

Petition VCH2115006

Maine Forest Service Findings of Fact and Recommendations to the Director

Wagner Forest Management Petition for Variance from Performance Standards for Chapter 21 - Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas

- I. Petitioner: Trevor Lewis, Wagner Forest Management, PO Box 121, Errol, New Hampshire 03579
- II. The parcel is located on the west side of Swift River in the town of Roxbury, Oxford County, Maine. The area to be harvested comprises approximately 128 acres.
- III. Lewis submitted to the Maine Forest Service (MFS) a Chapter 21 variance petition #15006 to depart from standards of MFS Chapter 21 Rule, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, Section 7 (B), shade and tree retention standards in a 250 foot shoreland zone. The variance request is to exceed the permissible square footage of an opening by 10,000 square feet by reopening an existing logging yard in the shoreland zone of the Swift River.
- IV. Documents in the record include:
 - A. The petition for Chapter 21 variance # 15006 submitted on November 04, 2015 requests a variance to exceed standards and for a cleared opening within the 250 foot shoreland area. The petitioner states that the area to be used as a log yard is pre-existing and contains very few merchantable trees which will need to be removed. The landing area is primarily occupied by alder and a few small sapling white pine. The surrounding area outside of the 250 foot shoreland zone prohibits locating a new yard outside of the shoreland zone due to slope, availability of suitably sized area of flat ground, and soil type. The total area of the log yard in the shoreland zone requiring a variance will be approximately 24,000 square feet.
 - B. A map showing the location of the areas along Swift River where the proposed log yard that exceeds the 14,000 square foot permitted footprint will be located was provided by the petitioner.
 - C. The Maine Forest Service examined the parcel on December 03, 2015 to evaluate the location and condition of the existing log yard and the surrounding conditions which made the relocation of the yard outside of the shoreland zone unfeasible.
- V. Comments: The Maine Forest Service received comments by three reviewers of the variance petition.
 - A. The Regional Fisheries Biologist commented that given the location description in the variance request, MDIFW Fisheries finds that no negative impacts to the Swift River will occur if a few simple efforts are completed. Prior to use (and freeze-up, if possible), a bark mulch berm should be placed at the perimeter of both proposed landing areas. The berm should have a height that makes its presence evident, even under snow cover. When the landing areas are cleared of snow, plowing should push snow up to, but not over the berms.

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- B. The Maine Natural Areas Program commented that according to our current information, there are no rare botanical features that will be disturbed within the project site.
- C. The Wildlife Division of MDIFW commented that there is a known occurrence of White Mountain Tiger beetle associated with this section of the Swift River. It would be important to keep the landings to the bare minimum, with as much of the 250 ft. buffer remaining intact as practical/possible. The forester should maintain a presence to ensure that sedimentation and erosion control measures are strictly followed.

VI. MFS findings and recommendations:

- A. The record shows that the applicant has demonstrated that it is not feasible to locate a new log landing outside of the shoreland zone. 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).
- B. The present log landing is located on well drained soils with a low risk of soil erosion.
- C. The applicant did not claim a financial hardship.
- D. Based upon its examination of the parcel, the MFS concurs that the reopening and supervised use of this existing log landing will have minimal impact on the protected resource.
- E. The proposed use is in keeping with the purpose and intent of 12 M.R.S. c. 805, Chapter 20 §6(B)(3), and,
- F. The public interest is otherwise served. Chapter 20 §6(B)(4).

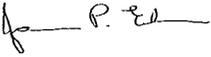
VII. Variance # 15006 is granted for two full calendar years, subject to the following conditions:

- A. 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. A berm of bark mulch high enough to be evident under the snow will be installed on the edges of the yard to prevent movement of soil off the exposed yard and into the remaining buffer zone and into the Swift River. Plowed snow is to be pushed up to the berm but not over it.
 - 2. All use of the yard will take place at a time when the ground is either frozen or snow covered.
 - 3. The use of the yard shall be suspended during periods of extended wet weather or should the yard area thaw, until the area refreezes.

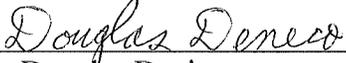
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- B. The petitioner shall be responsible for revegetating the yard area with a suitable herbaceous seed mixture followed by an application of hay or straw mulch at the conclusion of the use of the yard.
- C. The petitioner must keep the size of the re-opened yard to 24,000 square feet or less.
- D. The petitioner must comply with all other standards in Chapter 21.

The MFS recommends that the Director of the Maine Forest Service approve the variance petition.

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

Date: 12/28/2015

Approved by: 
Douglas Denico
Director
Maine Forest Service

Date: 12-29-15