

**Petition 2014-5**  
**Maine Forest Service**  
**Findings of Fact and Recommendations to the Director**

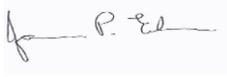
**Cushing Family Corporation Petition for Variance from Performance Standards  
for Chapter 21 - Statewide Standards for Timber Harvesting and Related Activities in  
Shoreland Areas**

- I. Petitioner and responsible parties:

Cushing Family Corporation, PO Box 637, Bangor, Maine 04401 (207) 942-8295  
Designated Agent: Prentiss & Carlisle, PO Box 637, Bangor, Maine 04401 (207) 942-8295
- II. The parcel is located on the Baker Brook Road in the town of Bradley, Penobscot County, Maine comprising approximately 50 +/- acres.
- III. Prentiss & Carlisle has submitted to the Maine Forest Service (MFS) a Chapter 21 variance petition #2014-5 to depart from standards of MFS Chapter 21 Rule, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, Section 7 (B)(1)(a)-(c), shade and tree retention standards. The variance request is for a salvage harvest of over-mature and dying balsam fir, aspen and white birch within the 250 foot shoreland area of Baker Brook.
- IV. Documents in the record include:
  - A. The Petition for Variance #2014-5 submitted by Prentiss & Carlisle on May 28, 2014 that requests a variance to exceed the 40% volume removal limitation standards for cleared openings (size and spacing) within the 250 foot shoreland area. The petitioner states that the balsam fir in the zone is stagnant over-mature and dying and the aspen and white birch are diseased, over-mature and dying. There are areas within the shoreland area where 50% of the hemlock, spruce, balsam fir and red maple will be removed in a shelterwood type harvest to promote the establishment of regeneration from seed. The total harvest area in the shoreland zone is six acres and the estimated area where the harvest will exceed Statewide Standards is not greater than four acres.
  - B. A map showing the location of the wetland and Baker Brook where the proposed timber harvest will be conducted was provided by the petitioner.
- V. The Maine Forest Service examined the parcel on May 19, 2014 to evaluate pre-harvest site conditions within the shoreland area.
- VI. MFS findings and recommendations:
  - A. The record shows that the applicant has demonstrated that greater than 40% of the timber volume consists of mature and dying balsam fir, aspen and white birch that occupies a large portion of the stand in the shoreland area. Timber harvesting that would remove all of these at-risk trees would exceed the standards allowed for volume removal and for cleared opening size and spacing. The applicant has further demonstrated that lower levels of harvest of these at-risk trees would result in a residual stand after harvesting of dead and dying trees. 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 Chapter 20 §6(B)(1).

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- B. Based upon its examination of the parcel, the MFS concurs that the complete removal of the balsam fir, aspen and white birch 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. Chapter 20 §6(B)(2).
  - D. The proposed use is in keeping with the purpose and intent of 12 M.R.S. c. 805, Chapter 20 §6(B)(3), and,
  - E. The public interest is otherwise served. Chapter 20 §6(B)(4).
- VII. Variance 2014-5 is granted for the duration of the filed Forest Operation Notification or in no event longer than two full calendar years, 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. Harvesting machinery will not be allowed to operate within the 75 feet protection zone of the brook to minimize any potential movement of soil.
    - 2. Yarding will be temporarily halted during extreme weather events that could result in runoff due to the movement of soil from outside the protection zone into the protected resource.
    - 3. No stream crossing will be permitted in the harvest area.
    - 4. All landings will be located outside of the shoreland zone.
    - 5. Main skid trails will be stabilized with logging debris consisting of tops and limbs.
  - B. In areas where Chapter 21, Section 7 (B)(1)(a)-(c) standards will be exceeded, balsam fir, aspen and white birch can be harvested. Residual stems of other species that are not wind firm and that are identified by the harvest forester can also be removed.
  - C. The petitioners and all responsible parties must comply with all other standards in Chapter 21.
- VIII. The MFS recommends that the Director of Maine Forest Service approve the variance petition.

