



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS LIVESAY
EXECUTIVE DIRECTOR

Review and Approval MFSRA 7

COMMISSION DETERMINATION IN THE MATTER OF

Maine Forest Service
regarding:
Pingree Associates, Inc. c/o Seven Islands Land Company
Review and Approval for Forest Operations Permit
In T 9 R 7 WELS, Aroostook County

Findings of Fact and Determination

The Maine Land Use Planning Commission, after reviewing the forest operations permit application submitted by Pingree Associates, Inc. c/o Seven Islands Land Company to the Maine Forest Service on December 17, 2014, pursuant to the Commission's Land Use Standards, finds the following facts:

1. *Person Requesting Forest Operation Permit:* Pingree Associates, Inc.
c/o Seven Islands Land Company
PO Box 1168
Bangor, ME 04402-1168
2. *Accepted as Complete for Processing:* December 29, 2014
3. *Location of Proposal:* T 9 R 5 WELS, Aroostook County
4. *Current Zoning:* (P-SL1) Shoreland Protection Subdistrict
(P-RR) Recreation Protection Subdistrict
5. *Permanent project area(s).* Approximately 3 acres total

INTRODUCTION

6. Public Law 2011, Chapter 599 (enacting LD 1739) shifted the regulatory authority for timber harvesting activities 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 timber harvesting 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 Pingree Associates, Inc. Forest Operations project, as proposed, meets the Commission's applicable Land Use Standards.

PROPOSAL

7. On December 17, 2014, Pingree Associates, Inc. c/o Seven Islands Land Company submitted to the Maine Forest Service a forest operations permit application. On December 29, 2014, the MFS sent a copy to the Maine Land Use Planning Commission requesting review.
 - A. The proposed project is to conduct a timber harvest in excess of MFS standards for 3 acres within a P-RR subdistrict/P-SL1 subdistrict along the Saint Croix Stream in T 9 R 5 WELS. The harvest area would be at least 70 feet from the stream and not be highly visible from the stream. The trees to be harvested are over mature and susceptible to insect attack and wind throw. The residual stand after harvest will consist of trees between 8 and 25 feet in height. The existing uses in the area include commercial forestry activities and canoeing/fishing on the Saint Croix Stream. The applicant proposes to harvest during the winter months (January-March 2015) when recreational use of the stream is at a minimum.
 - B. The proposed Project will be located within the following subdistricts: Recreation Protection Subdistrict (P-RR) and Shoreland Protection Subdistrict (P-SL1).

REVIEW AND APPROVAL BY THE COMMISSION

8. On December 29, 2014, the MFS requested that the Commission review Pingree Associates, Inc. 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, #11, and #12.
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. Saint Croix Stream is used by boaters and fishermen. Pingree Associates, Inc. has provided information that the proposed activity will not have any effect on this existing uses for three reasons: 1) the harvest operation will be limited to approximately 3 months; 2) would be conducted in the winter when recreational use of the river is very low; and 3) the harvest will not degrade the users' visual experience when on the water.
- C. *Conclusions.* Based on the materials supplied by Pingree Associates, Inc., the timber harvest operation 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.* According to comments provided by Pingree Associates, Inc. and the Maine Forest Service to the LUPC, there will be enough of a buffer strip left that the operation is unlikely to be visible from the water. In addition, the harvest is not located near any public roads or trails.
- C. *Conclusions.* Based on the location of the harvest and comments provided by the applicant and MFS, the timber harvest operation will not have an adverse effect on the scenic character in the P-RR Subdistrict.
12. *No undue adverse effect on natural resources.*
- 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 natural resources.* Pingree Associates, Inc. states that the harvest in excess of standards is necessary in order to remove the high risk trees and proposes to implement BMPs in order to protect the water quality.
- C. *Conclusions.* Based on the materials supplied by Pingree Associates, Inc., and comments provided by MFS, the timber harvest operation will not have an adverse effect on the natural resources in the P-RR Subdistrict.

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 Pingree Associates, Inc. forest operations proposal, Pingree Associates, Inc. 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; meets the Commission's Land Use

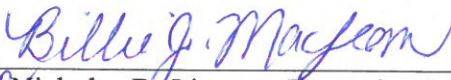

Standards applicable to the Project as specified in 12 M.R.S.A. §8867-E, subsection 2-B, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineated on land use maps adopted under section 12 M.R.S.A. § 685-A, subsection 7-A; and meets the Commission's Land Use Standards applicable to the project as specified in Chapter 10, Sub-Chapter II of the Commission's rules.

Therefore, the Commission APPROVES that the project proposal submitted by Pingree Associates, Inc. for the timber harvest in T 9 R 5 WELS, 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 6TH DAY OF JANUARY, 2015.

By: 
 Nicholas D. Livesay, Executive Director