

--IMPORTANT INFORMATION--

TO: Prospective Log Salvage Applicants

FROM: Bureau of Parks and Lands, Submerged Lands Program

SUBJECT: Sunken Log Salvage Application Process

The Bureau of Parks and Lands (Bureau) administers a program that offers opportunities for qualified companies and individuals to salvage sunken logs from publicly owned submerged lands. Applications for sunken log salvage authorizations may be submitted any time during the application period, which ends on the last working day in May. In accordance with the Sunken Log Salvage Rules, applications received during the “special application period,” which runs from January 15 to January 28, will be given equal consideration if there is more than one applicant interested in the same salvage location. The actual salvage season will run from May 1 to September 30.

Please consider the following points before submitting an application for a sunken log salvage authorization. There is a \$100.00 nonrefundable application fee for each application. Applications are available upon request from the Submerged Lands Program.

- Preliminary Considerations. Before you submit an application, we strongly urge you to do as much research as possible into the subject of sunken log salvage in general, and into the costs, equipment, expertise, personnel and risks involved in salvaging logs in particular, as well as the location of marketable sunken logs and the anticipated economic return on their salvage and sale. Television segments on the “Discovery Channel” and “Dirty Jobs” and elsewhere accentuate the “treasure hunting” aspect of this endeavor, and may emphasize high adventure and inviting profits rather than the reality of substantial upfront investment and research, hard work and safety hazards. In most cases, considerable commercial diving experience and specialized equipment is a prerequisite for this line of work. If, after conducting more research and reading through the rules and the application, you feel you are not quite ready to conduct salvage operations, you may want to spend more time investigating potential salvage sites (no authorization is needed for exploratory work that doesn’t involve raising logs) and looking into potential markets. Under the rules, authorizations are issued for one year at a time, so by passing up this year, you would not forfeit any long-term opportunities in particular salvage areas. In future years, your application to salvage would be considered on equal terms with the applications of others who may have conducted salvages in previous years.

- Application Completeness. As you fill out the application, be as thorough as possible. If you have difficulty completing some aspects of the application, this may indicate that you need to do

more research on specifics such as insurance, performance guarantees or the proposed market for the logs, or that you lack adequate financial or technical capability. The Bureau must determine that each application is complete prior to processing, and incomplete applications will be returned. Applications submitted during the special application period will be processed in the same manner regardless of the date they are received – so it is wiser to submit a thoroughly done application the last few days of this period than a hastily filled-out application during the first few days.

- Take-Out Site. One of the keys to a successful sunken logs salvage operation will be securing an acceptable log landing site that is proximate to the retrieval area. The sunken log salvage application requires sufficient evidence of right, title or interest in such a landing location. In most cases, this landing site will need to be owned or leased by the applicant. In some instances, a letter of permission from the landowner will be adequate. ***Use of state-managed boat ramps or other public lands will generally not be permitted, and you will need to find private landowners willing to sell or lease land or piers for this purpose.*** If you have any questions regarding the acceptability of your take-out site or whether your demonstrated right or interest in the site are sufficient, please give us a call.
- Workers' Compensation Insurance. Under Maine law, most employers are required to carry Workers' Compensation Insurance. You will need to demonstrate either that you will carry this insurance, or that you are eligible for one of the exemptions under the law. If you have questions regarding how the law applies to you, call the Workers' Compensation Board at 287-3751.
- Liability Insurance. We have been advised that to provide the state with adequate protection, all companies and individuals conducting sunken log salvage should carry liability insurance in an amount not less than \$400,000 per event. Under the rules, this insurance is not required to go into effect until the salvage operation actually begins. The Bureau, however, needs assurance that such coverage is forthcoming as it conducts its review. Therefore, before submitting your application, you should contact an insurance agent about the coverage you will need for your operation. It is likely that the insurance will need to include two components: general liability coverage and liability coverage associated with use of marine vessels. Although all the details of the coverage do not need to be finalized prior to application submission, the Bureau will contact the agent to determine if there are any problems in such a policy being issued.
- Performance Guarantees. The purpose of the performance guarantee requirement is to provide the Bureau with surety in the event of nonpayment by applicants or noncompliance with other contract terms. Although the performance guarantee does not have to be in place until the salvage begins, the Bureau needs a degree of assurance that the performance guarantee will be forthcoming as well.

An irrevocable letter of credit provides a means of providing surety without having to tie up significant money in an escrow account. Applicants proposing to submit an irrevocable letter of credit should contact a financial institution prior to submitting the application. Prior to issuing an authorization, the Bureau would need verification that the letter of credit has been approved.

Probably the simplest way to establish an escrow account would be to open a passbook account for the performance guarantee amount that the Bureau would hold. If you plan to

establish an escrow account, you must submit with your application, bank statements or other information demonstrating adequate financial capacity to establish the account.

