

## **Fish River Chain of Lakes Concept Plan**

### **~ Excerpts Regarding License Lots and Access**

This document summarizes the parts of the Fish River Chain of Lakes Concept Plan (Concept Plan or Plan) that most directly regard: i) license lots (defined in the Concept Plan as “Camp Lots”), and ii) access.

#### **PROCESS FOR SELLING CAMP LOTS**

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The Concept Plan does not require Irving to sell camp lots; however, the Plan includes a process through which Irving may sell the camp lots at any time over the next 30 years, while the Concept Plan is in effect.

**STEP 1:** If and when Irving decides to sell any camp lots, the Plan requires Irving to first:

- conduct a [boundary] survey of the individual lots that may be offered for sale;
- create a new road association, or work with an existing road association if the association is willing to accept additional members and responsibilities;
- provide deeded access rights to each camp lot; and
- include specific statements or information in each deed.

[see Section 1,G,1,c of the Concept Plan.]

**STEP 2:** The Plan clarifies that the sale of camp lots are exempt from subdivision review, provided:

- Irving demonstrates that each camp lot legally existed as of September 26, 2019 (*i.e.*, was continuously leased);
  - If the camp lot is nonconforming and contiguous with another camp lot leased in common, and at least one of the contiguous lots is not developed with a dwelling unit, the two camp lots will be merged and may only be conveyed as a single lot;
- The Plan also states that all but certain camp lots will be enlarged prior to sale (see Back Lots & Back Lands).

[see Sections 10.28-FRL and 10.31-FRL of the Concept Plan.]

**STEP 3:** Finally, the Plan requires Irving to provide a 14-day notice to the LUPC before any camp lots can be sold.

[see Section 10.33-FRL of the Concept Plan.]

#### **ACCESS**

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The Concept Plan requires that:

- Irving must provide deeded access with the sale of any lot, unless deeded access has already been provided;
- deeded access must address specific rights and responsibilities;
- nearly all lot owners and lessees to be a member of a road association; and
- all roads and rights-of-way to be transferred will be transferred in their then current location and condition.

[see Section 1,E,13 of the Concept Plan.]

### **Road Maintenance**

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The Concept Plan does not specify who is responsible for road maintenance; however, the Concept Plan:

- confirms that existing road maintenance agreements may continue unaffected until, either: renewed or revised as done historically, or replaced by one or more of the procedures and agreements described in the Plan.
- requires, regardless of ownership, maintenance of deeded access ways, at a minimum, shall be conducted as follows:
  - Notwithstanding other provisions in the Plan, deeded access ways will be maintained (not including plowing) in a condition to enable the safe year-round passage of two-wheel drive passenger vehicles at the posted speed limit.
  - Grading will be completed on an as needed basis, including where necessary to meet other commitments in the Plan.
  - Except as provided otherwise, lot owners and associations shall have the right to conduct routine winter plowing and sanding.
  - Contingent upon the details of the applicable conveyance, grantees will be provided the ability to undertake additional maintenance measures, provided such additional measures do not violate applicable laws or cause property damage or unsafe conditions.

[see Section 1,E,14 of the Concept Plan.]

### **Back Lots & Back Lands**

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The Concept Plan provides additional opportunities for replacing wastewater disposal systems for camp lots. Specifically, the Concept Plan establishes procedures, prior to and after the sale of the camp lot, in most cases Irving will grant rights to a “Back Lot” and, where necessary, to “Back Land.”

[see Section 10.31-FRL of the Concept Plan.]

## Plan Excerpts

### Section 1,E Elements of the Plan

#### 13. Access

Access within the Plan Area will be provided for as follows:

- a. Unless previously initiated by the owner, access easements (in accordance with Map 9) will be conveyed concurrently with the sale of lots or the conveyance of conservation easements. As part of each conveyance/easement, the owner will identify and include in all appropriate legal documents:
  - the rights and responsibilities of each party, which at a minimum shall address: use and maintenance, relocation, and reconstruction and clearly distinguish between may and shall; and
  - the geographic and physical (*e.g.*, roads, ditching, culverts, buffers) bounds of the conveyance, rights, and responsibilities.
- b. All lot owners or lessees with deeded rights of access, except those that obtain access off of a public road and public entities, will be required to be members of the road association(s) for the roads used for access. See Section 10.29-FRL.
- c. Unless otherwise provided, roads and easements will be conveyed in their then current location (as determined by a professional land surveyor) and condition.”

