Fact and Determination

The Maine Land Use Planning Commission, after reviewing the road permit application submitted by McCrillis Timberlands, LLC, c/o Prentiss & Carlisle and received by the Maine Forest Service on August 18th, 2014, pursuant to the Commission's Land Use Standards, finds the following facts:

1. *Person Requesting Bridge Permit*: McCrillis Timberlands, LLC, c/o Prentiss & Carlisle
   107 Court Street
   Bangor, ME
   04402
2. *Accepted as Complete for Processing*: November 4th, 2014
3. *Location of Proposal*: T3 R3 (Alder Brook TWP), Somerset County
4. *Current Zoning*: (P-RR) Recreation Protection Subdistrict
5. *Permanent project area*. 3,600' X 20' land management road

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INTRODUCTION

6. Public Law 2011, Chapter 599 §§ 2 and 5, shifted the regulatory authority 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 November 1, 2012. When the Maine Forest Service issues a permit for construction of a land management road in a P-RR subdistrict, the LUPC must review and approve, in accordance with 12 M.R.S.A. § 8867-E, subsection 2 that the project meets the Commission's Land Use Standards applicable to the project.

   The following Findings and Conclusions constitute the Commission's review and approval that McCrillis Timberlands LLC land management road project, as proposed, meets the Commission's applicable Land Use Standards.

PROPOSAL

7. On August 1st, 2014, McCrillis Timberlands, LLC, c/o Prentiss & Carlisle submitted to the Maine Forest Service a road permit application. On November 4th, 2014 the MFS sent a copy to the Maine Land Use Planning Commission requesting review.

   A. The proposed project is to construct a new land management road near Hale Pond in T3 R3 (Alder Brook TWP). The purpose of the road would be to support nearby timber harvesting operations. Road construction will be completed using Best Management Practices (BMPs), and according to MFS Rules – specifically Chapter 27, section 5. The road would be 3,600 feet in length and 20 feet wide (60 foot ROW), and consist of a gravel and/or hardpan travel surface. The first 1,100 feet of the road would follow an old tote road, and the rest would be newly constructed. The route has been laid out along the base or very near the base of Hale Mountain. Where possible the road has been placed on shelves traveling parallel with the contour, reducing the need for cuts and fills, as well as the need for large ditch banks. Additionally, the route is located entirely within the Telos-Chesuncook-Elliotsville soil profile, on moderate slopes of 3-15%. The proposed road has no major water crossings and all intermittent drains and seeps will be crossed with 18" x 30' culverts. The project will begin in the summer of 2015 and be completed and stabilized by the fall of 2015. The road will be closed to vehicle traffic by the end of summer, 2016.

   B. The proposed project will be entirely located within the Recreation Protection Subdistrict (P-RR).

REVIEW AND APPROVAL BY THE COMMISSION

8. On November 4th, 2014, the MFS requested that the Commission review McCrillis Timberlands LLC application materials and provide comments to the MFS. As specified in law, the Commission must review and approve any activity in a protection district that requires a permit, where that protection district has been classified by the commission to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources and is 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. On November 13th, 2014, LUPC requested additional information from the applicant McCrillis Timberlands LLC c/o their representative at Prentiss and Carlisle. This information included a description of the intended road block to be installed following forestry operations, an analysis of alternative locations for the proposed road, and a plan to manage vehicular access in the future. The applicant promptly provided the requested supplemental information to the Commission.

10. The Commission's Land Use Standards that are relevant to reviewing and approving the proposed project are evaluated in Findings #11 and #12.

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

A. *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, significant primitive recreation activities. The Wildlands Lake Assessment establishes a systematic base of natural resource and land use information on all lakes within the Commission's jurisdiction.[1] It provides basic information about significant water bodies in the Unorganized Territories and informs Commission decisions about development.

Hale Pond is listed as a resource class 3 great pond, meaning it is a lake/pond of local or unknown significance (either it had no significant or outstanding natural value, or information was inadequate to make a determination). Inland Fisheries and Wildlife (IF&W) has reviewed this application and did not note any special significance of Hale Pond as a cold water fishery. Hale Pond is also a Management Class 6 great pond, characterized in the assessment as undeveloped and inaccessible. As such, it could potentially provide opportunities for remote primitive recreation including fishing, hunting, hiking, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross-country skiing and snowshoeing, and other similar uses. Construction of the proposed road could potentially expand existing access if the entrance is not adequately blocked to prevent use by two wheel drive vehicles. This expansion would potentially degrade the remote character of the setting and impact existing uses that depend on remoteness.

C. *Conclusions.* Based on information provided by McCrillis Timberland LLC at the request of LUPC, the land management road project will not have any adverse effect on existing uses in the P-RR Subdistrict. The applicant intends to adequately block the new road upon completion of timber harvest operations, thereby ensuring that vehicles will not be able to access Hale Pond on the proposed new road, and that it will remain a significant resource for remote, primitive, recreational experiences.

12. Land Use Districts and Standards) P-RR Subdistrict, Uses Regulated by MFS:

A. Land Use Standard 10.23, I, E specifies: "In the case of land management roads in P-RR subdistricts around bodies of standing water, the Commission also will consider whether there is any reasonable alternative route for the road and whether reasonable and adequate provisions will be made by the applicant to make the road impassable to two wheel drive vehicles following termination of the road's use."

B. P-RR Subdistrict considerations. After reviewing topographical maps for the region and supplemental information provided by the applicant at the request of LUPC, it appears that there is no reasonable

[1] More information on the Wildlands Lake Assessment can be found in the Land Use Planning Commission's Comprehensive Land Use Plan, Appendix C.

alternative route for the proposed road. Other potential routes feature difficult terrain and are compromised by steep slopes, ledge outcrops, and cliffs. The applicant intends to keep the proposed road in place after their current timber harvest, to be used for future logging operations. They plan to block the entrance of the proposed road to vehicle traffic with large boulders, on the eastern side of the bridge over Hale Brook, until the next timber harvest. Additionally, upon completion of logging operations the applicant will install water bars in the road bed to help control erosion and prevent vehicle access. The proposed road would remain blocked to vehicle traffic for a period of approximately 10-15 years following completion of the current timber harvest, which is slated to be finished by December 31st, 2016).

C. *Conclusions.* Based on supplemental information supplied by McCrillis Timberlands to LUPC during the review, the road project will be appropriately sited and vehicle access will be adequately blocked following the conclusion of timber harvesting operations.

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 McCrillis Timberlands LLC road permit proposal, McCillis Timberlands 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, 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 section12 M.R.S.A. § 685-A, subsection 7-A.

Therefore, the Commission APPROVES that the project proposal submitted by McCrillis Timberlands LLC for the road permit near Hale Pond in T3 R3 (Alder Brook TWP), 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 14th DAY OF NOVEMBER, 2014.

By: _____
Nicholas D. Livesay, Executive Director