

**Petition # 2014-1**

**Maine Forest Service  
Findings of Fact and Recommendations to the Commissioner**

**John R. Hilton Petition for Variance from Performance Standards  
for Chapter 21 - Statewide Standards for Timber Harvesting and Related Activities in  
Shoreland Areas**

- I. Petitioner and responsible parties:

John R. Hilton, 277 Main Street, STE# 10, Damariscotta, ME 04543 (207)580-7435  
Designated Agent: David Schaible (Licensed Forester #45), PO Box 126, Nobleboro,  
Maine 04555 (207)563-5700
- II. The parcel is located on Route 94 and the Egypt Road in the Town of Alna, Lincoln County, Maine.
- III. Schaible submitted petition #2014-1 to depart from standards of Maine Forest Service Chapter 21 Rule, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, Section 7 (B) (1)(c) shade and tree retention standards, in order to salvage all merchantable Balsam fir within the 75 foot shoreland area.
- IV. Documents in the record include:
  - A. The Petition for Variance #2014-1 submitted by Schaible on January 01, 2014 that requests a variance to exceed the 40% volume removal limitations and standards for cleared openings within the 75 foot shoreland area. The petitioner stated that the Balsam fir in the zone is over-mature and dying. Lower levels of harvest would not leave a windfirm stand and be virtually impossible to salvage at a later date should it blow down.
  - B. A map showing the location of Ben Brook where the proposed timber harvest would be conducted was provided by the petitioner.
- V. The Maine Forest Service (MFS) examined the parcel on January 13, 2014 to evaluate pre-harvest site conditions and the condition of the Balsam fir in question.
- VI. MFS findings and recommendations:
  - A. The record shows that the applicant has demonstrated that over 40% of the timber volume in the area of the variance request consists of mature and dying Balsam fir. The Balsam fir is not evenly distributed throughout the area and removal of all Balsam fir could exceed the standards for the size of a cleared opening as defined by the MFS. The applicant further demonstrated that lower levels of harvest would result in a stand of trees that will not be windfirm and should it blow down, may cause unnecessary environmental damage. In this situation “strict compliance with the regulations and standards would, because of unique conditions of topography, access, location, shape, size, or other physical features of the site or forest condition, cause unusual hardship or extraordinary difficulties.” MFS Rule Ch. 20 §6(B)(1).

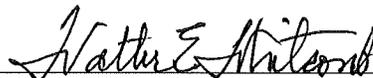
## Petition # 2014-1

- B. Based upon its examination of the parcel, the MFS concurs that the removal of the balsam fir is silviculturally justified and will have minimal impact on the protected resource.
  - C. The unusual hardship and extraordinary difficulties claimed as a ground for variance have not been created by the owner or a predecessor in title. Ch. 20 §6(B)(2).
  - D. The proposed use is in keeping with the purpose and intent of 12 M.R.S. c. 805, Ch. 20 §6(B)(3), and,
  - E. The public interest is otherwise served. Ch. 20 §6(B)(4).
- VII. Variance 2014-1 is granted for the duration of the filed Forest Operation Notification or in no event longer than two full calendar years and is subject to the following conditions:
- A. In order to avoid sedimentation of the protected resources, the petitioner must consult and follow the MFS publication, Best Management Practices for Forestry: Protecting Maine's Water Quality." These practices include, but are not limited to, the following:
    - 1. Keep yarding machinery out of the 75 foot protection zone to minimize any potential movement of soil.
    - 2. Yarding will be temporarily halted during extreme weather events and periods of wet soil conditions, whenever rutting, runoff and sediment movement from outside the protection zone into the protected resource could result.
  - B. In areas where harvesting standards will be exceeded, only merchantable mature and over mature Balsam fir will be permitted to be removed unless trees of other species require removal to safely access the Balsam fir.
  - C. The petitioner will not be permitted to remove any Balsam fir which is located on the bank of Ben Brook.
  - D. In areas where opening size is exceeded the petitioner will be required to inspect the areas for adequate regeneration success. If any of the areas do not adequately regenerate within five years following harvest, a regeneration plan will be developed by the petitioner; submitted to the MFS for approval and implemented within one year of MFS acceptance of the plan.
  - E. The petitioners and all responsible parties must comply with all other standards in Chapter 21.
- VIII. The MFS recommends that the Commissioner of Agriculture, Conservation, and Forestry approve the variance petition.

**Petition # 2014-1**

Prepared by:   
James P. Ecker, LF #612  
Regional Enforcement Coordinator  
Maine Forest Service

Date: 01/28/14

Approved by:   
Walter E. Whitcomb  
Commissioner  
Department of Agriculture, Conservation, and Forestry

Date: 1-30-14