#### 14. Road Maintenance

Road maintenance within the Plan Area will be conducted as follows:

- a. Existing road maintenance agreements may continue unaffected until, either: renewed or revised as done historically, or replaced by one or more of the procedures and agreements described in the Plan.
- b. Minimum Road Maintenance: Regardless of ownership, at a minimum, maintenance of deeded access ways, as illustrated on Map 9, shall be conducted as follows:
  - Notwithstanding other provisions in the Plan, deeded access ways will be maintained (not including plowing) in a condition to enable the safe year-round passage of two-wheel drive passenger vehicles at the posted speed limit.
  - Grading will be completed on an as needed basis, including where necessary to meet other commitments in the plan.
  - Except as provided otherwise, lot owners and associations shall have the right to conduct routine winter plowing and sanding.
  - Contingent upon the details of the applicable conveyance, grantees will be provided the ability to undertake additional maintenance measures, provided such additional measures do not violate applicable laws or cause property damage or unsafe conditions.

### Section 1,G,1 Timing of Implementation of Concept Plan Elements

#### “c. Actions required prior to or concurrent with the sale of camp lots.

- (1) Before any individual camp lot or group of camp lots may be sold, a survey must be completed for the lot(s). The survey must identify:
  - (a) metes and bounds descriptions of the camp lot(s) to be sold, as configured to satisfy Section 10.28-FRL,B,2,a;
  - (b) the edge of the existing road surfaces and a defined right of way serving the lots; and
  - (c) all common elements that would be owned or maintained by the road association of which the future owner of the lot(s) would be a member;
- (2) Prior to a camp lot being sold, Petitioner must facilitate the creation or expansion of a road association in accordance with Section 10.29-FRL,B; and
- (3) The deed conveying a camp lot from Petitioner to a buyer shall:

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- (a) provide the buyer with a legal right of vehicular access over Petitioner’s land/roads to the camp lot, and, in the case of camp lots on the western shore of Square Lake, a legal right of vehicular access to the Square Lake boat ramp; and
- (b) comply with Appendix B, Minimum Mandatory Declarations Elements.”

**Section 10.28-FRL Limitations on Numbers of Lots and Units**

**“2. Allowed Divisions Exempt from Subdivision Standards.**

Upon notice in accordance with Section 10.33-FRL, and in accordance with the provisions of Appendix B, the following land divisions are allowed without subdivision approval:

- a. **Existing Camp Lots.** A camp lot, as defined in Section 10.02-FRL, satisfying the following conditions does not require Commission review and approval, including prior to sale if:
  - (1) The camp lot is identified on Maps 11 through 18; and
  - (2) If the camp lot is nonconforming and contiguous with another camp lot leased in common, and at least one of the contiguous lots is not developed with a dwelling unit, the two camp lots are merged and may only be conveyed as a single lot.

Additionally, a camp lot satisfying the conditions of this paragraph may be enlarged to make the lot conforming or less nonconforming, without Commission review and approval.”

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**“10.31-FRL REPLACEMENT OF SUBSURFACE WASTE WATER DISPOSAL SYSTEMS FOR CAMP LOTS**

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**Purpose.**

This section establishes requirements for replacing existing subsurface waste water disposal systems on camp lots. These provisions are intended to supplement, and not replace, any other applicable requirements under Maine law, such as but not limited to rules adopted pursuant to 22 M.R.S. §42(3), as may be amended from time to time.

**B. Camp Lots – Prior to Sale.**

The following sequencing will apply to the replacement of existing subsurface waste water disposal systems on camp lots that are still being licensed or leased from the Petitioner (*i.e.*, prior to any sale of such lots):

- 1. **Step 1 – Licensed Lot.** If a camp owner intends to replace an existing subsurface waste water disposal system, the camp owner will first attempt to site a replacement system on the camp lot that is developed with the building to be served by the replacement system pursuant to applicable regulations without consideration of a replacement system variance.
- 2. **Step 2 – Back Lot.** If a licensed site evaluator or applicable regulatory authority determines that a replacement system cannot be sited on the camp lot absent a variance, where possible, subject to Section 10.31-FRL,D, the landowner will amend the camp owner’s existing license or lease to include the back lot. The camp owner will then at its sole expense attempt to site a replacement system on the back lot under applicable regulations without consideration of a replacement system variance.
- 3. **Step 3 – Variance.** If a licensed site evaluator or applicable regulatory authority determines that a replacement system cannot be sited without a variance on either the camp lot or the back lot, the camp owner will then attempt to site a replacement system with a variance on either the camp lot or the back lot in compliance with applicable regulations.
- 4. **Step 4 – Back Lands.** If a licensed site evaluator or applicable regulatory authority determines that the replacement system cannot be sited on either the camp lot or the back lot, where possible,

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subject to Section 10.31-FRL,D, the landowner will then grant to the camp owner property rights sufficient to access, replace, operate, and maintain a subsurface waste water disposal system at a site of the landowner’s choosing, if a suitable location in the back lands in compliance with the applicable regulations can be identified. The camp owner will then, at its sole expense, attempt to site a replacement system on the back lands.

