STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE 04333-0022

PAUL R. LEPAGE
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PERMIT

STREAM ALTERATION PERMIT SA 1087
and WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Allagash Timberlands LP for Stream Alteration Permit SA 1087, finds the following facts:

1. Applicant: Allagash Timberlands LP
   Attn: Roy Bernard
   PO Box 240
   Fort Kent, ME 04743

2. Date of Completed Application: July 14, 2015

3. Location of Proposal: T17 R 3 WELS, Aroostook County
   Taxation Lot #1 on Maine Revenue Services' Plan 01

4. Zoning: (D-RS) Residential Development Subdistrict
   (P-WL1) Wetland Protection Subdistrict

5. Affected Water Bodies: Unnamed Stream and Long Lake

   The Commission has identified Long Lake as a management class 7, resource class 2, accessible, developed lake with the following resource ratings: significant fisheries resources, significant cultural resources.

6. The applicant proposes to install riprap on both sides of a small intermittent stream which passes between 2 lease lots on their ownership in Van Buren Cove, T17 R 3 WELS, Aroostook County. Approximately 75 feet of the actively eroding stream would be sloped back at a 2:1 slope and then riprapped on both sides in order to stabilize the bank and stop the ongoing erosion and sedimentation of and to the stream and Long Lake. The riprap would start approximately 5 feet from the normal high water mark of Long Lake and less than one foot below the normal high water mark of the stream. Approximately 75 square feet of stream bottom wetland would be altered to complete the project.

7. Geotextile fabric would be used under the rock riprap and the work would be done when the stream is dry or while the water is pumped around the site so that the stream is dry. Silt fence would be installed between the work area and Long Lake to prevent siltation into the waterbody during construction. Equipment would be operated from the bank above the normal high water mark. Upon completion of the project, areas of exposed mineral soil will be seeded and mulched with hay and replanted with trees.

Review Criteria

8. Under the provisions of Section 10.21,J,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 (D-RS) Residential Development Subdistrict upon issuance of a permit from the Commission.

9. 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.

10. Under the provisions of Section 10.25,P,2,a,(2),(c) 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.

11. Under the provisions of Section 10.25,P,2,b of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project. Projects requiring a Tier 2 review will be considered to result in an unreasonable impact if the activity will cause a loss in wetland area, functions, or values, and there is a practicable alternative to the activity that would be less damaging to the environment. Each Tier 2 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. A practicable alternative less damaging to the environment is deemed to existing and the impact is unreasonable, unless the activity is necessary for shoreline stabilization. Projects requiring Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.

12. Under the provisions of Section 10.25,P,2,b,(3),(f),(i),(aa) of the Commission's Land Use Districts and Standards, neither a functional assessment nor compensation is required for alterations of less than 500 square feet in a freshwater wetland of special significance provided that the Commission determines that there will be only a minimal effect of freshwater wetland functions and values, significant wildlife habitat, or imperiled or critically imperiled communities due to the activity.

Review Comments

13. The U.S. Army Corps of Engineers has reviewed this proposal and states "we have determined that the project will have only minimal individual or cumulative impacts on waters and /or wetlands of the United States. The proposal meets the criteria for Army Corps of Engineers authorization as a Category 1 activity under the provisions of the Department of the Army General Permit, State of Maine (MEGP). No further action is necessary with the Corps on this project. No formal letter will be issued."

14. The Maine Department of Inland Fisheries and Wildlife has reviewed the proposal and have commented as follows:

    A. Wildlife Concerns: Minimum impacts to wildlife are anticipated as there are no Significant Wildlife Habitats or Endangered/Threatened species within the project area.

B. Fisheries: Even though this is an intermittent stream, smelt likely use these waterways in May for spawning. We recommend that the work not disturb the natural stream bottom (as proposed) and that no rip rap enters the natural channel. Smelt prefer small gravel in low gradient stream reaches for spawning and thus rip rap of this size would negate this as potential spawning habitat. Recommend project is initiated during low water timing, mid to late August.

15. 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.

16. The Maine Historic Preservation Commission has reviewed the proposal and concludes that there will be no historic properties affected by the proposal, as defined by Section 106 of the National Historic Preservation Act. Consequently, pursuant to 36 CFR 800.4(d)(1), no further Section 106 consultation is required unless additional resources are discovered during project implementation pursuant to 36 CFR 800.13.

17. The facts are otherwise as represented in Stream Alteration Permit Application SA 1087 and supporting documents.

Based upon the above Findings, the staff concludes that:

1. Pursuant to Sections 10.21,J,3,c,(16), and 10.23,N,3,c,(11) of the Commission's Land Use Districts and Standards, the applicant's proposed riprap project constitutes a shoreland alteration that is an allowed use with a permit in the D-RS and P-WL Subdistricts respectively.

2. In accordance with the provisions of Section 10.25,P,2,a,(2),(c) 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 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 the stream and Long Lake.

3. The proposal would meet the requirements of Section 10.25,P,2,b 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 project would not alter the natural stream bottom as recommended by the Maine Department of Inland Fisheries and Wildlife. 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 the stream and Long Lake. The applicant has proposed to utilize appropriate erosion and sedimentation measures to protect the water quality of the stream and Long Lake, and the project would comply with applicable water quality standards.

4. The proposal complies with the provisions of Section 10.25,P,2,b,(3),(f),(i),(aa) of the Commission's Land Use Districts and Standards, such that the Commission may waive the requirement for a functional assessment and compensation. The project would alter less than 500 square feet of P-WL1, freshwater wetland of special significance provided that the Commission determines that there will be only a minimal effect of freshwater wetland functions and values, significant wildlife habitat, or imperiled or critically imperiled communities due to the activity. The Army Corp of Engineers states that the project will have only minimal individual or cumulative impacts on waters and /or wetlands and the Maine Department of Inland Fisheries and Wildlife has not identified any significant wildlife habitat or Endangered/Threatened Species within the project area. 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 Allagash Timberlands LP, 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 submitted plan. The riprap may extend no more than 0.5 feet out onto the stream bed on either side in order 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. The project must be conducted while the stream bed is dry, either naturally or by pumping the water around the site.

4. Prior to any construction activities, silt fence or staked hay bales, as appropriate given the weather and other environmental conditions, must be placed between Long Lake 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 unnamed stream or Long 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. Trees and/or shrubs should be replanted to re-establish a vegetative buffer.

10. All areas of exposed mineral soil above the normal high water mark of then unnamed stream disturbed by the authorized activity must be promptly seeded and mulched to avoid soil erosion and siltation.

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 ASHLAND, MAINE, THIS 6th DAY OF AUGUST, 2015

By: Billie J. MacLean
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

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