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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

**First Procedural Order
In the Matter of
Zoning Petition ZP 768**

**Allagash Timberlands LP, Aroostook Timberlands LLC, and
Maine Woodlands Realty Company (Irving)**

October 19, 2017

Commissioner E. Worcester, Chair and Presiding Officer

I. GENERAL MATTERS

A. Chair's general expectations of the parties

All parties are expected to comply with deadlines and filing requirements established by the Presiding Officer. Failure to comply may result in appropriate sanctions, including the rejection of argument, evidence or testimony the party seeks to offer. All participants in the hearings are expected to conduct themselves professionally, both in their dealings with the Commission and with each other, throughout the proceedings.

B. Petition materials

Pursuant to Chapter 5, Section 5.13(5) of the Commission's rules, the Petitioner (Allagash Timberlands LP, Aroostook Timberlands LLC, and Maine Woodlands Realty Company, collectively Irving) shall provide each party granted intervenor status with a complete paper and electronic copy of the petition (as deemed complete for processing by the Commission), and any future amendments. The Petitioner shall ensure that each intervenor has received the paper and electronic copy of the petition by 5:00 PM on November 6, 2017. A party may request to not receive a paper copy of the petition. Further, the petitioner shall provide 10 complete paper copies to the LUPC staff for distribution to each Commissioner.

C. Ex parte communications

The parties are directed to 5 M.R.S. § 9055 and Commission Rules, Chapter 5, Section 5.25, for a statement of legal restrictions on contact with Commission members during pending proceedings. The parties are cautioned to avoid any conduct that could give rise even to the appearance of improper contact with Commission members.

II. DESIGNATION OF INTERVENORS

Notice of public hearing was provided in accordance with the Maine Administrative Procedures Act (5 M.R.S. Chapter 375); Chapter 4 of the Commission's rules, Rules of Practice; and Chapter 5 of the Commission's rules, Rules for the Conduct of Public Hearings. Specifically, notice was completed on September 14, 2017 and included publication in the Saint John Valley Times and Bangor Daily News. In addition, notice was provided via GovDelivery email to the Commission's Public Hearing and Fish River Lakes Concept Plan lists. Notice of the public hearing also was posted on the Commission's website. The public notice set a deadline of 5:00 PM on October 10, 2017 for all petitions to intervene.

In accordance with Chapter 5, Section 5.13(1) of the Commission's rules, Rules for the Conduct of Public Hearings, a petition to intervene must:

- be filed by the date specified by the Commission or Presiding Officer;
- be under oath or affirmation; and
- demonstrate that that the petitioner is or may be substantially and directly affected by the proceeding.

Chapter 5, Section 5.13(1) states: "A petition to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file on time."

The following entities have submitted petitions to intervene:

- Fish River Lakes Leaseholders Association
- Natural Resources Council of Maine
- Forest Society of Maine
- Carol Pierson
- Sandy Point Road and Connection Road Association

Intervenor Status Granted

Having reviewed the petitions the following entities submitted timely petitions under oath or affirmation that demonstrated the petitioner is or may be substantially and directly affected by the proceeding. In accordance with Chapter 5, Section 5.13, Rules for the Conduct of Public Hearings, the following entities are granted intervenor status:

- Fish River Lakes Leaseholders Association (FRLLA)
- Natural Resources Council of Maine (NRCM)
- Forest Society of Maine (FSM)

Intervenor Status Denied

On October 10, 2017, Steve Demaio submitted an email stating that Carol Pierson wishes to become an intervenor. The email contains no statement from Ms. Pierson and no authorization from Ms. Pierson for Mr. Demaio to act on her behalf. Additionally, the petition was not filed, as required by Section 5.13(1), under oath or affirmation by the person who desires to intervene and participate as a party. As a result, Ms. Pierson's petition to intervene is denied.

On October 12, 2017, Cheri Voisine submitted an email requesting that the Sandy Point Road and Connection Lane Road Association (Road Association) be granted intervenor status. Ms. Voisine identifies herself as a “leaseholder/camp owner on Cross Lake.” Presumably this status makes her a member of the Road Association. The email does not identify whether she is an officer of the Road Association or otherwise establish her authority to act on behalf of the Road Association. The petition was not filed under oath or affirmation.