5. **Step 5 – Holding Tank.** Nothing herein shall be construed as preventing a camp owner from installing a holding tank or any other system in compliance with applicable regulations instead of replacing a subsurface waste water disposal system.

**C. Camp Lots – After Sale.**

The following sequencing will apply to the replacement of existing subsurface waste water disposal systems on camp lots that have been sold with a back lot by the Petitioner after the effective date:

1. **Step 1 – Camp Lot.** If a camp lot owner intends to replace an existing subsurface waste water disposal system, the camp lot owner will first attempt to site a replacement system on the camp lot (or, in the case of a camp lot owner who owns more than one lot, any other lot under the owner’s control) including the back lot, if any, pursuant to applicable regulations.
2. **Step 2 – Back Lands.** If a licensed site evaluator or applicable regulatory authority determines that a replacement system cannot be sited on either the original camp lot or the back lot, the landowner will then grant to the camp lot owner property rights sufficient to access, replace, operate, and maintain a subsurface waste water disposal system at a site of the landowner’s choosing, if a suitable location in the back lands in compliance with the applicable regulations can be identified. The camp lot owner will then, at its sole expense, attempt to site a replacement system on the back lands.
3. **Step 3 – Holding Tank.** Nothing herein shall be construed as preventing a camp lot owner from installing a holding tank or any other system in compliance with applicable regulations instead of replacing a subsurface waste water system.

**D. Exemptions.**

1. The following camp lots, as identified on Maps 14 and 16, are exempt from the requirements for back lots in Sections 10.31-FRL,B and C:

Map Number	Camp License Number
Map 14:	1855; and 3171
	1623 through 1626;
	1629;
	1630;
	1755;
	1756;
	1952;
	2011;
	2306;
Map 16:	2764;
	2769;
	2800;
	2801;
	2879;
	3088;
	3104;
	3638; and
	3898

2. The following camp lots, as identified on Maps 11 through 17, are exempt from the requirements for back lots and back lands in Sections 10.31-FRL,B and C:

Map Number	Camp License Number
Map 11:	6110; and 6111
Map 13:	1539; 1759; 2246; 2320; and 2778
Map 16:	1627; and 4261
Map 17:	3639

3. Camp license numbers 5018 and 5019 are exempt from the requirements for back lots in Sections 10.31-FRL,B and C. One is on Cyr Road and another is on Sandy Point Road near the intersection of State Route 161.
4. The following lots, as noted on Map 17, are exempt from the requirements for back lots in Sections 10.31-FRL,B and C. These are lots on the east side of Mifs Lane that are leased to homeowners on the west side of Mifs Lane to be used for replacement septic systems.

Map Number	Camp License Number
Map 17:	4320 and 6105

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### “10.33-FRL NOTICE OF PLANNED ACTIVITIES

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- A. The provisions set forth below must be met where a Notice of Planned Activities is required by this Plan, specifically:
1. Prior to any lot divisions or the transfer of any lands within the Plan Area, as allowed by Section 10.28-FRL;  
...
- B. Notice of Planned Activities shall be filed with the Commission at least 14 days prior to the activity for which notice is required and shall set out the nature of the activities proposed, their extent, and their location within the Plan Area. Furthermore, such notice shall include affirmative statements by the property owner or other party with title, right, or interest that the proposed activity complies with all criteria for such activities. As applicable to the proposed activity, the following materials shall also be included with the notice:
1. **Lot Divisions or Transfers.** Where the notice regards a lot division or transfer, a draft plat that is consistent with the Commission’s Specifications for Subdivision Plats must be filed with the Commission. In regards to camp lots, also provide documentation that the lot was legally existing as of the effective date of the concept plan.  
...
  4. Commission staff, within 14 days of the date the notice was received, shall review the proposal and notify the owner in writing if:

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- a. additional information is needed;
  - b. the proposed activity does not comply with the applicable provisions for exempt lot creation or transfers and therefore requires subdivision approval from the Commission;
  - c. the transaction would exceed the applicable phosphorus budget or sub-budget, and therefore the proposal must be modified; or
  - d. additional or revised statements must be included as part of the recorded transaction.
- 5.** If the Commission does not notify the property owner or the party with title, right, or interest under Section 10.33-FRL,B within 14 days of receipt of notice disapproving the activity or requesting additional information, the party may proceed with the activity in conformity with the Plan, all applicable standards, and the notice.”