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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

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EXECUTIVE DIRECTOR

PERMIT

STREAM ALTERATION PERMIT SA 1080 and WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Rangely Lakes Heritage Trust for Stream Alteration Permit SA 1080, finds the following facts:

1. Applicant: Rangely Lakes Heritage Trust
Chris Devine, Director
PO Box 249
Oquossoc ME, 04964
2. Date of Completed Application: November 6, 2014
3. Location of Proposal: Adamstown Township, Oxford County
Taxation Lot #1.4 on Maine Revenue Services' Plan 01
4. Zoning: (M-GN) General Management Subdistrict
(P-WL1) Wetland Protection Subdistrict
(P-WL2) Wetland Protection Subdistrict
(P-GP) Great Ponds Protection Subdistrict
(P-SL2) Shoreland Protection Subdistrict
5. Affected Water Bodies: Toothaker Brook
Cupsuptic Lake

The Commission has identified Cupsuptic Lake as a management class 4, resource class 1A, accessible, developed lake with the following resource ratings: outstanding fisheries resources, outstanding wildlife resources, outstanding scenic resources, significant shore character, significant cultural resources.

6. The applicant's lot is developed with a pre-Commission campground that has been modified and expanded over the years under permits issued by the Commission (reference Development Permit DP 3578 and Amendments A through J). The applicant's lot fronts on Cupsuptic Lake and Toothaker Brook. A portion of the shoreline on Toothaker Brook has been subject to active and severe erosion, such that the 12 foot tall bank is nearly vertical with areas of significant undercut threatening the trees and other vegetation at the top of the bank, and causing siltation of Toothaker Brook and Cupsuptic Lake. The shoreline in the vicinity of the active erosion consists of highly erodible sand and gravel outwash soils overlain with organic duff and with a dense stand of mature trees growing near the top of the eroding bank.

7. The applicant proposes to install riprap along approximately 100 feet of the actively eroding shoreline in order to stabilize the bank and preserve the trees, and to stop the ongoing severe erosion and sedimentation of and to Toothaker Brook and Cupsuptic Lake. The riprap would extend from approximately 4 feet to as much as 18 feet out into the stream at the base (average 15 feet) to straighten the segment of stream most actively eroding, and rise approximately 12 feet at a 1.5 horizontal to 1 vertical slope to the top of the existing vertical and undercut bank. The rock used for riprap would be approximately 2 to 3 feet in diameter keyed in at the base, and gradually reduced in size to 6 to 12 inches in diameter at the height of the riprap face. Approximately 1,200 square feet of stream bottom and undercut bank would be altered to complete the project.
8. Geotextile fabric and sandy granular fill would be used under the rock riprap as needed to fill in the undercut areas and to form a slope of approximately 1.5 horizontal to 1 vertical. Silt fence, silt boom and/or silt sock would be installed between the work area and the water, as appropriate for the weather conditions at the time of construction, to prevent siltation into the waterbody during construction. Equipment would be operated from the bank above the normal high water mark and also below the normal high water mark during a period of time when the water level would be below the level of the work area. The project would be done during a period of low water. Upon completion of the project areas of exposed mineral soil will be seeded and mulched with hay.
9. The applicant submitted an alternatives analysis examining the alternatives of taking no action, installing the proposed riprap or installing a concrete retaining wall. The alternative of taking no action would result in continued significant erosion of the stream bank, further loss of land owned and used commercially by the applicant and ongoing significant siltation and sedimentation to Toothaker Brook and Cupsuptic Lake. The alternative of constructing a retaining wall would involve significantly more disturbance to the shoreline area and would not be as permanent a solution to the problem as riprapping the shoreline. Riprapping the shoreline was acknowledged in the comments of the State Soil Scientist who inspected the property as being the preferred solution to the erosion problem, and the project was reviewed and recommended for approved by the Department of Inland Fisheries and Wildlife and the U.S. Army Corps of Engineers.

Review Criteria

10. Under the provisions of Section 10.23,E,3,c,(14) of the Commission's Land Use Districts and Standards, Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters are allowed within the (P-GP) Great Pond Protection Subdistrict upon issuance of a permit from the Commission.
11. Under the provisions of Section 10.23,L,3,c,(16) of the Commission's Land Use Districts and Standards, Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters are allowed within the (P-SL) Shoreland Protection Subdistrict upon issuance of a permit from the Commission.
12. Under the provisions of Section 10.23,N,3,c,(11) of the Commission's Land Use Districts and Standards, Shoreland alterations, including reconstruction of permanent docking structures; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps,

hand-carry launches, water crossings of minor flowing waters, and motorized recreational gold prospecting are allowed within the (P-WL) Wetland Protection Subdistrict upon issuance of a permit from the Commission.