Additionally, the Road Association’s petition was not timely filed and does not demonstrate good cause for filing after the deadline. The petition states: “As a leaseholder I was shocked to not be notified of this deadline or this plan concept review meeting.”¹ As noted above, public notice of the public hearing was published in accordance with state law and the Commission’s rules. Beyond what is legally required, notice was posted on the Commission’s website and emailed to individuals who signed up to receive email updates concerning the Fish River Chain of Lakes Concept Plan proposal. The opportunity for signing up for email updates has existed since the spring of 2014 and interested members of the public are encouraged to do so.

Interested Person Status

The Commission’s Chapter 5 Rules for Conduct of Public Hearings provide:

Any person may, in the discretion of the Presiding Officer, be permitted to make oral or written statements on the issues, introduce documentary, photographic and real evidence, attend and participate in conferences and submit written or oral questions of other participants, within such limits and on such terms and conditions as may be fixed by the Commission or the Presiding Officer.

Section 5.14.

If Carol Pierson or the Road Association wish to request Interested Person status they may do so. Any such request must be received by 5:00 pm, November 6, 2017. Any request should be signed by the person making the request and contain an explanation of how the requestor may be affected by the proceeding and why the requestor seeks to participate in the public hearing as an Interested Person, as opposed to as a member of the public. The request also must include the following contact information, if available: phone number, email address, and postal mailing address.

With regard to Ms. Pierson, she must sign the request or provide legal authorization for someone else to act on her behalf in this matter. If she is granted Interested Person status and wishes to designate an agent to act on her behalf going forward from that point, this designation must be done in writing and signed by Ms. Pierson.

¹ The referenced “plan concept review meeting” appears to be the be the Commission’s regular business meeting held October 11, 2017 in Presque Isle and the site visit held the following day. As with all Commission regular business meetings, notice of the meeting was posted on the Commission’s webpage, along with a meeting agenda. Notice also was emailed to all individuals who have requested notice of Commission meetings. Additionally, notice was emailed to all individuals who requested notice of updates concerning the Fish River Chain of Lakes Concept Plan. No action concerning the Concept Plan was taken at the meeting. The regular business meeting was not a public hearing.

With regard to the Road Association, the person signing the request must establish his/her relationship to the association and that s/he is authorized to submit the request on behalf of the association.

The findings set forth herein are made only as to administrative standing before the Commission.

III. SERVICE LIST AND DESIGNATED CONTACT PERSONS

A. Service list: The LUPC staff and the designated contact persons for the Petitioner, and each intervenor constitute the service list. All filings in this proceeding must be copied to the service list.

The currently effective service list will be maintained by the LUPC. Updates to the list will be distributed to parties by the LUPC via email, on an as needed basis. It is the responsibility of each party to be sure its filings are copied to all names on that list.

B. Contact person responsibilities: As applicable, the contact persons are responsible for: submittal of pre-filed testimony, coordination of other pre-hearing matters, presentation of an oral summary of the pre-filed direct testimony at the hearing, producing witnesses for cross-examination, cross-examining other parties' witnesses, and any post-hearing filings. Each contact person is responsible for assuring filings have been provided to the others in their group.

C. Change in contact person: All parties must provide timely notice in writing of any change in the designated contact person to the LUPC staff and the other parties, and must provide the new contact information.

D. Consolidation of parties by the Presiding Officer: No party is being consolidated at this time pursuant to the authority granted in the Commission's Chapter 5 Rules for the Conduct of Public Hearings. However, the right is reserved should it become necessary to do so.