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

Date: 06/11/2014

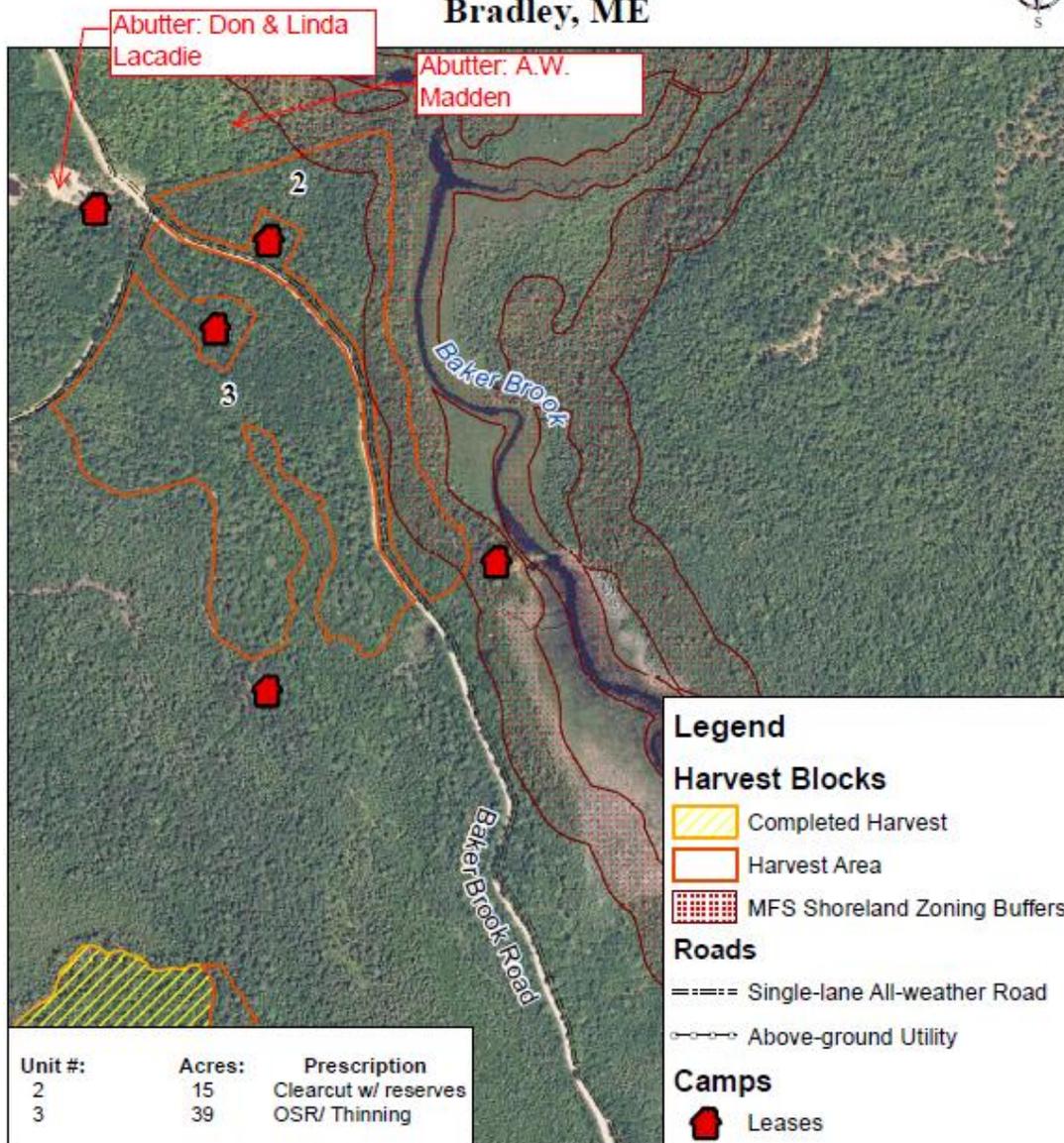
Approved by: \_\_\_\_\_

Douglas Denico  
Director  
Maine Forest Service

Date: \_\_\_\_\_

Department of Agriculture, Conservation, and Forestry

# Harvest Area 2014 Bradley, ME



Town: BRADLEY  
 County: PENOBSCOT  
 Tract: 25214  
 Forester: JEREMY MILLER  
 FSC Cert #: SW-FM/COC-092  
 FON #: 411738  
 Contractor: P&C ENFIELD DIV.