If you plan to salvage a total of 5,000 board feet or less during the salvage season, you may be eligible for an exemption from the performance guarantee requirement. As part of your application submission, however, you still must submit bank statements or other information demonstrating adequate financial capacity to conduct the salvage operation as proposed.

- Information on Potential Market and Price of Logs. While the Bureau hopes its program provides opportunities for entrepreneurship, we are also responsible for conducting the program in accordance with prudent business practices. Accordingly, we want assurance that the value of salvaged logs as sold or processed will approximate their market value. As part of the application submission, prospective salvagers are required to submit evidence that a market exists for logs proposed for salvage and provide information on the logs' estimated value. If you have not conducted any research into potential markets or anticipated values for the logs, you are probably not ready to submit an application for sunken log salvage.
- Salvage Amounts. The amount of logs you propose for salvage must be realistically based on the market for the logs, and the volume you are reasonably likely to recover during the salvage season with the equipment and personnel you have available. Since salvage amounts will not be credited to future salvage seasons, there is no benefit to overestimating salvage volumes.
- Review Period. After an application has been determined to be complete, a 30-day review period begins during which interested parties may submit comments on the proposal. If no objections are raised, in most cases we expect to be able to issue authorizations within 10 days of the end of the comment period. For applications submitted during the special application period in January, the comment period will begin shortly after the end of this period.
- Bureau Authorizations vs. Environmental Permits. The role of the Bureau as set out in the rules is that of protecting the interests of the state as both landowner and log owner. Under statute, the focus of our program is ensuring that proposed operations do not have an adverse impact on public trust rights – fishing, fowling, navigation and recreation. The primary *environmental* review of sunken log salvage proposals will be conducted by the Department of Environmental Protection (DEP) or the Land Use Planning Commission (LUPC), depending on the location of the proposal. (In some instances, permits may also be required from the municipality where the salvage is proposed – we advise you to check early on with the respective Code Enforcement Officer). Proposals within DEP jurisdiction will generally need a Natural Resource Protection (NRPA) permit; those in LUPC jurisdiction will need a Shoreland Alteration Permit, including a wetland impact assessment. To apply for these permits, you must contact these agencies separately: DEP at 287-3901; LUPC at 287-2631.
- Timing Issues. Because the Bureau determines whether permission will be granted to conduct salvage on publicly owned lands, we view our process as a necessary first step, and recommend that potential salvagers delay seeking environmental permits until they have submitted their application to us. Once we have received complete applications and make an initial determination that your proposal is likely to go forward into the comment period as proposed, we will notify DEP and LUPC that it is appropriate to accept and begin processing permits applications. This will allow for some concurrent review. You may, however, want to

obtain copies of DEP's and LUPC's applications now so that you can be ready to make submissions as soon as the agencies are willing to review them.

- Army Corps of Engineers. In some cases, you may also need a permit from the U.S. Army Corps of Engineers. They have an office in Manchester (Maine) and their phone number is 823-8367.
- Post-Approval Conditions. Once you have been issued a sunken log salvage authorization by the Bureau, you should look carefully at the conditions and terms of the contract that has been issued to you. Before actually beginning salvage operations, you must submit a number of post-approval documents such as the performance guarantee and a certificate of insurance, and have received all other necessary federal, state and local approvals. No operation may begin prior to the Bureau issuing a start work notification.
- Compliance Issues. While Bureau staff are ready to assist you, particularly during the application review process, the program as devised, does not involve extensive field presence or monitoring. The Bureau's Submerged Lands Program consists of a limited staff, and sunken log salvage is one of many activities administered under the program. Approved salvagers are expected to carefully adhere to the terms and conditions of their contract without significant oversight. The fewer problems there are involving noncompliance or conflicts between salvagers, the more likely it is that the Bureau will continue or even expand the program. Applicants who demonstrate a high degree of competence, professionalism and compliance with the Bureau's requirements will improve their standing for future salvage seasons.
- A final reminder: The Bureau **does not** have jurisdiction over sunken logs in rivers above the farthest natural reach of the tide, on "flowed" rivers such as Wyman Lake and Flagstaff Lake or on other areas that don't meet the definition of publicly owned submerged lands. These areas are generally owned by the abutting landowners to the centerline of the water body. Although we are happy to assist you in determining whether an area is within public ownership or not, our rules would not apply to salvage on non-public submerged lands. In these areas you need to deal directly with DEP or LUPC regarding their requirements on landowner permission and other considerations.

If you have questions as you are considering conducting log salvage this season, or as you are filling out the application form, please give us a call.

Phone: (207) 287-4919 E-Mail: john.noll@maine.gov

(logmemo2014.doc)