E. Service List Contact Information

1. Land Use Planning Commission (LUPC or Commission):
Tim Beaucage, Senior Planner: (207) 287-4894, Timothy.Beaucage@maine.gov
Land Use Planning Commission, 22 State House Station, Augusta, ME 04333-0022
2. Petitioner:
Allagash Timberlands LP, Aroostook Timberlands LLC, and Maine Woodlands Realty Company (Irving)
Noel Musson, Principal: (207) 944-3132, noel@themussongroup.com
The Musson Group, PO Box 286, Southwest Harbor, ME 04679
3. Intervenors:
 - a. *Fish River Lakes Leaseholders Association (FRLLA)*
Cheryl St. Peters, Secretary: (207) 834-1127, countyee@fairpoint.net
Fish River Lakes Leaseholders Association, 203 Cyr Road, Cross Lake, ME 04779
 - b. *Forest Society of Maine (FSM)*

Karin R. Tilberg, Interim Executive Director: (207) 944-0020, Karin@fsmaine.org
Forest Society of Maine, 115 Franklin Street, 3rd Floor, Bangor, ME 04401

c. *Natural Resources Council of Maine (NRCM)*

Catherine B. Johnson, Esq., Senior Staff Attorney & Forests and Wildlife Project
Director: (207) 430-0109, cjohnson@nrcm.org
Natural Resources Council of Maine, 3 Wade Street, Augusta, ME 04330

F. Service List Filing Requirements:

1. *Paper copy of the original and electronic copy for the record.* All materials, including exhibits, must be provided to the LUPC as 1) a signed paper copy original (notarized when appropriate) **and** 2) electronically. For submittals 10 MB in size or less, the electronic submittal may be by email to Timothy.Beaucage@maine.gov. For larger submittals, one CD copy must be provided containing all materials, including cover letters and attachments associated with that submittal. All CDs must be clearly labeled. In all cases, electronic documents must be in either Word (.doc or .docx) or Adobe (.pdf) format. Photo files must be in JPEG (.jpg) unless another format is approved by the LUPC staff.
2. *Copying the other Parties.* All substantive submittals, including emails, must be copied by the submitting party to the service list electronically upon submittal to the LUPC. Any submittals containing five or more pages shall be provided to parties in both electronic and paper form, unless a party states it prefers only electronic documents.
3. *Electronic file naming convention.* The titles of all electronic files must be as short as possible, and must use the following naming convention:

[yyyy]-[mm]-[dd]_[party acronym]-[document title or brief description].[extension]
(e.g., “2017-10-01_LUPC-RebuttalComments.pdf”)

Electronic file names must not include characters such as “<, >, /, ?, &, !, +”.
Underscores and dashes should be used in place of blank spaces. Electronic files must contain no document security restrictions.

4. *Format of submittals and deadlines.* All materials submitted must be provided electronically by the date and time due. If an electronic submittal is being provided as a CD copy, the CD must be **received** at the LUPC Augusta office by the deadline. The signed paper version must be timely mailed or delivered to the LUPC Augusta office. All paper copies of testimony and exhibits, including maps and other visuals, must be no larger than 11 x 17” in size. Any exhibits larger than 8½ x 11” must be folded to 8½ x 11” size.
5. *Meeting deadlines for submittals.* The close of business at the LUPC Augusta office is 5:00 pm. All materials received after that time will be considered to be submitted the following day. An appointment is recommended for delivery of materials late in the day.

IV. AUTHORITY AND RESERVATIONS

This Procedural Order is issued by the Presiding Officer pursuant to the Commission's Chapter 5, Rules for the Conduct of Public Hearings. All objections to matters contained herein should be timely filed in writing with the LUPC staff but are not to be further argued except by leave of the Presiding Officer. All rulings and objections will be noted in the record. The Presiding Officer may amend this Order at any time.

Questions regarding these rulings of the Presiding Officer should be directed to Tim Beaucage (287-4894 or Timothy.Beaucage@maine.gov).

No ex parte communication may occur with the Presiding Officer or any other Commission member.

DONE AND DATED AT AUGUSTA, MAINE THIS 19th DAY OF OCTOBER 2017

A handwritten signature in cursive script, reading "Everett Worcester", is written in black ink on a white background. The signature is positioned above a horizontal line.

Everett Worcester, Chair and Presiding Officer