13. Under the provisions of Section 10.25,P,1,c,(3) of the Commission's Land Use Districts and Standards, projects altering any area of P-WL1 wetlands require a Tier 3 review. Alterations of P-WL1 wetlands may be eligible for Tier 1 or Tier 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.
14. Under the provisions of Section 10.25,P,2 of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must not cause a loss in wetland area, functions, and values if there is a practicable alternative to the project that would be less damaging to the environment. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project; must comply with applicable water quality standards; and use erosion control measures to prevent sedimentation of surface waters. Each Tier 2 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.
15. Under the provisions of Section 10.25,P,2,e,(2) of the Commission's Land Use Districts and Standards, the Commission may waive the requirement for a functional assessment, compensation or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

Review Comments

16. The U.S. Army Corps of Engineers has reviewed this proposal and states that the project qualifies as a Category 1 Maine Programmatic General Permit project, and that the applicant must file a Category 1 Notification Form with USACOE prior to beginning construction.
17. The Maine Department of Inland Fisheries and Wildlife has reviewed the proposal and states that MDIFW approves of the proposal and that work can best be done when the lake is drawn down.
18. The Maine Natural Areas Program has reviewed the proposal and states that, according to its current information, there are no rare botanical features that will be disturbed within the project site.
19. The Maine State Soil Scientist reviewed the proposal and also inspected the site of the project. He indicated that the soils in the area were highly erodible sand and gravel outwash, that shoreline stabilization was needed, and that riprap was the best option for such stabilization. He recommended that the applicant's utilize larger (2 to 3 foot diameter) stone at the base of the riprap to provide additional structural support, with stone size decreasing as it goes to the top of the bank, which will allow for the slope of the riprap to be increased to 1.5 horizontal to 1 vertical, which will allow for less stream bottom to be affected. He further recommended that, if the work was to be done in the winter, the use of silt fence or a silt boom would not be effective and that the applicant should use a silt sock.

The applicant subsequently revised its proposal to incorporate the recommendations of the State Soil Scientist.

20. The facts are otherwise as represented in Stream Alteration Permit Application SA 1080 and supporting documents.

Based upon the above Findings, the staff concludes that:

1. Pursuant to Sections 10.23,E,3,c,(14), 10.23,L,3,c,(16), and 10.23,N,3,c,(11) of the Commission's Land Use Districts and Standards, the applicant's proposed rip rap project constitutes a shoreland alteration that is an allowed use with a permit in the P-GP, P-SL and P-WL Subdistricts respectively.
2. In accordance with the provisions of Section 10.25,P,1,c,(3) of the Commission's Land Use Districts and Standards, the proposed riprap meets the requirements for reduction from a Tier 3 to a Tier 2 wetland review. Specifically, given the nature of the eroding area, the 12 foot high vertical and undercut bank, the existing mature vegetation at the top of the bank, and the ongoing significant erosion and sedimentation being created by the unprotected, erodible bank, the proposed stabilization will not have an undue adverse impact on the freshwater wetlands or other protected natural resources present, but rather will protect the stream and surrounding land adjacent to the bank from actively eroding into Toothaker Brook and Cupsuptic Lake.
3. The proposal would meet the requirements of Section 10.25,P,2 of the Commission's Land Use Districts and Standards, in that the applicant has demonstrated that there is not a practicable alternative to permanently stabilizing the shoreline that would be less damaging to the environment. The Maine Department of Inland Fisheries and Wildlife has recommended approval of the project and the State Soil Scientist has indicated that the proposed riprap project is the preferred mechanism with which to prevent further erosion and sedimentation to Toothaker Brook and Cupsuptic Lake. The applicant has minimized the amount of wetland alteration necessary to stop the ongoing erosion and protect the upland area adjacent to the stream and the water quality of Toothaker Brook and Cupsuptic Lake. The applicant has proposed to utilize appropriate erosion and sedimentation measures to protect the water quality of Toothaker Brook and Cupsuptic Lake, and the project would comply with applicable water quality standards.
4. The proposal complies with the provisions of Section 10.25,P,2,e,(2) of the Commission's Land Use Districts and Standards, such that the Commission may waive the requirement for a functional assessment and compensation. The Maine Department of Inland Fisheries and Wildlife is familiar with the functions and values of the riverine environment being affected by this proposal and recommend approval of the project as it will stop the ongoing degradation of Toothaker Brook and Cupsuptic Lake caused by the ongoing erosion and sedimentation of those water bodies. The impact to the wetland will be insignificant in comparison to the ongoing damage being caused by the active erosion of the stream bank.
5. 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 staff approves the application of Rangeley Lakes Heritage Trust, with the following conditions:

1. The Standard Conditions for Shoreland Alterations (ver. 04/04), a copy of which is attached.

2. The approved riprap must be installed according to the revised plan submitted October 28, 2014. The riprap shall utilize stone 2 to 3 feet in diameter at the base tapering in size above the base to 6 to 12 inch stone at the top. The riprap may extend from 4 feet up to 18 feet out onto the stream bed (average 15 feet) to key in the base row of stone and be sloped no steeper than 1.5 foot horizontal to 1 foot vertical in order to straighten out the severely eroding portion of the bank and protect the mature trees growing at the top of the bank.
3. Prior to any construction activities, the permittee shall submit a completed Category I Notification Form (a copy of which is attached) to the U.S. Army Corps of Engineers.
4. Prior to any construction activities, silt fence, staked hay bales, silt boom or silt sock, as appropriate given the weather and other environmental conditions, must be placed between the water and work area to prevent sedimentation of the waterbody.
5. Once installed, erosion control devices and measures must be maintained to ensure proper functioning. Should any erosion or sedimentation occur during construction, the permittee shall cease construction activities and contact the Commission immediately, notifying it of the problem and describing the proposed corrective measures to be implemented to stop the erosion or sedimentation of the water body.
6. Heavy equipment must remain above the water level and not be driven into the water of Toothaker Brook or Cupsuptic Lake.
7. Upon completion of the project within the terms of this permit, all solid waste and other debris must be properly disposed of in accordance with all applicable state and federal solid waste laws and rules.
8. Rocks used for riprap must not be taken from the water body or the existing shoreline of any water body.
9. Existing vegetation should be maintained as much as practicable.
10. All areas of exposed mineral soil above the normal high water mark of Toothaker Brook disturbed by the authorized activity must be promptly seeded and mulched to avoid soil erosion and siltation.
11. Work must be done during a period of low lake level and low water flow when the water level is lower than the work area.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified by 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 AUGUSTA, MAINE, THIS 14th DAY OF NOVEMBER, 2014

By: 
for Nicholas Livesay, Executive Director



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

**STANDARD CONDITIONS OF APPROVAL
FOR ALL SHORELAND ALTERATION PERMITS**

1. The permit certificate must be posted in a visible location on your property during performance of the activities approved by this permit.
2. This permit is dependent upon and limited to the proposal as set forth in the application 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.
3. Construction activities authorized in this permit must be substantially started within two (2) years of the effective date of this permit and substantially completed within five (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.
4. The recipient of this permit ("permittee") shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, permits required under the Natural Resources Protection Act administered by the Maine Department of Environmental Protection.
5. 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.
6. All areas of exposed mineral soil above the normal high water line or wetland boundary shall be promptly seeded and mulched so as to avoid soil erosion and lake sedimentation. Rocks and trees which are holding the shoreline and preventing erosion shall not be removed.
7. Unless otherwise specified in this permit, all work must be conducted at periods of low water when the water level is lower than the work area.
8. Unless otherwise specified in this permit, no mechanical equipment, machinery or vehicles shall be operated below the normal high water line or wetland boundary.
9. If pressure treated wood is to be used, such wood must be allowed to cure, away from the waterbody or wetland, for a minimum of three weeks prior to installation.
10. Once the activity is completed, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.

Administrative Policy Revised 04/04



**US Army Corps
of Engineers**®
New England District

U.S. Army Corps of Engineers
Category 1 Notification Form
(for all LURC Expedited Shoreland Alteration Projects
subject to Corps jurisdiction)

Before work commences, submit this to the following mailing address or complete the form at www.nae.usace.army.mil/reg, "State General Permits," "Maine." Call (207) 623-8367 with any questions.

Maine Project Office
U.S. Army Corps of Engineers
New England District
675 Western Avenue #3
Manchester, Maine 04351

State Permit Number: _____
Date of State Permit: _____
State Project Manager: _____

Permittee: _____
Address, City, State & Zip: _____
Phone(s) and Email: _____

Contractor: _____
Address, City, State & Zip: _____
Phone(s) and Email: _____

Consultant/Engineer/Designer: _____
Address, City, State & Zip: _____
Phone(s) and Email: _____

Wetland/Vernal Pool Consultant: _____
Address, City, State & Zip: _____
Phone(s) and Email: _____

Project Location/Description: _____
Address, City, State & Zip: _____
Tax Map-Plan & Lot #: _____
Latitude/Longitude Coordinates: _____
Waterway Name: _____
Work Description: _____

Provide any prior Corps permit numbers: _____
Proposed Work Dates: Start: _____ Finish: _____

Area of wetland impact: _____ SF
Area of waterway impact: _____ SF

Your name/signature below, as permittee, indicates that you accept and agree to comply with the terms, eligibility criteria, and general conditions of Category 1 of the Maine General Permit. For a copy of the Maine General Permit go to http://www.nae.usace.army.mil/Regulatory/SGP/ME_GP.pdf

Permittee Printed Name: _____

Permittee Signature: _____ Date: _____

FOR CORPS USE: Corps Permit Number: _____ Date Logged in: _____

